

LAW SOCIETY OF UPPER CANADA

TORONTO, ONT., CAN. M5H 2N6

Per Law Society of Upper Canada.  
C. Pat. Minutes of Convocation.  
B. (v.6. c.4.)

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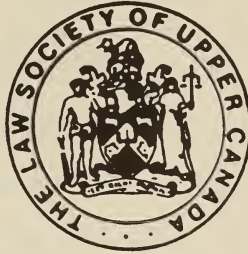
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THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

VOLUME 6



## VOLUME 6

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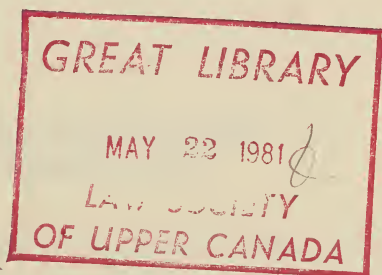
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THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation



**Volume 6      Number 1**





## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 16th January, 1981  
10:00 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Brulé, Bynoe, Carthy, Cass, Catzman, Chadwick, Chilcott, Doran, Farquharson, Ferrier, Finlayson, Furlong, Genest, Ground, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, O'Brien, Ogilvie, Outerbridge, Scace, Mesdames Sutherland and Tait, Messrs. Tobias, White, Willoughby and Yachetti.

.....

### MINUTES

The Minutes of Convocation of 21st November, 1980 and of Special Convocation of 16th December, 1980 were confirmed.

.....

### LAWYERS MENTIONED IN THE KREVER REPORT ROYAL COMMISSION ON CONFIDENTIALITY OF HEALTH RECORDS

The Treasurer referred to the Report of The Honourable Mr. Justice Horace Krever on Medical Confidentiality with respect to the 25 lawyers mentioned in the Report as having sought or received medical information through private investigators without patients' authorization.

Convocation directed that Mr. P. G. Furlong form a committee to report to the Discipline Committee respecting lawyers mentioned in the Krever Report.

Mr. Genest was not present in Convocation during consideration of this matter.

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## JABOUR ACTION – APPEAL TO SUPREME COURT OF CANADA

The Treasurer raised the question as to whether the Society should seek to intervene in the appeal to the Supreme Court of Canada by the Attorney General of Canada and others against a judgment of the British Columbia Court of Appeal which held that the Combines Investigation Act does not apply to the Law Society of British Columbia.

It was moved, seconded and *carried* that the Society intervene in the appeal and that Mr. Brendan O'Brien be retained as counsel.

Mr. O'Brien did not vote on the motion.

.....

## ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Cass, Catzman, Ferrier, Ground, Henderson, Lamont and Scace.

## OCCASIONAL APPEARANCE

*Christopher Dudley Evans* of the Province of Alberta, applied to proceed under Section 10 of the Regulation "Occasional Appearances in Ontario of lawyers from other provinces", in the case of *Regina vs. Kenneth Douglas Rogers*. Mr. Evans has complied with the requirements of Section 10 and presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the January Convocation.

*Approved*

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Call to the Bar for an Occasional Appearance

At its meeting on 8th January, 1981, the Admissions

Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional Appearances in Ontario of lawyers from other provinces", and that upon giving the necessary undertakings, he be called to the Bar and admitted as a solicitor:

Christopher Dudley Evans

### **Transfer from another Province**

The following candidates, having passed the comprehensive examination on the common law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$541, applied for Call to the Bar and to be granted Certificates of Fitness, and asked to be called to the Bar at the January Convocation:

Frederick William Benn  
Mortimer Samuel Bistrisky

*Approved*

## **ADMISSION OF STUDENTS—AT—LAW**

### **Bar Admission Course**

One further candidate, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as a student-at-law in the 22nd Bar Admission Course.

A further total of 93 candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

## **DIRECT TRANSFER FROM QUEBEC**

The Committee considered and approved an application to transfer to practice in Ontario by a member of the Quebec Bar who sought to proceed under Regulation 4(2).

## REPORT OF THE EXAMINING BOARD

The report of the examinations held in November 1980 was before the Committee. Twelve candidates sat the examination. Eight candidates passed and four failed.

*Approved*

## PETITION

A petitioner sought admission to the Bar Admission Course. After gaining CEGEP qualifications from Vanier College, he entered McGill Law School in 1975, and was granted a B.C.L. degree in 1978 and the approved LL.B. degree in 1979. He was called to the Bar of Alberta in July 1980.

In January 1980 his petition was considered by the Admissions Committee and the Legal Education Committee. The Admissions Committee found that he lacked the necessary qualifications to enter the Bar Admission Course, the Legal Education Committee found that he may qualify to enter the Bar Admission Course in Ontario by successfully completing a further year of university study in a non-legal programme, and both Committees recommended that the petition be denied. Both recommendations were adopted by Convocation.

The petitioner will have completed one year of non-legal studies in May 1981. He petitioned to be allowed to enter the Bar Admission Course and to commence articling in the summer of 1981.

*Approved* subject to his successful completion of his non-legal studies, and the filing of a letter from the University of Calgary that he has successfully completed a full academic year of non-legal studies.

## THE REPORT WAS ADOPTED

.....

## CALL TO THE BAR

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of

Barrister-at-law was conferred upon each of them by the the Treasurer:

Frederick William Benn  
Mortimer Samuel Bistrisky  
Christopher Dudley Evans

.....

## DISCIPLINE COMMITTEE—Mr. Genest

Re: ALEX BORMAN, Toronto

Mr. P. Genest, Chairman, placed the matter before Convocation.

The reporter was sworn.

Mrs. Legge and Mr. Lamont withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. Charles C. Mark, Q.C. The Society was represented by Mr. Jonathan H. Marler.

The matter had been before Convocation on 21st November, 1980, when an adjournment was granted at the request of the solicitor's counsel who had only been retained on Thursday, 20th November, 1980.

Convocation had before it the Report of the Discipline Committee, dated 22nd October, 1980, together with an Affidavit of Service, dated 29th October, 1980, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 27th October, 1980 (marked as *Exhibit 1*). Service was admitted on behalf of the solicitor.

On consent of counsel, Convocation waived the reading of the Report of the Discipline Committee, which had been circulated to the Benchers prior to Convocation.

The Report of the Discipline Committee, dated 22nd October, 1980, found the solicitor guilty of professional misconduct. He had failed to reply to two letters from the Society respecting complaints against his professional conduct.



Mr. Mark made no submissions as to the Report.

Mr. Marler made no submissions as to the Report.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 22nd October, 1980, be accepted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that Convocation had accepted the Report.

Convocation was informed that the Recommendation as to Penalty of the Discipline Committee was that the solicitor be reprimanded in Convocation and required to pay the Society's costs.

Mr. Mark made submissions as to penalty, asking that the solicitor be reprimanded in Committee, rather than Convocation, with payment of costs.

Mr. Marler made submissions as to penalty and stated that the solicitor had twice previously been reprimanded in Committee.

The solicitor, counsel and the reporter retired.

It was moved and seconded that the solicitor be reprimanded in Convocation and required to pay the costs of the Society.

It was moved and seconded that in the light of the recommendation of the Discipline Committee and the solicitor's previous discipline record, the solicitor be reprimanded in Convocation with costs.

It was moved, but not seconded, that the solicitor be reprimanded in Committee and required to pay the Society's costs.

The second motion was *lost*.

The first motion that the solicitor be reprimanded in Convocation and required to pay the costs of the Society was *carried*.

The third motion not being seconded was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that

had been carried, and the solicitor was informed of his right of appeal.

The solicitor waived his right of appeal and requested that the reprimand be administered forthwith.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

.....

**Re: DAVID BRENDAN BENNETT, Hamilton**

Mr. Genest placed the matter before Convocation.

The reporter was present.

Mrs. Legge and Mr. Lamont returned to Convocation.

Messrs. Finlayson, McWilliams and White withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend nor was he represented by counsel. Mr. Donald H. Jack represented the Society.

An Affidavit of Service, dated 6th January, 1981, by David Chorney, was filed in proof of personal service on the solicitor of a true copy of the Report of the Discipline Committee, dated 5th January, 1981, with Recommendation as to Penalty, Notice of Time and Place of Hearing before Convocation and related material (marked *Exhibit 1*).

Convocation had before it the Report of the Discipline Committee, dated 5th January, 1981, and waived the reading of the Report which had been circulated to all members of the Bench prior to Convocation.

The Report of the Discipline Committee, dated 5th January, 1981 (marked *Exhibit 2*), found the solicitor guilty of professional misconduct. He had misappropriated over \$50,000 of trust funds belonging to clients and failed to maintain his books and records in accordance with the Society's Regulations.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 5th January, 1981, be accepted.

The Recommendation as to Penalty of the Discipline Committee, namely, that the solicitor be disbarred, was read to Convocation.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel was advised of the result.

Counsel retired.

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**Re: MICHAEL JOSEPH DELANEY, Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was present.

Messrs. Finlayson, McWilliams and White returned to Convocation.

Mr. Arthurs withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend nor was he represented by counsel. Mr. Gavin MacKenzie appeared for the Society.

Mr. MacKenzie read to Convocation a letter, dated 7th January, 1981, to the Society from Mr. Michael J. Moldaver, counsel for the solicitor, advising that the solicitor would not attend the hearing before Convocation and that he had been instructed not to attend on the solicitor's behalf (marked *Exhibit 2*).

Convocation had before it the Report of the Discipline Committee, dated 29th December, 1980, together with an Affidavit of Service, dated 30th December, 1980, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 30th December, 1980 (marked *Exhibit 1*).

Convocation dispensed with the reading of the Report of the Discipline Committee, which had been circulated to the Benchers prior to Convocation.



The Report of the Discipline Committee, dated 29th December, 1980, found the solicitor guilty of professional misconduct. He had misappropriated over \$180,000 of clients' trust funds.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 29th December, 1980, be accepted.

The Recommendation as to Penalty of the Discipline Committee, namely, that the solicitor be disbarred, was read to Convocation.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel was advised of the result.

Counsel retired.

.....

**Re: MICHAEL LAVERNE TELFER, formerly of Kitchener**

Mr. Genest placed the matter before Convocation.

The reporter was present.

Mr. Arthurs did not return to Convocation.

Messrs. Catzman, Lerner and McWilliams withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. Ian G. Scott, Q.C. Mr. Jonathan H. Marler represented the Society.

The matter had been before Convocation on 21st November, 1981, when counsel for the solicitor was granted an adjournment to permit him to obtain information from the Society respecting penalties in other cases.

Convocation had before it the Report of the Discipline Committee, dated 30th October, 1980, together with an Affidavit of Service, dated 10th November, 1980, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 5th November, 1980 (marked *Exhibit 1*). Service was admitted on behalf of the solicitor.

Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report of the Discipline Committee, dated 30th October, 1980, found the solicitor guilty of conduct unbecoming a barrister and solicitor. He had been convicted of possession of a narcotic for the purpose of trafficking, having been found in possession of a quantity of marijuana in circumstances which seemed to indicate that it was not he who intended to profit by the sale of the drug, but an acquaintance who had asked him to transport it.

Mr. Scott made submissions respecting the report.

Mr. Marler made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 30th October, 1980, be accepted.

The Recommendation as to Penalty of the Discipline Committee, namely, that the solicitor be disbarred, was read to Convocation.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been accepted by Convocation and that the Recommendation as to Penalty had been read to Convocation.

Mr. Scott made submissions as to penalty and presented three letters dated 19th, 12th and 13th November, 1980, from Mr. W. A. Bernhardt, Bernhardt Insurance Service Limited, Mr. J. K. Scott, Vice President, Contracts, Litton Systems Canada Limited, and Mr. J. Todd Holmes of the law firm Swayze & Holmes respectively (marked *Exhibits 2, 3 and 4*) respecting the solicitor's character and integrity.

Mr. Marler made submissions.

The solicitor, counsel and the reporter withdrew. (*See p. 12.*)

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#### APPOINTMENT OF REPRESENTATIVE CANADIAN NATIONAL EXHIBITION ASSOCIATION

It was moved, seconded and *carried* that Mrs. R. M. Tait be appointed the Society's representative to the Canadian

National Exhibition Association for the ensuing year.

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# **CONVOCATION ADJOURNED FOR LUNCHEON AT 12:50 P.M.**

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The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice Sydney L. Robins of The High Court of Justice of the Supreme Court of Ontario, Dean Frank Iacobucci of the Faculty of Law of the University of Toronto, and Miss Mabel Ferris, recently retired Executive Director of the Health League of Canada.

On behalf of the Health League of Canada Miss Ferris presented to the Treasurer a portrait of The Honourable William Renwick Riddell, 1852–1944, by Wyly Grier. Before gaining recognition as a member of The Supreme Court of Ontario and a legal historian, Mr. Riddell had been a Bencher of the Society and for over twenty-five years he was president of the Health League of Canada.

The Treasurer accepted the portrait on behalf of the Society and expressed the Society's appreciation of this magnanimous gift.

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# **CONVOCATION RESUMED AT 2:45 P.M.**

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## **PRESENT:**

The Treasurer and Messrs. Brulé, Bynoe, Carter, Carthy, Cass, Catzman, Chadwick, Chilcott, Doran, Farquharson, Ferrier, Finlayson, Furlong, Genest, Ground, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, O'Brien, Ogilvie, Outerbridge, Ruby, Scace, Mesdames Sutherland and Tait, Messrs. Tobias, White, Willoughby and Yachetti.

.....

## DISCIPLINE COMMITTEE (Continued)

**Re: MICHAEL LAVERNE TELFER, formerly of Kitchener  
(Resumed)**

Convocation resumed its consideration of this matter.

A quorum of eligible Benchers was present. Messrs. Catzman, Lerner and McWilliams again withdrew, took no part in the discussions and did not vote. Messrs. Carter and Ruby who were not present earlier also withdrew, took no part in the discussions and did not vote.

It was moved and seconded that Convocation by Order suspend the solicitor from the practice of law for a period of one year.

It was moved and seconded that Convocation by Order suspend the solicitor from the practice of law for a period ending 1st November, 1982.

The first motion to suspend the solicitor for a period of one year was *carried*.

The second motion was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's disposition of the matter.

The solicitor and counsel retired.

.....

**Re: KEVIN ARTHUR JONES, Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was present.

Messrs. Carter, Catzman, Lerner, McWilliams and Ruby returned.

Messrs. Cass, Ferrier, Furlong and Scace withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended without representation. Mr. Frank N. Marrocco represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 21st November, 1980, together with an

Affidavit of Service, dated 26th November, 1980, by Eleanor Rosen, that service had been effected personally on the solicitor on 26th November, 1980 (marked as *Exhibit 1*). The solicitor admitted service of the Report.

The solicitor waived the reading of the Report of the Discipline Committee which had been circulated to the Benchers prior to Convocation.

The Report of the Discipline Committee, dated 21st November, 1980, found the solicitor guilty of conduct unbecoming a barrister and solicitor. He had been found guilty in Provincial Court (Criminal Division) of offences under the Tax Rebate Discounting Act.

The solicitor made objection to certain facts in the Report, having filed Notice of his intention to do so. Copies of the Notice dated 14th January, 1981 (marked *Exhibit 2*) were before Convocation.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 21st November, 1980, be accepted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is that the solicitor be reprimanded in Convocation.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been accepted by Convocation and that the Recommendation as to Penalty had been read to Convocation.

The solicitor made submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that the solicitor be reprimanded in Convocation.

It was moved and seconded that Convocation by Order suspend the solicitor for a period of one year.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the two motions respecting penalty before Convocation and that the solicitor is entitled to an adjournment because one of the motions would impose a more severe penalty than the one recommended by



the Discipline Committee.

The solicitor, counsel and the reporter withdrew.

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## **LIBRARIES AND REPORTING COMMITTEE—**

**Mr. Farquharson**

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Farquharson, (Chairman), Lerner, Shaffer, Mrs. Tait and Mr. Yachetti. Messrs. G. W. Howell and D. V. Burnett were also present.

## **GREAT LIBRARY**

### **BOOK LIST**

A list of books recently purchased was submitted for approval. Subject to the deletion of some items on the list, the list was approved.

### **CANADIAN LAW INFORMATION COUNCIL (CLIC)**

The Secretary reported that the request from the above Council was deferred from the September meeting to the January meeting. The Committee deferred this matter to the next meeting.

*Noted*

### **REQUEST FOR BOOKS**

The Secretary reported that he had received a letter from the Canadian Ambassador to the Syrian Arab Republic, thanking the Society for the gift of books to the University of Damascus.

*Noted*

## **COUNTY AND DISTRICT LAW LIBRARIES**

### **REQUEST FOR MEETING OF LIBRARIANS**

Mr. John R. R. Jennings, Q.C., had requested a meeting with the Chief Librarian and Librarians and representatives from the County Law Associations. The Secretary was instructed to write to the President of the Ontario Branch of the Canadian Bar Association and advise that the suggested meetings will be held after the Acting Chief Librarian has finished his visits to the County Law Libraries.

### **APPLICATION TO THE LAW FOUNDATION OF ONTARIO**

The Secretary reported that the Trustees of The Law Foundation of Ontario, at the meeting on Wednesday, December 10th, 1980, approved a grant to the Society in the amount of \$400,000 which is the total grant for 1981. Consideration of this matter was deferred to the February meeting.

### **COUNTY LAW ASSOCIATIONS BRANCH LIBRARIES**

A request from Aubrey Russell, Q.C., President of the County of York Law Association, for reimbursement from Central Administrative Programme for books purchased for a branch library in Etobicoke was before the Committee for consideration. The Committee recommended:

1. That the request of the County of York Law Association be denied.
2. That the problem of provincial courts in separate premises with no library facilities be discussed with the Attorney-General for Ontario to determine whether law libraries should be established in separate buildings, and if so, how they should be funded.

### **REQUEST FROM HURON LAW ASSOCIATION**

The Secretary reported that he had received a request from Mr. D. J. Murphy, Q.C., President of the Huron Law

Association to advise him of the amount of interest paid to The Law Foundation of Ontario in 1979 by every law firm in Huron County. The Secretary was instructed to write to Mr. Murphy indicating that he will receive the information that is available from the Law Society's records and that his letter has been forwarded to the Law Foundation for information that is available from the Foundation's records.

## REPORTING

### CANADA LAW BOOK – DATA BASE

The Secretary reported that Mr. Alan Marks of Canada Law Book had requested that the Committee consider entering an agreement to put all O.R.'S into Canada Law Book's Data Base. This matter was deferred until the February meeting.

### ONTARIO REPORTS – COMPETITIVE BIDS

The Secretary reported that letters had been sent to three law book publishers requesting that tenders to publish the Ontario Reports be submitted to the Society not later than January 31st, 1981, and also that a copy of the letter had been sent to Canada Law Book as a courtesy.

*Noted*

## THE REPORT WAS ADOPTED

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### DISCIPLINE COMMITTEE (Continued)

Re: KEVIN ARTHUR JONES, Toronto  
(Resumed)

The solicitor, counsel and the reporter returned.

The solicitor asked that the matter proceed and made further submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

The motion that the solicitor be reprimanded in



Convocation was *carried*.

The second motion that the solicitor be suspended for one year was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's action and the solicitor was advised of his right of appeal.

The solicitor waived his right of appeal and requested that the reprimand be administered forthwith.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

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## GENERAL REPORT

Mr. Genest presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Genest (Chairman), Furlong and Yachetti (Vice-Chairmen), Cass, Catzman, Finlayson and Ruby.

## COMPENSATION FUND EX GRATIA PAYMENTS

The Committee had before it a request from the solicitor acting on behalf of applicants to the Compensation Fund that the Society make an immediate ex gratia payment out of the Compensation Fund prior to a determination by the Society as to any misconduct on the part of the solicitor involved.

The applicants in question were an elderly couple who are in financial need and in poor health. Their claim against the Fund is in the amount of \$18,500. The money has been lost as a result of the bankruptcy of the company in which it was invested by the solicitor.

The Committee first considered whether there was authority for such a payment and came to the conclusion that, on the basis of the present wording of the Act, no such payment

is possible.

Section 51 provides that grants may be made "to relieve or mitigate loss sustained" as a consequence of "dishonesty on the part of the member in connection with such member's law practice or in connection with any trust of which he was or is a trustee". Prior to any payment therefore there must be a finding by the Society of dishonesty on the part of the solicitor.

The Committee then considered the question of whether or not an amendment to The Law Society Act should be sought to provide for such payments. The Committee was not in favour of such an amendment and recommended that no such amendment be sought.

### FEES TO BE PAID TO OUTSIDE COUNSEL

The Committee had before it a Report prepared by Mr. Furlong on the question of fees to be paid to outside counsel. This Report contained information as to fees for preparation and counsel fees with respect to large, medium and small legal firms, as well as similar fees of the Crown, both in right of Canada and Ontario, and of taxing masters, and also of doctors and professional engineers. This information was given consideration in arriving at the conclusions and recommendations made in the Report and set out below:

The Society now pays \$50.00 per hour preparation and counsel fee at the rate of \$500.00 per diem, effective January 1978. Having in mind there must be some prestige to being selected to act as counsel for the Law Society it is recommended that commencing January 1, 1981, the fees be paid on the following basis:

Counsel under ten years at the Bar \$60.00 per hour preparation;  
\$600.00 per diem counsel fee.

Counsel ten years or more at the Bar \$70.00 per hour preparation;  
\$700.00 per diem counsel fee.

If the rates are increased the secretariat should advise the Committee of the effect upon the Committee's budget for the balance of the current fiscal year.

The secretariat has not reported that the present scale of fees creates any resistance in retaining counsel to represent the Society.

A review of the remuneration paid to referees on compensation hearings was not conducted. While the referees may be affected by inflation it is assumed most of them carry out their duties without office overhead and expenses and without relying upon such remuneration as their primary source of income. In any event the subject was not referred to this sub-committee.

The Committee considered the Report but did not accept the recommendation with respect to fees.

The Committee recommended the following scale for counsel fees:

- (a) Counsel under ten years at the Bar \$70.00 per hour preparation; \$700.00 per diem counsel fee; and
- (b) Counsel ten years or more at the Bar \$90.00 per hour preparation; \$900.00 per diem counsel fee.

## SCOOPING

The Committee had before it a letter from Mr. Clayton Ruby in which he dealt with the problem of "scooping". The letter reads in part:

"From time to time there have been problems in Toronto with "scooping". This is particularly common among younger lawyers and at the jails. What happens is that someone hears that someone is in custody and goes to see him in the hope of obtaining him as a client without any request coming from the prospective client. Sometimes this is done on the recommendation of a prisoner; sometimes it is done without any recommendation at all.

The criminal bar has never obtained any relief from the Law Society due to this recurring problem. I am advised that the problem is particularly bad right now in Toronto."

The Committee recommended that the Society contact the Criminal Lawyers Association and indicate that the Society is concerned about the practice and is willing, in conjunction with both the Criminal Lawyers Association and the Legal Aid Plan, to investigate the matter further.

## BENCHERS' COSTS

The Committee had before it a request that consideration be given to recovering as costs, where an order has been made under Section 40 of The Law Society Act, the travel expenses of out-of-town Benchers.

The Committee was of the opinion that such costs should not be included in an order under Section 40. The practice would discriminate between those solicitors who appeared before panels composed of Toronto area Benchers and those appearing before panels comprised of Benchers from outside Toronto. It was also felt that these costs were an administrative cost of the Society and not properly within the ambit

of Section 40.

The Committee recommended therefore that such expenses not be recovered under an order for costs made pursuant to Section 40 of The Law Society Act.

### THE REPORT WAS ADOPTED

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### COMPENSATION FUND SUMMARY

Mr. Noel Ogilvie, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st December, 1980.

### COMPENSATION FUND

For the Period from 1st July, 1980 to 31st December, 1980

(6 months)

TOTAL RECEIPTS	\$1,065,830.00
TOTAL DISBURSEMENTS	<u>\$ 490,249.27</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 634,785.63
BALANCE OF FUND at beginning of period	<u>\$1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$2,208,767.34</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$10,033,177.68</u></u>

### THE SUMMARY WAS RECEIVED

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### FINANCE COMMITTEE—Mr. Pepper

Mr. A. R. A. Scace, Vice-Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Scace (Vice-Chairman in the chair), Brul , Chilcott, Farquharson, Guthrie, Henderson, Ogilvie, Shaffer, Tebbutt and Wilson.

## ROLLS AND RECORDS

### Appointments to the Bench

The following members have been honoured by their appointment to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

Harry Joseph Keenan, Q.C. Toronto	Called – 25 June 1959 Appointed County Court Judge, Judicial District of Peel – 27 November 1980
Karen Merle Weiler Toronto	Called – 21 March 1969 Appointed County Court Judge, Judicial District of York – 27 November 1980
Francis Joseph McDonald Ottawa	Called – 13 April 1962 Appointed County Court Judge, County of Grey – 27 November 1980
Arthur Kenneth Meen, Q.C. Toronto	Called – 15 September 1949 Appointed Provincial Court Judge, Criminal Division, Judicial District of York – 5 January 1981

### Deaths

The following members have died:

Edward Joseph Dube, Q.C. Windsor	Called – 7 April 1961 Died – 25 October 1980
Igor Kaplan, Q.C. Toronto	Called – 23 June 1955 Died – 14 November 1980
William Merion Vickers, Q.C. Toronto (Life Member)	Called – 18 October 1928 Died – 24 November 1980
John Farley Robertson, Q.C. Toronto	Called – 17 September 1936 Died – 19 October 1980
John Ian Smith, Q.C. Hamilton	Called – 17 September 1942 Died – 25 October 1980
Robert Lindsay Young, Q.C. Toronto	Called – 17 June 1937 Died – 26 November 1980
John Richard Anderson, Q.C. Stratford	Called – 18 June 1936 Died – 7 December 1980
Frank Augustus Schulman Toronto	Called – 17 April 1940 Died – 24 December 1980
John James Addy, Q.C. Toronto (Life Member)	Called – 18 November 1920 Died – 29 December 1980



James Palmer Kent, Q.C.  
Toronto (Life Member)

Called – 8 May 1922  
Died – 23 December 1980

## 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:

Alan David Libman  
Toronto

Called – 21 March 1969  
Disbarred – Convocation  
21 November 1980

Helmut Erich Seele  
Hamilton

Called – 23 March 1973  
Disbarred – Convocation  
16 December 1980

## Resignations

The following members were permitted to resign their membership and their names have been removed from the rolls and records of the Society:

George Maurice Bleakney  
Ottawa (Life Member)

Called – 18 October 1928  
Resigned – Convocation  
21 November 1980

Andrew John Martyn  
Toronto

Called – 13 April 1962  
Resigned – Convocation  
21 November 1980

*Noted*

## MEMBERSHIP RESTORED

His Honour Judge *Walter Little* gave notice under Section 31 that he had retired as a County Court Judge and wished to be restored to the Rolls of the Law Society. Accordingly his membership was restored effective 17 December 1980.

*Noted*

## LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society effective 15 January 1981:

Bernard Cohn, Q.C.  
David Ferguson Jackson

Windsor  
Toronto

*Approved*

## MEMBERSHIP UNDER RULE 50

### Retired Members

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

Robert Howell Evans	Huntsville
Iva Sarah Kaplan Goldstick	Toronto
David Lewis, Q.C.	Ottawa
Walter Heming Lind	Toronto
William Trefor Morgan, Q.C.	Toronto
William Duncan Jairus Moss, Q.C.	Glencoe
Daisy Aileen Violet McCullagh, Q.C.	Cobourg
Agnes Weir Randolph.	Sarnia
Eric William Scott	Toronto
*Gordon Arnold Russell, Q.C.	Aurora

\* Mr. Russell's fees for 1980-81 were paid on 25th September 1980 in the amount of \$350. He requested a refund of the fees paid, less \$10.00 for the Ontario Reports.

*Approved*

### Incapacitated Members

The following members requested consideration of their applications as disabled members to continue their membership in the Society without payment of annual fees:

Donovan Jackson Blakeman	Toronto
William Angus Davidson, Q.C.	Peterborough
John Malcolm Robb, Q.C.	Toronto

*Approved*

## RESIGNATIONS

The following members applied for permission to resign their membership in the Society and submitted their declarations in support:

John David Barker	Vernon, British Columbia
John Taylor Ramsay	Calgary, Alberta

Both members wished to be relieved of the necessity of publishing in the Ontario Reports.

The Committee approved their applications but recommended that they be advised they must comply with the publishing requirement.

### CHANGE OF NAME

The following members requested that their names be changed on the rolls of the Society and have submitted the required documentation in support:

<i>From</i>	<i>To</i>
Sharon Judith Borinsky	Sharon Judith <i>Shapiro</i> (Married Name)
Carol Patricia Tennenhouse	Carol Patricia Tennenhouse <i>Diamond</i> (Married Name)

*Approved*

### STAFF SURVEY

Peat, Marwick and Partners submitted an interim account dated 16 October 1980 in the amount of \$8,300 for professional fees. Convocation in October 1980 approved the engagement of Peat, Marwick and Partners at a total fee of \$28,000 plus disbursements.

*Approved*

### DINING ROOM EQUIPMENT

The coffee urn has deteriorated to a point at which it can no longer be repaired nor can a replacement be purchased. A suitable drip type coffee maker costs \$675 but because of plumbing and gas line changes, the total cost of the coffee maker is \$1,400 including installation. The Committee was asked to approve this expenditure.

*Approved*

### USE OF PREMISES

The Committee was asked to consider the following requests:

#### Ottawa

A request was received from Carleton County Law Association, Real Estate Subsection, to use the Bar Admission



Course premises in Ottawa. The premises are required on one day each month from 6 p.m. to 8 p.m.

*Approved*

## Toronto

A request was received from the Certified General Accountants Association to use lecture halls for the purpose of writing student examinations. Use of the premises was requested on each evening of the week 23 to 27 March 1981 from 6:30 p.m. to 10:00 p.m.

The Committee recommends that this request be *denied*.

## THE REPORT WAS ADOPTED

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## LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meetings on Wednesday, 10th December, 1980, and Wednesday, 7th January, 1981.

On 10th December, the following members were present: James B. Chadwick, Chairman, Messrs. Barnes, Barr, Carter, Ellis, Ferrier, Mrs. Fleming, Messrs. Gilchrist, Guthrie, Mrs. Jarmain, Messrs. Jones, Linden, Noble, Mrs. Tait, Messrs. Tebbutt, Wallace and Yachetti.

The following observer members were also present: Robert Armstrong, Q.C., for the Advocates' Society; Brian P. Bellmore, solicitor, for the Clinic Funding Committee; M. S. Fitzpatrick, Q.C., for the Ministry of the Attorney General; and Robert Holden, solicitor, for the Criminal Lawyers' Association.

On 7th January, the following members were present: James B. Chadwick, Chairman, Mr. Carter, Ms. Cornish, Messrs. Ellis, Ferrier, Mrs. Fleming, Messrs. Gilchrist, Guthrie, Lamb, Linden, Ogilvie, Russell, Mesdames Smyth and Tait, Messrs. Tebbutt and Wallace.

The following observer members were also present: Robert L. Holden, solicitor, for the Criminal Lawyers' Association; Victor S. Paisley, solicitor, for the Advocates' Society.

Also in attendance by invitation were: Archie Campbell, Q.C., Assistant Deputy Attorney General, Ms. D. Mueller, Ministry of the Attorney General; Michael Tomchak, Esq., Ministry of Community and Social Services; Ms. Phyllis Haslam, Chairperson of the York County Area Committee, and the following members of the York County Area Committee: C. J. Abbass, George Biggar and Stephen Price, solicitors; Russell Otter, solicitor, Deputy Area Director, York County; Brad Nixon, articling student.

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's report, pursuant to Section 95(2), for the eight month period ended November 30, 1980, shows that payments from the Legal Aid Fund exceeded budget by \$2,134,000. Funds designated for community clinics were underspent by \$279,000, with the result that the remaining payments exceeded budget by \$2,413,000 as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	2,090,000	
Civil certificate accounts	8,000	
Student Legal Aid Societies	140,000	
Area Office costs	186,000	
Provincial Office costs	<u>207,000</u>	2,631,000
<i>Under budget</i>		
Duty Counsel payments	88,000	
Legal Advice accounts	8,000	
Salaried Duty Counsel programme	14,000	
Research Facility	65,000	
Special Projects	<u>43,000</u>	218,000
		<u>2,413,000</u>

Income from sources other than the Province of Ontario was under budget by \$2,061,000 as follows:

<i>Under budget</i>	\$	\$
Law Foundation	1,729,000	
Client contributions	164,000	
Costs recovered	<u>204,000</u>	2,097,000

<i>Over budget</i>	\$	\$
Miscellaneous income		<u>36,000</u>
		<u>2,061,000</u>

At November 30, there was a negative balance in the Fund of \$231.

The over-payment to Student Legal Aid Societies is recoverable from the provincial government as part of its Experience '80 programme.

### Statistics

The following table compares reported activity for the first eight months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>8 Months ended</i>		<i>% Change</i>	
	<i>Nov. 30/80</i>	<i>Nov. 30/79</i>	<i>from last year</i>	
Summary Legal Advice	28,289	31,147	—	9.2
Referrals to other agencies	46,238	41,326	+	11.9
Applications for certificates	75,392	78,128	—	3.5
Refusals	27,903	25,733		
As a percentage of applications	37.0	32.9	+	8.4
Certificates issued	53,297	55,442	—	3.9
Persons assisted by Duty Counsel:				
Fee for service	107,189	104,462		
Salaried Duty Counsel	<u>38,930</u>	<u>36,298</u>		
Total	<u>146,119</u>	<u>140,760</u>	+	3.8

### Legal Aid Budget 1980—1981

The Committee expressed concern that the Legal Aid Fund will have an expected shortfall of \$5.5 million for the fiscal year 1980—1981.

It was noted that the original Estimates for 1980—81, as approved by the Legal Aid Committee, were within approximately 6% of the actual expenditures.

The Committee requested the Chairman, James B. Chadwick, Q.C., to write to the Attorney General expressing such concern. A copy of Mr. Chadwick's letter to the Attorney General was before Convocation.

## Legal Aid Budget 1981-1982

Estimates 1981-82  
(\$,000)

		1981-82	Approved 1980-81	Increase
<i>Income</i>				
a.	Province of Ontario	45,739.0	31,203.7	14,535.3
b.	Law Foundation	6,600.0	8,658.0	(2,058.0)
c.	Client contributions	2,000.0	2,100.0	( 100.0)
d.	Client recoveries	1,000.0	1,250.0	( 250.0)
e.	Miscellaneous	150.0	135.0	15.0
	<i>Total</i>	<u>55,489.0</u>	<u>43,346.7</u>	<u>12,142.3</u>
<i>Expenditure</i>				
1.	Certificate fees & disbursements:			
	<i>No. of A/C's</i>	<i>Av. Cost</i>		
	78,000	.475	37,050.0	9,813.3
	64,100	.425	27,236.7	
2.	Duty Counsel:			
	(a) Fee for service	3,100.0	3,050.0	50.0
	(b) Salaried	503.0	445.0	58.0
3.	Community clinics	5,470.0	4,750.0	720.0
4.	Student Legal Aid Societies	262.0	242.0	20.0
5.	Research Facility	734.0	408.0	326.0
6.	Special Projects	375.0	200.0	175.0
7.	Area administration	4,515.0	4,003.0	512.0
8.	Provincial Office administration	<u>3,480.0</u>	<u>3,012.0</u>	<u>468.0</u>
	<i>Total</i>	<u>55,489.0</u>	<u>43,346.7</u>	<u>12,142.3</u>

## Notes to Estimates Summary 1981-1982

*Income*

- a. This estimate calls for a Provincial Government contribution of \$45.7 million, which is a 46.6% increase over that which was approved for this current fiscal year.

- b. The estimated Law Foundation income is based upon the assumption that the prime rate will average 12% over the fiscal year.
- c & d As indicated by the Fund's performance to date, the estimates for this current fiscal year proved to be overly ambitious. A more conservative approach has been adopted for this coming year.
- e. The increase in miscellaneous income is anticipated because of larger sums flowing through the Fund's interest-bearing treasury account.

### *Expenditure*

- 1. The increase in certificate fees and disbursements is made up of:

	\$,000
Increased volume	5,911.0
Increased unit cost	<u>3,902.3</u>
	<u>9,813.3</u>

The volume increase arises from the assumption that it is desirable to reduce the backlog of unpaid solicitors' accounts to a manageable level of 8,500, equal to approximately 1.5 months.

The current average unit cost per account is \$443, projected to rise to \$460 by March 1981 and to \$475 for 1981-82.

- 2.(a) In the current year, Duty Counsel costs are running comfortably under budget. Therefore, a modest increase of \$50,000 should provide sufficient funds for this item for next year.
- 2.(b) In addition to inflation, Salaried Duty Counsel costs will increase because of the provision for two additional lawyers to supplement the service at the East Mall and College Park courts.
- 3. In estimating the needs of the clinic delivery system, the Clinic Funding Committee is providing for a 10% increase in salaries and an 8% to 10% increase in clinic overhead costs. The estimate also recognizes the need for further expansion of the system and includes the incremental cost of funding for a full 12 months those clinics which were funded part-way through this current fiscal year.
- 4. An 8% increase has been provided for the funding assistance to the Student Legal Aid Societies. This increase parallels the inflation figure used for the overhead costs of administration.
- 5. The increase for the Research Facility is almost entirely due to personnel costs. It provides for the expansion of staff to meet the demands which will be placed upon the Facility as the service itself expands.
- 6. The Special Projects budget is increased to provide for the setting up of the Investigator and Social Worker projects.
- 7.&8. The increases called for in Area and Provincial Office administration costs are based upon an average of 10% for salary increases plus 8% inflation for support costs. The salary increases are built upon existing salaries for existing staff, rather than the 1980-81 salaries budget.



## REPORT OF THE LEGAL ACCOUNTS OFFICER

## Reviews

	<i>November 1980</i>	<i>8 Months to Nov. 30/80</i>	<i>8 Months to Nov. 30/79</i>
Reviews on hand	945		
Reviews received in	<u>120</u>	1152	826
	<u>1065</u>		
Settlements reviewed in	213	1336	669
Settlements awaiting review	<u>852</u>		
	<u>1065</u>		

## Appeals

	<i>September</i>	<i>October</i>	<i>November</i>
Appeals to Taxing Master received during	—	8	—
Appeals heard by Taxing Master	3	1	—
Appeals pending at the end of the month	4	11	11

## Activity

	<i>1980/81 Fiscal Year</i>		<i>1979/80 Fiscal Year</i>	
	<i>Month of Nov. 1980</i>	<i>8 Months to Nov. 1980</i>	<i>Month of Nov. 1979</i>	<i>8 Months to Nov. 1979</i>
Accounts on hand at beginning	14267	12454	12338	7273
Accounts received in	<u>5509</u>	<u>44602</u>	<u>6306</u>	<u>44813</u>
Total Accounts to be processed	19776	57056	18644	52086
Less: Files cancelled	36	267	38	244
Accounts processed	<u>5401</u>	<u>42450</u>	<u>5420</u>	<u>38656</u>
Balance	<u>14339</u>	<u>14339</u>	<u>13186</u>	<u>13186</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	314	2857	374	2019
Supplementary Accounts	<u>356</u>	<u>2416</u>	<u>315</u>	<u>2150</u>
Total	<u>670</u>	<u>5273</u>	<u>689</u>	<u>4169</u>



## **MANAGEMENT STUDY – PROVINCIAL OFFICE ONTARIO LEGAL AID PLAN**

The Legal Aid Committee approved the recommendation that a management study of the Provincial Office of the Ontario Legal Aid Plan be conducted by Peat, Marwick and Partners.

The objectives of the study were set out in a letter from the consultants. Copies of the letter were before the Committee and Convocation.

## **REPORT OF THE PUBLIC INFORMATION OFFICER**

The Legal Aid Committee received the Report of the Public Information Officer which was before Convocation.

## **PROPOSAL FOR JOINT RESEARCH PROJECT BETWEEN ONTARIO LEGAL AID PLAN AND THE UNIVERSITY OF TORONTO**

The Legal Aid Committee approved in principle the Joint Research Project between The Ontario Legal Aid Plan and the University of Toronto. The Special Projects Coordinator was requested to

- (a) Approach available funding bodies for the financing of the said Research Project;

and note that

- (b) A condition of the arrangement between the Plan and the University must be that the Law Society will determine whether or not a report of the project is to be published and what use is to be made of the Report.

A copy of the Research Proposal was before Convocation.

## **INTERNATIONAL BAR ASSOCIATION LEGAL AID COMMITTEE**

The Legal Aid Committee received a memorandum from the Chairman with reference to the Ontario Legal Aid Plan's involvement with the establishment of an International Legal Aid Committee of the International Bar Association. A copy of the said memorandum was before Convocation.

## **APPOINTMENT OF AREA DIRECTOR SIMCOE COUNTY**

The Committee approved the appointment of Douglas G. Haig, Q.C., Midland, as Area Director for Simcoe County to replace J. G. Currie, Q.C., who retired as of December 31, 1980.

The Simcoe County Law Association and a Sub-Committee of the Legal Aid Committee recommended four members of the local Bar as candidates.

These candidates were interviewed by the Chairman of the Legal Aid Committee, the Provincial Director, and the Deputy Provincial Director. An excellent presentation was made by all candidates. The selection committee, after lengthy and careful consideration, selected Mr. Haig for the position.

## **MENTOR PROGRAM**

A Report on the Mentor Program from the Special Projects Coordinator was received by the Legal Aid Committee. A copy of the said Report was before Convocation.

## **SALARIED DUTY COUNSEL YORK COUNTY**

The Committee received a Report on the Salaried Duty Counsel Program, York County from the Special Projects Coordinator. The said Report was before Convocation.

## **CRIMINAL LEGAL AID PANEL YORK COUNTY**

The Committee received a Report from the Special Projects Coordinator on the Criminal Legal Aid Panel, York County. A copy of the said Report was before Convocation.

## **SUNDAY DUTY COUNSEL EXPERIMENT**

The Committee received a Report from the Special Projects Coordinator with respect to the use of duty counsel in bail hearings on Sundays. A copy of the said Report was before Convocation.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### Simcoe County

John G. Currie, Q.C.

#### Peel County

Robert Weseloh, solicitor

#### Lambton

Ian Bruce, solicitor

#### Middlesex County

James B. Robinson, Reed Shaw Stenhouse Ltd .

Rev. Maurice Boyd, Metropolitan United Church

John Getliffe, solicitor

### (b) RESIGNATIONS

#### Peel County

Morris Gogek, solicitor

#### Lambton

William Logan Millman, solicitor

#### Temiskaming District

Mr. W. J. Barr

Mr. Lorne Prentiss

#### York County

His Honour Judge Klowak

John Halliday, Esq.

Ian Binnie, Esq.

Eric Button, Esq.

His Honour Judge Dunn

Douglas Linton, Esq.

Donald Greenbaum, Esq.

THE REPORT WAS ADOPTED

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## CLINIC FUNDING REPORT

Mr. Chadwick also presented the Report of the Director of Legal Aid, dated 6th January, 1981, with respect to Clinic Funding.

### CLINIC FUNDING

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

The Director recommended to Convocation that the report of the Clinic Funding Committee, dated January 6, 1981, be adopted.

Set out below are the recommendations of the Clinic Funding Committee contained in the said Report:

#### *Appeal by Unemployment Help Centre (up to \$12,000)*

The Clinic Funding Committee considered the appeal by Unemployment Help Centre (UHC) from the initial decision of the clinic funding staff dated August 29, 1980. After reviewing submissions from the UHC and the clinic funding staff, the Committee decided to uphold the initial decision of the clinic funding staff subject to amendments in relation to terms and conditions of funding.

The Committee recommended approval of funding for the UHC effective December 8, 1980, in an amount up to \$12,000 for the fiscal period 1980/81.

#### *Capital Purchases and Moving Expenses for Community-Based Clinics (up to \$55,000)*

The Clinic Funding Committee also recommended approval of up to \$55,000 for capital purchases and moving expenses for community clinics for the fiscal period 1980/81.

#### *Report Pursuant to S. 153 of the Regulation on Clinic Funding*

The Clinic Funding Committee proceeded in accordance with s. 153 of the Regulation on clinic funding to make a finding concerning a breach of terms and conditions of a clinic certificate and decided to report in accordance with s. 153 to the Provincial Director that funding for Black Resources and Information Centre should be terminated effective immediately.

### THE REPORT WAS ADOPTED

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## PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Ground (Chairman), Doran and Wardlaw (Vice-Chairmen), Catzman, Genest, Guthrie, Lamont, Lerner, McWilliams, Outerbridge and Strauss.

### AMENDMENT TO RULE 18

This item was on the Committee's Report for its November meeting which was considered at Special Convocation on December 16th. At that time Convocation directed that the item stand.

At Convocation on July 17th 1980 the proposal of the Committee to delete paragraph (b) of the present Rule 18 was adopted. (This proposal had been referred to the Committee by the Policy Section of the Discipline Committee.) The effect would be to prohibit a lawyer from borrowing money from a client except where the client is a lending or financial institution, insurance company, trust company or similar corporation whose business is to lend money to members of the public or where in the case of a loan from a related person as defined by the Income Tax Act (Canada) the lawyer can prove that the client was fully protected by the nature of the case and by independent legal advice. Members of the profession were invited to comment in writing on the proposed change before November 1st, 1980.

After considering a memorandum containing a summary of the responses received and a synopsis of the views expressed, the Committee recommended to Convocation that the Rule not be changed.

The memorandum considered by the Committee was before Convocation.

It was moved in Convocation, seconded and *carried* that sub-paragraph 1(b) of Rule 18 be deleted and paragraph 2 be amended as required.



**MEMBER'S PROPOSAL TO ADVERTISE  
CORPORATE LAW SERVICES TO BE MADE  
AVAILABLE BY HIS FIRM TO SMALLER FIRMS**

The Committee reported to Convocation in October that a lawyer had asked if it would be proper for his office to advertise the availability of corporate law services his firm could provide to smaller firms.

It was the opinion of the Committee that in reality this proposal would be a method whereby the lawyer's firm would be able to solicit legal business, which is not permitted by the Rules. Convocation accepted the Committee's opinion.

The lawyer asked that the Committee reconsider the matter and this was done. His request for a reconsideration was accompanied by further material. The lawyer proposes that the availability of corporate services be done through an entity which would be known as C.P.S. Paralegal. The lawyer's firm will provide legal opinions to C.P.S. Paralegal and C.P.S. Paralegal will provide non-legal services to law firms. C.P.S. Paralegal will be a joint venture between an individual who runs an insurance agency and the lawyer and his partner, who will be functioning as businessmen and not lawyers. The purpose of C.P.S. Paralegal is "to provide paralegal services to the legal profession and the advertisement would be to the lawyer directly, not to any clients." A copy of the proposed Agreement between a lawyer who would employ these services and C.P.S. Paralegal was submitted to the Committee.

The Committee was of the opinion that the lawyer should be advised that the proposal indicates that C.P.S. Paralegal would be engaged in giving legal advice and that accordingly the proposal was not acceptable.

**DESIGNATION – CRIMINAL LAWYER**

A Toronto lawyer has raised with the Professional Conduct Committee the use of the designation "criminal lawyer" to describe himself in publications of his professional card. The Society's attention was drawn to an announcement which appeared sometime ago in the Toronto Sun in which a member described himself as a "criminal lawyer". He was advised that he could use the description "preferred area of practice – criminal law" or "practising in criminal law" and that "criminal lawyer"



was not acceptable. He agreed to change his announcement pending the decision of the Professional Conduct Committee.

It was the opinion of the Committee that the designation "criminal lawyer" did not contravene Rule 13, more particularly paragraphs 6 and 14(a) of the Commentaries thereunder. A copy of the member's announcement as it originally appeared was before Convocation.

## **MISCELLANEOUS**

A number of other matters were considered with the appropriate instructions being issued in each instance.

## **THE REPORT AS AMENDED WAS ADOPTED**

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### **LEGAL EDUCATION COMMITTEE—Mr. Carthy**

Mr. M. A. Catzman, Vice-Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Mr. M. A. Catzman, Acting Chairman in the Chair, Messrs. Doran, Ferrier, Genest, Goodman, Ground, Henderson, Lamont, Lerner, Noble, Outerbridge, Ruby, Scace, Mrs. R. M. Tait, Messrs. Thom and Wardlaw.

## **FACULTY APPOINTMENTS**

**Toronto, Ottawa and London as indicated**

It was recommended that the following appointments be made for the teaching term which commenced September 2nd, 1980:

### **(a) Income Tax Section**

Standby Instructors (Osgoode Hall): Beryl Green, Mary L. Dickson.

### **(b) Corporate and Commercial Law Section**

Group Instructors (Osgoode Hall): Bruce Blain, K. C. Morlock, Herman Wilton-Siegal, John D. Wright.

Standby Instructors (Osgoode Hall): R. E. Burgess, Alice-Anne Morlock, Elizabeth M. Waight, Arlene D. Wolfe, Steven F. Troster, Constance F. Sugiyama, D. N. Corbett, Michael Singer.

Group Instructors (Ottawa): George H. Robichon, John E. Johnson.

### (c) Creditors' and Debtors' Rights Section

To continue as Head of Section, R. G. Marantz, Q.C.

Group Instructors (Osgoode Hall): K. R. Aalto, Frank Bennett, D. J. Brown, R. H. Chartrand, F. G. Felkai, H. M. Fogul, M. H. Greenglass, G. N. Hemsworth, John Herron, R. D. Howell, A. O. Jacques, J. H. Kirsh, E. B. Leonard, Ben Martin, J. S. McKeown, W. A. McLauchlin, R. B. Moldaver, D. J. T. Mungovan, Stanley Naftolin, P. D. Quinn, Norman S. Rankin, J. E. Shaw, M. L. Solmon, J. R. Varley, R. W. Walker, Stephen Thom, A. I. Wexler, M. B. Rotsztain, T. J. Matz, J. E. Gilgan, A. J. Kent.

Standby Instructors (Osgoode Hall): M. D. Lipton, Gerald Gold, Martin Sclisizzi, M. M. Steidman, J. D. Wright, Geza R. Banfai, Wayne Dourley.

To continue as Senior Instructor (Ottawa), Arnell S. Goldberg, Q.C.

Group Instructors (Ottawa): R. D. Allard, J. J. Cardill, W. A. Joyce, P. N. Leaman, P. D. Rasmussen, N. S. Slover, E. R. Williams.

Standby Instructors (Ottawa): G. T. Crowe, M. J. Siddons.

To continue as Senior Instructor (London), R. Jeffrey Flinn, Q.C.

Group Instructors (London): K. B. Bilton, R. W. Dickie, F. H. Highley, R. B. Livingston, C. H. Reeves, Martin Stambler.

Standby Instructors (London): J. R. Lockwood, C. F. MacKewn, J. W. Dunlop.

### (d) Real Estate and Landlord and Tenant Section

To continue as Head of Section, P. H. G. Walker, Q.C.

Group Instructors (Osgoode Hall): P. A. Adams, D. A. Allport, D. R. Angelson, L. D. Barsky, M. L. Caswell, M. J. Fingret, B. V. Hatt, L. M. Hess, R. A. Hummell, M. A. Kelly, B. E. LeVasseur, B. J. McGregor, B. A. McKenna, D. J. McRae, E. N. Merkur, Paul Merrick, M. J. Mowbray, Paul Neubauer, Marsha Onyett, J. J. Pizale, J. J. Prince, P. D. Quinn, R. W. J. Seyffert, R. E. Smolkin, D. F. Thomson, W. M. Traub, Sidney Troister, G. T. Tsampalieros, R. C. Watt, C. F. Winer.

Standby Instructors (Osgoode Hall): D. M. Brans, T. D. Deacon, K. J. C. Dean, K. N. Karp, A. C. Knox, G. B. Lewis, H. D. Marks, D. H. Milman, C. Stoyan.

To continue as Senior Instructor (Ottawa), Laird J. Rasmussen, Esq.

Group Instructors (Ottawa): Arthur Ault, R. M. Chartrand, Abraham Feinstein, J. B. Hebert, David H. Hill, R. E. Murray, F. G. Tanner.

Standby Instructors (Ottawa): W. J. Honeywell, R. A. Ritchie, L. A. Roine.

To continue as Senior Instructor (London), J. Gerald O'Grady, Esq.

Group Instructors (London): P. E. Bradley, J. R. Carrie, P. C. Gillespie, A. J. Hanes, D. W. Lewis, J. H. Little.

Standby Instructors (London): G. H. Kleiman, L. E. Parkhill, T. C. Uren.

## (e) Criminal Procedure Section

To continue as Head of Section, R. J. Carter, Q.C.

Group Instructors (Osgoode Hall): L. M. Budzinsky, F. X. Fay, A. D. Gold, B. H. Greenspan, E. L. Greenspan, Douglas Hunt, G. P. Johnston, Martin Kerbel, G. R. Kluwak, G. S. Lapkin, Harold J. Levy, R. D. Manes, F. N. Marrocco, M. J. Moldaver, H. F. Morton, D. F. O'Connor, W. N. F. Ortved, W. J. Parker, E. F. C. Then, W. M. Trudell, M. A. Wadsworth, J. D. Watt, P. H. Wilkie.

Standby Instructors (Osgoode Hall): J. F. Casey, Alexander Fiszauf, A. M. Mandell, Mark Rosenberg, Bonnie J. Wein.

To continue as Senior Instructor (Ottawa), W. D. Chilcott, Q.C.

Group Instructors (Ottawa): J. C. Barnabe, J. A. Cogan, Arnold Fradkin, R. E. Houston, P. F. D. McCann, Donald McDougall, L. M. Shore.

Standby Instructors (Ottawa): Donald Bayne, P. H. Coulson, C. D. McKinnon, M. J. Neville.

To continue as Senior Instructor (London), Edward Richmond, Q.C.

Group Instructors (London): J. N. Buchanan, J. M. Donnelly, A. H. Little, J. H. Melnitzer, J. M. Neilson, Norman Peel.

Standby Instructors (London): J. J. Eberhard, M. E. Martin.

## (f) Estate Planning and Administration Section

To continue as Heads of Section, J. J. Wardlaw, Q.C., J. A. Brulé, Q.C.

Group Instructors (Osgoode Hall): W. P. G. Allen, H. J. Alpert, Paul Baston, Pamela Belyea, Nancy D. Chaplick, J. D. DeSipio, A. C. Dymond, R. G. Fitzsimmons, Maxwell Gotlieb, G. L. Hill, R. E. Jarman, P. E. Lockie, Barbara J. McGregor, S. A. Parker, A. J. Packer, M. G. Phelan, J. P. Roche, P. U. Schmidt, John Spina, J. M. Stewart, M. B. Stratton, Marni M. K. Whitaker.

Standby Instructors (Osgoode Hall): M. M. K. Fitzpatrick, Susan E. Greer, P. B. Shone.

To continue as Senior Instructors (London), John W. Cram, Q.C., Robert I. Morrison, Esq.

Group Instructors (London): H. W. Cohen, E. L. Elwood, Linda D. Fowler, J. G. Kerr, M. M. Pellarin, A. C. Wright.

Standby Instructors (London): J. R. Cowan, R. T. Furlonger, W. A. Petrie.

*Approved*

## **BAR ADMISSION COURSE ONTARIO GOVERNMENT GRANT 1981-82**

Mr. Stuart Thom, Mr. Denis Burnett and the Director met with Dr. Winegard, Chairman of the Ontario Council on University Affairs, together with two members of Council and two members of staff on Wednesday, December 17th, 1980 and made the Society's submission to the Council for a grant-in-aid for operating expenses of the Bar Admission Course for the year 1981-82. After full discussion, Dr. Winegard advised that he would make his recommendations to the Minister in the near future and that the Society would be advised in the usual way.

*Noted*

## **BAR ADMISSION COURSE LONDON PREMISES**

This item was before the Committee on November 13th, 1980, and on 21st November, 1980, Convocation approved the Committee's recommendation that a Sub-Committee composed of Mr. Lerner (Chairman) and the Director, with power to add, be appointed to negotiate with King's College for a new lease and alternatively to search for new premises for the use of the Society in London.

A further letter dated 15th December, 1980, was received from Dr. John D. Morgan who stated that on that date the Board of Directors of King's College approved the recommendation of the Property Committee that the present lease with the Law Society of Upper Canada not be renewed beyond its present expiration date of June 30th, 1982.

The Committee recommended that Mr. Lerner be authorized to investigate whether and on what terms the Law Society may be able to purchase either vacant land from the University of Western Ontario or the present premises from King's College with a view to the Society's continuing occupation of the present premises.

## **ACLEA MEETING - HOUSTON, TEXAS**

The Committee recommended that the Director attend the

meetings of the American Continuing Legal Education Association and the continuing legal education meeting of the American Bar Association in Houston, Texas during the first week of February, 1981.

*Approved*

## **SPECIAL PETITION**

The Committee considered one special petition for admission to the Bar Admission Course. The petitioner received the LL.B. degree from the University of Ottawa in 1979, then attended the London School of Economics and Political Science and obtained a Master of Law Degree in November 1980. She commenced service under articles on 19th November, 1980 and proposes to complete such service, without time off for vacation, in September, 1981. She requested that this period of service under articles be accepted in full of the articling requirement and that she be allowed to enter the teaching term of the Bar Admission Course in September 1981. The petition was granted.

## **BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 31st December, 1980; and reviewed a statement setting out the Continuing Education programmes held in November and December, 1980 and the publications report for the months of November and December, 1980.

## **THE REPORT WAS ADOPTED**

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## **PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé**

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Brulé (Chairman), Doran, Farquharson, Mrs. Legge, Messrs. Tebbutt and



Wardlaw. Messrs. Hargraft, Marshall and Maltman were present at the Chairman's request.

**MARSH & McLENNAN  
BROKERS' FEE  
COVERAGE FOR 1981**

A letter dated 1st December 1980 from Marsh & McLennan Limited was before the Committee proposing that the fee for negotiating cover for 1981 be \$63,900.

*Approved*

**PRACTICE ADVISORY SERVICE**

A report dated 31st December 1980 from the Director of the Practice Advisory Service was before the Committee, together with a memorandum on the subject of Undertakings on Closing — Mortgage Discharges.

The Committee received the Director's report and recommended that the memorandum respecting Undertakings on Closing — Mortgage Discharges — be distributed to all members of the Society.

**F. C. MALTMAN & CO. LTD.**

A small account for disbursements only has been rendered by Counsel retained by the adjusters in connection with loss cover by the Lloyds policy. The account in the amount of \$166.50 and a letter from Maltman & Co. Ltd., dated 31st December 1980, were before the Committee.

*Approved*

**ADJUSTERS' FEES**

Lists of fees paid in November 1980 and December 1980 were before the Committee.

*Noted*

**COUNSEL FEES**

Lists of fees paid in November 1980 and December 1980 were before the Committee.

*Noted*



**MONTHLY REPORT**

Mr. Hargraft's monthly report was before the Committee.

*Noted*

**THE REPORT WAS ADOPTED**

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**UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott**

Mr. B. C. Bynoe, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Chilcott (Chairman), McWilliams, Shaffer and Strauss.

1. Four accounts were approved.
2. A letter concerning an agency purporting to give legal advice in family law matters was received. The Secretary was instructed to send a letter signed by the Chairman of the Committee to the agency indicating that the Society had received a complaint that their services have gone beyond the qualifications of the employees in giving legal advice in family law matters, and that the agency should refer both spouses to Legal Aid to be separately represented by a solicitor.
3. A letter concerning the rendering of legal services in estate matters by a company was received. The Secretary was instructed to write to the company indicating that the Society had received a complaint that the company is practising law and if it does not cease and desist the Society will take action.
4. A correspondent advised that an individual was using letterhead of a firm of solicitors without their permission and holding himself out as a solicitor. The Secretary was instructed to retain counsel to prosecute the individual for unauthorized practice based on a holding out as a solicitor contrary to Section 50(1) of The Law Society Act, and to send copies of the correspondence to the firm of solicitors whose letterhead

was improperly used.

5. A letter concerning an individual holding himself out to be a solicitor was received. The Secretary was instructed to retain counsel to investigate the six other complaints against the individual and to commence a prosecution if there was sufficient evidence of unauthorized practice contrary to Section 50(1) of The Law Society Act. The Secretary was also instructed to contact the Metropolitan Toronto Police.

6. A complainant wrote that an individual was engaged in conveyancing work and being a Commissioner was improperly using her commission. The Secretary was instructed to write to the complainant and ask for further information concerning the conveyancing activities, and to report to the Deputy Attorney General concerning the improper use of the appointment of the individual as a Commissioner.

7. A solicitor wrote that an individual who signed a letter as legal advisor is holding himself out as a solicitor. The Secretary was instructed to write the complainant and ascertain when he received the admission that the individual had printed letterhead of a non-existent legal firm.

### **THE REPORT WAS ADOPTED**

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### **SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST**

Mr. A. R. A. Scace presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 8th January, 1981.

The following members were present: Messrs. Cass, Ferrier and Genest.

### **STUDENT APPLICATIONS**

The Committee considered the application for a grant of a student member in the current Bar Admission Course who had borrowed a substantial amount to finance his legal education

and had received all student loans and assistance to which he is entitled, and because of this indebtedness and the illness of a member of his family is in straightened circumstances. On the recommendation of the Chairman an immediate grant in the amount of \$100 was given to him on 22nd December, 1980. The Committee recommended that the Chairman's action be ratified but that no further grant be made.

The Committee gave consideration to an application for a grant from a student in the Bar Admission Course at London. A memorandum from the Assistant Director of the Bar Admission Course recommended that this grant not be made. The Committee recommended that no grant be made.

#### **THE REPORT WAS ADOPTED**

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#### **CONVOCATION ROSE AT 5:00 P.M.**

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Confirmed in Convocation 20th February, 1981.

**J. D. BOWLBY**

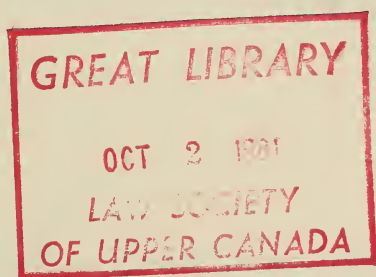
Treasurer





THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation



**Volume 6      Number 2**





## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 20th February, 1981  
10:00 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Barr, Bragagnolo, Brulé, Carter, Carthy, Cass, Catzman, Chadwick, Chilcott, Cooper, Doran, Farquharson, Finlayson, Genest, Goodman, Ground, Guthrie, Henderson, Humphrey, Lamont, Mrs. Legge, Messrs. McWilliams, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Scace, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, White, Willoughby and Yachetti.

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### MINUTES

The Minutes of Convocation of 16th January, 1981 were confirmed.

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### S.E. WEIR, Q.C.

#### BENCHER EX OFFICIO

Samuel Edward Weir of Queenston died 18th January, 1981 at the age of 82. He was called to the Bar 21st October, 1920 and practised in London, Ontario. He was first elected a Bencher in 1950 to replace The Right Honourable J. R. Cartwright who had been appointed to the Supreme Court of Ontario and who later became Chief Justice of Canada. Mr. Weir was subsequently elected at the Benchers elections in 1951, 1956 and 1961, becoming a Bencher ex officio in 1961. He became a member of the Quebec Bar in 1959 and for a number of years practised as a Canadian lawyer in New York City. He was deeply interested in Canadian and American history and art

and following his retirement in 1970 devoted much of his time to his collection, reputed to be one of the foremost in the country, which included an original portrait of William Osgoode, the first Chief Justice of Upper Canada. Mr. Weir was buried on the grounds of the home which he had built to house his collection and which in accordance with his wishes is to become a public museum.

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**D. PARK JAMIESON, Q.C.  
BENCHER EX OFFICIO**

David Park Jamieson died at Sarnia on 10th February, 1981, at the age of 77. He was called to the Bar 20th November, 1924 and practised in Sarnia until his retirement for health reasons in 1970. He was first elected a Bencher in the Benchers election of 1946 and subsequently in the elections of 1951, 1956 and 1961, becoming a Bencher ex officio in 1961. In 1964 Dr. Jamieson was awarded an honorary LL.D. by Osgoode Hall Law School in recognition of his contribution to legal education in Canada, especially with respect to his work in the establishment of the Bar Admission Course. He also held honorary degrees from the University of New Brunswick and the University of Ottawa. He had a distinguished career in the R.C.A.F. during World War II and in 1944 was made a member of the Order of the British Empire. In 1955 he represented Canada at the First Commonwealth and Empire Law Conference in England and in 1960 he was chairman of the Conference held in Ottawa. He was an honorary life member of The Law Society, England, the American Bar Association and the Bar Association of Mexico. Dr. Jamieson was a founder of the Western Ontario Drama League and president of the Dominion Drama Festival from 1946 to 1952 and subsequently honorary president. He was a member of the Canada Council on Arts, Letters and Sciences from 1962 to 1965. In 1974 he was named a member of the Order of Canada.

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## APPOINTMENT OF REPRESENTATIVES FEDERATION OF LAW SOCIETIES OF CANADA

It was moved, seconded and *carried* that the *Treasurer* and Mr. *R. D. Yachetti* be appointed the Society's representatives to the Federation of Law Societies of Canada.

.....

## MEETING WITH COUNTY AND DISTRICT LAW ASSOCIATIONS: TIME AND PLACE

The annual meeting of the Chairmen and Vice-Chairmen of the Standing Committees with the representatives of the County and District Law Associations and representatives of the approved law faculties in the province had proved so beneficial that it was proposed that an additional meeting be arranged.

It was moved, seconded and *carried* that a meeting of the Chairmen and Vice-Chairmen of the Standing Committees with representatives of the County and District Law Associations and representatives of the approved law faculties in the province take place on Friday, 12th June, 1981, at 9:30 a.m., in the Third Floor Lounge at Osgoode Hall, and that the meeting be preceded by coffee served in Convocation Hall and followed by a buffet luncheon in Convocation Hall.

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## MOTIONS: HONORARY DEGREES

It was moved, seconded and *carried* that the degree of Doctor of Laws, *honoris causa*, be conferred upon The Honourable Mr. Justice *W. G. Gray* at the Call to the Bar Ceremony in London on 15th April, 1981.

It was moved, seconded and *carried* that the degree of Doctor of Laws, *honoris causa*, be conferred upon Mr. *G. D. Finlayson* at the Call to the Bar Ceremony in London on 15th April, 1981.

It was moved, seconded and *carried* that the degree of Doctor of Laws, *honoris causa*, be conferred upon The Honourable Mr. Justice *W. Z. Estey* at the Call to the Bar Ceremony in Toronto on 10th April, 1981.

.....

## APPOINTMENT OF SPECIAL COMMITTEE ON PUBLIC INFORMATION

The Treasurer announced that he had appointed a Special Committee on Public Information consisting of himself as Chairman and the following members: Messrs. *Beaufoy, Carter, Ferrier, Ground*, Mrs. *Legge*, Messrs. *Ogilvie, Outerbridge, Scace* and *Yachetti*. The Special Committee will examine, among other things, how institutional advertising and effective response to media comment are handled in other Canadian jurisdictions and in other countries, and a report, including a cost analysis, is expected to be ready by next autumn.

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## MOTION: ELECTION OF TREASURER 1981

It was moved, seconded and *carried* that the matter of the election of the Treasurer in 1981 be referred to the Finance Committee with the suggestion that provision be made for an advance poll so that those Benchers entitled to vote and unable to be present at the May Convocation may be permitted to vote.

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## JABOUR ACTION APPEAL TO SUPREME COURT OF CANADA

Mr. O'Brien reported that the Society had been granted leave to intervene in the appeal to the Supreme Court of Canada by the Attorney General of Canada, the Restrictive Trade Practices Commission and others, against a judgment of the British Columbia Court of Appeal which held that the Combines Investigation Act does not apply to the Law Society of British Columbia. He also reported that the time for applying for leave to intervene had been extended for the Federation of Law Societies of Canada until after the Federation's meeting in Saskatchewan on 1st March, 1981.

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**MOTION: APPOINTMENT OF SPECIAL  
COMMITTEE ON NUMBER OF  
LAWYERS ENTERING PRACTICE**

Notice was given at the January Convocation that a motion would be presented to the February Convocation and accordingly the following motion, duly moved and seconded, was before Convocation:

That a Special Committee of Benchers be constituted forthwith to enquire into all aspects of the matter of the number of lawyers entering into practice, the resulting effect on the standards of practice and the welfare of the profession, and the consequent advantages and disadvantages accruing to the public.

The motion was *carried*.

.....

**SPECIAL COMMITTEE ON CONVOCATION**

Mr. H. W. Arthurs, Chairman, reported orally on the progress of the Special Committee on the work of Convocation and its committees.

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**ADMISSIONS COMMITTEE—Mrs. Legge**

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Carthy, Cass, Catzman, Chilcott, Ferrier, Ground, Lamont, Scace and Mrs. Sutherland.

**OCCASIONAL APPEARANCE**

*Richard Joel Wolson*, of the Province of Manitoba, applied to proceed under Section 10 of the Regulation, "Occasional appearances in Ontario of lawyers from other provinces", in the



case of *Regina vs. Dale Allen Rollins*. Mr. Wolson complied with the requirements of Section 10, presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the February Convocation.

*Approved*

## **CALL TO THE BAR AND CERTIFICATE OF FITNESS**

### **Call to the Bar for an Occasional Appearance**

At its meeting on 12th February, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces", and that upon giving the necessary undertakings, he be called to the Bar and admitted as a solicitor:

Richard Joel Wolson

### **Bar Admission Course**

The following candidate, having successfully completed the 21st Bar Admission Course, filed the necessary documents and paid the required fee of \$210, applied for call to the Bar and to be granted a Certificate of Fitness:

Patrice Audrey Reitzel

### **Transfer from another Province**

The following candidates, having passed the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$411, applied for call to the Bar and to be granted Certificates of Fitness:

Paul Brian Nicholas Flemming  
Robert Leslie Tapper

Province of Nova Scotia  
Province of Manitoba

The following candidates, having passed the comprehensive examination on the common law and the examination set by the Examining Board, filed the necessary documents and paid



the required fee of \$541, applied for call to the Bar and to be granted Certificates of Fitness:

Hendrik Kooiman  
Jean-Marc Belleau Noël  
James Gordon Wright

Province of Quebec  
Province of Quebec  
Province of Quebec

*Approved*

## **ADMISSION OF STUDENTS—AT—LAW**

### **Bar Admission Course**

A further 18 candidates, having complied with the relevant Regulations, paid the required fee of \$101, and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

## **DIRECT TRANSFER**

The Committee considered one application to transfer to practise in Ontario from a member of the Nova Scotia and Alberta Bars who sought permission to proceed under Regulation 4(1) and 3(1). The applicant also sought permission to write the examination on Statutes and Procedure in Ontario in May 1981. The Committee approved the application.

## **DIRECT TRANSFER FROM QUEBEC**

The Committee considered and approved one application to transfer to practise in Ontario by a Quebec lawyer who requested permission to proceed under Regulation 4(2).

## **STATUTES AND PROCEDURE EXAMINATION**

Two candidates who sat the examination on Statutes and Procedure in Ontario in November 1980 and failed sought permission to extend the period of eligibility to permit them to write the examination again in May 1981. The Committee approved an extension to each of them.

## **SURVEY OF 1979 BAR ADMISSION COURSE GRADUATES**

Convocation in March 1979 recommended that the Society participate with the Ontario Law Deans in a joint survey which would be sent to the students-at-law who graduated in 1979. The Committee approved the account in the amount of \$2,594.23.

The Committee recommended that the question of re-issuing the questionnaire to bring the results up to date be discussed with the Law Deans, and if they consent, the Society arrange for this to be done.

### **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:

Patrice Audrey Reitzel  
Paul Brian Nicholas Flemming  
Robert Leslie Tapper  
Hendrik Kooiman  
Jean-Marc Belleau Noël  
James Gordon Wright

.....

## **PUBLIC RELATIONS COMMITTEE—Mr. Goodman**

At the Special Convocation on Tuesday, 16th December, 1980, the Report of the Public Relations Committee was tabled. The Report gave rise to a considerable discussion respecting advertising. The discussion was directed to stand until the regular January Convocation, when it was again deferred. The discussion will stand for continuation at the next Convocation.

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## DISCIPLINE COMMITTEE—Mr. Genest

Re: DONALD GROVER R. MacDONALD, Toronto

Mr. P. Genest, Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Finlayson and Ruby withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended, unrepresented. Mr. Chris G. Paliare represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 5th February, 1981, together with an Affidavit of Service, dated 9th February, 1981, by Thomas Hudson Hocking, that service had been effected upon the solicitor by registered mail on 6th February, 1981.

The solicitor acknowledged proper service of the Report upon him and waived the reading of the Report which had been circulated to the Benchers prior to Convocation. He made no objection to the Report.

The Report found that the solicitor was guilty of professional misconduct. His standard of competence was below what the public is entitled to expect and the Rules of Professional Conduct require.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 5th February, 1981, be accepted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been accepted by Convocation.

The solicitor made submissions as to penalty.

Mr. Paliare made submissions respecting penalty.

The solicitor, counsel and the reporter withdrew.

Convocation was advised that the Discipline Committee's Recommendation as to Penalty is that:

1. The solicitor be reprimanded in Convocation,
2. The Law Society's Practice Advisory Service and Auditor review the solicitor's practice immediately

and do so periodically thereafter until the Society is satisfied everything is in order,

3. The solicitor resolve outstanding complaint matters to the satisfaction of the complainants within three months and file a declaration with the Society that this has been done,
4. The cost of the Auditor's and the Practice Advisor's review, if assessable, be borne by the solicitor, and
5. The cost of the hearing of the discipline proceedings be borne by the solicitor.

It was moved, seconded and *lost* that the matter be adjourned three months and that a pre-sentence report be obtained by the Practice Advisor for the assistance of Convocation in deciding on the appropriate penalty.

It was moved, seconded and *carried* that the penalty be that recommended by the Discipline Committee.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the penalty to be imposed.

The solicitor accepted the conditions imposed as part of the penalty and asked that the penalty of reprimand be carried out forthwith, waiving his right of appeal.

Counsel and the reporter withdrew.

The solicitor was reprimanded by the Treasurer.

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### GENERAL REPORT

Mr. Genest presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Genest (Chairman), Ogilvie and Yachetti (Vice-Chairmen), Cass, Catzman, Cooper, Doran, Finlayson, Humphrey, Ruby and Mrs. Sutherland.

## **DISCIPLINE STAFF**

A matter raised at the Special Convocation in December was whether or not the Society should hire a permanent staff counsel to supervise the Society's discipline operations and prosecute cases on behalf of the Society.

The Arthurs Committee, through its Discipline Sub-Committee, is involved in studying the proposal. However, the matter was felt to be of sufficient importance that it should also be considered by the Policy Section of the Discipline Committee.

The matter was discussed by this Committee and it was felt that in light of the growth in the number of discipline cases a permanent in-house counsel should be hired. The Committee is aware, however, that the Peat, Marwick Report may make suggestions as to the organization of the administrative staff and accordingly it was felt that in-house counsel should not be hired prior to the Peat, Marwick Report being received to determine what, if any, proposals it might make in this area. The Committee recommended that Convocation approve in principle the hiring of a full-time in-house counsel to be implemented following receipt of the Peat, Marwick Report.

## **CIRCULATION OF RECOMMENDATION AS TO PENALTY**

At a recent Convocation, there was discussion as to whether or not the Recommendation as to Penalty should be forwarded to members of the Bench at the same time as the Report of the Discipline Committee. The consensus appeared to favour this approach; however, some members were opposed to the procedure and consequently no decision was reached by Convocation.

This matter was discussed at great length by the Committee. It was felt that the matter should be tabled pending a further report of the Arthurs Committee to see what changes to the discipline procedures in Convocation that Committee recommends.



## MISCELLANEOUS

A number of other matters were discussed and the appropriate instructions were issued in each instance.

### THE REPORT WAS ADOPTED

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### COMPENSATION FUND REPORT

#### Re: ANTHONY BLOTTI

Mr. Genest presented the Report of the Discipline Committee, dated 20th February, 1981, with respect to claims arising out of the practice of Anthony Blotti.

Anthony Blotti was disbarred on January 8th, 1969.

The Discipline Committee composed of Messrs. Lohead (Chairman), Goodman and Mrs. Legge approved of the Report of the Referee, J. S. Boeckh, Q.C., in which he recommended a payment to the claimant of \$1,000.

This payment brings the total paid out of the Compensation Fund to \$226,552.08. This amount further exceeds the discretionary limit of \$150,000 per solicitor that the Committee authorized in January 1972.

The Committee's recommendation based on the Referee's Report is that the following payment be made:

<i>Claimant</i>	<i>Amount Claimed</i>	<i>Referee's Report</i>	<i>Amount Recommended</i>
Rocco Borraccia	\$28,100	\$1,000	\$1,000

### THE REPORT WAS ADOPTED

.....

### COMPENSATION FUND SUMMARY

Mr. Noel Ogilvie, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st January, 1981.



## COMPENSATION FUND

For the Period from 1st July, 1980 to 31st January, 1981

(7 months)

TOTAL RECEIPTS	\$ 1,233,306.95
TOTAL DISBURSEMENTS	<u>\$ 493,252.52</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 740,054.43
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,314,036.14</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$10,536,701.86</u></u>

## THE SUMMARY WAS RECEIVED

.....

## CONVOCATION ADJOURNED FOR LUNCHEON AT 12:40 P.M.

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The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice T. G. Zuber of The Court of Appeal for Ontario and The Honourable Mr. Justice S. G. M. Grange of The High Court of Justice for Ontario.

.....

## CONVOCATION RESUMED AT 2:30 P.M.

.....

## PRESENT:

The Treasurer and Messrs. Arthurs, Barr, Brulé, Carthy, Cass, Catzman, Chadwick, Cooper, Farquharson, Goodman, Ground, Guthrie, Lamont, Mrs. Legge, Messrs. McWilliams, O'Brien, Ogilvie, Pepper, Ruby, Scace, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, White, Willoughby and Yachetti.

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## FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Pepper (Chairman), Brulé, Chilcott, Scace, Shaffer, Tebbutt and Wilson.

## ROLLS AND RECORDS

### Appointments to the Bench

The following members have been honoured by their appointment to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

James Dalziel Carnwath, Q.C. Woodstock	Called – 12 April 1962 Appointed County Court Judge Judicial District of Halton – 2 September 1980
Walter Ernest Bell, Q.C. London	Called – 16 September 1954 Appointed Provincial Court Judge Criminal Division, County of Middlesex – 5 January 1981
John Phillips Kerr, Q.C. Toronto	Called – 10 April 1964 Appointed Provincial Court Judge Criminal Division, Judicial District of York – 5 January 1981
Frank Nowak Kitchener	Called – 22 June 1960 Appointed Provincial Court Judge Family Division, County of Essex – 19 January 1981
Allan Ross Webster, Q.C. Woodstock	Called – 21 March 1969 Appointed Provincial Court Judge County of Elgin – 1 February 1981

### Deaths

The following members have died:

Joseph Aloysius Fullerton Toronto	Called – 29 June 1949 Died – 9 December 1980
Gary Joel Lax Toronto	Called – 6 April 1979 Died – 6 January 1981

William Curtis Cuttall, Q.C. Toronto	Called – 19 September 1935 Died – 7 January 1981
Russell Maxwell Best, Q.C. Bracebridge (Life Member)	Called – 17 June 1920 Died – 10 January 1981
Darren Lloyd Michael, Q.C. Oshawa	Called – 25 March 1966 Died – 7 January 1981
John Desbarres Jennison Ottawa (Life Member)	Called – 11 September 1924 Died – 24 July 1980
Peter Joseph Dika Toronto	Called – 18 September 1959 Died – 12 January 1981
Samuel Edward Weir, Q.C. Niagara-on-the-Lake (Bencher ex-officio; Life Member)	Called – 21 October 1920 Died – 18 January 1981
Leonard Grieve Robinson Stayner	Called – 25 June 1953 Died – 30 October 1980
Arleigh Armstrong, Q.C. Newmarket	Called – 17 September 1931 Died – 22 September 1980
Jack Mace Hickey, Q.C. Kingston (Life Member)	Called – 15 June 1922 Died – 3 February 1981
Robert Warwick Russell, Q.C. Mississauga	Called – 16 June 1932 Died – 31 January 1981
Henry White Kinnear, Q.C. Toronto	Called – 17 September 1931 Died – 27 January 1981
Warren Francis Lynch, Q.C. Etobicoke	Called – 18 April 1946 Died – 2 February 1981
David Park Jamieson, Q.C. Sarnia (Bencher ex-officio; Life Member)	Called – 20 November 1924 Died – 10 February 1981
David Bennett Gallagher Toronto	Called – 14 April 1978 Died – 4 February 1981
William Harold Male, Q.C. Toronto (Life Member)	Called – 18 September 1914 Died – 9 February 1981

## 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:

David Brendan Bennett Hamilton	Called – 8 April 1976 Disbarred – Convocation 16 January 1981
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Michael Joseph Francis Delaney  
Toronto

Called – 19 September 1958  
Disbarred – Convocation  
16 January 1981

*Noted*

## MEMBERSHIP UNDER RULE 50

### Retired Member

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

James Edward Hughes

Toronto

*Approved*

## CHANGE OF NAME

The following members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

### *From*

### *To*

Elaine Sheri Kirshenbaum  
Marie Bernetta Morris

Elaine Sheri *Newman* (married name)  
Marie Bernetta *Moser* (maiden name)

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

### *From*

### *To*

Kathleen Louise Keller

Kathleen Louise *Keller-Hobson*  
(married name)

Janice Tova Kelman  
Marla Elizabeth Marino

Tova Janice Kelman (Court Order)  
Marla Elizabeth Marino *Vachon*  
(married name)

Shigeko Miyauchi  
Mike John Mychajlyszyn

*Judy* Shigeko Miyauchi (Court Order)  
Michael John *Mychailyshyn*  
(Court Order)

*Approved*

## BANKING

Following the approval by Convocation on 19 September, 1980 of the recommendation by this Committee, arrangements

have now been made for the Errors and Omissions Bank Account to be transferred to the Bank of Montreal. Convocation will be asked to pass the attached resolution on 20 February 1981. (*See motion, p. 67.*)

*Noted*

## ARREARS OF ANNUAL FEES

Annual fees for 1980/81 were due on 1 October 1980 and notices have been sent as follows:

1st notice	—	September	5	1980
2nd notice	—	November	12	1980
3rd notice	—	January	26	1981

There are still 369 members who have not paid their fees, although each notice has included a reminder that the rights and privileges of members may be suspended if fees are not paid within four months of the due date.

The Committee directed that those in arrears be advised forthwith that it will be recommended to Convocation on 20 February, 1981 that the rights and privileges of those still in arrears on 2 March, 1981 be suspended on that day. (*See motion, p. 68-9.*)

## REFUND ON ANNUAL FEES

His Honour *John Phillips Kerr* was appointed a Provincial Court Judge on 5 January 1981. He had paid his annual fees for 1980/81 on 22 December, 1980 and, in view of his appointment, applied for a partial refund. Since the annual fees cover the fiscal year 1 July, 1980 to 30 June, 1981, Judge Kerr claimed that 50% of the fees paid apply to the period when his membership will be in abeyance.

At its meeting on 9 November, 1978, the Committee specified that no refund is to be made in respect of a member whose fees have been paid and whose membership goes into abeyance after 30 November.

The Committee was asked to consider whether an exception to the guidelines set out in November 1978 is to be made.

The Committee recommended that no exception be made.



## REQUEST FOR EXEMPTION FROM PAYMENT OF ANNUAL FEES

*Michael Stephen Krepakevich* of Islington sought an exemption from payment of annual fees. Mr. Krepakevich does not qualify to proceed under Rule 50 as he is not 65 years of age nor is there permanent disability which prevents him from practising law. By letter dated 7 November, 1980, Mr. Krepakevich advised in part as follows.

"This is to advise that I do not seek an exemption upon medical grounds. Since my call to the Bar in March 1977, I have, notwithstanding persistent efforts, been unable to obtain reasonable employment of either a legal or nonlegal nature. The Law Society recognizes that in certain instances it would be inequitable to insist upon the payment of fees and it has accordingly provided for exemptions. The Society is also cognizant of the fact that the profession is now confronted with a very serious unemployment problem. It is my suggestion that it would be quite reasonable to extend exemptions to the unemployed members and it is upon this basis that I am requesting an exemption.

I trust that you will forward my request to the Benchers or the appropriate committee for their consideration."

The Committee recommended the request be denied.

## ERRORS AND OMISSIONS INSURANCE

In December 1979, Peter D. Norman & Associates Ltd. were asked to present a series of programs for members and their staff on the subject of risk management. The Practice and Insurance Committee approved the payment to Peter D. Norman & Associates of \$25 per insured member, including in this calculation persons who would become members in the spring of 1980. A total of \$269,600 was paid between September 1979 and July 1980, being \$25 for each of 10,784 members.

In September 1980, Peter Norman made a submission to the Society that the cost of mounting the programs would exceed the figure which had been paid, and, subsequently, in December 1980 requested a further payment of \$110,347.

Peter Norman was asked to submit an accountant's statement in support of his claim. An unaudited statement prepared by J. E. Russell, C.A., showed that actual costs (including \$40,000 remuneration to Peter Norman) amounted



to \$318,212 and a further cheque was therefore drawn to Peter D. Norman & Associates Ltd. for \$48,612. Before this cheque could be issued, Peter Norman submitted an amended claim dated January 9, 1981 for a further amount of \$42,189 beyond the accountant's figures, mainly because he included a profit factor for his firm in addition to his own remuneration of \$42,000.

On 30 January, 1981, the Chairman of the Finance Committee handed Mr. Norman the cheque for \$48,612 and obtained from him a release under which Mr. Norman accepted that cheque in full payment of amounts due in connection with the 1980 risk management program.

*Noted*

## **LIBRARIES AND REPORTING COMMITTEE**

### **(a) County Library Grant**

At its meeting on 13 November, 1980 the Committee approved an initial grant of \$8,200 under Regulation 33 for a newly established library in York Region (Newmarket). This approval was subject to further approval by the Finance Committee.

*Approved*

### **(b) Ontario Reports**

At its meeting earlier today, the Committee had before it a tender from Canada Law Book Ltd. for the publication of the Ontario Reports for the period July 1, 1981 to December 31, 1981. No competitive tenders had been received. If accepted, the amount of this tender will form part of the Society's budget for 1981/82.

The figure quoted reflects an increase in costs over the corresponding period in 1980. On a cost per recipient basis, costs have gone up from \$8.94 to \$9.24 (3.4% increase) and on a cost per thousand pages basis, costs have increased from \$5.17 to \$5.27 (an increase of less than 2%).

*Approved*

## INSURANCE

Insurance values for the current policy year which expires 15 April, 1981 were determined by applying percentages to previous year's figures to allow for increased costs of replacement. The Committee approved the retention of Mr. Heeney, the Society's architect, to undertake a new valuation which would consolidate recent additions and several years of percentage additions to valuations.

Mr. Heeney submitted a report dated November 25, 1980, showing a valuation of \$21,753,295, an increase of \$5,399,155 over the figure of \$16,354,140 at which the building is currently insured. Subsequently, in an amended report dated December 15, 1980, Mr. Heeney changed the figure to \$22,309,636, so that the increase is \$5,955,496. Copies of Mr. Heeney's reports were before the Committee.

In addition to the building, the insurance policy covers:

Contents: Furniture etc.	\$	726,000.00	
Library Books		1,820,899.00	
Fine Arts		<u>318,190.00</u>	\$ 2,865,089.00

Thus the total insurable values, building and contents are:

At present	\$19,219,229.00
Based on first report	\$24,618,384.00
Based on amended report	\$25,174,725.00

If the new valuation figure is applied for the remainder of the policy year, additional premium will be \$2,475. On a full year basis, the increase in annual premium is from \$22,102 to \$28,950.

The Committee approved the new valuation and premium respecting the building and recommended that an independent evaluation of the Society's chattels be obtained.

## STAFF SURVEY

Peat, Marwick and Partners submitted a second interim account dated 19 January, 1981 in the amount of \$5,700. The total so far billed (including this account) is \$14,000 compared to the total fee of \$28,000 approved by Convocation.

*Approved*

## BUILDING – WEST WING

As part of the continuing effort to establish the matter of title to certain rooms in the West Wing, Mr. T. G. Deacon, Q.C., was retained. He submitted his account for the period March 12, 1980 to January 16, 1981, in the amount of \$2,507.60, which was approved by Mr. Finlayson and submitted to the Committee for its approval.

*Approved*

## CANADA ASSOCIATION OF LEGAL SECRETARIES

The Association has asked the Society for a donation of \$500 towards the cost of a seminar which they plan to conduct. The Committee was asked to consider whether a donation is to be made.

The Committee recommended that no grant be made.

## USE OF PREMISES

Parkdale Community Legal Services requested use of facilities for a three day training session in Immigration Law on April 29, and 30, and May 1, 1981.

The Committee was asked to consider whether the Society's premises should be made available for the purpose requested but, in any case, two out of the three days had already been set aside for a program by the Department of Continuing Education.

The Committee recommended that the request not be granted.

## THE REPORT WAS ADOPTED

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## MOTION: BANKING RESOLUTION BANK OF MONTREAL

It was moved, seconded and *carried* that Convocation approve the Resolution before it with respect to the Bank of Montreal and the signing of cheques drawn by the Society on the said Bank.

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# MOTION TO SUSPEND: ARREARS OF ANNUAL FEES

It was moved, seconded and *carried* that those Barristers and Solicitors who have not paid their 1980/81 annual fees and whose names appear on the attached list be suspended from practice for a period of one year from 2nd March, 1981 and from year to year thereafter, or until their fees are paid.

Of the 240 Barristers and Solicitors whose names were before Convocation on 20th February, 1981, 112 were suspended as of 2nd March, 1981. Subsequently 56 were reinstated and the following 66 are still suspended:

Irv Ash	Calgary, Alberta
Paul Joe Brenner	Toorak, Victoria, Australia
Debra Anne Carpentier	Vancouver, British Columbia
Bruce Alexander Carson	Ottawa
Arthur Henry Channer	Edmonton, Alberta
Roy Henry Chilton	Toronto
John Michael Clancy	Toronto
Frederic Romeo Cote	Rockland
Gerald Thomas Crowe	Ottawa
Gary Allan Daniels	Calgary, Alberta
Alan Joseph Davis	Toronto
James Robert Duffus	Calgary, Alberta
Keith Emerson Eaton, Q.C.	Chester Basin, Nova Scotia
Arthur Grant Evans	Lambeth
Leslie Lennart Falk	Courtenay, British Columbia
Ronald John Faulkner	Nepean
John Chesley French	Bracebridge
John Feasby Fullerton	Agincourt
Isabel Greer Gibson	White Rock, British Columbia
William Patrick Glabb	Windsor
Howard Leslie Goldford	Calgary, Alberta
Patrick Murray Griffin	Vancouver, British Columbia
Norman Essery Hall	Calgary, Alberta
Bruce Gary Hilchey	Calgary, Alberta
Thomas Francis Hinch	Toronto
Velon Leo John	Scarborough
Hugh Richard Latimer	Yellowknife, Northwest Territories
Francois Legault	Sudbury
Brian Harvey Levitan	Ottawa
Charles Lorne Linden	Bolton
Harold James Linden	Toronto
Marion Elizabeth MacKinnon	Ottawa
Michael Mandel	Downsview
Stewart Neill Martin	Toronto
Robert Donald Maxwell	Calgary, Alberta
Joanne Susan McClusky	Vancouver, British Columbia
Colin James McCorriston	Ottawa
Robert Sheldon Merker	Scarborough
Clarke Austin Merritt	Toronto

Norman Aaron Mintzer	Hallondale, Florida, U.S.A.
Michael John Moriarity	Hamilton
Gerald Leslie Morris	Toronto
Kevin Patrick Murphy	Calgary, Alberta
Obadiah Thiong'O Ngwiri	Powassan
William Patrick O'Neill	Lethbridge, Alberta
Kenneth Belton Payne	Edmonton, Alberta
Martin Peck	Downsview
Lorna Darby Pitcher	Toronto
Abdul Rashid	Toronto
Benjamin Albert Ring	Brighton
Mark Joseph Robinson	Islington
Nancy Carolyn Robinson	London
Lenore Ruth Rowntree	Vancouver, British Columbia
Douglas Esmond Sanders	Vancouver, British Columbia
Richard Villiers Sankey	Toronto
Morris Smith	Toronto
Cheryl Ann Starr	Guelph
Leslie Allan Stein	Nedlands, Western Australia
Gordon Michael Stevenson	Toronto
Andrew Allison Stewart	Victoria, British Columbia
Richard Burke Thornton	Sydney, New South Wales, Australia
David Bruce Weary	St. Albert, Alberta
Stanley Whiston	Guelph
Harvey John Wiebe	Calgary, Alberta
John Herbert Wilson	Calgary, Alberta
Sharon Margaret Wagner Woodworth	Kitchener

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#### **MOTION: PUBLICATION OF NAMES OF SUSPENDED MEMBERS**

It was moved, seconded and *lost* that in addition to suspension the names of those suspended members be published in The Globe and Mail on 3rd March, 1981, with a notice that they are not entitled to practise, and that those who may be affected be so advised.

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#### **MOTION: CONTRACTS ENTERED INTO BY THE SOCIETY INVOLVING \$50,000 OR MORE**

It was moved, seconded and *carried* that every contract the Society enters into involving \$50,000 or more and not in the ordinary course of business be reduced to writing and approved by the Finance Committee.

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## LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 11th February, 1981.

The following members were present: James B. Chadwick, Chairman, Messrs. Barnes, Ellis, Ferrier, Harris, Mrs. Jarmain, Messrs. Lamb, Linden, Mrs. Tait, Professor Russell, Mrs. Smyth, Messrs. Tebbutt and Wallace.

The following observer member was also present: Robert Holden, solicitor, for the Criminal Lawyers' Association.

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's Report, pursuant to Section 95(2), for the nine month period ended December 31, 1980, shows that payments from the Legal Aid Fund exceeded budget by \$2,463,000. Funds designated for community clinics were underspent by \$242,000, with the result that the remaining payments exceeded budget by \$2,705,000 as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	2,288,000	
Civil certificate accounts	202,000	
Student Legal Aid Societies	46,000	
Area Office costs	199,000	
Provincial Office costs	<u>212,000</u>	2,947,000
<i>Under budget</i>		
Duty Counsel payments	97,000	
Legal Advice Accounts	6,000	
Salaried Duty Counsel Programme	22,000	
Research Facility	68,000	
Special Projects	<u>49,000</u>	<u>242,000</u>
		<u>2,705,000</u>

Income from sources other than the Province of Ontario was under budget by \$1,832,000 as follows:

<i>Under budget</i>	\$	\$
Law Foundation	1,443,000	



<i>Under budget</i>	\$	\$
Client contributions	175,000	
Costs recovered	<u>240,000</u>	1,858,000
<i>Over budget</i>		
Miscellaneous income		<u>26,000</u>
		<u>1,832,000</u>

Combining the overpayments of \$2,463,000 with the income shortfall of \$1,832,000 produced a total deficit of \$4.3 million when compared to budget. This deficit was met by accelerated drawings from the Treasury Board, i.e., actual drawings of \$27.7 million compared with budgeted drawings of \$23.4 million.

At December 31, there was a balance in the Fund of \$390,000.

The over-payment to Student Legal Aid Societies is recoverable from the provincial government as part of its Experience '80 programme.

## Statistics

The following table compares reported activity for the first nine months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>9 Months ended</i>		<i>% Change</i>	
	<i>Dec. 31, 1980</i>	<i>Dec. 31, 1979</i>	<i>from last year</i>	
Summary Legal Advice	31,139	33,715	—	7.6
Referrals to other agencies	51,011	45,785	+	11.4
Applications for certificates	83,313	86,105	—	3.2
Refusals	30,722	28,489	+	7.8
As a percentage of applications	36.9	33.1		
Certificates issued	59,002	61,188	—	3.6
Persons assisted by Duty Counsel:				
Fee for services	121,533	118,219		
Salaried Duty Counsel	<u>47,428</u>	<u>40,691</u>		
Total	<u>168,961</u>	<u>158,910</u>	+	6.3

## Write-offs

George E. Wallace, Q.C., approved the write-offs of the

following total of amounts due to the Legal Aid Fund: \$10,288.19.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>December 1980</i>	<i>9 Months to Dec. 31/80</i>	<i>9 Months to Dec. 31/79</i>
Reviews on hand	852		
Reviews received in	<u>72</u>	1229	1019
	<u>924</u>		
Settlements reviewed in	104	1440	718
Settlements awaiting review	<u>820</u>		
	<u>924</u>		

### Appeals

	<i>October</i>	<i>November</i>	<i>December</i>
Appeals to Taxing Master received during	8	—	1
Appeals heard by Taxing Master	1	—	4
Appeals pending at the end of the month	11	11	7

### Activity

	<i>1980/81 Fiscal Year</i>		<i>1979/80 Fiscal Year</i>	
	<i>Month of Dec. 1980</i>	<i>9 Months to Dec. 1980</i>	<i>Month of Dec. 1979</i>	<i>9 Months to Dec. 1979</i>
Accounts on hand at beginning	14339	12454	13186	7273
Accounts received in	<u>5443</u>	<u>50045</u>	<u>5167</u>	<u>49980</u>
Total Accounts to be processed	19782	62499	18353	57253
Less: Files cancelled	33	300	27	271
Accounts processed	<u>5829</u>	<u>48279</u>	<u>4555</u>	<u>43211</u>
Balance	<u>13920</u>	<u>13920</u>	<u>13771</u>	<u>13771</u>

In addition to the number of accounts for services completed there were:

Interim Accounts	416	3273	257	2276
Supplementary Accounts	<u>274</u>	<u>2690</u>	<u>153</u>	<u>2303</u>
Total	<u>690</u>	<u>5963</u>	<u>410</u>	<u>4579</u>

## **Tour of Legal Accounts Department**

The Legal Aid Committee toured the Legal Accounts Department to enable the Committee members to view the processing of solicitors' accounts from time of receipt to final payment. A report from the Legal Accounts Officer on the processing of accounts was before the Committee and Convocation.

## **SALARIED DUTY COUNSEL – YORK COUNTY**

### **(a) Employment of a Director**

The Committee approved the hiring of a Director for the Salaried Duty Counsel in York County. The Director will also serve as head of the criminal legal aid unit in the York County Area Director's office and will report directly to the Area Director.

### **(b) Salaried Duty Counsel's Salary Structure**

The Legal Aid Committee also approved a new salary structure for the Salaried Duty Counsel which had been approved by the Standing Committee on Salaries. The new salary structure is based on the principle that all newly hired duty counsel will begin their employment at the same salary and receive increases every six months. Duty counsel employment is limited to a period of one year, but may on the application of the duty counsel, be extended to no longer than two years in the discretion of the Director.

The approved salary scales for 1981/82 are as follows:

<i>Start</i>	\$19,000
After 6 months	\$20,000
After 12 months	\$21,000
After 18 months	\$22,000

*Terminate after 24 months*

### **(c) Terms and Conditions of Employment for Salaried Duty Counsel**

Mr. Bruce Binning, solicitor, was retained to draft new terms and conditions of employment for the Salaried Duty Counsel.

The Committee approved the said terms and conditions

which were before Convocation.

### **CHCH TELEVISION SERIES "THE LAW AND YOU"**

The Legal Aid Committee approved the participation of the Ontario Legal Aid Plan in a television series entitled "The Law and You". This series, produced by CHCH TV Hamilton, deals with 13 areas of the law and is being financed jointly by participating Government Ministries and CHCH TV.

The Law Society, through its Public Relations Committee, has been involved in the development of this series since January, 1979. The Law Society funded the pilot program which dealt with family law. Government Ministries have participated in twelve programs and the Law Society has provided technical assistance and also receives credit during the program for its participation. The Public Information Officer advised that the sum of \$12,500 was required to enable the Plan to participate. The Attorney General indicated his approval to the Chairman of the Legal Aid Committee. It is proposed that the program on legal aid deal with a family law matter. The Chairman of the Legal Aid Committee and a member of the Ministry of the Attorney General will discuss various aspects of legal aid during the program.

### **STUDENT LEGAL AID INSURANCE**

In September, Convocation approved the Legal Aid Committee's recommendation that insurance coverage should be compulsory for all five Student Legal Aid Societies. Convocation approved the proposal under which the said Student Legal Aid Societies will be covered at a total single premium of \$1,500 providing \$100,000 coverage with a deductible of \$1,000.

The Legal Aid Committee recommended that the proposed limits be raised by \$150,000 to \$250,000 at an additional premium to be negotiated between the Deputy Director, the Plan and the Underwriters.

### **RESEARCH FACILITY**

The Committee received a report from Kenneth Chasse,

Director of the Research Facility, which was before Convocation.

#### **YORK COUNTY AREA DIRECTOR**

G. J. Grant, Q.C., Area Director for the Counties of Middlesex, Oxford and Perth, has been Area Director in York County since the appointment of the former Area Director to the Bench. Russell Otter, solicitor, was appointed the Deputy Area Director in September, 1980. The Legal Aid Committee approved the recommendation of the Chairman and the Provincial Director that Mr. Otter be appointed Area Director for the County of York.

#### **AREA DIRECTORS' RETAINERS**

The Sub-Committee appointed to review Area Directors' Retainers employed the firm of Peat, Marwick and Partners to review the method of calculating Area Directors' retainers developed by the Sub-Committee. The Sub-Committee took into consideration such matters as the number of appeals to Area Directors, the number of civil certificates issued, the number of office contacts and the area population. The Sub-Committee is now of the view that a private management consulting firm may have an overview of retainer arrangements within other organizations and can make recommendations which would be helpful to the Plan. It is expected that the report from Peat, Marwick and Partners will be ready by April 1, 1981.

#### **LEGAL AID COMMITTEE APPOINTMENT**

Joanne Brassard of Queen's University Law School, the Student Representative, resigned her membership in January, 1981. The Executive of the Student Legal Aid Society of Ontario unanimously recommended the appointment of Daniel A. Harris, Community and Legal Aid Services Programme, Osgoode Hall Law School, Toronto to replace Ms. Brassard.



**AREA COMMITTEES****(a) APPOINTMENTS****Temiskaming**

Henry Lafleur, Esq., Haileybury

**(b) RESIGNATIONS****York County**

R. A. Marcello, Esq.  
David H. Newman, solicitor

**THE REPORT WAS ADOPTED**

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**LEGAL EDUCATION COMMITTEE—Mr. Carthy**

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Catzman, Doran, Ferrier, Genest, Ground, Henderson, Lamont, Lerner, Noble, Outerbridge, Ruby, Scace, Shibley, Mrs. Tait, Messrs. Thom and Wardlaw.

**BAR ADMISSION COURSE****FACULTY APPOINTMENTS**

Toronto, Ottawa and London as indicated

It was recommended that the following appointments be made for the teaching term which commenced September 2nd, 1980:

**(a) Criminal Procedure Section**

Standby Instructor (Osgoode Hall): L. T. Feldman.

Group Instructors (London): Edward J. McGrath, W. Russell Monteith.

Standby Instructors (London): Brian R. Farmer, David G. Arntfield.



## (b) Estate Planning and Administration Section

Group Instructors (Osgoode Hall): Steven W. Piper, Richard R. Wozenilek, J. F. MacDonald, L. G. Dollinger, Arlene D. Wolfe, Anne E. P. Armstrong, Karon C. Bales, Jack Bernstein.

To continue as Senior Instructors (Ottawa), Ronald G. Gravelle and John C. Clarke, Q.C.

Group Instructors (Ottawa): R. W. Cleary, P. J. Davidson, Bruck Easton, Marc Landry, J. P. Manley, P. T. McEnery, H. T. McGovern, J. W. Thomas, D. C. Thompson, Eileen Savoia, Elisabeth Slasor, Jennifer Ward, A. R. Winship, Andrew Trotta.

*Approved*

## GOVERNMENT GRANT

The Ministry of Colleges and Universities announced the global level of operating support for the universities in Ontario for the year 1981-82. The total figure includes the grant which will be made for that year to the Bar Admission Course. No allocation of the total figure, among the universities and other institutions including the Bar Admission Course, has yet been made. The Minister advised that formula fees will be raised by 10% and that in 1981-82 universities may continue to charge discretionary fees up to 10% above the formula fee. The letter of the Minister to the Director dated January 23rd, 1981, the Ontario Council on University Affairs Advisory Memorandum 80-II and the statement of the 1981-82 formula fees were before the Committee.

*Noted*

## ESTIMATES FOR 1981-82

The estimates for the Bar Admission Course for the year 1981-82, contained in the submission made in December, 1980 to the Ontario Council on University Affairs, were circulated to all members of the Legal Education Committee for consideration.

*Noted*

## LONDON PREMISES

On January 16th, 1981 Convocation adopted the Committee's recommendation that Mr. Samuel Lerner be authorized to investigate whether and on what terms the Society might continue in occupation of its present premises in London after

the expiry of the current lease on June 30th, 1982. These negotiations have been ongoing and the lessor, King's College, requested the Society to give particulars of the amount of money which would be involved either under a long term lease or by way of purchase. Dr. John D. Morgan's letter dated January 26th, 1981, was before the Committee.

The Committee recommended that the sub-committee chaired by Mr. Samuel Lerner, appointed to acquire premises in London for the needs of the Society, be enlarged to include Messrs. Carthy, Scace and Shibley and that the sub-committee should make full investigation of the availability of suitable accommodation and report in March, 1981.

### PROPOSED WALTER B. WILLISTON PRIZE

Messrs. Fasken and Calvin proposed the establishment of a prize in the Bar Admission Course in memory of the late Walter B. Williston, by way of an award for legal writing. A letter dated February 3rd, 1981 from Richard B. Potter to the Secretary and a proposal for the Walter B. Williston Prize for legal scholarship were before the Committee.

*Approved*

### SPECIAL PETITIONS

The Committee considered the petition of a candidate in the teaching term of the Bar Admission Course who proposes to travel to Australia after the conclusion of the Course, requesting:

- (1) that the results of his last examinations be made available to him by March 6th, 1981
- (2) that he may defer his call to the bar to as late as April, 1982;
- (3) that on his return to Ontario in the winter/spring of 1982 he be permitted to use the Bar Admission Course placement service to seek employment in Ontario; and
- (4) that he be furnished with a letter from the Law Society advising that with his successful completion of the Bar Admission Course the only requirement he must meet to become a member of the Ontario Bar is to be called to the bar.

The Committee recommended that request number (1) be denied, that requests numbers (2) and (3) be allowed and that in response to request number (4) in the event of the applicant's

successful completion of the Bar Admission Course, the Director write to him advising of this fact and of his entitlement under Regulation 2.

The Committee considered and approved petitions from two candidates in the teaching term of the Bar Admission Course who sought permission to defer their calls to the bar until September, 1981.

The Committee also considered petitions from two applicants that minor variations in their service under articles of clerkship be accepted and that such service under articles be accepted in full of the articling requirement. Both petitions were granted.

#### **BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 31st January, 1981, and reviewed a statement setting out the Continuing Education programmes held in January 1981 and the publications report for the month of January 1981.

#### **THE REPORT WAS ADOPTED**

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#### **PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé**

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Mr. J. A. Brulé (Chairman), Mrs. Legge, Messrs. Noble, Tebbutt and Wardlaw. Messrs. Hargraft, Marshall and Morham were also present at the Chairman's request.

#### **DEFENCE COSTS**

A payment of \$15,474.83 was made out of the Society's Errors and Omissions Insurance Fund on behalf of a solicitor

for defence costs in a claim against him. The case against him was dismissed and costs were awarded to him. Pursuant to the new ruling whereby a solicitor must pay a penalty of \$50 per annum for 3 years in addition to the Errors and Omissions levy if a payment is made out of the Fund on his behalf, the Committee was asked whether the solicitor must pay the penalty in this instance.

The Committee recommended that since no claim was paid on the member's behalf, he is entitled to the discount.

### **STAFF**

The Committee was asked to recommend that an additional clerk-typist be hired for the Errors and Omissions Department.

The Committee so recommended.

### **PRACTICE ADVISORY SERVICE**

A report dated 31st January, 1981, from the Director of the Practice Advisory Service was before the Committee.

The Committee recommended that the Legal Education Committee be asked to consider scheduling the Law Office Management Section of the Bar Admission Course late in the the Course, and that the Practice Advisor be asked to give input into the Course and into Continuing Legal Education Courses respecting loss prevention techniques.

### **ADJUSTERS' FEES**

A list of fees paid in January 1981 was before the Committee.

*Noted*

### **COUNSEL FEES**

A list of fees paid in January 1981 was before the Committee.

*Noted*

## MONTHLY REPORT

Mr. Hargraft's monthly report for January 1981 was before the Committee.

*Noted*

## RENEWAL DATE AND TERMS OF INSURANCE

The Committee is reassessing these matters in the light of present conditions including the question of title insurance.

## THE REPORT WAS ADOPTED

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## PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Ground (Chairman), Wardlaw (Vice-Chairman), Catzman, Genest, Lamont, Lerner, McWilliams, Outerbridge and Mrs. Sutherland.

## RULE 18

At Convocation on January 16th 1981 Convocation repealed paragraph (b) of Rule 18. In view of this amendment it was necessary to examine the Rule in its entirety and make necessary changes. Set out below is the amended Rule 18:

### "RULE 18

1. A lawyer must not borrow money from his client save:

- (a) where the client is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business is that of lending money to members of the public; or

(Amended – Nov. 1978)

- (b) DELETED

(Jan. 1981)



- (c) where in the case of a loan from a related person as defined by the Income Tax Act (Canada) the lawyer is able to discharge the onus of proving that the client's interests were fully protected by the nature of the case and by independent legal advice.

(Amended – Nov. 1978)

2. In any transaction, other than one falling within the provisions of subparagraph 18.1(a) supra, in which money is borrowed from a client by the lawyer's spouse or by a corporation, syndicate or partnership in which the lawyer or his spouse has, or both of them together have, directly or indirectly a substantial interest, the lawyer must be able to discharge the onus of proving that the client's interests were fully protected by the nature of the case and by independent legal representation.

3. Whether a person lending money to a lawyer on his own account or investing funds in a security in which the lawyer has an interest is to be considered a client within the above principle, is to be determined having regard to all the circumstances. If the circumstances are such that the lender or investor might reasonably suppose that he was entitled to look to the lawyer for guidance and advice in respect of the loan or investment, then the lawyer should consider himself bound by the same fiduciary obligation that attaches to a lawyer in dealings with a client."

The Committee recommended that Rule 18 be adopted as above.

### **"THE LAW SHOPPE"**

Mr. J. D. Wilson of the law firm of Lang, Michener raised with the Society the question of the application by Mr. Jack James, a lawyer in British Columbia, for the trade mark of "The Law Shoppe". Aside from any other objections, it would appear to be clearly objectionable on the grounds that the proposed amendment is obviously descriptive of the services in connection with which it is to be used.

The Committee was of the opinion that the Law Society should oppose the application and accordingly instructed counsel to request an extension of the time for the filing of an objection. It was necessary to act without first bringing the matter to Convocation because of the time limit of 30 days for filing an objection. Mr. Wilson's letter, which sets the matter out in greater detail, was before the Committee and Convocation.

### **INFORMATIONAL ADVERTISING PROMOTIONAL ADVERTISING**

Mr. Casimiro Maiocco of Guelph posed certain questions concerning the difference between informational advertising



and promotional advertising. He asked the Society to consider whether the provision by a lawyer of certain information could be considered informational advertising, which is not contrary to the Rules of Professional Conduct, as opposed to promotional advertising which does offend the Rules. Mr. Maiocco set out his position in a letter to the Law Society which was before the Committee and Convocation. The relevant Rule of Professional Conduct is Rule 13, paragraphs 4, 9, 10, 11 and 14 of the Commentary thereunder.

The Committee considered each of the general questions in Mr. Maiocco's letter as set below and was of the opinion that the answers were as indicated in each instance:

1. Is informational advertising as opposed to promotional advertising permitted under Rule 13 of the Professional Conduct Handbook?

Answer: Yes.

2. If the answer to question number 1 is yes, are the examples of informational advertising contained in paragraph 9 of Rule 13 of the Professional Conduct Handbook exhaustive or can there be other examples of informational advertising in addition to the examples set out in such paragraph 9?

Answer: Paragraph 9 is not exhaustive.

3. Is informational advertising which advances the economic interests of any individual lawyer contrary to paragraph 4 of Rule 13 of the Professional Conduct Handbook even where it does not *primarily* advance such economic interests?

Answer: No.

4. Can a lawyer publish material for general distribution to a trade or professional group free of charge containing information of interest to such groups and not otherwise readily available?

Answer: Yes, if first requested to do so by a trade or professional group.

5. Would the answer to question number 4 be different if the lawyer does not identify himself as a lawyer but merely gives his name as author of the material?

Answer: No.

The Committee was of the opinion that Mr. Maiocco should be advised that, notwithstanding the Law Society's answers to the general questions posed in his letter, it would be necessary in any given instance to examine with care the specific material to be published or distributed and all of the circumstances concerning such proposed distribution or publication in order to ascertain whether the Rules of Professional Conduct have been complied with.

## PROFESSIONAL CARD IN "ENGINEERING DIGEST"

Mr. Leonard Annett asked if his firm, Riches, McKenzie & Herbert, could place a professional card in the magazine Engineering Digest. This publication will accept notices from any firm, a partner of which is a professional engineer. One of the partners of the firm is a professional engineer and therefore the firm satisfied the prerequisite of Engineering Digest.

The Committee was of the opinion that paragraph 14(a) of the Commentary under Rule 13 does not permit the placing of such an announcement because the publication in question will not accept announcements from any lawyer.

## THE REPORT WAS ADOPTED

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## LIBRARIES AND REPORTING COMMITTEE— Mr. Farquharson

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Shaffer (Vice-Chairman in the Chair), Lerner, Shibley, Mrs. Tait and Mr. Yachetti. Messrs. G. W. Howell and D. V. Burnett were also present.

## GREAT LIBRARY

### BOOK LIST

A list of books recently purchased was submitted for approval.

*Approved*

## CANADIAN LAW INFORMATION COUNCIL (CLIC)

The Secretary reported that the request from the above organization was deferred until this meeting. Mr. Howell submitted an interim report on this matter. The Committee

deferred this matter to the next meeting.

### MISSING AND RETURNED BOOKS 1980

During the year 1980, 3 texts were taken from the Great Library without permission and have not been returned. Of texts taken in previous years, 7 were returned.

#### *Texts Taken Include:*

Barton, P. G., <i>Criminal Procedure in Practice</i> . Toronto, Butterworths, 1979.	117248
Canadian Bar Association. Ontario Branch, Institute on Continuing Legal Education, 1st, Toronto, 1976. <i>Income Tax</i> . Toronto, 1976.	112036
Coates, J.A., <i>Ontario Expropriation Handbook</i> . Toronto, DeBoo, 1978.	115544

#### *Comparative Figures for the Past 6 Years Are:*

	<i>Missing</i>	<i>Returned</i>
1975	7	3
1976	4	4
1977	2	7
1978	12	1
1979	9	2
1980	3	7

*Noted*

### CANADIAN ASSOCIATION OF LAW LIBRARIES

A request was submitted for permission for the Acting Chief Librarian and three librarians to attend the annual convention of the Canadian Association of Law Libraries in Kingston, Ontario, May 19th to 22nd, 1981. The Committee recommended that this request be approved.

### SUMMER STUDENT STAFF

A request was submitted for summer student help for the Great Library. Permission was requested to employ five students — one of whom would be a law student and one of whom would be a library science student. The Committee recommended that this request be granted.

## COUNTY AND DISTRICT LAW LIBRARIES

### THE LAW FOUNDATION OF ONTARIO

The Secretary submitted a report of a meeting of Mr. Lerner, Mr. Howell and Mr. Burnett concerning the distribution of the \$400,000 grant from The Law Foundation of Ontario. The Committee recommended that the distribution be in accordance with Mr. Howell's report of February 5th, 1981 with an adjustment for salaries.

### SUMMARY OF OUTSTANDING BALANCES

The Secretary submitted a copy of Mr. Howell's report of unspent money held by the Central Administrative Programme from 1980 and pre-1980 Law Foundation grants. This report was received.

## REPORTING

### ONTARIO REPORTS

The Secretary reported that a tender had been received to publish the Ontario Reports for the period July 1, 1981 to December 31, 1981 from Canada Law Book Limited. The Secretary reported that there had been no reply from the other three companies invited to submit tenders. The Committee recommended that the tender of Canada Law Book in the amount stated be approved. Mr. Shibley was not present in Committee during the discussion of this matter and did not vote.

### THE REPORT WAS ADOPTED

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### UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. P. K. E. McWilliams presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Chilcott

(Chairman), Carter, McWilliams and Shaffer.

1. Nine accounts were approved.
2. A letter was received from a solicitor who reported that an individual may be giving legal advice. The Secretary was instructed to write the individual indicating that he may be engaged in unauthorized practice and since he is not a member of the Law Society he cannot appear before the Courts except those Courts where an agent could appear.
3. A complainant wrote that an individual may have been engaged in unauthorized practice. However, the Committee felt that the individual was not holding himself out as a solicitor or engaged in unauthorized practice. The Secretary was instructed to write to the clinic employing the individual to find out in what capacity the individual was acting with a view that it was illegal.
4. A complaint was received from a solicitor concerning an association which purported to do estate work for its members. The Secretary was instructed to write to the solicitor retained by the association to find out more information as to the supervision that he exercises over the Benefits' Administrator of the association.
5. The Secretary reported that several complaints had been received concerning the activities of a company which purports to draft estate papers. The Secretary was instructed to write to the Department of Consumer & Commercial Relations concerning the name and the objects of the corporation. The Secretary was also instructed to retain counsel and an investigator concerning this matter.

#### THE REPORT WAS ADOPTED

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#### SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. P. B. C. Pepper, Chairman, presented the Report of



the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 12th February, 1981.

The following members were present: Messrs. Cass, Chilcott, McWilliams and Mrs. Sutherland.

#### **STUDENT APPLICATIONS**

Applications for grants were received from three students in the Bar Admission Course teaching term. A memorandum of recommendations from the Assistant Director of the Bar Admission Course was before the Committee.

*Approved*

#### **THE REPORT WAS ADOPTED**

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#### **CONVOCATION ROSE AT 4:00 P.M.**

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Confirmed in Convocation 20th March, 1981.

J. D. BOWLBY

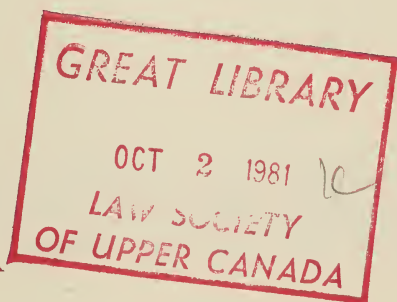
Treasurer





THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation



Volume 6

Number 3



## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 20th March, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Barr, Brulé, Carthy, Cass, Chadwick, Cooper, Farquharson, Furlong, Ground, Guthrie, Henderson, Humphrey, Lamont, Mrs. Legge, Messrs. Lohead, McWilliams, Outerbridge, Pepper, Shaffer, Mrs. Sutherland, Messrs. Tobias, Wardlaw, White and Yachetti.

.....

### MINUTES

The Minutes of Convocation of 20th February, 1981 were confirmed.

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### SPECIAL CONVOCATION CALL TO THE BAR

The Treasurer announced that a Special Convocation for Call to the Bar for graduates of the 22nd Bar Admission Course would take place on Thursday, 14th May, 1981, in Osgoode Hall.

.....

### MOTION: HONORARY DEGREE

It was moved, seconded and *carried* that the degree of Doctor of Laws, honoris causa, be conferred upon The Honourable Mr. Justice *S. L. Robins* at the Call to the Bar Ceremony in Toronto on 14th May, 1981.

.....

**JOSEPH SEDGWICK, Q.C.  
BENCHER EX OFFICIO**

The Treasurer informed Convocation that Mr. Sedgwick was elected a Bencher in the Benchers Election in April 1941 and to mark his forty years on the Bench a dinner would be held in his honour on Thursday, 14th May, 1981.

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**APPOINTMENT OF SPECIAL COMMITTEE  
ON NUMBER OF LAWYERS ENTERING  
THE PROFESSION**

The Treasurer announced that in accordance with the motion carried in Convocation on 20th February, 1981 he had appointed a Special Committee on the Number of Lawyers entering the Profession consisting of the following: Messrs. *Arthurs, Bynoe, Carthy, Genest, Ground*, Mrs. *Legge*, Mr. *Scace*, Mrs. *Sutherland*, Messrs. *Thom, Tobias, Wardlaw* and *Yachetti*.

.....

**MEETING WITH ONTARIO LAW DEANS**

The Treasurer reported orally on the meeting he had convened on Tuesday, 17th March, 1981 with the Ontario Law Deans.

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**SPECIAL CONVOCATION  
PEAT, MARWICK REPORT**

The Treasurer announced that a Special Convocation would be summoned on Friday, 22nd May, 1981 to consider the report of Peat, Marwick and Partners, Management Consultants, and that the material would be distributed to the Benchers at least a week before that Convocation.

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## **BENCH AND BAR COMMITTEE**

Mr. J. G. M. White, one of the Society's representatives on the Bench and Bar Committee, presented a Report, dated 24th February, 1981, of the Special Committee of the Bench and Bar Committee regarding Out-of-Toronto Sittings of the Supreme Court.

### **Report of the Special Committee of the Bench and Bar Committee Regarding Out-of-Toronto Sittings of the Supreme Court — February 24, 1981**

This Committee was formed to report to the Bench and Bar Committee on the suggestion, raised several months ago, that the feasibility of curtailing some of the Supreme Court sittings be looked into. The Committee was composed of Colin Campbell, representing the Canadian Bar Association, Burke Doran, representing The Law Society of Upper Canada, and Garry Smith representing The Advocates' Society.

The Committee was greatly assisted by Mr. Brian McLoughlin of the Attorney-General's office who met with us on several occasions, and by The Honourable Gregory T. Evans, Chief Justice of the High Court, who also met with us and who had considerable helpful information.

The Committee is satisfied that although statistics are not available to prove the point one way or the other, there is a problem in the numerous sittings of the Supreme Court of Ontario causing Judges considerable moving around from place to place with the result that lists are not always finished and cases cannot always be started because their commencement will prevent the Judge from being at the next County town on schedule. The problem of a list not being finished is, of course, one that normally belongs to the out-of-Toronto centres. The problem in Toronto is usually the latter, i.e. of a particular Judge not being able to start a long or medium case because of his or her commitment the following Monday. We feel that anyone who does counsel work to any extent will not argue that the problems exist.

It is, however, very apparent that in recent years through the efforts of the Chief Justice and Associate Chief Justice of the High Court and others, considerable improvement has been

made and a higher degree of flexibility has been achieved. To accomplish this, drastic steps are sometimes taken such as the cancelling of sittings or even assizes.

Historically, of course, many County towns were larger and more active centres than they now are, and many were expected to grow, whereas relative to other centres, they have not. Also historically, travel was not always as easy as today, necessitating the sittings of the Court at numerous smaller centres.

This Committee was of the view that the requirement to schedule sittings based upon such historical considerations which are not related to present day exigencies could have the effect of distributing Court time inequitably throughout the Province. A separate sittings for a list of a half dozen cases in a County reasonably convenient to another should be contrasted with the ready and weekly lists in more active centres.

As stated, this Committee had its genesis out of a discussion about the possibility of cutting down the sittings of the Supreme Court in certain less active County towns in the Province. We came to the conclusion that total abolition of certain sittings was too radical to be acceptable and that at least the criminal assize system should be left as is. We then considered a number of alternatives to cutting down the number of civil sittings, such as a continuous list involving several towns to be held *seriatim* (e.g. there would be one civil list for five towns located in the same general area with the Judge moving from one town to the other immediately as the list in each town is finished); or having a registrar in a busy centre co-ordinate the sittings in the less active centres of the area by arranging cases to be heard in the busier centre or in the less active centres, as the need arose. Each of these alternatives had their problems and reasons to think that they would not work. For instance, the County Court Judges in each town must be able to schedule their own sittings and could not do so if it was uncertain when the Supreme Court Judge would be preempting the Courtroom.

The growth in the Bar and greater specialization of the Bar already alleviates conflict problems as between civil and criminal matters.

We ultimately come to the conclusion that a bolder



solution, closer to the original suggestion put forth, was called for and that the milder solutions would have more complications than benefits. Accordingly, our recommendations are as follows:

1. That there be no change in the criminal assize system, it being recognized that it would be difficult to take away certain rights set out in the Criminal Code and elsewhere, to a jury trial by one's peers without the necessity of transporting people long distances. We do not wish to be taken as endorsing the system, but only saying that at this time, no change be made.
2. That both jury and non-jury cases no longer be scheduled for less active centres which are within convenient travelling distance to another centre. We wish to make it clear that the Committee has not sought to identify any such centres, it being contemplated that this should be the result of consultation amongst the Chief Justices of the High Court, the Attorney-General and the local Bar Associations, if the recommendation is adopted in principle. On consent, however, and subject to the Courtroom not being used by the County Court, trials could be held in the less active centres utilizing, where appropriate, the registry in larger centres.
3. That the jurisdiction of the County Court to be generally increased to no more than \$15,000.00.
4. That more pre-trials in and out of Toronto be encouraged as a prime method of reducing the trial case load.

It is hoped and expected that the Bar would rise above local interests and co-operate in any reasonable plan that causes the scheduling of cases to take place with more predictability and causes the heavy case load to be reduced without the necessity of appointing more personnel to the Bench. The increase in jurisdiction of the County Court will decrease the Supreme Court case load in many of the smaller centres and reinforce the desirability of implementing the recommendation in respect to not scheduling cases for the less active centres. An indirect benefit of implementing these recommendations would be the lessening of pressure to consider the unification of the Supreme

and County Court systems.

*Noted*

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### **FINANCE COMMITTEE—Mr. Pepper**

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. Scace (Acting Chairman), Brulé, Farquharson, Guthrie and Tebbutt.

### **POLICY**

#### **ELECTION OF TREASURER 1981**

On 20th February 1981, Convocation adopted a motion that provision be made for an advance poll, so that those benchers entitled to vote and unable to be present at May Convocation in 1981 be permitted to vote.

A proposed amended Rule 19 was approved by the Committee. (*See p.99-101.*)

### **ADMINISTRATION**

#### **PORTRAITS**

Mr. Eduard Zukowski has maintained the Society's art collection for 29 years and has been remunerated by way of an annual honorarium, which last year was \$650. He asked to continue with this work but to be consulted and remunerated on a case to case basis.

The Committee recommended that Mr. Zukowski's services be retained as required in the future and that he be asked to submit estimates of the cost of work to be done before it is undertaken.

#### **USE OF PREMISES**

Organizations which use Convocation Hall and/or

Barristers' Lounge for evening functions are charged \$25 in respect of the use of the premises, in addition to any amounts they pay for food supplied by Mr. Michael Hinzl and bar services supplied by the Law Society. By an agreement made many years ago, the Lawyers' Club is not charged for the use of the premises.

It was suggested that this fee be increased to \$50 in view of the time spent cleaning the premises after functions.

*Approved*

#### **APPOINTMENT OF SUB-COMMITTEE ON SALARIES**

The Committee was asked to appoint a Sub-Committee on Salaries to review the salaries of all employees and to make recommendations to be effective 1st July 1981.

The members of last year's Committee were: Messrs. Brulé (Chairman), Scace and Ogilvie.

The Committee recommended the re-appointment of the same persons to the Sub-Committee on Salaries.

#### **LEGAL EDUCATION COMMITTEE**

##### **Bar Admission Course – 1981-82 Tuition Fee**

The Ministry of Colleges and Universities raised formula fees in the university system by 10% for the 1981-82 year and directed that universities may continue to charge discretionary fees of up to 10% above the formula fee in 1981-82. The Law Society receives a capital grant-in-aid for the Bar Admission Course and is not included in the formula fee, but it was indicated that Bar Admission Course fees should be increased for the year 1981-82 by 10% over the level for the year 1980-81. The tuition fee for 1980-81 was \$648 and an increase of 10% would increase such fee to \$713.

The Legal Education Committee considered this matter at its meeting on 12 March 1981 and recommended that the tuition fee in the Bar Admission Course be increased accordingly and that the tuition fee for 1981-82 be \$713.

*Approved*

## **LIBRARIES AND REPORTING COMMITTEE**

### **County Library Grants**

At its meeting on 12th March 1981 the Libraries and Reporting Committee considered a memorandum listing those law associations which had sent in their annual returns for 1980 and setting out the amounts of the grants to which they appear to be entitled in 1980 and 1981, and approved the amounts of the grants to be paid to those associations in 1981, subject to the approval of this Committee.

*Approved*

### **COUNSEL'S ACCOUNT**

An account from Peter M. Harvie, Q.C., of Blake, Cassels & Graydon for professional services rendered in connection with the status of space occupied by the Society in Osgoode Hall (West Wing) in the amount of \$2,000.00 was before the Committee.

*Approved*

### **STAFF SURVEY**

Peat, Marwick and Partners have submitted a third interim account dated February 20 1981 in the amount of \$10,158. The total billed so far (including this account) is \$24,158 compared to the total fee of \$28,000 approved by Convocation.

*Approved*

### **PENSION PLAN**

Peat, Marwick and Partners have submitted their account for professional services rendered in connection with a review of the Pension Plan approved by Convocation in November 1980. Their fee amounts to \$1,658. A figure of \$1,600 plus disbursements was approved by Convocation. The fee is to be shared with the Ontario Legal Aid Plan on a 40/60% basis.

*Approved*

## LIFE MEMBER

Pursuant to Rule 49, the following was eligible to become a Life Member of the Society effective 19 March 1981:

John Alden Aylen, Q.C.

Ottawa

*Approved*

## CHANGE OF NAME

The following member requested that her name be changed on the rolls of the Society and submitted the required documentation in support:

*From*

*To*

Sheila Janice Baldwin

Sheila Janice *Fenyés* (married name)

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

*From*

*To*

Carol Elizabeth Forbes

Carol Elizabeth Forbes *Jackson*  
(married name)

Yehuda Laibish Jacques

*Lawrie Judah Jacques* (Court Order)

*Approved*

## RESIGNATION

At its meeting on 8th January 1981, the Committee approved the resignation of *John David Barker* subject to publication of his intention in the Ontario Reports. Mr. Barker's notice of intention appeared in the issue of the Ontario Reports of 13th February 1981.

The Committee was asked to determine the effective date of his resignation.

The Committee recommended that the effective date be 20th February 1981.

## MEMBERSHIP UNDER RULE 50

### Retired Members

The following members who are sixty-five years of age and fully retired from the practice of law, requested permission to



continue their membership in the Society without payment of annual fees. Their formal applications were before the Committee.

Hon. Lionel Choquette, Q.C.

Ottawa

Jon Ragnar Johnson, Q.C.

Toronto

Sarah Margaret MacLean

Toronto

*Approved*

## RECORDS DEPARTMENT

Members files are maintained in 48 conventional four-drawer filing cabinets. Each year more than 1,000 new files are added and something less than 200 are taken out of the cabinets and stored as former members records. There is no space to add more conventional filing cabinets and the present system is over-full, leading to inefficiencies in maintaining a proper filing system.

Several systems have been examined and quotations obtained. The system which would provide the greatest amount of future expansion is an electrically operated rotary file system, which would cost approximately \$62,000 to install. Rather than suggest this system, it was recommended that lateral filing cabinets be installed. This will not provide a long term solution but will enable the immediate problem to be dealt with. A lateral filing system will allow approximately five years growth to be accommodated in the space occupied by the existing cabinets.

Estimated costs are between \$15,000 and \$25,000, depending on the type of system selected and whether each cabinet is to be fitted with doors and locks.

The Committee recommended that this matter be referred to the Chairman and Vice-Chairman of Finance, with power to act.

## INFORMATION

### ROLLS AND RECORDS

The following members have died:

Royden George Start, Q.C.

Called – 17 June 1926

Ingorsoll (Life Member)

Died – 19 February 1981



Hugh Alexander Black, Q.C. Toronto	Called – 29 June 1949 Died – 19 February 1981
Jack Scott Hartman Toronto	Called – 29 June 1949 Died – 19 February 1981
Charles Joseph Benson, Q.C. Listowel	Called – 19 September 1935 Died – 28 February 1981
Darrell Ernest Longmore Vancouver, B.C. (Life Member)	Called – 19 April 1923 Died – 19 January 1981
John Newton Herapath, Q.C. London (Life Member)	Called – 16 June 1927 Died – 28 February 1981

*Noted*

## THE REPORT WAS ADOPTED

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## MOTION: ELECTION OF TREASURER 1981

It was moved, seconded and *carried* that Rule 19 with respect to the Election of Treasurer as adopted by Convocation on 15th February, 1980, be amended to read as follows:

## THE LAW SOCIETY ACT

### RULE 19

### TREASURER

### ELECTION

19. In 1981 the election of Treasurer shall be the first matter of business at the regular Convocation in May or at such other Convocation as Convocation may fix.

### NOMINATION

19.1—(1) Nominations shall be in writing and signed by the nominee indicating his assent to be a candidate and by two benchers, and if not so signed is void.

(2) Every nomination for the office of Treasurer shall be delivered at the office of the Secretary or sent by mail to him so as to be received thereat on or before Meeting Day in April, and if not so received is void.

(3) Any bencher nominated may withdraw his name if he notifies the Secretary in writing within four days next following Meeting Day in April.

## POLL

19.2—(1) The Secretary shall at the April Convocation read the names of those nominated together with the names of the benchers moving and seconding the nominations and shall immediately after Convocation send to each bencher entitled to vote, at his address as shown on the records of the Society, a list of the nominees.

(2) Each bencher entitled to vote and present at the Convocation at which the Treasurer is to be elected may vote for only one nominee on each ballot.

(3) Any bencher entitled to vote and unable to be present at the Convocation at which the Treasurer is to be elected may vote in an advance poll by completing a ballot and depositing it in a ballot box in the presence of the Secretary or his nominee, and the Secretary shall at the Convocation at which the Treasurer is to be elected remove such ballots from the ballot box and place them with the ballots collected on the first ballot.

(4) When each ballot is completed, the Secretary shall collect the ballots and withdraw and open the ballots in the presence of the retiring Treasurer, or his delegate, who together shall scrutinize and count the ballots.

(5) The result of the ballot shall forthwith be announced in Convocation.

(6) If on the first ballot there are only two nominees, the nominee receiving the greater number of votes shall be declared to be elected Treasurer.

(7) If there are three or more nominees, the name of the nominee receiving the fewest number of votes on the first ballot shall be removed from subsequent ballots; further balloting shall take place until there are only two nominees remaining and then a final ballot shall be taken and the candidate receiving the greater number of votes shall be declared elected Treasurer.

(8) In the event of a tie vote on any ballot the Treasurer, or if he is a nominee in the election, the Chairman shall have a casting vote or casting votes as may be needed to determine which name is to be dropped from succeeding ballots, or to determine the election as the case may be.

## VACANCY IN OFFICE

19.3—(1) When the office of Treasurer becomes vacant the Secretary shall send to each bencher a written notice of the vacancy stating that at the next regular Convocation a Treasurer will be elected.

(2) In the event of the office of Treasurer becoming vacant the benchers present at the first regular Convocation thereafter, shall before proceeding to any other business, elect a bencher to fill the office of Treasurer until the next regular election of Treasurer.

## ACTING TREASURER

19.4 If the Treasurer is for any reason unable to perform his duties, the Chairman of the Finance Committee or, if he is for any reason unable to act, the Chairman of the Legal Education Committee shall act as Treasurer until the Treasurer resumes his duties or the office becomes vacant and a

a new Treasurer is elected.

#### **PRESIDING OFFICER**

19.5 The Treasurer, unless he is a nominee, shall preside in Convocation, but if he is unable to do so, Convocation shall appoint a presiding officer pro tem.

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#### **ADMISSIONS COMMITTEE—Mrs. Legge**

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Catzman, Ground, Lamont, Scace, Mrs. Sutherland and Mr. White.

#### **ADMINISTRATION**

#### **CALL TO THE BAR AND CERTIFICATE OF FITNESS**

##### **Bar Admission Course**

The following candidate, having successfully completed the Twenty-first Bar Admission Course, filed the necessary documents and paid the required fee of \$210, applied for call to the Bar and to be granted a Certificate of Fitness. Mr. Slattery became a Canadian Citizen on 10th March, 1981, and a copy of his Certificate of Canadian Citizenship was before the Committee.

Raymond Michael Slattery

##### **Call to the Bar for an Occasional Appearance**

At its meeting on 12th February, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces", and that upon giving the necessary undertakings, he be called to the Bar and admitted as a solicitor. Mr. Wolson was unable to attend the February Convocation to be called to the

Bar and asked to receive his call at the March Convocation.

Richard Joel Wolson

Province of Manitoba

At its meeting on 12th February, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces", and upon giving the necessary undertakings, he be called to the Bar of Ontario and admitted as a solicitor. He complied with all requirements and asked to be called to the Bar at the March Convocation.

James Charles Prober

Province of Manitoba

*Approved*

## ADMISSION OF STUDENTS—AT—LAW

### Bar Admission Course

Nine further candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

## DIRECT TRANSFER

The Committee considered and approved two applications to transfer to practice in Ontario by members of the British Columbia and Manitoba Bars respectively, both of whom sought permission to proceed under Regulation 4(1).

## PETITION

The Committee considered and approved a petition from a student in the 22nd Bar Admission Course who expects to complete the Course successfully and to be eligible for call to the Bar in April. He sought permission to defer his call until November 1981 as he will be travelling in New Zealand and Australia until mid-October.

## SPECIAL PETITION

The Committee considered a petition from a solicitor who sought to be relieved of an undertaking which he had been required to give to Convocation. The Committee recommended that the petition be denied.

It was moved in Convocation, seconded and *carried* that consideration of this item stand and be returned to the Committee.

## THE REPORT AS AMENDED WAS ADOPTED

.....

## CALL TO THE BAR

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

Raymond Michael Slattery  
Richard Joel Wolson  
James Charles Prober

.....

## LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Brulé, Catzman, Doran, Lamont, Lerner, Outerbridge, Ruby, Scace and Wardlaw.

## POLICY

### ADMINISTRATION OF THE BAR ADMISSION COURSE AND CONTINUING LEGAL EDUCATION

A Report of the Chairman on the Administration of the



Bar Admission Course and Continuing Legal Education was before the Committee for consideration on February 12th, 1981 and allowed to stand. A revision of that report dated 6th March, 1981, was before the Committee.

The Committee recommended the adoption of the recommendations contained in the Chairman's Report of 6th March, 1981, which is set out below:

**REPORT OF CHAIRMAN  
ON  
ADMINISTRATION OF BAR ADMISSION COURSE and  
CONTINUING LEGAL EDUCATION**

**BACKGROUND**

Over the course of my term as Chairman, it has become increasingly evident that the workload of the staff dealing with the Bar Admission and Continuing Legal Education has been steadily increasing without substantial changes in the composition of that staff. We now see clear evidence that C.L.E. activities will be growing at an even faster rate to meet demand and new systems of communications. Over the past months, I have had discussions with George Collins-Williams, a few Benchers, and the Treasurer about specific means of meeting the problem. Peat, Marwick are presently undertaking a general study of the Law Society functioning and it is hoped that this new report can be considered in conjunction with their findings, now expected in March.

Among those few who have been involved in the discussion to date, there appears to be general agreement that the present staff is stretched to the limits of its capacity in carrying the present burden and that any measurable increase in workload could not be handled. Another existing problem is that the Director's administrative duties are so extensive that little time is available for creative work.

One solution might be to add middle level staff and maintain the organization in its present form. Another is to divide the function at the level of the director, having in effect, a director for each of Bar Admission and Continuing Legal Education with an interlocking staff structure but no additional persons below the level of director.

The benefit of the first suggestion would be that the work of the Bar Admission Course would be completely co-ordinated with that of C.L.E. The detriment of that alternative is that the Director remains overloaded with an increasing burden of administrative duties and disabled from creative input. Both the Bar Admission Course and C.L.E. need that input if they are to move successfully in the indicated directions.

Two parallel lines of command headed by the Legal Education Committee does present a problem in terms of potential conflict between the administrators, confusion at the staff level and utilization of facilities such as the printing shop. Ideally, there should be one person, and not a Committee, to make decisions which avoid these issues. However, the expense of adding



yet another administrative head seems to outweigh the potential problems that may occur. As these are experienced it is hoped that they can be met by co-operation between the two administrators.

A report is going forward to the Finance Committee indicating the implications of this recommendation. On the face of it we will need room for the new director and secretarial staff but little else at this time.

It is felt that candidates should be sought out by public advertisement as well as private canvassing by members of the Committee. It should be made known that we are seeking someone with pedagogical background and practice experience and it is our intention in selecting the appropriate candidate to find someone with an appreciation of the problems of entering into the practice of law combined with a pedagogical background that will lead to an imaginative development of teaching methods.

### RECOMMENDATIONS

1. The present post of Director of Legal Education should be replaced with two posts, Director Bar Admission Course and Director Continuing Legal Education. George Collins-Williams has indicated a strong preference for the Continuing Legal Education segment and he would be its Director. We would seek out a suitable candidate to be Director of the Bar Admission Course. It does not appear possible to accomplish such a change by this summer and it is therefore recommended that we look to an effective date of say, June of 1982.
2. The Legal Education Committee be authorized to advertise the post and return to Convocation with its recommended candidate.
3. The Finance Committee be consulted as to and approve salaries, additional staff requirements, and expenditures for space requirements.

### SUB-COMMITTEE ON THE BAR ADMISSION COURSE ARTICLING EVALUATION

The Sub-Committee on the Bar Admission Course recommended that students in the articling term of the Bar Admission Course be furnished with a form to be completed by them on the completion of their service under articles, evaluating the articling experience.

The Committee recommended that a form for evaluating the articling experience be prepared for the next meeting and if approved, that it be made available to the students in the teaching term for completion and filing.

## **SUB-COMMITTEE ON CONTINUING LEGAL EDUCATION**

The Sub-Committee on Continuing Legal Education made a report concerning its terms of reference and its studies to date. The Sub-Committee requested a budget allocation of \$15,000. The said report was before the Committee.

*Received*

## **ADMINISTRATION**

### **22ND BAR ADMISSION COURSE SPECIAL CONVOCATION FOR CALL TO THE BAR**

Special Convocations for call to the Bar of the successful candidates in the 22nd Bar Admission Course have been scheduled as follows:

Toronto, O'Keefe Centre — Thursday, April 9th, 1981, 2:00 p.m.

— Friday, April 10th, 1981, 2:00 p.m.

Ottawa, Skyline Hotel — Monday, April 13th, 1981, 2:30 p.m.

London, Althouse Faculty — Wednesday, April 15th, 1981, 2:30 p.m.  
of Education

It is recommended that a Special Convocation for call to the Bar of those candidates who successfully complete the 22nd Bar Admission Course after writing special examinations and/or supplemental examinations be held in Convocation Hall in Osgoode Hall on Thursday, May 14th, 1981 at 2:00 p.m. and that arrangements be made for such Convocation including a reception for graduates and guests.

*Approved*

### **BAR ADMISSION COURSE ANNUAL MEETING OF HEADS OF SECTIONS AND SENIOR INSTRUCTORS**

The Director proposed that the Annual Meeting of the Heads of Sections and Senior Instructors of the Bar Admission Course be held at Osgoode Hall in Convocation Room on Thursday, May 7th, 1981 at 4:00 p.m., followed by a reception and dinner, 6:00 p.m. for 6:30 p.m.

*Approved*

## **BAR ADMISSION COURSE 1981-82 TUITION FEE**

The Ministry of Colleges and Universities announced that formula fees in the university system will be raised by 10% for the 1981-82 year. The Ministry also directed that in 1981-82 universities may continue to charge discretionary fees of up to 10% above the formula fee. The Minister advised that the extra revenue to the universities will not incur a reduction in grants from the government and that provision will be made in the Ontario Student Assistance Programme budget to accommodate increased student needs. The Law Society receives a capital grant-in-aid for the Bar Admission Course and is not included in the formula fee system. At the same time it has been indicated that Bar Admission Course fees should be increased for the year 1981-82 by 10% over the level for the year 1980-81. The tuition fee for 1980-81 is \$648 and an increase of 10% would increase such fee to \$713.

The Committee recommended that the tuition fee in the Bar Admission Course for the year 1981-82 be increased by 10% and that the tuition fee for the said year be in the amount of \$713.

## **SPECIAL PETITIONS**

Five petitions were before the Committee. One petitioner, a member of the Quebec Bar, was approved in July 1980 for admission to the Bar Admission Course and entered articles of clerkship that same month, serving under articles from 9th July to 29th August, 1980, and then petitioning to have such period of service under articles accepted in full of the articling requirement. That petition was denied without prejudice to the petitioner's right to proceed under Regulation 4(2). The petitioner sought permission to recommence service under articles and requested that service for an additional four month period from 1st April to 31st July, 1981 be accepted in full of the articling requirement. The Committee recommended that the petition be denied.

A graduate student in an LL.M. programme was unable to complete that programme by June 1981 as planned because of ill health and wished to return to law school and complete her studies by 31st December, 1981. This petitioner asked that

service under articles for eleven non-consecutive months, from 1st June to 31st August, 1981 and from 1st January to 31st August, 1982, be accepted in full of the articling requirement. The Committee approved the petition.

Another petitioner had completed the twelve months period of service under articles in Ontario, then moved to British Columbia, where she commenced service under articles and completed one-half of the examinations of the Bar Admission Course of the Law Society of British Columbia. She returned to Ontario and sought permission to enter the teaching term of the Bar Admission Course in September 1981. The petition was granted.

A petitioner who will complete service under articles in August 1981 requested permission to defer entry into the teaching term of the Bar Admission course until September 1982 because she is expecting a child in October 1981. Her petition was approved.

The Committee directed that the fifth petition stand pending enquiries with respect to the petitioner's articling duties and receipt of information from his principal concerning the work to be performed during his service under articles.

## **INFORMATION**

### **BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 28th February, 1981; and reviewed a statement setting out the Continuing Education programmes held in February 1981 and the publications report for the month of February 1981.

### **THE REPORT WAS ADOPTED**

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## **DISCIPLINE COMMITTEE—Mr. Genest**

### **GENERAL REPORT**

Mr. P. Genest, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 12th March, 1981, with the exception of one item.

The following members were present: Messrs. Genest (Chairman), Yachetti (Vice-Chairman), Cass, Catzman, Cooper, Finlayson, Ruby, Mrs. Sutherland and Mr. White.

### **POLICY**

#### **ARTICLING STUDENTS APPEARING BEFORE THE DISCIPLINE COMMITTEE AS COUNSEL**

The question of articling students appearing before the Discipline Committee on behalf of principals who represent members charged with disciplinary offences was considered.

The Committee recommended that in such circumstances, articling students be allowed to appear before the Discipline Committee to:

- (a) request an adjournment;
- (b) request an adjournment on terms, such as that the solicitor will not practise law.

### **ADMINISTRATION**

#### **BORROWING — INVESTMENT ON BEHALF OF CLIENTS JOINT SUB—COMMITTEE**

The Professional Conduct Committee and the Discipline Committee have formed a joint Sub-Committee to review the "Report of the Sub-Committee of the Discipline Committee on the Review of Procedures in the Light of Recent Defalcations". The members of the Discipline Committee appointed to the Sub-Committee are Messrs. Catzman and White.



## **DISCIPLINE COUNSEL**

Convocation, in February, approved in principle the hiring of a full time counsel subject to any recommendation made in the Peat, Marwick report. Discussions with Peat, Marwick indicate that they support the establishment of such a position. Consequently, the Committee appointed a Sub-Committee composed of Messrs. Catzman, Humphrey, Ogilvie and Ruby to conduct the search for a suitable candidate.

## **THAT PART OF THE REPORT WAS ADOPTED**

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Mr. P. G. Furlong, Vice-Chairman, presented the following item of the General Report of the Policy Section.

## **ADMINISTRATION**

### **SUB-COMMITTEE TO CONSIDER THE REPORT OF THE COMMISSION OF ENQUIRY INTO THE CONFIDENTIALITY OF HEALTH INFORMATION**

The Report of the Sub-Committee to Consider the Report of the Commission of Enquiry into the Confidentiality of Health Information, in which it is recommended that no action be taken against those members named in the Report, was before the Discipline Committee. The Report of the Sub-Committee is as follows:

The Sub-Committee, consisting of Mr. Furlong, Chairman, and Messrs. O'Brien and Ogilvie, met at 9:00 a.m. on Wednesday, 25th February, 1981, to consider the Report of the Commission of Enquiry into the Confidentiality of Health Information submitted by The Honourable Mr. Justice Krever to the Ministry of Health of Ontario on 30th September, 1980.

Chapter 15 of the Report is entitled "The Lawyers". In it the Commissioner reported that the Commission's investigation disclosed that 25 lawyers had sought or received, through private investigators, confidential medical information without the authorization of the patients involved. The lawyers were divided into two groups; the first comprising those who ordered investigations in general terms and who received reports containing confidential health information obtained without the patients' authorization; the second comprising those who expressly directed investigators to obtain health information from persons or institutions having an obligation



to keep that information confidential.

The Sub-Committee was asked to recommend what, if any, action should be taken with respect to the lawyers named in the Commission's report. Most of the lawyers concerned, having agreed to be represented before the Commission by the same Counsel, subscribed to a statement that they knew, or ought to have known, that hospitals and their employees and doctors and their employees have an obligation to keep the contents of health records of patients confidential; that some solicitors on occasion specifically instructed investigators to attempt to obtain medical information from hospitals and hospital employees, and doctors and doctors' employees without authorization, and that those instructions, under the current state of the law, cannot be justified. A number of specific instances are outlined in the Report of the Commission of Enquiry, from which it is clear that some lawyers received confidential information and used it quite innocently, others without regard to how it was obtained, and some through having given specific instructions to obtain confidential information.

The statement filed by the lawyers named in the report was an unequivocal acknowledgement of the impropriety of the conduct described, and an unequivocal undertaking to refrain from engaging in it. The Commissioner recommended that no criminal prosecutions be undertaken and was of the view that to single out the named group would be unfair, since it was not possible to identify all the lawyers who may have engaged in similar practices.

In coming to its recommendation, the Sub-Committee is aware that the courts have refused to make any rule against admitting evidence improperly obtained, and also recognizes that the information referred to in the Commission's Report could have been obtained in a variety of proper ways, such as by examination for discovery, medical examinations, or by subpoenaing records to court. The information a doctor receives concerning a patient is not privileged, and the doctor can be compelled to give evidence in court. In many of the instances described, the major fault lay with the doctor who gave confidential information when asked, rather than with the lawyer whose investigator asked the doctor for information. The duty to preserve confidentiality lay upon the doctor.

Since the passage of the Health Insurance Act, 1972, all those involved in the administration of the statute or regulations, including members of the Medical Review Committee, Medical Eligibility Committee, Appeal Board, and the practitioners review committees and employees thereof, are required to preserve secrecy with respect to all matters coming to their knowledge in the course of their employment or duties. There are a few exceptions to the general rule which point up the fact that the information can be obtained for court use through proper means.

The Sub-Committee's chief concern is with respect to those members who specifically instructed investigators to obtain information from OHIP. For substantially the same reasons that moved the Commissioner to recommend that no criminal prosecutions be undertaken against the lawyers named in his Report, the Sub-Committee does not recommend that disciplinary action be taken by the Society. In addition, there was no evidence before the Commission that anyone suffered injury or loss through premature

disclosure of medical records. The purpose of disciplinary action is to stop abuses, prevent their recurrence and admonish those who have erred. These objects have already been accomplished by the Commissioner and by the publication of his Report. The Sub-Committee recommends that to make it clear to the members of the profession and to the public, that lawyers must not be involved in obtaining evidence illegally, an appropriate statement be published in the Communiqué.

In Committee, Mr. Genest relinquished the Chair. The Report was considered and amendments suggested. It was moved, seconded and *carried* that the Report be amended and adopted as amended. Mr. Genest resumed the Chair.

In Convocation, Mr. Genest took no part in the discussion of the Sub-Committee's Report and did not vote.

It was moved, seconded but *not put* that the Sub-Committee's Report be deleted from the General Report and not appear in Convocation's Minutes.

It was moved, seconded and *carried* that the Sub-Committee's Report (as originally submitted to the Committee) be amended in accordance with the motion carried in Committee, that three words be deleted from the final sentence, and that the Sub-Committee's Report as amended in that way be adopted.

These amendments are incorporated in the Sub-Committee's Report set out above.

#### AS AMENDED THIS ITEM WAS ADOPTED

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#### COMPENSATION FUND SUMMARY

Mr. Genest presented the Compensation Fund Summary for the period ended 28th February, 1981.

## COMPENSATION FUND

For the Period from 1st July, 1980 to 28th February, 1981

(8 months)

TOTAL RECEIPTS	\$ 1,331,117.02
TOTAL DISBURSEMENTS	<u>\$ 573,517.42</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 757,599.60
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,331,581.31</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$11,486,638.08</u></u>

## THE SUMMARY WAS RECEIVED

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## LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 11th March, 1981.

The following members were present: James B. Chadwick, Chairman, Messrs. Barr, Bynoe, Ms. Cornish, Messrs. Ellis, Fitzpatrick, Mrs. Fleming, Messrs. Gilchrist, Guthrie, Harris, Mrs. Jarmain, Messrs. Jones, Lamb, Linden, Russell, Mrs. Smyth, Mrs. Tait, Messrs. Wallace and Yachetti.

The following observer members were also present: Robert Holden, solicitor, for the Criminal Lawyers' Association, and Michael Tomchak, for the Ministry of Community and Social Services.

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's report, pursuant to Section 95(2), for the ten month period ended January 31, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$2,043,000. Funds designated for community clinics were underspent by \$194,000, with the result that the remaining

payments exceeded budget by \$2,237,000 as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	1,903,000	
Civil certificate accounts	137,000	
Student Legal Aid Societies	46,000	
Area Office costs	222,000	
Provincial Office costs	<u>252,000</u>	2,560,000
<i>Under budget</i>		
Duty Counsel payments	172,000	
Legal Advice accounts	9,000	
Salaried Duty Counsel programme	28,000	
Research Facility	62,000	
Special Projects	<u>52,000</u>	<u>323,000</u>
		<u>2,237,000</u>

Income from sources other than the Province of Ontario was under budget by \$1,789,000 as follows:

<i>Under budget</i>	\$	\$
Law Foundation	1,343,000	
Client contributions	189,000	
Costs recovered	<u>273,000</u>	1,805,000
<i>Over budget</i>		
Miscellaneous income		<u>16,000</u>
		<u>1,789,000</u>

At January 31, there was a balance in the Fund of \$380,000.

## Statistics

The following table compares reported activity for the first ten months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>10 Months ended</i>		<i>% Change</i>	
	<i>Jan. 31, 1981</i>	<i>Jan. 31, 1980</i>	<i>from last year</i>	
Summary Legal Advice	34,674	37,748	—	8.1
Referrals to other agencies	57,088	52,608	+	8.5
Applications for certificates	92,746	97,934	—	5.3

	<i>10 Months ended</i>		<i>% Change</i>	
	<i>Jan. 31, 1981</i>	<i>Jan. 31, 1980</i>	<i>from last year</i>	
Refusals	33,878	32,265		
As a percentage of applications	36.5	32.9	+	5.0
Certificates issued	65,871	69,133	-	4.7
Persons assisted by Duty Counsel				
Fee for service	130,630	130,945		
Salaried Duty Counsel	<u>57,177</u>	<u>45,043</u>		
Total	<u>187,807</u>	<u>175,988</u>	+	6.7

## Write-offs

George E. Wallace, Q.C., approved the write-offs of the following total of amounts due to the Legal Aid Fund: \$7,413.87.

All of the accounts are at least three years old.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>January 1981</i>	<i>10 Months to Jan. 31/81</i>	<i>10 Months to Jan. 31/80</i>
Reviews on hand	820		
Reviews received in	<u>153</u>	1382	1248
	<u>973</u>		
Settlements reviewed in	99	1539	1149
Settlements awaiting review at end of	<u>874</u>		
	<u>973</u>		

### Appeals

	<i>November</i>	<i>December</i>	<i>January</i>
Appeals to Taxing Officer received during	-	-	1
Appeals heard by Taxing Master	-	4	1
Appeals pending at the end of the month	11	11	7



## Activity

	1980/81 Fiscal Year		1979/80 Fiscal Year	
	Month of Jan. 1981	10 Months to Jan. 1981	Month of Jan. 1980	10 Months to Jan. 1980
Accounts on hand at beginning	13920	12454	13771	7273
Accounts received	<u>5763</u>	<u>55808</u>	<u>5863</u>	<u>55843</u>
Total Accounts to be processed	19683	68262	19634	63116
Less: Files cancelled	46	346	42	313
Accounts processed	<u>7036</u>	<u>55315</u>	<u>6527</u>	<u>49738</u>
Balance	<u>12601</u>	<u>12601</u>	<u>13065</u>	<u>13065</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	388	3661	405	2681
Supplementary Accounts	<u>202</u>	<u>2892</u>	<u>257</u>	<u>2560</u>
Total	<u>590</u>	<u>6553</u>	<u>662</u>	<u>5241</u>

## PROVINCIAL AUDITOR'S REPORT

(a) The Financial Statements and Report on the Audit of the Legal Aid Fund for the year ended March 31, 1980 were before the Committee and Convocation.

(b) The Committee after careful review of the said Audit noted that the Notes to Financial Statements did not give satisfactory credit to the 25% Statutory Reduction of Fees. Therefore the Committee recommended that the Provincial Auditor be asked to reflect in future Audit Reports the Gross Fees Earned, the 25% Statutory Reduction and the Net Fees Paid to the profession.

## FINANCIAL ELIGIBILITY CRITERIA

(a) The Legal Aid Committee appointed a Sub-Committee to review the new Financial Eligibility Criteria introduced by the Ministry of Community and Social Services on April 1, 1980. The Sub-Committee was appointed when it was realized at the March, 1980 meeting of the Legal Aid Committee that the pending changes seemed likely to effect fundamental changes to the accessibility of the Plan.

The Sub-Committee's Report was forwarded to the Legal Aid Committee prior to the January meeting for study and review.

The Committee recommended that the Sub-Committee's Report dated December 1, 1980 and revised as at March 11, 1981 be approved. The said Report was before Convocation.

The recommendations contained in the Sub-Committee's report are set out below:

1. That Convocation reaffirm that the objective of the Legal Aid Plan's financial eligibility assessment system is properly the determination of actual absence of ability to pay for the cost of the legal services required.
2. That Convocation recognize that the concept of ability to pay is a relative concept, requiring a judgement as to what may properly be considered the limits of socially responsible financial arrangements for legal services, having regard to both the impact of such arrangements on the applicant's life situation and the significance of his or her need for legal services.
3. That Convocation reaffirm that the Plan's judgement as to the absence of ability to pay in any particular case must reflect a sophisticated analysis of the applicant's overall capacity, within the limits specified in paragraph two, to pay some of the fees in question or to finance or postpone the payment of some or all of such fees, and that it continue to be part of the Legal Aid Plan's function to facilitate any such financing or postponement.
4. That Convocation acknowledge that the capacity to pay some of the cost of legal services or to finance or postpone the payment for some or all of such services is properly to be judged taking into account the applicant's access to the assets or income of other persons (not including his or her children) which reasonable people would consider ought to be made available for the payment of his or her legal fees (having regard to the nature of the relationship with such other persons and the kind of legal services required), but that in taking such matters into account and in considering the limits of socially responsible financial arrangements in such a case it will be necessary to also take into account the impact of such arrangements on the life of the other persons and the significance to such persons of the applicant's need for legal services.
5. That Convocation recognize that it is appropriate that the Plan's financial criteria and assessment system be such as to focus the ultimate discretion of the Area Directors and Area Committees not on relieving the unintended consequences of overly restrictive rules but on preventing clear abuses of reasonable rules, but that nonetheless it is also appropriate to establish some ultimate level of gross income beyond which it is reasonable to presume ability to pay and to make

the availability of legal aid assistance dependent on the exercise of a discretion in favour of an application based on compelling circumstances.

6. That Convocation reaffirm that the application of the principles governing the determination of financial eligibility requires the Area Directors and Area Committees to have full and complete information about the applicant's total financial situation and the financial situation of such other persons as may have been identified under paragraph four, and that the potential impact of the grant of a legal aid certificate on both the public purse and on the individuals against whom a legally aided person may be exercising his rights, is such as to justify requiring as a usual condition of legal aid assistance the fullest possible disclosure of such information.
7. That Convocation further acknowledge that public acceptance of the Plan is dependent on the public's confidence in the reliability of the financial information on which decisions are based and that it direct the regular employment of investigative resources to check the accuracy of financial information by routine audits of randomly selected cases and insist on the vigorous prosecution of fraudulent applicants.
8. That Convocation seek the co-operation of the Ministry of Community and Social Services in establishing a financial assessment task force charged with the duty of developing a set of operational guidelines which will give practical effect to the foregoing principles, including the development of a range of typical hypothetical cases which may be used as benchmarks in determining the socially responsible limits to legal services financial arrangements.
9. That in the meantime Convocation recommend to all Area Directors and Area Committees;
  - (1) that, pending completion of the work of the Task Force established to review the new financial criteria, the guidelines set out in the new Financial Criteria Manual be interpreted in light of the said Subcommittee's Report and in particular that special caution be applied when an Area Director is exercising discretion in dealing with an applicant's disposable income as reported by the Ministry of Community and Social Services, since it may be that the disposable income as reported includes sums which are not in fact available to the applicant, the disposable income having been determined by the interpretation of the new criteria which set out maximum expense limits, and,
  - (2) that special caution be exercised to avoid any unreasonable consequence arising out of the application of the new financial criteria pertaining to the interpretation of the "household unit" provision, provided it be understood that with respect to all of the foregoing recommendations each legal aid application must continue to be considered on its own merit.

(b) The Chairman of the Legal Aid Committee advised that a

Task Force will be established to review the Ministry of Community and Social Services' new Financial Eligibility Criteria. The Task Force will be comprised of representatives from The Law Society of Upper Canada, the Ministry of the Attorney General and the Ministry of Community and Social Services.

#### **REPORT ON THE WORK PRESENTLY UNDER REVIEW BY THE SUB-COMMITTEES OF THE LEGAL AID COMMITTEE**

For Convocation's information a list of the Sub-Committees and work presently under review was before it.

#### **OPINION LETTERS**

The Chairman requested the Director to prepare a report for the March Legal Aid Committee Meeting as to whether the Area Directors review opinion letters given by counsel and whether such opinion letters are considered on the payment of solicitors' accounts.

The Legal Aid Committee, after an in depth discussion of the material filed, requested that Convocation be advised that the Legal Aid Committee does not see any problem and that opinion letters are, in fact, being properly considered by Area Directors. A copy of the Director's letter to the Chairman was before Convocation.

#### **SUB-COMMITTEE TO REVIEW SERVICES TO THE HANDICAPPED**

The Legal Aid Committee, in recognition that 1981 has been designated by the United Nations The Year of Disabled Persons, formed a Sub-Committee to investigate the access provided to legal aid services for disabled persons, and, if necessary, to make recommendations for the improvement of such access. The Committee approved an interim report of the said Sub-Committee which was before Convocation.

## STEERING COMMITTEE

### (a) Funding of Summer Student Staff at Student Legal Aid Societies and University Associated Community Clinics

The Student Legal Aid Societies and those community clinics which are associated with law schools employ law students during the summer months in order to maintain the level and quality of legal services which those organizations deliver during the academic year.

Historically, summer salaries have been provided on a limited scale by the provincial government through the Experience Programme of the Youth Secretariat. For each of the last three years the salaries available through this programme have been based upon the minimum wage which, in the summer of 1980, was \$3.00 per hour equal to a weekly salary of \$120. Because this salary was not large enough to attract sufficient numbers of suitable students, it has been necessary during the last three years to supplement the minimum wage salary offered by the Youth Secretariat. This supplement, which raised the weekly rate to \$144, was made available by the Ministry of the Attorney General and distributed by the Ontario Legal Aid Plan. In the summer of 1980 even the \$144 salary was less than adequate, with the result that some organizations received further funds from the law faculties.

For the summer of 1981, the Youth Secretariat has announced the availability of 128 positions at the revised minimum wage of \$3.30 per hour or \$130 per week for an employment period of 13 weeks.

The Committee recommended that in recognition of the importance of the services delivered by both the Societies and the clinics and the need to maintain those services over the summer months, a supplementary budget, in the amount of \$95,550, be submitted to the Ministry of the Attorney General, such funding to be over and above the budget already submitted by the Ontario Legal Aid Plan for the fiscal year 1981/82. This supplementary amount would enable the Societies and clinics to offer to law students a salary of \$185 per week for an employment period of 13 weeks.



**(b) Request for Suggestions  
to Reduce Costs**

The Legal Aid Committee approved the Steering Committee's request that the Director write to all members of the Legal Aid Committee, Area Directors, Chairmen of Area Committees and senior administrative staff for their views as to where unnecessary costs to the Plan could be eliminated. In other words, the Steering Committee would appreciate suggestions as to those areas where the Plan might achieve a higher level of efficiency in light of the tightening economy.

**AREA COMMITTEES**

**(a) APPOINTMENTS**

**Grey County**

Chander Chaddah, solicitor

**Temiskaming**

George Morissette

**(b) RESIGNATIONS**

**Grey County**

M. C. Keon

It was moved, seconded and *carried* that the item respecting Professional Liability Insurance be deleted from the Report and referred to the Practice and Insurance Committee.

**THE REPORT AS AMENDED WAS ADOPTED**

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**CLINIC FUNDING REPORT**

Mr. Chadwick also presented the Report of the Director of Legal Aid, dated 9th March, 1981, with respect to Clinic Funding.

**CLINIC FUNDING**

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

The Director recommended to Convocation that the report of the Clinic Funding Committee dated March 9, 1981

be adopted.

The following are the recommendations of the Clinic Funding Committee contained in the said report:

*Applications for Supplementary Legal Disbursements*

The Clinic Funding Committee considered applications from community clinics for supplementary legal disbursements pursuant to s. 148(1) (m) and recommended approval as follows:

- |    |                                |        |
|----|--------------------------------|--------|
| 1. | Sudbury Community Legal Clinic | \$ 490 |
| 2. | York Community Services        | \$ 500 |

*Applications for Funds for Training Programs*

The Clinic Funding Committee considered applications from community clinics for funds for training programs pursuant to s. 148(1) (k), and recommended approval as follows:

- |    |                                   |         |
|----|-----------------------------------|---------|
| 1. | Bloor-Bathurst Information Centre | \$ 670  |
| 2. | Parkdale Community Legal Services | \$4,782 |

*Review of Initial Decisions of the Clinic Funding Staff*

The Clinic Funding Committee also reviewed an initial decision of the clinic funding staff allocating supplementary funds pursuant to s. 148(1) (c) of the Regulation, and recommended approval as follows:

- |    |                              |               |
|----|------------------------------|---------------|
| 1. | Neighbourhood Legal Services | up to \$3,000 |
|----|------------------------------|---------------|

*Continuation of Clinic Funds*

The Clinic Funding Committee also considered the need to continue funding for community clinics after March 31, 1981, pending the designation of funds by the Attorney General pursuant to s. 157 of the Regulation, and recommended approval of the continuation of funds for community clinics for the months of April, May and June, 1981, pending the designation of funds for the fiscal period 1981/82.

**THE REPORT WAS ADOPTED**

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**PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground**

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. Ground (Chairman), Doran and Wardlaw (Vice-Chairmen), Catzman, Lamont, Lerner, McWilliams, Outerbridge, Mrs. Sutherland; and Mr. White by invitation.

## POLICY

### THE LAW SHOPPE

At Convocation in February 1981 the Committee considered the pending application by Mr. Jack James, a lawyer in British Columbia, for the trademark of "The Law Shoppe".

In view of the time factor the Committee instructed Mr. J. D. Wilson of the law firm of Lang, Michener to seek an extension of time for filing an objection. Convocation approved such instruction.

An extension of time in which to oppose the application was granted until May 21st 1981 and the Committee recommended that counsel proceed with the objection.

## INFORMATION

### APPOINTMENTS TO JOINT COMMITTEE

Mr. Guthrie and Mr. Catzman have been appointed as the representatives of the Professional Conduct Committee to the joint Sub-Committee of the Professional Conduct Committee and the Policy Section of the Discipline Committee to review certain portions of the Finlayson Report, which had received the attention of Convocation a number of years ago.

### SUB-COMMITTEE REPORTS

The Sub-Committee on the Role of Lawyers Acting as Mortgage Brokers will report at the April meeting.

The Sub-Committee on the Representation of the Child will report at the May meeting.

The Sub-Committee on the Role of Law Clerks will report at the April meeting.

### MISCELLANEOUS

Some other matters were discussed.

## THE REPORT WAS ADOPTED

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## UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. P. K. E. McWilliams presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. Chilcott, McWilliams and White.

### INFORMATION

1. One account was approved.
2. Letters received from solicitors indicated that they feel a named company may be inviting solicitors to participate in a course of conduct which might be considered as fraudulent. However, the Committee felt that the company was not holding itself out or engaged in the unauthorized practice of law. The Secretary was instructed to write to the solicitors who had written, to so advise them and to thank them for bringing the matter to the attention of the Committee.
3. A letter received from a solicitor had enclosed a copy of an article which appeared in the Kitchener-Waterloo Record, January 23rd, 1981, from which it would appear that an individual was holding himself out or acting for a defendant on a Highway Traffic Act matter. The Secretary was instructed to thank the solicitor who had written for bringing the matter to the attention of the Committee and to advise that having reviewed the matter, the Committee was of the view that it was not unauthorized practice.
4. A solicitor advised in a letter that a lay person had presented documents in an application for probate to the Surrogate Court, the lay person having no relationship to the deceased. The solicitor also questioned the practice of staff members in old age homes completing wills forms for residents. The solicitor is questioning the propriety of such actions by lay persons and is requesting a ruling from the Society. The Secretary was instructed to write to the solicitor advising that this appeared to be a matter which was of concern to the Committee and request further information concerning who the lay person involved is, whether the old age homes in question

were government operated homes and whether the solicitor felt that the employees of these homes were drafting wills for the residents and presenting them to the Surrogate Court. The Secretary was further instructed to refer this matter to Legal Aid to ensure that the legal aid services available to senior citizens were being adequately publicized in old age homes.

5. The Secretary reported receipt of correspondence from the President of the Lincoln Law Association concerning the activities of a legal secretary in carrying on the legal practice of a solicitor who had advised an Examiner on the Audit Staff of the Society that he was winding down his practice and retiring. The Secretary was instructed to advise the Practice Advisory Director and request that he attend at the offices of the solicitor in question to examine his practice, liaise with the President of the Lincoln Law Association as required, and report back to the Committee.

6. A further letter was received from a solicitor who had complained about the conveyancing activities of an individual. He advised that he would be pleased to assist the Society by obtaining the names of the vendors' solicitors in transactions on which this individual acted for the purchasers if the Society so desired. The Secretary was instructed to write to the solicitor who reported this matter and advise him that the Committee would be obliged if he could provide the Committee with the names of the vendors' solicitors in the transactions in question and to advise the solicitor that all prosecutions for unauthorized practice must be with respect to occurrences within the last six months.

7. The Committee had received a copy of the agreement for compensation of the Canada Permanent Trust Company which prospective clients of the trust company were asked to sign. The Sub-Committee was asked to see whether that Compensation Agreement contravened the Joint Statement of the Law Society and the Trust Companies Association, dated January 21st, 1966. The Committee reviewed this matter and was of the opinion that the agreement for compensation did not contravene the Joint Statement of the Law Society and the Trust Companies Association dated January 21st, 1966. The



Secretary was instructed to advise the trust company accordingly.

## THE REPORT WAS ADOPTED

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### LIBRARIES AND REPORTING COMMITTEE—

Mr. Farquharson

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. Farquharson (Chairman), Bragagnolo, Shibley and Mrs. Tait; and Mr. G. W. Howell (Acting Chief Librarian).

### ADMINISTRATION

#### ANNUAL GRANTS TO COUNTY LAW ASSOCIATIONS PURSUANT TO REGULATION 34

The Associations listed below sent in their annual returns for the year 1980. The amounts of grants which each should receive under Regulation in 1980 and those they received in 1981 are as follows:

	1981	1980
Bruce	\$1,635.00	\$1,565.00
Carleton	2,000.00	2,000.00
Cochrane	2,000.00	2,000.00
Dufferin	1,250.00	1,320.00
Durham Region	2,000.00	2,000.00
Elgin	1,880.00	1,740.00
Essex	2,000.00	2,000.00
Grey	2,000.00	2,000.00
* Haldimand	935.00	1,285.00
Huron	1,320.00	1,145.00
Kenora	1,285.00	1,160.00
Nipissing	2,000.00	1,635.00
Oxford	2,000.00	2,000.00
Perth	1,775.00	1,670.00
Stormont, Dundas & Glengarry	2,000.00	1,565.00
Welland	2,000.00	2,000.00

- \* The above law association received a grant of \$1,285 for the year 1980 which included an overpayment of \$385. When overpayments are made, the association concerned is contacted in order to obtain its agreement to a deduction from this year's grant.

*Approved* subject to the approval of the Finance Committee.

## **YORK REGION LAW ASSOCIATION APPLICATION TO LAW FOUNDATION OF ONTARIO**

The Committee discussed the fact that this Association had received a first year ("Initial") grant from the Law Society, pursuant to the regulation, but had not received a start-up capital grant from the Law Foundation. The \$400,000 granted by the Law Foundation at its December, 1980 meeting was distributed to the counties on the basis of the Lerner formula for 1981 operating needs. The sum needed to cover the balance of York Region's start-up capital costs is \$34,800. Accordingly, the Committee recommended that the Law Society apply on behalf of the York Region Law Association for the sum of \$34,800 to The Law Foundation of Ontario at its next meeting.

## **INFORMATION**

### **BOOK LIST**

A list of books to be purchased was approved.

### **DONATIONS**

The following series of reports was donated to the Great Library:

Daly, Cooper & Co., Toronto

*Law Reports 1871 – 1971*

*Noted*

## **AMERICAN ASSOCIATION OF LAW LIBRARIES**

Permission was sought for the Acting Chief Librarian and two other librarians (a reduction of one from last year) to attend this Association's annual convention in Washington, D.C.

*Approved*

## **CENTRAL ADMINISTRATIVE PROGRAMME TEXTBOOK PURCHASES – DISCOUNTS**

The Acting Chief Librarian reported that the main legal publishers (Carswell, Canada Law Book, Butterworths, CCH, de Boo, etc.) had always maintained a strict “no-discount” policy on volume purchasing of textbooks, no matter who the client or what the circumstances — but that all but one had agreed to a special one-time-only discount on recent substantial orders placed, with general discount policy to be re-examined in the future. Total current savings will amount to at least \$12,000.

*Approved*

## **COUNTY LAW LIBRARIES ACCOMMODATION**

The Committee discussed a situation encountered by the Acting Chief Librarian in Lincoln County — the inadequate design and space allocations for the law library in the new courthouse being built by St. Catharines. The Association’s executive officers evidently had not been consulted by Ministry of the Attorney-General officials and the new association president authorized the Acting Chief Librarian to do what he could to correct the situation, although it may be too late. The Committee agreed that the matter of consultation on proper accommodation for county law libraries between the government on the one hand and county law associations and the Law Society’s Office of Chief Librarian on the other will have to be examined in the future.

## **COMPUTER SEARCHING SERVICE**

The Committee held a special meeting to attend, along with the Acting Chief Librarian, a demonstration of computer searching at the offices of Q.L. Systems Ltd. in Toronto on Wednesday afternoon, March 11, 1981. The Acting Chief Librarian submitted a further report and informed the Committee that demonstrations were being provided for the other Benchers on Meeting Day. Many of the Benchers took the opportunity to attend these demonstrations. Consideration of installation of a computer searching service was deferred to the

April meeting of the Committee.

*Noted*

## THE REPORT WAS ADOPTED

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### PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. J. A. Brulé (Chairman), Farquharson, Mrs. Legge, Messrs. Tebbutt and Wardlaw. Messrs. Hargraft, Maltman and Marshall were also present at the Chairman's request.

## ADMINISTRATION

### DEFENCE COSTS – TAXATION OF COUNSEL'S ACCOUNT

Under the terms of the policy, defence costs are subject to the deductible. Counsel is retained by the Adjuster and paid by the Society subject to the Society recovering an appropriate amount from the insured.

Where the insured objects to the quantum of defence counsel's account, the question of taxation arises. The Committee was asked to give direction respecting the circumstances under which taxation should be sought and who is to make the decision whether to tax or not.

The Committee is of the view that the Solicitor is entitled to request Maltman's to have defence counsel's costs taxed.

### EXEMPTION FROM COVERAGE

A member wrote to the Society in February applying for exemption from coverage under the Errors & Omissions Insurance Plan on the grounds that he practises in the Patent and Trade Mark Field doing agency work for Patent and Trade

Mark Agents. He wrote on letterhead which showed beneath his name the words "Barrister and Solicitor, Patent and Trade Mark Agent".

He was advised by the Secretary that he held himself out to be a Barrister and Solicitor and that if he were negligent in his work he could be sued in his capacity as a lawyer and therefore required coverage.

The member did not accept this ruling and asked that the matter be considered by the Committee.

The Committee reviewed the correspondence and recommended that he must be covered.

### **COUNSEL'S ACCOUNT INTEREST CHARGE**

Counsel rendered an account which came before the Committee for approval and was duly paid. During this time, however, Counsel added interest at the rate of 1½% per month and now seeks \$73.45 in interest charges.

The Committee recommended that the Society's policy is not to pay interest on solicitors' accounts and the Solicitor should be advised accordingly.

### **EXEMPTION FROM COVERAGE**

A member is assistant general counsel of a company and has been granted exemption from coverage. He has been asked by a relative to act for the relative's 18 year old son in respect of a hockey contract. The relative and the son are prepared to give a waiver of any claim for negligence which might arise out of the legal services. The member would advise them to seek independent legal advice but asked whether the Society would approve of him proceeding without coverage if such waivers were given.

The Committee recommended that the Solicitor should be advised that he is not entitled to engage in any work outside of his corporate employment in view of the exemptions that he was granted.



## SETTLEMENT CONSENT OF INSURED

Clause 12(c) of the Lloyds Policy states that the insurer shall not ... settle any suit without the written consent of the insured. In September 1979 a settlement was concluded by the Adjusters who had attempted to obtain the insured's consent but received no reply to their letters to the insured. The insured refused to pay the deductible amount and the matter was referred to the Discipline Committee on the grounds that he had failed to meet a financial obligation in connection with his practice. The complaint was dismissed by the Discipline Committee which directed that it be brought to the attention of this Committee.

The Committee recommended that Maltman's be advised to instruct the Solicitor for the claimant to provide a proper release.

## DEFENCE COSTS SUBJECT TO THE DEDUCTIBLE

Coverage C of the current policy reads as follows:

**COVERAGE C – DEFENSE, SETTLEMENT, SUPPLEMENTARY PAYMENTS:** With respect to such insurance as is afforded by this Policy, the Insured shall –

- (a) Defend any suit against the Insured alleging such act or omission and seeking damages which are or may be payable under the terms of this Policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the Insurers may make such investigation and, with the consent of the Insured, such settlement of any claim or suit as they deem expedient; if the Insured and Insurers fail to agree on whether settlement shall be made then such issue shall be decided by reference to an arbitrator appointed by the Claims Committee whose decision shall be binding on the Insurers and the Insured and Named Insured.
- (b) Pay, in addition to the applicable limit of liability:
  - (i) all costs taxed against the Insured in any suit defended by the Insurers and all interest on the amount of any judgment therein which accrues after entry of the judgment and before the Insurers have paid or tendered or deposited in Court that part of the judgment which does not exceed the limit of the Insurers' liability thereon; where the judgment exceeds the policy limit the Insurers will only be liable for their pro rata proportion of such cost and interest;
  - (ii) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments for an amount not in excess of the

applicable limit of liability of this policy but without any obligation to apply for or furnish any such bonds;

Subsections (a) and (b) of Coverage C above, are subject to the deductible.

- (c) Pay all reasonable expenses, other than loss of earnings, incurred by the Insured at the Insurers' request.

A member submitted that "Subsection (a) states that the insurer *shall* defend and furthermore gives the insurer authority to make a settlement and the insurer will then be liable for the amount of the settlement. Where the section continues to say that the deductible applies, this of course refers to the liability of the insurer, not to his duty to defend. The costs of the defence are not dealt with in the Section and thus these costs cannot be said to be the subject of a deductible."

The member does not accept that under Coverage C, defence costs are subject to the deductible and has asked that his position be considered by this Committee.

The Committee recommended that he be advised that the Committee is satisfied with the wording of the present policy.

## INFORMATION

### PRACTICE ADVISORY SERVICE

A report dated February 1981 from the Director of the Practice Advisory Service was before the Committee.

*Noted*

### ADJUSTERS' FEES

A list of fees paid in February 1981 was before the Committee.

*Noted*

### COUNSEL FEES

A list of fees paid in February 1981 was before the Committee.

*Noted*

## MONTHLY REPORT

Mr. Hargraft's monthly report for February 1981 was before the Committee.

*Noted*

## THE REPORT WAS ADOPTED

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## SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. R. W. Cass presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 12th March, 1981.

The following members were present: Messrs. Cass, Chilcott and White.

## APPLICATIONS

The Committee had before it two applications for grants.

One application was presented by the wife of a former member who had been disbarred in February 1980 and is in prison. Through her solicitor she applied to the fund for assistance for herself and her two children. Her solicitor submitted a letter outlining her financial position. The Committee recommended that she be advised that she does not qualify under the terms of the Bequest.

The second application was submitted by a member who has been under suspension for non-payment of fees since February 1979. He will shortly be released from hospital where he had been receiving treatment for a manic depressive illness and upon his release he will appear in court to face charges of petty trespass which are expected to be withdrawn. He has no money, apart from a small allowance provided by the hospital, and will seek employment, almost certainly outside legal practice. He requested a grant from the fund to help him buy clothing and food and submitted a statement of his financial position. He received two grants of \$500 each from the fund in

1977 and 1978 respectively. The Committee recommended that he receive a grant of \$500 arranged to be advanced through his doctor.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 12:25 P.M.**

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Confirmed in Convocation 16th April, 1981.

J. D. BOWLBY  
Treasurer



THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

**Volume 6      Number 4**





## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

Thursday, 9th April, 1981  
11:00 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Bragagnolo, Carthy, Cass, Cooper, Ferrier, Lamont, Mrs. Legge, Messrs. Ogilvie, Pepper, Mesdames Sutherland and Tait.

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### LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Wednesday, 8th April, 1981, with respect to the 22nd Bar Admission Course.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Catzman, Ferrier, Ground, Henderson, Lerner, Lamont, Outerbridge, Noble, Scace, Shibley, Mrs. Tait and Mr. Wardlaw.

### ADMINISTRATION

#### BOARD OF REVIEW INTERIM REPORT FOR THE 22ND BAR ADMISSION COURSE

The interim report of the Board of Review of the 22nd Bar Admission Course was before the Committee showing the names of the one thousand and fifteen candidates who have been found to have successfully completed the Bar Admission Course. The Board further determined that thirty-nine candidates were required to write supplemental and/or special examinations in accordance with the terms of the grading policy.

*Approved*

#### SCHOLARSHIPS AND PRIZES

The list of prize winners in the 22nd Bar Admission Course

was before the Committee.

*Approved*

# THE REPORT WAS ADOPTED

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## ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 9th April, 1981, with respect to the 22nd Bar Admission Course.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Affleck, Cass, Cooper, Ferrier, Lamont, Pepper and Mrs. Sutherland.

## ADMINISTRATION

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

A list of 1,006 candidates who successfully completed the 22nd Bar Admission Course, filed the necessary documents and paid the necessary fee of \$210, and who applied for Call to the Bar and to be granted Certificates of Fitness, was submitted as follows:

346 candidates	Toronto	9th April, 1981
371 candidates	Toronto	10th April, 1981
149 candidates	Ottawa	13th April, 1981
140 candidates	London	15th April, 1981

*Approved*

# THE REPORT WAS ADOPTED

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CONVOCATION ADJOURNED FOR LUNCHEON AT 11:06 P.M.

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The Treasurer and Benchers had as their guests for luncheon in the Benchers Dining Room at Osgoode Hall Major General Richard Rohmer, C.M.M., D.F.C., C.D., Q.C.; The Honourable W.G.C. Howland, Chief Justice of Ontario; His Honour Chief Judge W.E.C. Colter, County and District Courts of Ontario, and Mrs. Colter; The Honourable Madam Justice J.L. Boland, Judge of The High Court of Justice for Ontario; Mr. George A. Lawrence, recently retired Imperial Oil executive, and Mrs. Lawrence; Mr. G. W. Collins-Williams, Q.C., Director of Legal Education; and Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course.

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Following luncheon, the Treasurer, the Benchers and their guests proceeded to the O'Keefe Centre for the Call to the Bar Ceremonies of the 346 graduates of the Twenty-second Bar Admission Course who had applied to be called on Thursday, 9th April, 1981.

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#### CONVOCATION RESUMED AT 2:00 P.M.

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#### PRESENT:

The Treasurer and Messrs. Common, Bragagnolo, Cass, Ferrier, Lamont, Mrs. Legge, Messrs. Noble, Ogilvie, Pepper, Ruby, Scace, Mesdames Sutherland and Tait, and Mr. Yachetti.

The body of the auditorium was occupied by the 346 graduates, their families and friends.

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#### ADDRESS

The Treasurer introduced Major General Richard Rohmer

who addressed the graduates.

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## **PRESENTATION OF AWARDS AND APPOINTMENTS**

Mr. G. W. Collins-Williams, Director of Legal Education, presented the recipients of awards and appointments to the Treasurer.

The Treasurer presented the following prizes to the respective recipients:

The Treasurer's Medal; The Roland O. Daly Scholarship; The Edwin George Long, K.C., Memorial Scholarship; The Stuart Thom Prize; The S.J. Birnbaum, Q.C., Scholarship for Estate Planning First Prize; and The Harcourts Advocacy Award:

David Malach

The Law Society First Prize for the student obtaining the second highest marks in the Course; The Edwin George Long, K.C., Memorial Scholarship; and The Isadore Levinter Prize for Civil Procedure II:

Christopher Dawson Woodbury

The Law Society Third Prize for the student obtaining the fourth highest marks in the Course; and The Arthur Wentworth Roebuck Award for Family Law:

Karen Anne Milne

The Day, Wilson, Campbell Corporate & Commercial Prize:

Leonard Gerald Bryan

The Isadore Levinter Prize for Civil Procedure II:

William Robert Watson

The William Belmont Common, Q.C., Prize for Criminal Procedure for the student obtaining the second highest mark in that subject:

Philip William Benjamin Abramson

The S. J. Birnbaum, Q.C., Scholarship for Estate Planning Second Prize :

Carolyn Ann Kelly

and congratulated the recipients of the following special appointments:



Law Clerks to The Honourable W. G. C. Howland, Chief Justice of Ontario:

Philip William Benjamin Abramson  
Victoria Akemi Kondo

Law Clerks to The Honourable Gregory T. Evans, Chief Justice of The High Court of Justice for Ontario:

Carolyn Ann Kelly  
Rosemary Ann LaValley  
Robert Allen Spence

Law Clerks to His Honour Chief Judge W.E.C. Colter, Chief Judge of the County and District Courts for the Counties and Districts of Ontario:

Andrea Dawn Davidson  
Heather Winnifred Ling McGillivray

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## CALL TO THE BAR

Mrs. L. L. Legge, Chairman of the Admissions Committee, presented to the Treasurer 346 candidates for Call to the Bar as follows:

### TWENTY-SECOND BAR ADMISSION COURSE 1980-81

#### CANDIDATES FOR CALL TO THE BAR ON THURSDAY, 9TH APRIL, 1981

Philip William Benjamin Abramson	Graysanne Lyla Bedell
Joseph Alexander Ahee	Cheryl Rae Belkin
Janet Patricia Anderson	Bruce Cameron Bell
Thomas Gerald Andrews	William John Cole Bennett
Paula Frances Armstrong	Elizabeth Roberta Benson
David James Ashbee	Stanley David Berger
Paul James Avis	Harvey Jay Berkal
Catherine Anne Bain	Gary Michael Berman
Mark Baker	Howard Michael Berman
Mark Geoffrey Baker	Michael Nathan Bernstein
Juliet Christine Baldock	Irving Izah Betcherman
Elizabeth Grant Baldwin	John Frederick Michael Betcherman
Robert Douglas Balfour	Susan Andrea Biggs
Hélène Barbès	Vivian Janet Black
Charles Norman Barhydt	Michael Frederic Boland
David Nelson Beavis	Steven Charles Borlak
David Ernest Beck	Elinor Tracy Bornstein

- Peter Bouroukis  
 David Crisp Bowker  
 Laura Ruthanne Bowker  
 Richard Pinch Bowles  
 Gary Gordon Boyd  
 Veronica Mary Brady  
 Carl Arthur Brand  
 Lloyd Elliot Bregman  
 Stewart Lorne Brehaut  
 David Leslie Brown  
 Evelyn Brown  
 Michael Francis Brown  
 Stephen Douglas Brown  
 Tarry Ann Brown  
 Leonard Gerald Bryan  
 Frederic Laurence Buckland  
 Wendy Ellen Burnham  
 Kenneth Robert Byers  
 Audrey Gladys Campbell  
 Domenico Campione  
 Bruce David Cappel  
 John David Carroll  
 John Basil Cashin  
 Jerry Jacob Chaimovitz  
 Paul Kam-Ching Chan  
 Pamela Weld Chapple  
 Patrick John Chetcuti  
 David Chong  
 John Cirillo  
 Janice Sheila Clarfield  
 Denis Arthur Clément  
 Sherry Marla Cohen  
 David Martin Cohn  
 Clifford Ian Cole  
 Robert William Collins  
 Justin Arnet Connidis  
 William Clayton Connor  
 Patricia Marilyn Conway  
 Patrick Garfield Brenton Cooke  
 Jack Copelovici  
 Barbara Grace Crosby  
 Brian Alban Daley  
 Bruce John Daley  
 Andrea Dawn Davidson  
 Lynne Felicity Davis  
 Riina Maris DeFaria  
 David Jeffrey Dello  
 Douglas Joseph DePaulo  
 Beny Antonio De Rubeis  
 Leonard De Vries  
 Carey Joseph Diamond  
 David Wallace Dolson  
 Colin James Douglas  
 James David George Douglas  
 David Richard Draper  
 Raymond Ian Druker  
 David Ross Drummond  
 David Gordon Dunnet  
 Michael Frederick Easson  
 Charles Arthur Eyton-Jones  
 Lesley Margaret Eyton-Jones  
 Teresa Lynn Fairborn  
 Marsha Jean Faubert  
 Alicia Cristina Fava  
 Mayla Elyse Favor  
 Botond Gabor Fejes  
 Miles Gordon Feltmate  
 Susan Gay Amanda Ficek  
 Gordon Bruce Fillmore  
 Patrick Calvin Finnerty  
 Kevin Patrick Foster  
 Gregory Wayne Fournier  
 Anita Marie Fox  
 Bella Lee Fox  
 Irving Fox  
 Mary Margaret Fox  
 Sylvia Anne Franke  
 Stephan Martin Frankel  
 Robert Scott Franklin  
 Elizabeth Jill Fraser  
 Anne Elizabeth Judith Freed  
 Arlen Craig Fromstein  
 Damien Rimmer Frost  
 Richard Joseph Fujarczuk  
 Bruce Norman Futterer  
 Freda Monica Fyles  
 Gary James Gartner  
 David John Gillespie  
 Margaret Elaine Gillies  
 Rhonda Arlene Godfrey  
 Grant William Gold  
 Roy Goldberger  
 Clifford Mark Goldlist  
 Brian Greasley  
 Linda Kathleen Greer  
 Joseph Peter Paul Groia  
 Joseph Ivar Gutman  
 Andrew Hajsaniuk  
 Patricia Anne Hamilton  
 Nancy Louise Hampson

George Michael Harasymowycz  
 Marilyn Suzanne Harrington  
 Anton Klaus Hartmann  
 Robert Edward Hawkins  
 Steven Hartley Heiber  
 Susan Linda Hershberg  
 Richard Arthur Norman Heyd  
 Lloyd Daniel Hicks  
 Barry Winston Hill  
 David Himelfarb  
 Arnold Howard Hochman  
 Howard Douglas Hodgson  
 Brian John Holtby  
 William Edward Horman  
 Ellen Rachel Hornstein  
 Donald Brigden Houston  
 Shelley Anne Howell  
 David Philip Hughes  
 Rodney Allen Makoto Ikeda  
 Lawrie Judah Jacques  
 Colin Graham Alfred James  
 Lynne Dorothy Jeffrey  
 Edward Victor Johnson  
 Janice Diane Johnston  
 Marilyn Elizabeth Conway Jones  
 Norman Charles Jones  
 Cally Elizabeth Jordan  
 Norman Israel Kahn  
 Chan Yeung Kang  
 Guy Gavriel Kay  
 Neal Joseph Kearney  
 Douglas Bruce Kearns  
 Judith Anne Keene  
 Carolyn Ann Kelly  
 Thomas Alan Kelly  
 Tova Janice Kelman  
 Margaret Helen Kerr  
 Alan Henry Kessel  
 John Mark Keyes  
 Henry Sin-Tek Kho  
 Brian Douglas Kinnear  
 Fern Kirsch  
 Risa Zelda Klarman  
 Irving Kleiner  
 Robert Allan Klotz  
 Cassandra Dawn Kobayashi  
 Victoria Akemi Kondo  
 Michael Korenberg  
 Shayna Bella Kravetz  
 Stanislaw Ryszard Kusinski

James Roger Lake  
 David Frawley Lamont  
 Peter Harold Lamprey  
 Bruno Jakob Lange  
 David Keith Langer  
 Samuel Laredo  
 Rosemary Ann LaValley  
 Barbara Joan Lawrie  
 Michael Gordon Lear  
 Brian Michael Leck  
 Richard Joseph LeDressay  
 Susan Patricia Lee  
 Paul Emile Léger  
 Michael David Lepofsky  
 Anita Lerek  
 Carol Ann Elizabeth Letman  
 Brian Ronald Leve  
 Gerald Asher Levitan  
 Joyce Irene Lillegran  
 Fu-min Andes Lin  
 Eva Caroline Elisabeth Lindberg  
 David Alan Littlefield  
 Mavis Marion Losee  
 Francis Joseph Luce  
 Charles Imre Lugosi  
 Marie Susan Lee Lynham  
 Andrew William Francis Macdonald  
 Thomas Michael Francis Macdonald  
 Mary Katherine MacFadyen  
 Paul Clark MacNeill  
 Jeffrey Murray Magder  
 David Malach  
 Marie Claire Carole Anne Marinett  
 Michael James Marra  
 Jan Matejcek  
 Margaret Jean Mathews  
 Roderick Alexander McBey  
 Brigid Philomena Anne McGarrigle  
 David John McGhee  
 Mary Elizabeth Roberta McGill  
 Heather Winnifred Ling McGillivray  
 Kevin Patrick McGuinness  
 Karen Elizabeth McGuire  
 Brian Gerrard McKenna  
 Jill Lorraine McLeod  
 Scott Norman Fraser McNeill  
 Kenneth Gerard McQuaid  
 Ian James Frise McSweeney  
 Jill Eloise McWhinnie  
 Neil William Meikle

- Ronald Bruce Melvin  
 Paul Konrad Mergler  
 Thomas Patrick Merrifield  
 Karen Anne Milne  
 Donald Eric Milner  
 Murray Harrison Miskin  
 Judy Shigeko Miyauchi  
 Ian Whitney Morrison  
 Daved Mero Muttart  
 Michael John Mychailyshyn  
 James Thomas Neilson  
 Keith David Nelson  
 Gary William Newhouse  
 Alexandra Wai-Ha Ngan  
 James Nicol  
 James Grant Norton  
 Duszan Michael Novak  
 Mile Obradovich  
 Edward Michael O'Brien  
 Kay Audrey Ochiltree  
 Barbara Judith Orenstein  
 Gerald Ivon Strachan Owen  
 Drew Malcolm Pallett  
 Bernard Panning  
 David William Penhorwood  
 Michael Francis Gerrard Pepe  
 Christian Ronald Piersanti  
 Janet Margaret Pounder  
 Jennifer Powell  
 Christopher George Richard Preobrazenski  
 Ruth Meta Rapoport  
 Michael Maclachlan Reddy  
 Iryna Katharine Revutsky  
 Leonardo Ricchetti  
 Frederic Dwight Richardson  
 Robert Samuel Richardson  
 Myrna Rosemary Robb  
 Margaret Mae Roberts  
 Charles Randolph Robertson  
 Marlon Michael Roefe  
 Jeffrey Roderick Rogers  
 Michael Theodore Ross  
 David Rubin  
 Barry Rubinoff  
 Joel Martin Rubinoff  
 Brian Allan Rumanek  
 Lisa Ryan  
 Richard William Sage  
 Paul Duncan Salisbury  
 Shalom Dov Ber Schachter  
 Dale Woodford John Scott  
 Michael John Semple  
 Stanley Bennet Sherr  
 Randy Michael Shiff  
 Ronald Alastair Short  
 Gary Evan Shortliffe  
 Steven Leonard Shrybman  
 Donald Alexander Sinclair  
 Eric Michael Singer  
 Sylve Pierre Smeets  
 Neal Joseph Smitheman  
 Robert Allen Spence  
 Francis Rohland Stark  
 Donna Starkman  
 David Timothy Starr  
 Bryan William Stephenson  
 Tamara Kay Stomp  
 Aida Lucia Sullivan  
 Peter John Sullivan  
 Terence Garth Daniel Sullivan  
 Joanne Margaret Swift  
 John Tibor Syrtash  
 William Jesse Taggart  
 Regina Ellen Tapper  
 Scott Thomas Taylor  
 Alan Brad Teichman  
 Jay Steven Teichman  
 Sari June Teitelbaum  
 Ute Ellen Dagmar Teubner  
 Phillip William Thomas  
 Ian Roberto Thornhill  
 Suzanne Todd  
 Thomas James Treloar  
 Deborah Lynn Tripodi  
 Kai-Wing Tsang  
 John Charles Moore Turchin  
 Graham Turner  
 Philip Israel Ulrich  
 Harry Charles Gordon Underwood  
 Robert Joseph van der Wijst  
 Gregory Peter Linton Vanular  
 Patricia Louise Vassil  
 Frances Margaret Viele  
 Gervas Warlow Wall  
 James Hugh Gilmour Wallace  
 James Robert Warren  
 William Robert Watson  
 David Weingarten  
 John P. Weir  
 Robert Ross Wells

Allen Philip Welman  
 Stephen Michael Werbowyj  
 Marion Ellen Leah Wharton  
 Julia Dorothy Willmot  
 Timothy Charles Wilson  
 Ann Catherine Wilton

Helen Anne Diane Winters  
 Kenneth Emanuel Wise  
 Bernd George Wolf  
 Robert Alexander Wood  
 Christopher Dawson Woodbury  
 Edmund Walker Wright

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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#### CONVOCATION ADJOURNED AT 3:40 P.M.

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Following Convocation a Special Sitting of The Supreme Court of Ontario was convened in the O'Keefe Centre with The Honourable W. G. C. Howland, Chief Justice of Ontario, presiding.

Mrs. Legge presented the candidates to the Chief Justice of Ontario before whom they took the usual oaths and acknowledged their signatures on the Rolls in the presence of the Court.

The Chief Justice of Ontario then addressed the new Barristers.

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At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the O'Keefe Centre.

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Confirmed in Convocation 15th May, 1981.

J. D. BOWLBY  
 Treasurer



## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

RESUMED – Friday, 10th April, 1981  
2:00 p.m.

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon in the Benchers Dining Room at Osgoode Hall The Honourable Mr. Justice W. Z. Estey of the Supreme Court of Canada and Mrs. Estey; The Honourable Gregory T. Evans, Chief Justice of The High Court of Justice for Ontario; Mr. and Mrs. Wilfred M. Estey; Mr. and Mrs. Laurence A. Pattillo; Mr. and Mrs. Andrew Mulzer; Miss Chrissie Bowlby; Mr. Douglas Harrison; Mr. G. W. Collins-Williams, Q.C., Director of Legal Education; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course; and Mr. William R. Buchner, Q.C., Assistant Director, Bar Admission Course, London, and Mrs. Buchner.

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Following luncheon the Treasurer, the Benchers and their guests, including The Honourable Mr. Justice J. D. Arnup of The Court of Appeal for Ontario, proceeded to the O'Keefe Centre for the Call to the Bar Ceremonies of the 371 candidates who had applied to be called on Friday, 10th April, 1981.

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### CONVOCATION RESUMED AT 2:00 P.M.

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#### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Barr, Bragagnolo, Carthy, Finlayson, Mrs. Legge, Mr. Ruby, Mesdames Sutherland and Tait, and Mr. Thom.

The body of the auditorium was occupied by the 371 graduates, their families and friends.

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## CONFERRING OF HONORARY DEGREE

M. J. J. Carthy, Chairman of the Legal Education Committee, read the following Citation:

Mr. Treasurer —

It is my pleasant duty to present to you and to this Convocation The Honourable Mr. Justice Willard Zebedee Estey of the Supreme Court of Canada and to request that you confer upon him the degree of Doctor of Laws.

Those fresh and restless qualities of mind and temperament which led him to continue at Harvard Law School the legal education he had founded in his native Saskatchewan caused him during his years of military service to be singled out for unwelcome staff appointments which he was more than once at pains to avoid, preferring at all hazard a directly active role.

Resuming his civil responsibilities after the war he became, as teacher and practitioner, at once the master and exponent of the law through which he served a wide and varied public, while by forthright eloquence his irreverent wit and sympathetic understanding gained him a formidable reputation as the enemy of pretention and champion of the causes of humanity and common sense.

Through a remarkable series of judicial appointments, first to The Court of Appeal for Ontario, then as Chief Justice of The High Court of Justice for Ontario, next as Chief Justice of Ontario and then to the Supreme Court of Canada, his outstanding abilities have been secured to the benefit of his country.

He is deserving of the highest honour the Society has to give and I request you, Sir, to confer upon The Honourable Mr. Justice Willard Zebedee Estey the degree of Doctor of Laws, *honoris causa*.

The Treasurer then conferred the degree of Doctor of Laws, *honoris causa*, upon Willard Zebedee Estey, a Judge of the Supreme Court of Canada.

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## ADDRESS

The Treasurer introduced The Honourable Mr. Justice W. Z. Estey of the Supreme Court of Canada, who addressed the graduates.

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## PRESENTATION OF AWARDS AND APPOINTMENTS

Mr. G. W. Collins-Williams, Director of Legal Education, presented the recipients of awards and appointments to the Treasurer.

The Treasurer presented the following prizes to the respective recipients:

The Law Society Second Prize for the student obtaining the third highest marks in the Course; The Herbert Egerton Harris Advocacy Scholarship and The International Academy of Trial Lawyers Prize for Civil Procedure; and The S. J. Birnbaum, Q.C., Scholarship for Estate Planning, Third Prize:

Douglas Alan Cannon

The McCarthy Income Tax Prize:

Brian Donal Mulroney

The Joseph Sedgwick, Q.C., Prize and The Vera L. Parsons Prize for Criminal Procedure:

Ian Craig Roxan

The Practitioners Prize in Real Estate:

Kenneth William Chalmers

and congratulated the recipients of the following special appointments:

Law Clerks to The Honourable W. G. C. Howland, Chief Justice of Ontario:

Jean Elizabeth Anderson  
Michael St. Patrick Baxter  
Arthur John William Peltomaa  
Fern Marla Weinper

Law Clerks to The Honourable Gregory T. Evans, Chief Justice of The High Court of Justice for Ontario:

Rhoda Attwood  
Barbara Lynne Fern Grossman  
David Douglas Hay  
Nancy Susan Kastner  
Timothy Herbert Leigh-Bell  
Leslie Helen Mendelson

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## CALL TO THE BAR

Mrs. L. L. Legge, Chairman of the Admissions Committee, presented to the Treasurer 371 candidates for Call to the Bar as follows:

### TWENTY-SECOND BAR ADMISSION COURSE 1980-81

#### CANDIDATES FOR CALL TO THE BAR ON FRIDAY, 10TH APRIL, 1981

William Michael Ainley	John Martin Buhlman
Gary Richard Alderson	John William Burton
Jean Elizabeth Anderson	Donald Maxwell Cameron
Joseph Patrick Anthony Anderson	Hugh Douglas Campbell
Arlene Beryl Andrews	Douglas Alan Cannon
James Paul Arenburg	John James Spiers Chalmers
Robert Leslie Armstrong	Kenneth William Chalmers
Caroline Jane Arnup	Kirby Chown
Mariasha Marlene Atlas	Michael Arthur Church
Rhoda Attwood	William Chyftetz
Stephen Allan Austin	Lynda Louise Ciaschini
William Bruce Currie Bailey	Steven Richard Clark
Robert Barron Barber	William Bruce Clark
Ivars John Bars	Robert Gordon Coates
Michael St. Patrick Baxter	Michael Allan Code
Allan George Beach	Jaime Owen Connolly
Andrew Stuart Beaman	Anne Christine Corbett
Thomas Frederick Beasley	Sheila Mary Corey
James Howarth Bennett	Catherine Victoria Cornwall
Richard Michael Bennett	Katherine Brenda Corrick
William Stephen Bernstein	Angela Mary Costigan
Charles Joseph Birchall	Anthony George Creber
Paul Robert Bonder	Kenneth Raymond Crosby
Peter Robert BonEnfant	Joan Ann Cunnison
Richard Brian Borchiver	Mary Elyse Curran
Brian William Borich	Sylvia Nancy Dans
Michael Denovan Borland	Linda Andrea da Rocha
Elizabeth Anne Bottos	Linda Jane Davey
Stephen Wilfred Bowman	Virginia Louise Davies
Raymond Bruce Boyden	Donald Kevin Davis
Lois Jennifer Bradley	Carolyn Alice Dawe
Andrew David Brands	Wesley Derksen
Gina Saccoccio Brannan	Leslie Sutherland Dewart
Thomas Louis Brock	Taras George Didus
Alan Foster Brown	Pauline Margaret Dietrich
Andrew James Bruce	Silvio Dante Di Gregorio
Clare Allan Brunetta	John Robert Dow
Beth Marilyn Budd	Clifford Earl Dresner

Peter Paul Ernest Du Vernet  
 Colin Andrew Easson  
 Martin Scott Eaton  
 Brian Douglas Edmonds  
 Leilah Edroos  
 Mark Llewelyn John Edwards  
 Mary Josephine Egan  
 Shael Bryan Eisen  
 Michael George Engel  
 Kerry Patrick Evans  
 Dalen Blair Fairbairn  
 Alan Albert Andrew Farrer  
 Robert John Fenn  
 Mychajlo Roman Figol  
 Barbara Christine Finlay  
 Walter Valerio Fioravanti  
 Margaret Anne Fischer  
 Terrence Joseph Flaherty  
 Jonathan Howard Flanders  
 Dorothy Jane Forbes-Roberts  
 Peter Kenneth Foulds  
 Mark Frederic Freedman  
 Michael Alan Fridhandler  
 Randall Roy Friedland  
 Michelle Katherine Fuerst  
 Dana Brian Fuller  
 Michie Thompson Garland  
 Penelope Gawn  
 William Ryrie Gazzard  
 Mary Michele Dawn George  
 Nora Anne Gillespie  
 Danny Ralph Goldstaub  
 Yvonne Golenzer  
 Stanley Larry Gore  
 Murray Herschel Gottheil  
 John Victor Grant  
 Robert John Gray  
 Melvyn Green  
 Irwin Greenblatt  
 Linda Helena Greer  
 Robert Paul Griese  
 Barbara Lynne Fern Grossman  
 Nigel Allan Gunding  
 Peter Kent Guselle  
 Richard Stephen Halinda  
 David Ian Wallace Hamer  
 Sharon Haniford  
 Knud Jorgen Harild  
 Darrell Nicholas Hawreliak  
 David Douglas Hay

Patricia Clair Hennessy  
 Robert Harry Hickman  
 Robert Gordon Hills  
 Daniel Frederick Hirsh  
 Donald Stephen Douglas Hobson  
 Jon Joseph Holmstrom  
 Lindsay Ann Horwood  
 John Carl Hubble  
 Robert George Stephen Hull  
 Susan Caroline Hulton  
 Leith Adair Hunter  
 Thomas John Hunter  
 Robert Fitzgerald Hutchinson  
 Roberta Louise Jamieson  
 Kevin Edward Johnson  
 Owen Alfred Johnson  
 Stephen Charles Jones  
 Nancy Susan Kastner  
 Krista Josephine Kehl  
 Kathleen Louise Keller-Hobson  
 Denis Gerard Kelly  
 Daniel Andrew Kennedy  
 Peter Franklyn Kiborn  
 Michael Norman Kimber  
 Anna Kunegunda Kinastowski  
 Clara Leslie Kisko  
 Margaret Barbara Kling  
 Peter Koch  
 Robert Frederick Kohl  
 Vahan Kololian  
 Linda Helen Kolyn  
 Stephen Krashinsky  
 Arthur Mitchell Kraus  
 George Kuzmicz  
 Grace Feng Kwan  
 Stephen Michael Labow  
 George Ross Laidlaw  
 Victor Philippe Lalonde  
 Marie Pearl Linda Lamoureux  
 Donna Ruth Lane  
 Walter Geoffrey Lawson  
 Timothy James Leach  
 Loretta Marie Lee  
 Robert Louis Lee  
 Terry Lynn Leier  
 Timothy Herbert Leigh-Bell  
 Donald Bruce Leith  
 Howard Ian Lichtman  
 David Bruce Light  
 Lorne Michael Lipkus



John Michael Lomer	Christopher James Morgan
Allan Sheldon Lonn	Susan Marion Morley
Patricia Louise Loughlan	Janet Helen Morris
Maureen Louise Love	Stanley Wayne Morris
Frank Warren Lowery	David Arthur Morrison
Brit William Lowes	Brian Donal Mulroney
Joseph John Walter Luczak	Kevin Patrick Murray
Peter Jan Lukasiewicz	Barbara Christine Nawrocki
Anita Louise Lyon	Gary Joseph Nikota
James Morrison Macdonald	Joy Hanako Noguchi
Ross Norman Macdonald	Peter William Noonan
Gary Ian MacDougall	Mary Frances Ormerod
John David Mackenzie	Michael Andrew Osborne
Leslie Helga Macleod	Jennifer Mary Catherine Overend
Robert Andrew Macpherson	Alfred Lambert Jonathon Page
Annie Maureen MacQuarrie	David Brian Page
Teresa Maddalena	Karen Julaine Palmer
Peter Michael Maloney	Alan Roy Parker
Brian Frederick Maltman	John Mark Patus
Sergio John Manera	Debra Ann White Paulseth
Leor Margulies	Arthur John William Peltomaa
Toomas Marley	Marion Mae Perrin
David Edward Martin	Larry Elias Phillips
Eileen Susan Martin	Maurice William Pilon
Allen Andrew Mazurski	Wendy Carol Posluns
Peter Bradden McCabe	Kim Douglas Pressnail
Jean Marie McCallum	Matthew Jay Price
Glenna Grace McClelland	Joan Marie Prior
Katherine Isabel McDonald	Timothy John Pryor
Phyllis Diane McDowell	Douglas Bruce Quick
Marian Helen Therese McGrath	Mary Violanta Quick
William Alexander McIntyre	Anthea Jane Radford
Anne Marie McLauchlan	Angelos Raftopoulos
William George McLean	Nancy Lynn Ralph
John Peter McMahon	James Alexander Ramsay
Brian Cecil McMurter	Alexandra Sarah Raphael
Margaret Elizabeth McReynolds	Dana Jo Richardson
Gordon Alexander Meiklejohn	James Michael Riley
Michael Nelson Melanson	Michael William Riley
Deborah Lynn Meldazy	Nancy Meribeth Riley
Leslie Helen Mendelson	Davine Faye Roach
Barbara Miller	Heather Barbara Robertson
Wendy Lynn Miller	Susan Joan Robins
Weir Hugh Garvin Milne	Peter Baldwin Robinson
Robert Kerr Milroy	Marlene Rodrigues
Ronald Aubrey Minard	Martin Dmytro Romanow
Paul Anthony Donald Mingay	John Lachlan Ronson
Randall Stuart Mitchell	Kenneth Theodore Rosenberg
Janice Ann Mofford	David Norman Ross
Douglas Stewart Moles	Donald James Ross

Deborah Heather Rowat  
 Frances Mary Rowe  
 Susan Rowland  
 Allan Roy Rowsell  
 Ian Craig Roxan  
 Paul Anthony Salvatore  
 Arturo Scauzillo  
 Scott Lansing Scheuermann  
 Virginia Anne Schuler  
 Evelyn Rose Schusheim  
 Allan Stephen Schwartz  
 Laird Shawn Stephen Scrimshaw  
 Robert William Sedore  
 Barry Seltzer  
 Erwin Seymour Seltzer  
 Susan Jane Serena  
 Vittorio Sgro  
 Irvin Michael Schachter  
 Alan Abraham Shapiro  
 Michael Lee Shell  
 Stephen Francis Shine  
 Elizabeth Anne Silcox  
 Charles Usher Simco  
 Corey Isobel Simpson  
 Robert Burton Simpson  
 Angus George Sinclair  
 Caroline Jane Sinclair  
 Charlotte Sloan  
 James Gordon Smeltzer  
 Darrel Allan Smith  
 Michael Donald Smith  
 Anthony Wayne Snider  
 Daniel Gerald Solomon  
 Phyllis Solsberg  
 Samuel Steel  
 Thomas Andrew Stefanik  
 Shari Anna Stein  
 Gary Steinhart  
 Harold William Sterling  
 Bernard Alfred Leopold Stevenson  
 Susan Lorraine Stewart  
 Charles Peter Stobie  
 Karla Diane Stout  
 David James Strang  
 Dorothy Strykowski  
 Robert Elliott Sugar  
 Michael Tuedar Avery Tamblyn  
 Derrick Chuan Ann Tay

Michael Stephen Teitelbaum  
 Carolyne North Terry  
 Frances Elizabeth Tessaro  
 Charles Hedley Thompson  
 Michael Philip Thompson  
 David Edward Thring  
 David Gordon Thwaites  
 Larissa Victoria Tkachenko  
 Murray Tkatch  
 James Douglas Tomlinson  
 Attila Peter Paul Trebuss  
 Alexander Joseph Turko  
 Francesco Tutino  
 Susan Linda Ungar  
 Louise Maria Van Paassen  
 Marilyn Gladys Vavasour  
 John David Vincent  
 Mark Howard Viner  
 Lenus Israel Walker  
 Thomas Wall  
 Ian Cameron Wallace  
 Kathleen Graham Ward  
 Sheron Marie Boynton Ward  
 Roger Arthur Norman Watkiss  
 Ulrike Schrader Watkiss  
 Peter John Watson  
 Sheldon Michael Wayne  
 Fern Marla Weinper  
 Séan Weir  
 Douglas William Wells  
 Timothy Clifford Whetung  
 Douglas Alan Whyte  
 Kenneth Robert Wiener  
 Joel Wiesenfeld  
 Janet Myra Wilson  
 Patti Lee Wilson  
 Michael John Booth Wood  
 Richard Earl Woods  
 Helene Marie Claire Yaremko-Jarvis  
 James Joseph Yaworsky  
 Edward Wong Young  
 Richard John Zakaib  
 Mario Zammit  
 Deborah Elaine Ziff  
 Franco Zinatelli  
 Beverley Ann Znidar-Martel  
 Marcia Beverley Zuker

The Treasurer conferred upon the candidates the degree of

Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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# CONVOCATION ADJOURNED AT 3:50 P.M.

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Following Convocation a Special Sitting of The Supreme Court of Ontario was convened in the O'Keefe Centre with The Honourable Gregory T. Evans, Chief Justice of The High Court of Justice for Ontario, presiding.

Mrs. Legge presented the candidates to the Chief Justice of the High Court before whom they took the usual oaths and acknowledged their signatures on the Rolls in the presence of the Court.

The Chief Justice of the High Court then addressed the new Barristers.

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At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the O'Keefe Centre.

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Confirmed in Convocation 15th May, 1981.

J. D. BOWLBY

Treasurer

## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

RESUMED — Ottawa, Monday, 13th April, 1981  
2:30 p.m.

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon in the Richelieu Room of the Skyline Hotel, Ottawa, The Honourable Jean Chrétien, P.C., Q.C., Minister of Justice and Attorney General of Canada; The Honourable W. G. C. Howland, Chief Justice of Ontario; The Honourable Mr. Justice A. H. Lief, and The Honourable Mr. Justice W. D. Griffiths, both of The High Court of Justice for Ontario; Mrs. Lief; Mr. Jacques A. Demers of the Department of Justice; Mr. Colin D. A. McKinnon, President, Ottawa-Carleton Law Association, and Mrs. McKinnon; Mr. G. W. Collins-William, Q.C., Director of Legal Education; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course; and Mr. J. Patrick Watson, Q.C., Assistant Director, Bar Admission Course, Ottawa.

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Following luncheon the Treasurer, the Benchers and their guests proceeded to the International Ballroom of the Skyline Hotel for the Call to the Bar Ceremonies of the 149 candidates who had applied to be called on Monday, 13th April, 1981.

.....

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Brulé, Carthy, Cass, Chadwick, Ferrier, Lamont, Ogilvie, Mesdames Sutherland and Tait, Messrs. Willoughby and Yachetti.

The body of the auditorium was occupied by the 149 graduates, their families and friends.

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## ADDRESS

The Treasurer introduced The Honourable Jean Chrétien, Minister of Justice and Attorney General of Canada, who addressed the graduates.

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## PRESENTATION OF AWARD AND APPOINTMENT

Mr. G. W. Collins-Williams, Director of Legal Education, presented the recipients of an award and an appointment to the Treasurer.

The Treasurer presented the following prize to the recipient:

The Gowling & Henderson Prize for the student obtaining the highest marks in the Course at Ottawa:

Sean Edward Cumming

and congratulated the recipient of the following special appointment:

A Law Clerk to The Honourable Gregory T. Evans, Chief Justice of The High Court of Justice for Ontario:

Peter Genzel

.....

## CALL TO THE BAR

Mr. D. H. L. Lamont, Vice-Chairman of the Admissions Committee, presented to the Treasurer 149 candidates for Call to the Bar as follows:

### TWENTY-SECOND BAR ADMISSION COURSE 1980-81

#### CANDIDATES FOR CALL TO THE BAR ON MONDAY, 13TH APRIL, 1981

Rajesh Ahluwalia  
Daniel Joseph Anderson  
Mark Harris Arbique  
Ronald Douglas Armstrong  
Joan Marion Arnold

Joseph Gaston Arseneault  
Murray Charles Arthur  
Michael Arthur Charles Atkinson  
David Alden Aylen  
Joseph Glenn Michael Barnes



- Brian John Barr  
 Charles Egerton Beall  
 Ellen Elizabeth Beall  
 Marie Juliette Madeleine Belanger  
 Joseph Adrien Noel Jean Berthiaume  
 Martin Zvi Black  
 Alan Stewart Blair  
 Michael Charles Henry Bourgeault  
 John Norman Bowley  
 Gerald Joshua Boyaner  
 Susan Barbara Boyd  
 Susan Carolyn Breau  
 Douglas Harry Brown  
 Henry Standerwick Brown  
 Wendy Elizabeth Bryans  
 Leslie Brian Bunning  
 Peter Frederick Herbert Burn  
 Donald Joseph Byrne  
 Kay Martha Carlson  
 David Henry Chick  
 Dawn Louise Clark  
 Michael Robert Clifffen  
 Loral Mildred Clow  
 Mary Martha Coady  
 Duncan Alan Roy Crosby  
 Rodney Brian Cross  
 Joseph Carl Cuffari  
 Sean Edward Cumming  
 William Patrick Dermody  
 Lynn Christine Douglas  
 Deborah Marie Duffy  
 Naomi Hilary Duguid  
 Howard Ranney Eddy  
 Eleanor Susan Elliott  
 William John Shannon Elliott  
 Richard Dudley Eyre  
 Stanley Farber  
 Paul Donald Farquharson  
 Adele Joan Finlayson  
 Daphne Pauline Fry  
 Brian Beverly Garlough  
 Peter Genzel  
 \*Donald George Gibson  
 David Richard Gilhooly  
 Glenn Alan Gilmour  
 Donald Roy Good  
 George Wilmot Gordon  
 Arthur Allan Ogilvie Graham  
 Bruce MacLachlan Green  
 Julia Elizabeth Gresham  
 Joseph Telesphore Daniel Guay  
 Peter Hageraats  
 David George Heeley  
 James Ralph Hendry  
 Emma Antoinette Catherine Grell Hill  
 Norman Washington Ignatius Hill  
 Beverly Jean Hobby  
 Michael Alexander Holowack  
 Valerie Lynn Hughes  
 Robert Hurtubise  
 Martin Stewart James  
 Harry Kristian Jarvlepp  
 Lionel Stanley Kamin  
 Saul Katz  
 Arthur Brian Keogh  
 John Howard Keogh  
 Hilliard Kesler  
 John William Kierdorf  
 Barbara Elsie Kincaid  
 Mary Anne Kirvan  
 Myles John Kirvan  
 Catherine Anne Latimer  
 Norman Bernard Lieff  
 Diane Susan Lightstone  
 Lyon Lightstone  
 Kenneth Wayne MacLean  
 Alan Campbell Macleod  
 Nigel Everall Macleod  
 Richard Gabriel Maurice Makuch  
 Georgi Andrew Malysheff  
 Mary Marilyn Elaine Marshall  
 Cindy Anne Martin-Hrycak  
 Edward Harry Masters  
 Joseph Aurele Robert McConnell  
 Stuart Cameron McCormack  
 Peter Samuel McCullough  
 William Henry McIlwain  
 Mary Margaret Louise Chartier McIsaac  
 John Edward McKenna  
 Helene Gardyas McWhirter  
 Robert Francis Meagher  
 Louis-Marie Michaud  
 Roger Ronald Mills  
 Leslie Ruth Milrod

\*Transfer, Nova Scotia, called in  
 Ottawa by special permission of  
 the Chairman and the Secretary

Emanuele Montenegrino  
 Christopher Alan Moore  
 William Leonard Mouris  
 Earl Bruce Salter Olmsted  
 David Edgar Osborn  
 Martin David Owens  
 Seppo Kalevi Paivalainen  
 Anne Marie Parsonage  
 James Stewart Paul  
 Peter Erik Peterson  
 Helena Rose-Marie Procki  
 Mary Helene Bruce Puccini  
 Christopher Francis Reil  
 Lionel George Rivet  
 Andrew Robert Robertson  
 Elizabeth Anne Louise Sanderson  
 Bryan Paul Schwartz  
 Charles Ernest Schwartzman  
 William Edward Ross Scott  
 Wayne Masuo Shinya  
 David Charles Simmonds  
 Robert John Simpson  
 Lawrence Edward Smith

James Leslie Harris Sprague  
 Sanjay Srivastava  
 Letitia Margaret Steele  
 Ronald Cyril Stein  
 Douglas Doeko Geert Stel  
 Bruce Edward Stockfish  
 Martin Joseph Szczepaniak  
 Douglas Richard Thomas  
 Robert Edgar Tolhurst  
 Allan Hugh Turnbull  
 Martin Ian Twocock  
 Marla Elizabeth Marino Vachon  
 Francis Mario Valeriot  
 Rodolphe Alfred Vanier  
 Dick Van Wyck  
 Denise Cécile Walter  
 William Lee Webster  
 Janet Leigh West  
 Gene Garry Wetzel  
 Marc Reid Bonfield Whittemore  
 David Wolinsky  
 Victoria Gay Wong  
 Russel Wayne Zinn

NOTE: A total of 150 were called, 149 graduates and one transferee.

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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#### CONVOCATION ADJOURNED AT 3:30 P.M.

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Following Convocation a Special Sitting of The Supreme Court of Ontario was convened with The Honourable W. G. C. Howland, Chief Justice of Ontario, presiding.

Mr. Lamont presented the candidates to the Chief Justice of Ontario before whom they took the usual oaths and acknowledged their signatures on the Rolls in the presence of the Court.

The Chief Justice of Ontario then addressed the new Barristers.

.....

At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the Skyline Hotel.

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Confirmed in Convocation 15th May, 1981.

J. D. BOWLBY

Treasurer

## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

RESUMED – London, Wednesday, 15th April, 1981  
2:30 p.m.

Prior to Convocation the Treasurer and Benchers had as their guests for luncheon at the University Club of the Faculty of the University of Western Ontario in Somerville House, London, The Honourable Mr. Justice W. Gibson Gray, of The High Court of Justice for Ontario, and Mrs. Gray; Mr. G. D. Finlayson, Q.C., and Mrs. Finlayson; The Honourable Gregory T. Evans, Chief Justice of the High Court of Justice for Ontario; Mrs. Gretta J. Grant, Q.C., President, Middlesex Bar Association; Mr. W. R. Poole, Q.C., and Mrs. Poole; Dr. George Connell and Mrs. Connell; Mr. and Mrs. H. J. Twilley; Mr. and Mrs. E. Krauleidies; Mrs. J. P. Harshman; Mrs. E. G. Cunningham; Miss Sheelah A. Finlayson; Mr. Neil Finlayson; Mr. G. W. Collins-Williams, Q.C., Director of Legal Education; Mrs. E. Rachael Knox, Assistant Director, Bar Admission Course; Mr. William R. Buchner, Q.C., Assistant Director, Bar Admission Course, London, and Mrs. Buchner.

.....

Following luncheon the Treasurer, the Benchers and their guests proceeded to the Althouse Faculty of Education for the Call to the Bar Ceremonies of the 140 candidates who had applied to be called on Wednesday, 15th April, 1981.

.....

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Carthy, Chadwick, Finlayson, Furlong, Mrs. Legge, Messrs. Lerner, Pepper, Mrs. Sutherland, Messrs. Thom and Yachetti.

The body of the auditorium was occupied by the 140 graduates, their families and friends.

.....

## CONFERRING OF HONORARY DEGREES

Mr. J. J. Carthy, Chairman of the Legal Education Committee, read the following Citation:

Mr. Treasurer —

It is my most pleasant duty to present to you and to this Convocation The Honourable Mr. Justice Wesley Gibson Gray and request that you confer upon him the degree of Doctor of Laws.

His Lordship is a distinguished Canadian whose constructive leadership and balanced judgment were employed during wartime in the preservation of his country's freedom through service in her navy and later in the less hazardous application of the laws by which that freedom is maintained by service to his clients, and pre-eminently in the development of those laws as a member of The Ontario Law Reform Commission.

The energies of a mind at once amiable and firm were also engaged in the congenial duties of the government of the legal profession, first as a Benchler and then as the Treasurer of The Law Society of Upper Canada. Now they are again devoted to the service of the community at large through the exercise of His Lordship's expanded responsibilities as a judge of The Supreme Court of Ontario.

He is deserving of the highest honour this Society has to give and I request you, Sir, to confer upon The Honourable Mr. Justice Wesley Gibson Gray the degree of Doctor of Laws, *honoris causa*.

The Treasurer then conferred the degree of Doctor of Laws, *honoris causa*, upon Wesley Gibson Gray, a Judge of The Supreme Court of Ontario.

Mr. Carthy read the following Citation:

Mr. Treasurer —

May I present to you and to this Convocation George Duncan Finlayson with the request that you confer upon him the degree of Doctor of Laws.

The adversarial system depends for its success upon the disciplined valour of intelligent and courageous advocates trained in the arts of intellectual combat to represent contesting parties in the pursuit of their lawful interests and the assertion of their legal rights. George Duncan Finlayson possesses in the highest degree those formidable powers of perception and persuasion which distinguish the effective counsel. His forthright honesty and bold strategy have been devoted to the service of his clients in their adversity and to the leadership of his profession when as Treasurer of The Law Society of Upper Canada his strength and wisdom were engaged in defence of that essential independence of the Bar upon which all our freedoms rest.

I request you, Sir, to confer upon George Duncan Finlayson the degree of Doctor of Laws, *honoris causa*.

The Treasurer then conferred the degree of Doctor of



Laws, honoris causa, upon George Duncan Finlayson, one of Her Majesty's Counsel learned in the law in Ontario.

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## ADDRESSES

The Treasurer introduced The Honourable Mr. Justice W. Gibson Gray, who addressed the graduates.

The Treasurer then introduced Mr. George D. Finlayson, Q.C., who addressed the graduates.

.....

## PRESENTATION OF AWARDS

Mr. G. W. Collins-Williams, Director of Legal Education, presented the recipients of awards to the Treasurer.

The Treasurer presented the following prizes to the respective recipients:

The Giffen, Pensa Prize for the student obtaining the highest marks at London; and The McCarthy Income Tax Prize:

Lawrence Raymond McRae

The Beverly Genest Memorial Award for the student obtaining the highest marks in Family Law at London:

Gregory Benjamin Thomas Mould

The Benjamin Luxenberg Prize in Creditors' & Debtors' Rights:

Barbara Lynn Legate

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## CALL TO THE BAR

Mrs. L. L. Legge, Chairman of the Admissions Committee, presented to the Treasurer 140 candidates for Call to the Bar as follows:

**TWENTY-SECOND BAR ADMISSION COURSE 1980-81**

**CANDIDATES FOR CALL TO THE BAR  
ON WEDNESDAY, 15TH APRIL, 1981**

David Arthur Aiken	Louise Liliane Gauthier
Paulius Petras Alisauskas	Stephen Fredrick Gehl
Frank Ambrogio	Robert Lorne Gibson
Catherine Louise Arnott	Theodore George Giesbrecht
Kathryn Elizabeth Ash	John Michael Gillespie
Brian Craig Atherton	Richard Mark Gordner
Murray Philip Aust	Donald Charles Hale
Robert William Bailey	Stephen Elliott Haller
John Stewart Bainbridge	Susan Hartley
Elliot Owen Baker	Barrie Michael Hayes
Robert Norman Beaudoin	Joseph Richard Henderson
Adele Marie Belanger	Emanuela Pupulin Heyninck
Paul Louis Bellefontaine	Carol Jane Hornick
Christopher Arthur Walkden Bentley	Robert Roy Istl
Wendy Lee Harris Bentley	Thomas Herbert Kemsley
Glenda Roberta Joy Bishop	Dennis John Kirby
Stanley Graham Bock	Elizabeth Joan Klassen
David Thaddeus Bogdon	James Garth Kohlmeier
Kim Stewart Bowsher	Patricia Margaret Thomson Kondruk
Herbert Ernest Boyce	Denise Marguerite Korpan
Richard Arthur Braiden	Marinus Lambert Martien Lamers
David Arthur Broad	Wallace Byron Lang
Gianni Campigotto	Deborah Kim Lavergne
David Ronald Canton	Barbara Lynn Legate
James Robertson Carruthers	Shirley Dianne Thompson Linton
Kim Sandra Carter	Victor Lipnicki
Jed MacRae Chinneck	Karen Debra Lundy
James Steven Cimba	Catherine Teresa Maloney
Michael Vincent Conlin	James Joseph Marentette
Richard Mark Cook	Randall Victor Martin
Kenneth Blake Cribbie	Susan Frances Mather
Heather Anne Crisp	Stanley George Mayes
Kathleen Margaret Csendes	Dominic Davey McAlea
Gary Alan Davis	Diane Patricia McLeod
Douglas George Dawson	MacKenzie Robert John McMillan
David Wayne DeMille	Lawrence Raymond McRae
Paul Edward Dickey	Cheryl Diane Meikle
Alec John Dobson	Ennio Micacchi
Charles John Evans	Gene Albert Mino
Diane Marie Favot	Gregory John Monforton
Eric Allison Fincher	Jerome Richard Morse
David Kenneth Ford	Gregory Benjamin Thomas Mould
David Scott Foulds	Nancy Kathryn Neima
Hugh John Fraser	Paul Alan Nixon
Sandra May Ingrid Gabruss	Jerry Franklin O'Brien

Wendy Daisy Margaret Oliver  
 Robert Lyle Parsons  
 Judith Rachael Pascoe  
 Alan Ross Patton  
 Patricia Louise Poole  
 Mary Frances Portis  
 Paul William Read  
 Ronald Cyril Reaume  
 Erwin Reidl  
 Derek Robert Revait  
 Robert John Reynolds  
 Bruce George Robbins  
 Pamela Helene Robinson  
 Bradley Joseph Robitaille  
 Peter Melville Ross  
 Paul Francis Ryan  
 Pasquale Michael Saroli  
 Christina Anne Seger  
 Gerald Edwin Skillings  
 Brian Peter Leonard Smeenk  
 Leighton Scott Smith  
 Michael Ward Smith  
 Jeffery Alexander Snow  
 Anne Ida Sorensen  
 Mark Robert Steffes

Alexander Douglas Stewart  
 Richard Gordon Summers  
 Brian Richard Sweet  
 Mark Frederick Symes  
 Paul Bevan Temple  
 Bruce Grant Thomas  
 Stewart George Neilson Thomson  
 Diane Louise Tinker  
 Gail Ann Paprosky Tolmie  
 James Ross Townsend  
 Laurie Ann Tuttle  
 Janice Helen Vauthier  
 Julie Elizabeth Vigers  
 Francesco Volpini  
 Robert John Walpole  
 Linda Marie Walters  
 Linda Marlene Waxman  
 Lorene Patricia Welch  
 David Barrie Williams  
 James Raymond Williams  
 Walter Walle Wintar  
 Bruce Henry Wright  
 Robert Glenn Yeoman  
 Steven Robert Yormak  
 Jane Elizabeth Yungblut

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

.....

#### CONVOCATION ROSE AT 3:55 P.M.

.....

Following Convocation a Special Sitting of The Supreme Court of Ontario was convened in the Althouse Faculty of Education with The Honourable Gregory T. Evans, Chief Justice of the High Court of Justice for Ontario, presiding.

Mrs. Legge presented the candidates to the Chief Justice of the High Court before whom they took the usual oaths and acknowledged their signatures on the Rolls in the presence of the Court.

The Chief Justice of the High Court then addressed the new Barristers.

.....

At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the Gymnasium in the Althouse Faculty of Education.

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Confirmed in Convocation 15th May, 1981.

J. D. BOWLBY

Treasurer

## MINUTES OF CONVOCATION (ABRIDGED)

Thursday, 16th April, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Arthurs, Barr, Bynoe, Carthy, Cass, Catzman, Chadwick, Doran, Farquharson, Ferrier, Finlayson, Furlong, Genest, Goodman, Ground, Guthrie, Humphrey, Mrs. Legge, Messrs. Lerner, McWilliams, Noble, O'Brien, Ogilvie, Pepper, Ruby, Scace, Shaffer, Sheard, Mesdames Sutherland and Tait, Messrs. Wardlaw, White, Willoughby, Wilson and Yachetti.

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### MINUTES

The Minutes of Convocation of 20th March, 1981 were confirmed.

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### NOMINATIONS FOR TREASURER

The Treasurer referred to Rule 19 made under The Law Society Act respecting the election of Treasurer.

The Secretary reported that one nomination had been received for the office of Treasurer for the ensuing year. Mr. J. D. Bowlby, Hamilton, was nominated by Mr. P. Genest, seconded by Mr. P. G. Furlong, and had consented to the nomination.

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### APPOINTMENT OF SPECIAL COMMITTEE

The Treasurer announced the appointment of a Special Committee on the Peat, Marwick Report comprised of Mr. *Finlayson*, Chairman, and Messrs. *Arthurs, Barr, Carthy, Genest,*



*Ground, O'Brien, Ogilvie, Pepper, Scace and Thom.* The Committee will consider the report and bring forward some recommendations to the Special Convocation which will be summoned on 22nd May, 1981 for the purpose of considering the report and such recommendations.

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## QUESTIONNAIRE TO THE PROFESSION

The Treasurer referred to his memorandum of 3rd April, 1981, to the Benchers respecting the results of the questionnaire sent to the profession in October 1980, and the draft report which he proposed distributing to the profession.

Convocation received the draft Report on the Results of the Questionnaire to the Profession.

Following considerable discussion and a number of suggestions and motions for amendment to the Report, some of which were adopted, it was moved, seconded and *carried* that debate be suspended to permit the Report to be amended.

Convocation adjourned for twenty-five minutes.

When Convocation resumed, the Treasurer read the new version of the Report to the Bench for its consideration.

It was moved, seconded and *carried* that with one minor deletion, the version of the Report read by the Treasurer be distributed to the profession.

The Report as revised is as follows:

April 16, 1981

Dear Colleague:

In October 1980, a questionnaire was sent to all members of the profession with a view to obtaining the profession's views on such matters as the numbers entering the profession, advertising and legal education. In addition, the questionnaire sought information on professional income, overhead expenses and employment opportunities. The task of analyzing the raw data obtained and making the necessary evaluations and comparisons with other surveys is still going on. I thought it important, however, that the profession be given some idea as to the general results of the survey. I reiterate that the information set out below is based on our preliminary analysis and further study may alter some of the findings.

There were 13,296 questionnaires sent out and 7,673 were completed

and returned, a 58% response rate. I am informed that this is a reasonable response rate for a survey of this nature. I would like to take this opportunity to thank those of the profession who took the time to fill out the questionnaire and return it.

There are 10,483 members of the profession engaged in private practice and we received responses from 6,402 such members.

Dealing first with the numbers entering the profession, 72% of the respondents were of the belief that controls on the numbers entering the profession would be beneficial to the public and 85% of the respondents felt controls would also be beneficial to the profession. While the survey did not go on to elicit responses as to why members felt controls would be beneficial, the written comments accompanying the survey and the opinions expressed to me during my recent trips throughout the province would indicate concern that the growing numbers will give rise to a lowering of the high standard of professional service. The survey points out the need for further research in this particular area. The newly created Special Committee on Numbers in the Profession will, I am sure, be taking a closer look to determine whether the concern expressed in the written comments and expressed to me during my visits to the local bar associations are in fact justified.

As to what body should impose controls, 73% of the respondents felt it should be the Society rather than the Universities. The results were analyzed to see if the view amongst the profession as to controls on entry varied according to date of call to the Bar. There was not a significant difference in the views of the profession on controls to entry amongst the senior and junior members of the profession. Both groups felt controls would benefit the public and the profession. Generally, the majority for all call years felt the Society should impose the controls on entry. While the most recently called members (1979-1980) were not as strong in their support, still a majority of them were in favour of the position that the Society should impose any controls which might be instituted on the numbers entering the profession. This response will certainly be carefully considered by the Committee referred to above. However, it should perhaps be indicated that the present policy of the Law Society is that there should be no artificial restrictions on entry to the profession.

The survey contained some specific questions on advertising and, in addition, considerable numbers of respondents made written comments on advertising. Most written comments were to the effect that promotional advertising should not be permitted. Similarly the answers to the questions in the survey on firm advertising were overwhelmingly against such advertising. Seventy-nine percent (79%) of the respondents indicated that firm advertising as to the cost of legal services would not be a benefit to the public. While the survey did not try to determine the reasons for the answers to these questions, the written comments and the comments made to me during my trips indicate that there is a feeling that price advertising will mislead the public.

A majority of the profession felt the Society should be providing more information to the public on the costs of legal services and that institutional advertising along these lines would be of benefit to the public. A special committee of Convocation is presently investigating the question of institutional advertising, among other matters, and is expected to report to

Convocation in September.

The survey also sought information on various other matters such as incomes and overhead costs. Firstly, dealing with net professional income before taxes, the median range for all members of the profession for each of the years 1977, 1978 and 1979 was \$25,000 — \$35,000. The *estimated* median value for all members for each of the years was: 1977 — \$33,199; 1978 — \$34,243; 1979 — \$35,000. Further analysis and correlation of the income data is being done to determine the effect on income of such factors as year of call to the Bar, firm size and geographical location. It is also hoped to correlate these findings with the findings of other surveys so as to arrive at some clear picture of professional incomes within the province and the effect of various factors on incomes.

Preliminary analysis indicates that the median income range for sole practitioners in Toronto, irrespective of date of call, was lower than that for those practising in Toronto in relationships other than as a sole practitioner. Also, no matter what the year of call, income is generally less for lawyers in firms of less than six than it is for larger firms. The results also indicate that the median income levels were slightly higher for lawyers practising in Metropolitan Toronto, southwestern Ontario and northern Ontario than they were for lawyers from eastern and central Ontario. As would be expected, the income levels for persons employed by government or corporations showed less diversity than the incomes of those in private practice.

In regard to billing rates, the responses ranged from \$25 — \$50 per hour to over \$100 per hour with the *estimated* median rate being \$70 per hour. Generally speaking, respondents indicated that their overhead as a percentage of gross billings had increased in the last three years. Further analysis of the responses to the questions dealing with overhead costs is required before any conclusions as to the percentage increase can be drawn and such analysis is presently under way with account being taken of geographical area and size of firm. Once this information is obtained, it will be compared with other available data to obtain some idea of the rate of increase of overhead costs.

In summary, the survey has provided the Society with an indication of the attitudes of the profession on some of the important issues facing us today. It has also pointed out those areas where further research is required so that we are able to deal with the problems facing the profession on a more informed basis.

Yours very truly,

“J. D. Bowlby”  
John D. Bowlby  
Treasurer

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## **APPOINTMENT OF REPRESENTATIVE COMMITTEE ON THE INTEGRATION OF THE OFFICIAL LANGUAGES IN THE PRACTICE OF LAW**

It was moved, seconded and *carried* that Mr. *William C. Graham*, Q.C., of Toronto be appointed the Society's representative on the Committee on the Integration of the Official Languages in the Practice of Law, which has been established by The Barristers' Society of New Brunswick at the *École de Droit*, Université de Moncton.

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## **LEGAL EDUCATION COMMITTEE—Mr. Carthy**

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Catzman, Ferrier, Ground, Henderson, Lerner, Lamont, Outerbridge, Noble, Scace, Shibley, Mrs. Tait and Mr. Wardlaw.

## **POLICY**

### **L'ASSOCIATION DES JURISTES D'EXPRESSION FRANCAISE DE L'ONTARIO**

This Association admits to its membership, judges, lawyers, students-at-law, teachers, translators, interpreters, linguists, court officials, etc., and all persons who feel they can make a contribution to the development of the common law in French or the dispensation of legal services in French in the Province of Ontario. The Association is physically located at the Faculty of Law, Common Law Section of the University of Ottawa and it shares the staff of the French common law program leading to the LL.B. degree. The Association requests the Society to explore the possibility of making available to the Association the Bar Admission Course materials for the purpose of translation into the French language or preferably that the Society arrange for the translation of the lectures and accompanying material into French. It further requests the Society to consider delivering the Bar Admission Course



lectures in both official languages. A letter dated March 17th, 1981 written to the Society by Mr. Robert Paris on behalf of the Association was before the Committee and Convocation.

The Committee recommended that this matter be referred to the Chairman and the Director, to pursue discussions with Mr. Robert Paris and representatives of the Association.

## **ADMINISTRATION**

### **SPECIAL PETITIONS**

The Committee gave consideration to five petitions. One petitioner, a Quebec lawyer, sought relief with respect to the articling requirement and the five-year limitation period under Regulation 26(4a). The Committee directed that this petition stand pending receipt by the Director of further particulars. A student in the teaching term of the 22nd Bar Admission Course, who had been stricken with a serious illness after having written the first four examinations and subsequently had written three further examinations at the regular sittings of the special and supplemental examinations, sought permission to write the remaining examinations in the week of 20th April, 1981. The Committee approved this petition. A student who will complete service under articles in July 1981 requested permission to defer entry into the teaching term of the Bar Admission Course until September 1982 to permit him to take an extended vacation. The Committee found that the petition revealed no exceptional circumstances and denied the petition. Two petitioners each sought permission for the late filing of applications for admission to the Bar Admission Course. Each submitted an application with all requisite documents, the admission fee of \$101 and an additional fee of \$100 for late filing. The Committee granted both petitions.

## **INFORMATION**

### **BAR ADMISSION COURSE AND CONTINUING EDUCATION**

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 31st March, 1981; and reviewed the summary of the Continuing Education programmes held in



March 1981 and the publications report for the month of March 1981.

## **THE REPORT WAS ADOPTED**

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### **DISCIPLINE COMMITTEE—Mr. Genest**

#### **GENERAL REPORT**

Mr. P. Genest, Chairman, presented the General Report of the Policy Section of the Discipline Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Messrs. Genest (Chairman), Furlong, Ogilvie and Yachetti (Vice-Chairmen), Catzman, Cooper, Humphrey, Ruby, Mrs. Sutherland and Mr. White.

#### **ADMINISTRATION**

##### **COMPENSATION FUND**

##### **HANDLING SMALL CLAIMS**

It was suggested that claims for less than \$1,000 be approved for payment by the Committee on the recommendation of an Assistant Secretary. Often the material already available from audit reports or otherwise makes it possible to assess an application for a grant without the necessity of a hearing before a Referee.

*Approved*, but where there is a referee it should be brought to the referee, without a hearing, to be included in his report.

##### **KICKBACKS TO REAL ESTATE AGENTS**

In a letter which was before the Committee, a practitioner asked the Law Society to investigate whether site agents for a development corporation are offering to refer purchasers to lawyers in return for receiving \$50 per transaction.

The Committee recommended that the matter be investigated forthwith, an investigator to be engaged with the

concurrence of the Treasurer and the Chairman of this Committee.

### THE REPORT WAS ADOPTED

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### ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Carthy, Catzman, Chilcott, Ferrier, Mrs. Sutherland and Mr. White.

### ADMINISTRATION

#### ADMISSION OF STUDENTS—AT—LAW

##### Bar Admission Course

Three further candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

#### DIRECT TRANSFER

The Committee considered and approved two applications to transfer to practice in Ontario, one by a member of the Alberta Bar and the other by a member of the Nova Scotia Bar, who sought to proceed under Regulation 4(1).

In addition the Committee considered an enquiry from a member of the British Columbia Bar who spent the first year after his Call to the Bar as a law clerk to a judge of the Supreme Court of Canada and wished to confirm that the year he spent at the Supreme Court would count for the purpose of amassing three years of active service as required for direct transfer. The Committee gave its confirmation.

## PETITIONS

The Committee considered and approved two petitions for permission for the late filing of applications for admission as students in the Bar Admission Course, which were accompanied in each case by the requisite documents, the required fee and a fine for late filing. Similar petitions had also been submitted to the Legal Education Committee.

## SPECIAL PETITION

A solicitor who was called to the Bar in 1964 was disbarred in 1967, after being found guilty of professional misconduct.

In 1977, Convocation approved his readmission to membership in the Society upon (a) successful completion of the teaching portion of the Bar Admission Course and (b) his giving an undertaking that, without the express approval of Convocation he will not practise on his own and will have no authority to sign cheques on any trust account. He was again called to the Bar and admitted as a solicitor in 1978.

The solicitor became a partner in a firm with two other members of the Society which began business in May 1978. A letter signed by his two partners went before the Committee in November 1978, asking if the solicitor might be relieved of his undertaking not to sign cheques drawn on a trust account. They submitted that two partners must sign all trust account cheques; that it is necessary to issue trust account cheques when either of the two was away from the office; that they each exercise control over disbursements made from the trust account; that they have faith in the solicitor and wished to provide for their clients.

The Committee recommended that the request be denied. At Convocation it was moved, seconded and carried that the solicitor be permitted to be one of two signing officers on trust account cheques.

One of the solicitor's two partners left the firm in February 1980 and the other proposes to leave. The solicitor petitioned to be permitted to sign trust account cheques alone and to be permitted to engage in practice alone. His letter was

before the Committee at its March meeting. After considering the circumstances set out in the solicitor's letter and other information available to it, the Committee recommended to Convocation that the solicitor's petition be denied. It was moved, seconded and *carried* at the March Convocation that the petition should stand to the next Convocation and be returned to the Committee.

The Committee reconsidered the application, and again recommended that it be denied.

Mr. Shaffer took no part in the discussions in Convocation and did not vote.

### THE REPORT WAS ADOPTED

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Mrs. Legge presented the Report of the Admissions Committee respecting its meeting on Tuesday, 31st March, 1981, to consider the application of a student in the 22nd Bar Admission Course.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Carthy, Lamont and Pepper.

### INFORMATION

#### STUDENT APPLICATION

The student was convicted on 31st October, 1968, of the offence of theft over \$50, and was placed on probation for a period of one year. This offence involved the theft of automobile parts. He was eighteen years of age at the time.

In September, 1969, he was convicted of dangerous driving and fined \$150. In June, 1970, he was convicted of possession of a stolen automobile and was placed on probation for two years. On 28th October, 1970, he was convicted of the offence of breach of The Customs Act on three counts, and was fined \$300 on each count. The last conviction occurred on 26th February, 1971, at which time he was convicted of two counts of conspiracy and of possession of stolen property. He was sentenced to a term of two years less one day imprisonment to be followed by two years probation.

The student, while at a Correctional Centre, was placed on a Temporary Absence Programme in May, 1971, in order to attend a College of Applied Arts and Technology. He graduated in June, 1972, and from 1972 to 1976 was employed in the hotel and restaurant industry.

In 1974 he began part-time evening studies at a university and eventually was accepted into the law school at that university. He graduated from law school in June, 1979, and commenced articling with a member of the Society. He has successfully completed the Bar Admission Course and is awaiting his Call to the Bar of Ontario.

A Pardon, dated 27th November, 1980, and a letter from the applicant dated 27th March, 1981, were before the Committee.

The Committee was of the view that the facts disclosed to the Society will not prevent his being called to the Bar in due course.

### THE REPORT WAS RECEIVED

.....

### FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Messrs. Pepper (Chairman), Brulé, Henderson, Ogilvie, Tebbutt, and Wilson.

### ADMINISTRATION

#### STAFF SURVEY

##### (a) Report

The report of Peat, Marwick and Partners was before the Committee.

*Received*



**(b) Account**

An account dated March 31st, 1981, from Peat, Marwick and Partners in the amount of \$10,075 was before the Committee for approval. So far, including this account, the Society has been billed a total of \$34,233, made up as follows:

Professional Fees	\$31,940	
Out-of-pocket expenses	<u>2,293</u>	<u>\$34,233</u>

In their proposal last October, it was stated that their professional fees would not exceed \$28,000 and that out-of-pocket expenses would be billed additionally at cost. Out-of-pocket expenses are described as "secretarial, long distance telephone, report typing and copying, preparation of presentation material etc."

*Approved*

**ERRORS AND OMISSIONS INSURANCE PLAN**

The Committee was asked to consider a suggestion that the Errors and Omissions Insurance Plan be the subject of a special audit review by Clarkson Gordon. This suggestion is made because of the need to establish procedures to ensure that amounts paid for claims have been subjected to proper review before being requisitioned. The Society's portion of each claim was increased from \$30,000 to \$95,000 effective 1st January, 1981.

*Approved*

**BUILDING MAINTENANCE**

Approval of the following items was requested:

**(a) Barristers' Dining Room Kitchen**

Wiring required to increase the number of circuits available for refrigeration and kitchen equipment	\$770
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**(b) Errors and Omissions Office**

Installation of cable from Computer Room in order to provide a terminal in this office	\$225
--	-------

*Approved*

## BAR PRICES

The Committee was asked to approve increases in the prices of alcoholic beverages served at functions held in Osgoode Hall, as follows:

	<i>From</i>	<i>To</i>
Beer, per glass	.75	\$1.00
Liquor or Wine, per glass	\$1.00	\$1.50

*Approved*

## CHANGE OF NAME

The following member requested that her name be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Brenda Jane McCourt	Brenda Jane Clow (Married Name)

*Approved*

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Brian Allan Rumianek	Brian Allan <i>Rumanek</i>
Ruzica Rose Bukovac Andrachuk	<i>Rose Andrachuk</i>

*Approved*

## RESIGNATION

At its meeting on 8th January, 1981, the Committee approved the resignation of *Jon Taylor Ramsay* subject to publication of his intention in the Ontario Reports. Mr. Ramsay's notice of intention appeared in the issue of the Ontario Reports of 6th March, 1981.

The Committee was asked to determine the effective date of his resignation.

The Committee recommended that the effective date be 20th March, 1981.

## LIBRARIES AND REPORTING COMMITTEE

### County Library Grants

The Acting Chief Librarian presented a memorandum listing those law associations which had sent in their Annual Returns for 1980 and setting out the amounts of the grants to which they appear to be entitled under the Regulation in 1980 and 1981. The Libraries and Reporting Committee approved these grants at its meeting on 8th April, 1981, subject to the approval of this Committee.

*Approved*

### CAR ALLOWANCE

The present rate paid to Benchers and employees who use their cars on Society business is 17 cents per kilometre (27 cents per mile). The Province of Ontario on April 1st, 1981, raised the rate which it pays its employees to 20 cents per kilometre for Southern Ontario and 20.5 cents per kilometre for Northern Ontario.

The Committee was asked to approve a rate of 20 cents per kilometre (32 cents per mile) for all driving done on the Society's behalf.

*Approved*

### ARREARS OF ANNUAL FEES

Five members paid their annual fees for 1980/81 with cheques which were subsequently dishonoured by the bank and returned NSF.

The names of these members were not included in the list of those whose rights and privileges were suspended on 20 February, 1981 and it was recommended that Convocation suspend their rights and privileges effective 16 April, 1981. (*See motion, p. 177.*)

*Approved*

### CANADIAN BAR ASSOCIATION

The Canadian Bar Association asked that the Society's premises be made available for a brunch meeting on Sunday, 14 June, in connection with a joint meeting of the Councils of the Ontario and Quebec Divisions. The cost of the brunch has

been estimated at \$1,200 and the Committee was asked whether this cost or any part of it should be borne by the Society.

*Approved*, the cost not to be borne by the Society.

## INFORMATION

### ROLLS AND RECORDS

The following members have died:

Harrison Gordon Fraser, Q.C. London (Life Member)	Called – 17 September 1925 Died – 4 February 1981
George Allen Ross Cowan Florida (formerly of Barrie)	Called – 21 September 1939 Died – 11 January 1981
Charles Francis Leonard Toronto (Life Member)	Called – 13 June 1915 Died – 2 January 1981
Stanley Rowland Jefferess, Q.C. Oakville (Life Member)	Called – 18 November 1920 Died – 12 March 1981
Harry Jerome Goulding, Q.C. Toronto	Called – 17 September 1936 Died – 7 March 1981

## THE REPORT WAS ADOPTED

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### MOTION TO SUSPEND: ARREARS OF ANNUAL FEES

It was moved, seconded and *carried* that the five Barristers and Solicitors who paid their annual fees for 1980/81 with cheques which were subsequently dishonoured by the bank and returned NSF be suspended from practice for a period of one year from 16th April, 1981 and from year to year thereafter or until their fees are paid.

Of the five members suspended as of 16th April, 1981, three were subsequently reinstated and the following are still suspended:

William Gordon MacDonald  
Abraham Irving Jacob Copeland

.....

## DISCIPLINE COMMITTEE (Continued)

### COMPENSATION FUND SUMMARY

Mr. Noel Ogilvie, Vice-Chairman, presented the Compensation Fund Summary for the period ended 31st March, 1981.

### COMPENSATION FUND

For the Period from 1st July, 1980 to 31st March, 1981

(9 months)

TOTAL RECEIPTS	\$ 1,371,600.85
TOTAL DISBURSEMENTS	<u>\$ 620,566.60</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 751,034.25
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,325,015.96</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$11,886,442.91</u></u>

### THE SUMMARY WAS RECEIVED

.....

### COMPENSATION FUND REPORT

#### Re: ROBERT E. DESORMEAU

Mr. Ogilvie presented the Report of the Discipline Committee, dated 30th March, 1981, with respect to claims arising out of the practice of Robert E. Desormeau.

The Discipline Committee met on Monday, February 23rd, 1981, the following members being present: Messrs. Ruby (Chairman), Ogilvie and Mrs. Sutherland.

In advance of this meeting the Committee carefully read the Report of the Referee, J.S. Boeckh, Q.C., on the claims to the Compensation Fund arising out of the practice of Robert E. Desormeau, a disbarred solicitor formerly practising in Orillia.



There were six claimants whose claims amounted to \$80,338.09, one of which exceeded the recommended guidelines applicable at the time. Two additional claims, approximately \$115,000.00 in total, were not ready to be heard at this time. Consequently these will be dealt with at a later date.

The Referee disallowed Mr. Ouderkirk's claim which was for a prepayment to Desormeau on a mortgage held by Miss Marie Cox, moneys also being claimed by Miss Cox, with the recommendation that Miss Cox, as a condition of payment from the Fund, be required, if his solicitors request it, to give a discharge of his mortgage. The Committee concurred.

The Committee carefully reviewed the Referee's recommendations with reference to the Curtin claim wherein it was recommended that this claim should be reduced by \$300 by way of offset to the Society, and came to the conclusion that the claim should be allowed in full. In the circumstances insistence upon the taking of the \$300 offset (which the Society clearly has a legal right to do) would reflect no credit upon it.

The Committee then carefully reviewed the claim of Douglas Inglis and concluded that there was no rational basis for recommending that the limit of \$25,000 be exceeded to the amount of \$50,000 rather than the amount of \$58,000, and recommended that the limit be exceeded to \$58,000, the determined loss. The Referee is quoted: "This Claimant is 28 years old... In December 1971, when he was 17 he was very seriously injured in a motor accident; he was a passenger in one of the vehicles. As a result he became a partial paraplegic, with limited use of both legs and one arm. He was never been able to work since and I should think his chances of ever having any useful employment is slight... That Desormeau would take advantage of the tragic plight of the claimant was despicable." The Committee did not accept the Referee's recommendation that the payment only be made on the claim when it is clear to the satisfaction of the Society that the payment will go directly into the purchase of an inalienable annuity for the benefit of the claimant (the Committee was not satisfied that the Society had the right to make such a condition), but recommended instead that the payment be made to counsel for the claimant,

in trust, with the knowledge that he is instructed by his client to purchase an inalienable annuity for the benefit of the claimant. The Referee is again quoted, "It was very clear from the evidence and from my observations of the claimant that however good his intentions he may well fall prey again to the importunities, honest or dishonest, of others."

#### SCHEDULE OF CLAIMS

Claimant	Amount Claimed	Allowed at	Committee's Recommendation
Patrick & Bernadette Clarke	\$ 2,295.00	\$ 2,295.00	\$ 2,295.00
Mary Ann Curtin	10,000.00		
(Amended Claim)	10,499.32	10,199.32	10,499.32
Paul Inglis	60,000.00	50,000.00	58,000.00
Harry Ouderkirk	1,452.69	—	—
Marie Cox	2,980.89	2,355.82	2,355.82
Peter Cox	1,970.06	1,250.00	1,250.00
Marie Cox & Peter Cox jointly	1,140.13	1,140.00	1,140.00
	<u>\$80,338.09</u>	<u>\$67,240.14</u>	<u>\$75,540.14</u>

With the exception of these aforementioned changes, the Referee's Report was accepted.

#### THE REPORT WAS ADOPTED

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#### LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Mr. James B. Chadwick, Chairman, Mr. Ferrier, Mrs. Fleming, Messrs. Gilchrist, Harris, Mrs. Jarman, Messrs. Jones, Lamb, Noble, Mrs. Smyth, Professor Russell, Mrs. Tait and Mr. Wallace.

The following observer member was also present: Robert Holden, solicitor, for the Criminal Lawyers' Association.

Also present by invitation: Mr. Robert Humfrey and Mr. Hugh Crosthwaite of Peat, Marwick and Partners, management consultants, Toronto.

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's Report, pursuant to Section 95(2), for the eleven month period ended February 28, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$1,581,000. Funds designated for community clinics were underspent by \$219,000, with the result that the remaining payments exceeded budget by \$1,800,000 as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	1,445,000	
Civil certificate accounts	137,000	
Student Legal Aid Societies	46,000	
Area Office costs	221,000	
Provincial Office costs	<u>256,000</u>	2,105,000
<i>Under budget</i>		
Duty Counsel payments	134,000	
Legal Advice Accounts	11,000	
Salaried Duty Counsel programme	37,000	
Research Facility	65,000	
Special Projects	<u>58,000</u>	<u>305,000</u>
		<u>1,800,000</u>

Income from sources other than the Province of Ontario was under budget by \$1,214,000 as follows:

<i>Under budget</i>	\$	\$
Law Foundation	773,000	
Client contributions	221,000	
Costs recovered	<u>288,000</u>	1,282,000
<i>Over budget</i>		
Miscellaneous income		<u>68,000</u>
		<u>1,214,000</u>

At February 28, 1981, there was a balance in the Fund of \$746,000.

## Statistics

The following table compares reported activity for the first eleven months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>11 Months ended</i>		<i>% Change from</i>
	<i>Feb. 28, 1981</i>	<i>Feb. 28, 1980</i>	<i>last year</i>
Summary Legal Advice	38,012	41,264	— 7.9
Referrals to other agencies	62,730	58,452	+ 7.3
Applications for certificates	102,041	108,248	— 5.7
Refusals	36,885	35,648	+ 3.5
As a percentage of applications	36.1	32.9	
Certificates issued	72,530	76,882	— 5.7
Persons assisted by Duty Counsel:			
Fee for service	145,928	144,362	
Salaried Duty Counsel	<u>62,877</u>	<u>48,807</u>	
Total	<u>208,805</u>	<u>193,169</u>	+ 8.1

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>February 1981</i>	<i>11 Months to Feb. 28/81</i>	<i>11 Months to Feb. 28/80</i>
Reviews on hand	874		
Reviews received in	<u>157</u>	1539	1413
	<u>1031</u>		
Settlements reviewed in	125	861	1413
Settlements awaiting review at end of	<u>906</u>		
	<u>1031</u>		

### Appeals

	<i>December</i>	<i>January</i>	<i>February</i>
Appeals to Taxing Officer received during	—	5	—
Appeals heard by Taxing Officer	2	2	1
Appeals pending at the end of the month	2	5	3
Appeals abandoned	—	—	1

## Activity

	<i>1980/81 Fiscal Year</i>		<i>1979/80 Fiscal Year</i>	
	<i>Month of Feb. 1981</i>	<i>11 Months to Feb. 1981</i>	<i>Month of Feb. 1980</i>	<i>11 Months to Feb. 1980</i>
Accounts on hand at beginning	12601	12454	13065	7273
Accounts received	<u>6286</u>	<u>62094</u>	<u>6303</u>	<u>62146</u>
Total accounts to be processed	18887	74548	19368	69419
Less: Files cancelled	37	383	54	367
Accounts processed	<u>5926</u>	<u>61241</u>	<u>7845</u>	<u>57583</u>
Balance	<u>12924</u>	<u>12924</u>	<u>11469</u>	<u>11469</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	448	4109	425	3106
Supplementary Accounts	<u>500</u>	<u>3392</u>	<u>328</u>	<u>2888</u>
Total	<u>948</u>	<u>7501</u>	<u>753</u>	<u>5994</u>

## Legal Accounts – Backlog

The Committee reviewed the backlog of legal aid accounts and is considering a “blitz” to reduce the said backlog. If necessary the Plan may hire members of the Bar to assist in the said “blitz”.

## PEAT, MARWICK REPORT

In December 1980 Convocation approved the Legal Aid Committee's recommendation that a management study of the Provincial Office of the Ontario Legal Aid Plan be conducted by Peat, Marwick and Partners. Mr. Robert Humfrey and Mr. Hugh Crosthwaite of the management consulting firm attended the April Legal Aid Committee meeting and discussed in depth the said report on the effectiveness and efficiency of the Plan. Copies of the said report were available for distribution in Convocation.

The Legal Aid Committee adopted the report in principle and requested that Convocation be advised that the Chairman of the Legal Aid Committee will now meet with senior management staff to discuss the report. The Legal Aid Committee



further requested that any recommendations emanating from the senior management staff be brought back to the Committee for its consideration.

The Legal Aid Committee asked that more detailed job descriptions of the senior administrative staff be developed.

The Committee also requested that the Plan advertise immediately for a Deputy Director of Legal Services as recommended in the said Peat, Marwick Report.

*Convocation directed this item to stand.*

#### **PEAT, MARWICK REPORT RE: SPACE REQUIREMENTS**

The Provincial office, because of recent expansion, must reallocate space for its various departments. The Legal Aid Committee approved the planning proposal from Peat, Marwick & Partners. The proposed study will cost the Plan \$10,000.

#### **CRIMINAL LEGAL AID PANEL – YORK COUNTY**

The Legal Aid Committee approved a report on the York County Criminal Legal Aid Panel recommending that the Panel Classification project be made a permanent programme under the York County Area Director. The said report was before Convocation.

The recommendations contained in the report are set out below:

- (i) That the York County Panel Classification Project be continued in all aspects as a permanent Program under the aegis York County Area Director with periodic review by the Joint Committee.
- (ii) That any lawyer wishing to remain on the Panel must certify that he or she intends to continue practice in the criminal courts in order to remain on the Panel and that such certification be required every 12 months.
- (iii) That every lawyer wishing to retain the designation of “experienced criminal counsel” be required to certify that he or she intends to continue practising predominantly in the area of criminal law and that this certification be required every 12 months.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### York County

The following Barristers and Solicitors:

Miss Sandra Birnbaum  
Vibert Lampkin  
Roger B. Shaw  
Rev. W. F. Phipps  
Barry A. Cohen  
Colin L. Campbell  
David Cousins  
Stanley Reisman  
Mark Kerbel  
Elizabeth McElman  
Gregory Jones  
William Trudell  
Stephen Morrison

Ms. Nola Garton  
John Collins  
Robert D. Morningstar  
John McGregor  
Rod MacGregor  
John P. Moise  
Austin Marshall  
Michael McLachlin  
Wayne Lalonde  
David Medland  
William Parker  
Michael Grayson

and:

Ettore Cardarelli, Financial Resources Coordinator, John Howard Society  
Robin Labatt, President, Carroll's Canadian Metals  
Jill Sandeman, Elizabeth Fry Society  
J. Robert Johnson, McLean-Hunter and Co.  
Glen Murray, Alcohol and Drug Addiction Foundation

### (b) RESIGNATIONS

#### York County

John Desbrisay, Q.C.  
John Jennings, Q.C.

#### District of Cochrane

John K. Bracken, Barrister and Solicitor

## EXCEPT FOR THE ITEM – PEAT MARWICK REPORT

### THE REPORT WAS ADOPTED

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## PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Messrs. Ground (Chairman), Wardlaw (Vice-Chairman), Catzman, Humphrey, Lamont, Lerner, Outerbridge, Strauss and Mrs. Sutherland.

### POLICY

#### SUB-COMMITTEE ON ROLE OF LAWYERS ACTING AS MORTGAGE BROKERS

The Report of the Sub-Committee on the Role of Lawyers Acting as Mortgage Brokers was considered. It contained four recommendations which the Committee approved. The Committee was of the opinion that the views of the profession should be elicited before any firm policy was made by the Society. In this regard the Committee noted that this was done by Convocation respecting the proposed alteration of Rule 18. The Committee recommended that the Sub-Committee's brief report be circulated to the entire profession with the request that any persons making submissions do so by October 1st, 1981.

The Sub-Committee's Report is as follows:

#### Report of the Sub-committee concerning lawyers acting as mortgage brokers

Our review includes not only the term of reference, i.e., solicitors who are also licensed mortgage brokers or who have an interest in a corporation carrying on business as mortgage brokers, but we also considered that many solicitors advise regarding mortgage loans in what might be said has been part of a solicitor's role for many years.

In this latter role, there have been in recent years many claims dealt with by the Law Society insurer in which it has been difficult to separate a solicitor's activities between that of a solicitor doing what is accepted as solicitor's work, namely searching the title, other searches, preparing documents, and advice expected of a solicitor for a mortgagor or mortgagee and on the other hand arranging for mortgage loans, giving financial advice or advice as to whether there is good security for the loan and as to the terms.

Because it has become difficult to separate these roles and a solicitor's liability in either role, the insurer's adjusters have had to recommend payment of claims for activities beyond that of the legal work of a solicitor, or have tried to deny coverage.

A recent case points up the above comments. The solicitor acted for the mortgagor and mortgagee without disclosing this. In part the judge said – “[the solicitor] had knowledge that the property sold for \$65,000.00. He knew the first mortgage to be \$50,000.00, the monies being advanced together with the first mortgage exceeded the recent sale price .... the solicitor failed to communicate that fact to the client” – “brokerage fees were paid to a firm in which the solicitor’s family had an interest, and of which the solicitor was an officer” – “the mortgagor was a numbered company with no other assets” – “the borrower would have paid 14% rather than 13%”, and this was not communicated to the lender. The judge also held that there were other matters of negligence as a solicitor for solicitor’s work.

According to the Law Society’s adjusters there are currently over 50 cases of what might be called mixed claims.

Although the Sub-committee is not recommending that solicitors may not arrange mortgages for clients either borrowing or lending we will later in this report propose guidelines for solicitors when advising about mortgages.

We do recommend that solicitors who arrange mortgages but are not licensed mortgage brokers be required to carry separate insurance for this part of the practice. If this recommendation was acceptable to Convocation and implemented, the Law Society’s insurer could then settle mixed claims with the other insurer as to which insurer or insurance policy should bear the loss, preferably the other insurer.

As for lawyers being also licensed mortgage brokers, we have before us the recommendation of the Sub-committee which reported on this subject in May, 1977. Apparently the recommendation which follows was not accepted by Convocation.

“Having given the matter its best consideration, your Committee is of the opinion that it is improper for a practising lawyer to carry on business as a mortgage broker for the same reason that it is improper for a practising lawyer to be registered as a real estate broker. One cannot carry on these activities without offending Ruling 3, para. 1, and without being continually involved in situations giving rise to conflicts of interest, actual and potential.”

The same recommendation would equally apply under Ruling 6 – “The lawyer who engages in another profession, business or occupation concurrently with the practice of law must not allow such outside interest to jeopardize his professional integrity, independence or competence.”

It can be noted in the report of the Sub-committee in May, 1977 reference was made to approval by the Professional Conduct Committee of letters of the Secretary to solicitors dated September, 1965 – “If they wish as shareholders to take part in a mortgage brokerage business, then they should not act for the other persons directly concerned in the transactions of that business”, and 28 July, 1975 – “it would be improper for a lawyer to be employed in a mortgage broker firm at the time that he was also practising law” – and by Convocation, June, 1970 – “The Secretary was instructed to advise that the governing principle on questions of this nature has been that there should be no sharing of space between a lawyer and .... a mortgage broker.”

If there cannot be such association of a lawyer and a mortgage broker, how can it be acceptable for a lawyer to be one and the same.

Reference was made earlier to the 50 current claims being considered by the Law Society's adjusters. A number of these claims concern lawyers who are also licensed mortgage brokers.

It should be noted that claims paid out of the Compensation Fund for lawyers involved as mortgage brokers have been substantial:—

	<i>Total amount paid out of Compensation Fund</i>	<i>Amount paid re mortgage investments</i>
1979	\$413,850.00	\$199,061.29
1980	\$743,464.00	\$331,877.00

Put simply the problem of the lawyer-mortgage broker involves:—

1. the lawyer acts for the lender, usually a client, and supposedly protects the lender's legal and financial interests (getting the best interest rate and terms for the lender).
2. he acts for the borrower and supposedly protects the borrower's legal and financial interests (getting the best interest rate and terms for the borrower?).
3. he acts for himself as mortgage broker or for a mortgage brokerage corporation in which he has the sole or part interest or his firm has the sole interest in the corporation, and presumably is attracting as much business as possible and the highest brokerage fee to be paid by the borrower.

We are aware that the relation of lawyer/mortgage broker has been so for a number of years and are conscious of the impact on those who are so engaged if our recommendation is accepted that it should no longer be permitted.

Failing acceptance of that recommendation by Convocation we recommend that lawyers who wish to continue the dual role of lawyers and mortgage brokers must have adequate insurance for claims concerned with the arranging of mortgages or financial advice therefor.

Even if the dual role is permitted to continue, with adequate insurance as above recommended, we recommend as follows:—

1. There should be a specific commentary under both Rulings 5 and 6 directed to lawyers acting as mortgage brokers or arranging mortgage loans that there must be:—
  - (a) full disclosure in writing to each of the borrower and lender of the interest of the lawyer or his spouse or other members of his family including parents, children and brothers and sisters or of any corporation in which he or any of the aforesaid have an interest of at least 10% or more, as the mortgage broker arranging the loan, the amount of the commission, and any discount for the benefit of the lender,



- (b) acknowledgment by the lender that prior to the making of the loan the lender has obtained independent advice from a qualified source, and is satisfied as to the adequacy of the security and the terms of the mortgage loan,
- (c) independent legal representation for the borrower,
- (d) filed with the Law Society notice that the solicitor is a mortgage broker or arranges mortgage loans or has an interest in a mortgage broker corporation, along with a certificate of insurance for indemnity of persons either lenders or borrowers for that part of the solicitor's involvement in the arranging of mortgage loans.

### **“WHO’S WHO IN CANADIAN LAW”**

Trans-Canada Press is planning to publish a book entitled “Who’s Who in Canadian Law”. The Press has written to many lawyers and they in turn have asked whether they can respond to the request that they provide biographical data for inclusion in the publication. A copy of the publisher’s standard letter and its enclosure were before the Committee and Convocation. Trans-Canada Press has recently published two other books which have been on the market during the last two years: “Who’s Who in Canadian Finance”, and “Who’s Who in Canadian Business”.

Paragraphs 14(a) and 14(c) of the Commentary under Rule 13 of the Rules of Professional Conduct apply to the question raised. It has been noted that some lawyers are invited to submit biographical data to the Canadian Who’s Who and to Who’s Who in Canada and that there has been no objection by the Law Society. However, both these publications invite persons other than lawyers to submit biographical data.

The Committee recommended that Convocation give its approval to lawyers placing biographical data in this publication “Who’s Who in Canadian Law”, on the understanding that the Society advise both the profession and the publisher that two of the headings in the request for biographical data “Your Legal Expertise” and “Areas of Company Expertise” are not acceptable insofar as the Commentary under Rule 13 of the Rules of Professional Conduct is concerned and that the proper designations are preferred areas of practice or practising in specified areas of the law.

## MAILING OF SCHEDULE OF FEES TO CLIENTS BY LAW FIRM

The Society's attention was drawn to a schedule of fees sent to clients by a law firm. The Committee considered the fact that it and Convocation had recently had before them the case of a solicitor who has a sign in her reception area on which are set out fees for basic services. (Convocation took the position that the Society should take no action with respect to her.)

The Committee recommended to Convocation that the act of mailing a schedule of fees to one's clients at large can be reasonably regarded as designed primarily to attract professional business which is not permitted by paragraph 11 of the Commentary under Rule 13 of the Rules of Professional Conduct.

## THE REPORT WAS ADOPTED

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## LIBRARIES AND REPORTING COMMITTEE—

Mr. Farquharson

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Wednesday, 8th April, 1981.

The following members were present: Messrs. Lerner (Acting Chairman), Shibley, Mrs. Tait and Mr. Yachetti. Mr. G. W. Howell, Acting Chief Librarian, was also present.

## ADMINISTRATION

### ANNUAL GRANTS TO COUNTY LIBRARIES

The law associations listed below have sent in their annual returns for the year 1980. The amounts of the grants which each should receive under the Regulation in 1981 and those that they received in 1980 are as follows:

	<i>1980</i>	<i>1981</i>
Lanark	\$1740	\$1390
Leeds & Grenville	1495	1460

	1980	1981
Lennox & Addington	\$ 760	\$ 795
Lindsay	1355	1285
Middlesex	2000	2000
Northumberland	1740	1600
Peterborough	2000	2000
Renfrew	1740	2000
Simcoe	2000	2000
Temiskaming	830	900
Thunder Bay	2000	2000
Wellington	2000	2000
York	3500	3500

*Approved*, subject to the approval of the Finance Committee.

## INFORMATION

### BOOK LIST

A list of 26 new acquisitions by the Great Library was approved.

### UPGRADING OF INSURANCE FOR COUNTIES

The Committee approved Mr. Howell's report that the blanket insurance policy which covers 39 of the 46 pre-existing counties plus the new York Region Library (on a proposed basis) has been updated on behalf of all libraries and substantially upgraded in the following particular features:

- (1) The average insurance value per volume has been increased from \$15 per volume to \$18 per volume – a 20% increase. The total premium for this updating of library insurance was increased, but total premium for liability insurance was decreased, so the grand total of premiums has increased only 7.2%. This percentage increase will be reflected in the premiums that are automatically deducted from each county's annual grant from the Law Society.
- (2) The loss limit on library insurance has been increased from \$125,000 to \$200,000 for Essex and Carleton and to \$250,000 for Middlesex, and from \$175,000 to \$250,000 for Hamilton. The loss limit for the other counties remains at \$125,000, which is adequate given total insurable values, although only barely for several counties.
- (3) The sub-loss-limit was increased from \$2,500 to \$10,000 on furniture, fixtures, supplies and equipment and to \$20,000 on valuable papers and records while outside the premises, for all counties.
- (4) The upgradings in the loss-limits and sub-loss-limits were arranged at no additional premium cost. The package policy, in comparison to the counties that have retained local insurance, appears to be a good one.

## COUNTY LAW LIBRARY VISITS

Mr. Howell reported on his visits to the following associations: Northumberland, Perth, Haldimand, Norfolk.

Mr. Howell also reported on his one day meeting in London with the county network's three fulltime professional librarians: Wendy Hearder-Moan (Hamilton), Jo-Anne Gulliver (Middlesex), and Anne Matthewman (Essex). A copy of Mr. Howell's report was before the Committee.

*Noted*

## THE REPORT WAS ADOPTED

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## UNFINISHED BUSINESS

The Reports of the following Committees were not reached and were directed to stand to the next Convocation: Unauthorized Practice, Practice and Insurance.

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## CONVOCATION ROSE AT 1:00 P.M.

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The Treasurer and Benchers had as their guests for luncheon His Honour Judge James D. Carnwath of the Judicial District of Halton, Mr. Paul G. Philp, Q.C., Hamilton, Mr. R. H. Sadleir, Principal of Upper Canada College, Mr. G. W. R. Bowlby, Vice-President — Sales, Stelco Inc., Hamilton, and Mr. Charles Milkovits of Burlington.

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Confirmed in Convocation 15th May, 1981.

J. D. BOWLBY

Treasurer



THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

**Volume 6**

**Number 5**





## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

Thursday, 14th May, 1981  
11:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Brulé, Carter, Carthy, Cooper, Ground, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, Ogilvie, Mesdames Sutherland and Tait, Messrs. White and Willoughby.

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### LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 14th May, 1981.

The following members were present: Mr. J. J. Carthy (Chairman), Messrs. Arthurs, Brulé, Ground, Lamont, Lerner, Mrs. Tait, and Mr. Willoughby.

### ADMINISTRATION

#### 22ND BAR ADMISSION COURSE RESULTS OF SUPPLEMENTAL AND SPECIAL EXAMINATIONS

The supplemental and special examinations in the 22nd Bar Admission Course were written during the weeks commencing Monday, March 23rd, and Monday, March 30th, 1981. Twenty-five candidates wrote supplemental examinations, nine candidates wrote special examinations and five candidates wrote both supplemental and special examinations. Thirty-two candidates passed the required examinations and were entitled to certificates of successful completion of the Bar Admission Course. Six candidates failed. One candidate was given permission, on the grounds of ill-health, to postpone writing special examinations.

A list showing the names of those who have passed and those who have failed was before the Committee.

*Approved*

### THE REPORT WAS ADOPTED

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### ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 14th May, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Ground, Lamont, Pepper, Mrs. Sutherland and Mr. White.

### ADMINISTRATION

#### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

A list of 33 candidates who successfully completed the Twenty-second Bar Admission Course, filed the necessary documents and paid the required fee of \$210, and who applied for Call to the Bar and to be granted Certificates of Fitness was before the Committee.

*John Robert Crerar* was called to the Bar and admitted as a solicitor on 29th June, 1949, and was permitted to resign his membership in the Society in April 1964 upon posting a suitable bond.

In May 1972 Mr. Crerar applied for readmission and was refused. He again applied in June 1979 for readmission and Convocation on 1st August, 1979, approved that he be readmitted to membership in the Society upon successfully completing the teaching portion of the Bar Admission Course and that he will not, without prior consent of Convocation, enter into private practice except as an employee or partner of a member of The Law Society of Upper Canada.

Mr. Crerar fulfilled the first of these conditions, and

acknowledged that he is bound by his undertaking.

The Committee recommended that he be called to the Bar and granted a Certificate of Fitness with the graduates who have completed the Twenty-second Bar Admission Course.

*Approved*

## **REPORT OF THE EXAMINING BOARD**

The results of the examinations held in May 1981 were before the Committee. Eight candidates sat the examinations. Four passed and four failed.

*Approved*

## **THE REPORT WAS ADOPTED**

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### **DISCIPLINE COMMITTEE—Mr. Genest**

**Re: GORDON DAVID GOLDMAN, Toronto**

The reporter was sworn.

Mr. G. H. Lohead placed the matter before Convocation.

Mr. Cooper withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor was not present. Mr. Earl J. Levy, Q.C., appeared on the solicitor's behalf and Mr. Thomas J. Lockwood represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 6th May, 1981, Notice of Hearing, dated 7th May, 1981, Summons to the Solicitor (pursuant to Section 13 of the Regulation under The Law Society Act), dated 7th May, 1981, and letter, dated 6th May, 1981, from Mrs. Heather A. Werry, Assistant Secretary of the Society, to the solicitor in care of his counsel. All documents were personally delivered to the solicitor's counsel.

Mr. Levy acknowledged service on behalf of the solicitor, waived the reading of the Report of the Discipline Committee, which had been sent to the Benchers prior to Convocation, and made no submissions with respect to the Report.

The Report of the Discipline Committee, dated 6th May, 1981, found the solicitor guilty of conduct unbecoming a barrister and solicitor. He had been convicted in Provincial Court (Criminal Division) of conspiring to possess counterfeit money and sentenced to fifteen months imprisonment.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 6th May, 1981, be adopted.

Counsel and the reporter returned.

Counsel were advised that the Report had been adopted by Convocation.

Convocation was advised that the Discipline Committee's Recommendation as to Penalty is that the solicitor be disbarred.

Counsel made no submissions as to penalty.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel were advised of Convocation's disposition of the matter.

Counsel and the reporter retired.

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#### CONVOCATION ADJOURNED FOR LUNCHEON AT 11:45 A.M.

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The Treasurer and Benchers had as their guests for luncheon in the Benchers Dining Room at Osgoode Hall The Honourable Mr. Justice Sydney L. Robins of the High Court of Justice for Ontario, and Mrs. Robins; The Honourable Gregory T. Evans, Chief Justice of the High Court of Justice for Ontario; and Mr. George W. Collins-Williams, Q.C., Director of Legal Education.

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Following luncheon, the Treasurer, the Benchers and their guests proceeded to Convocation Hall for the Call to the Bar Ceremonies of the 34 graduates of the Twenty-second Bar Admission Course who had applied to be called on Thursday, 14th May, 1981.

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### CONVOCATION RESUMED AT 2:00 P.M.

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#### PRESENT:

The Treasurer and Messrs. Arthurs, Cooper, Finlayson, Ground, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, O'Brien, Ogilvie, Outerbridge, Mesdames Sutherland and Tait, and Mr. Willoughby.

The body of Convocation Hall was occupied by the 34 graduates, their families and friends.

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#### CONFERRING OF HONORARY DEGREE

Mr. Samuel Lerner, Vice-Chairman of the Legal Education Committee, read the following Citation:

Mr. Treasurer —

It is my most pleasant duty to present to you and to this Convocation The Honourable Mr. Justice Sydney Lewis Robins and to request that you confer upon him the degree of Doctor of Laws.

The scholar's mind which enabled him to mark by outstanding academic achievement his years of legal study at the University of Toronto, here in Osgoode Hall and at Harvard Law School, and which for twelve years thereafter was turned to the teaching of law, proved equally proficient in the practical application of the principles he expounded and no less skilful in discerning and attaining a humane and sensible resolution of civil controversy.

The balanced judgment and sensitive awareness which permitted him as a Benchers and as Treasurer of The Law Society of Upper Canada to comprehend and reconcile divergent views and make them instruments of progress and reform are now devoted to the formal determination of disputes through his service as a judge of The Supreme Court of Ontario.

He is deserving of the highest honour this Society can give and I request you, Sir, to confer upon Sydney Lewis Robins the degree of Doctor of Laws, *honoris causa*.

The Treasurer then conferred the degree of Doctor of Laws, *honoris causa*, upon Sydney Lewis Robins, a Judge of The Supreme Court of Ontario.

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## ADDRESS

The Treasurer introduced The Honourable Mr. Justice Sydney L. Robins, who addressed the graduates.

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## CALL TO THE BAR

Mrs. L. L. Legge, Chairman of the Admissions Committee, presented to the Treasurer the 34 candidates for Call to the Bar as follows:

### TWENTY—SECOND BAR ADMISSION COURSE 1980-81

#### CANDIDATES FOR CALL TO THE BAR ON THURSDAY, 14TH MAY, 1981

Susan Carol Anderson	Wayne Terrence King
Rose Andrachuk	Evert Jan Kok
Sarah Jean Bagnall	Jean Richard Lafontaine
Dennis Robert Bailey	Marcus Alexander Lennox
Colin Michael Berry	Thomas Joseph LeRoy
Leslie Mary Adamina Boyer de la Giroday	Giuseppe LoConte
Stephen Thomas Carlo	John Christopher London
Robert John Climie	Margaret Leah McCarthy
*John Robert Crerar	Shelley Gay Mitchell
Michael William Dale	Philip Austin Perlmutter
David Samuel Diamond	Harriet Sharon Rosenberg
Bernadette Mary Eischen	Nancy Joan Rosenberg
Randall Charles Fleming	Sheldon Sheps
Bernice Gopin	Stephen Michael Stirling
Marion Elizabeth Green	Stanley George Wilcox
Donald Robert Henry Henderson	Jane Iles Williamson
Christopher Devlin Hicks	Walter Wysocky

\*Readmission

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new members of the Bar and congratulated them on behalf of The Law Society of Upper Canada.

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### CONVOCATION ROSE AT 3:40 P.M.

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Following Convocation a Special Sitting of The Supreme Court of Ontario was convened in Convocation Hall with The Honourable Gregory T. Evans, Chief Justice of the High Court of Justice for Ontario, presiding.

Mrs. Legge presented the candidates to the Chief Justice of the High Court, before whom they took the usual oaths and acknowledged their signatures on the Rolls in the presence of the Court.

The Chief Justice of the High Court then addressed the new Barristers.

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At the conclusion of the formal proceedings the new Barristers, their families and friends were entertained by the Treasurer and Benchers at a reception in the Barristers Lounge.

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Confirmed in Convocation 19th June, 1981.

J. D. BOWLBY

Treasurer



## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 15th May, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby after his election) and Messrs. Arthurs, Barr, Bragagnolo, Brulé, Bynoe, Carter, Carthy, Cass, Cooper, Chilcott, Furlong, Ground, Guthrie, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, Noble, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Scace, Shaffer, Shibley, Mesdames Sutherland and Tait, Messrs. Thom, White, Willoughby and Yachetti.

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### APPOINTMENT OF CHAIRMAN

Mr. P. B. C. Pepper was appointed Chairman.

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### ELECTION OF TREASURER

Convocation had before it one nomination for the office of Treasurer for the ensuing year, namely, Mr. J. D. Bowlby, Hamilton.

It was moved, seconded and unanimously *carried* that Mr. J. D. Bowlby be elected Treasurer for the ensuing year.

On his election to the office of Treasurer for a second term Mr. Bowlby took the Chair and addressed the Bench.

The Treasurer reviewed the steps taken during his first year of office during which Convocation embarked on several projects which he hoped would be completed in the coming year. He referred specifically to the work of the Special Committee on Convocation under the chairmanship of Mr. Arthurs and the Special Committee on the Peat, Marwick Report under the chairmanship of Mr. Finlayson. Reports from both Committees are to be presented to a Special Convocation to be held 22nd May, when decisions will have to be made for implemen-



tation in the coming months. He hoped that changes recommended by these Committees would streamline the work of Convocation and of the Secretariat.

The Treasurer mentioned changes that have been implemented in the Discipline and Legal Education areas: the decision to engage a fulltime senior counsel to supervise the Society's discipline function and the decision to engage a Director for the Bar Admission Course so that the Director of Legal Education can concentrate his efforts on the Continuing Legal Education Programme.

He also referred to those matters which he had discovered to be of major concern to the profession: the question of the number of lawyers in the profession and its effect on the quality of legal services, the question of institutional advertising and the question of public relations. He reviewed the steps that had been taken to deal with these matters and particularly the two Special Committees that have been appointed to give consideration to these questions and make recommendations to Convocation.

He also indicated that he hoped by his visiting a majority of the local law associations across the province and the increasing of the number of meetings with local law association presidents, more meaningful lines of communication have been or are being established.

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## MINUTES

The Minutes of Special Convocation for Call to the Bar of 9th, 10th, 13th and 15th April, 1981, and of Convocation of 16th April, 1981 were confirmed.

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## ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Carthy, Catzman, Lamont, Pepper and Scace.

## ADMINISTRATION

### OCCASIONAL APPEARANCE

*Ann-Marie Jones* of the Province of Quebec, applied to proceed under Section 10 of the Regulation "Occasional Appearance in Ontario of lawyers from other provinces", in the case of *Regina vs. Daniel Lapointe and Bruno Sicotte*. Miss Jones complied with the requirements of Section 10, presented a Certificate of Good Standing, and asked to receive her call to the Bar of Ontario at the May Convocation.

*Approved*

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Call to the Bar for an Occasional Appearance

At its meeting on 7th May, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation, concerning "Occasional Appearance in Ontario of lawyers from other provinces", and that upon giving the necessary undertakings, she be called to the Bar and admitted as a solicitor:

Ann-Marie Jones

Province of Quebec

#### Transfer from another province

The following candidate, having passed the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$411, asked the Chairman and the Secretary for permission to be called to the Bar and to be granted a Certificate of Fitness at the Call to the Bar ceremony on 13th April, 1981, in Ottawa. He was permitted to be called on that date.

Donald George Gibson

Province of Nova Scotia

The Committee was asked to ratify this decision.

*Approved*

## ADMISSION OF STUDENTS—AT—LAW

### Bar Admission Course

Two further candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

### DIRECT TRANSFER FROM QUEBEC

The Committee considered and approved an application to transfer to practice in Ontario by a member of the Quebec Bar who sought to proceed under Regulation 4(2).

### PETITION

A petitioner who had commenced service under articles in July 1980 became aware in January 1981 that he had not complied with the requirements for admission to the Bar Admission Course but encountered further delays and difficulties in assembling the materials required to complete his application for student membership. He filed all necessary documents, paid the required admission fee and a fine of \$100 for late filing, and asked to be granted permission for late filing of his application and that his service under articles since July 1980 be counted toward the articling requirement. The petition was approved.

### THE REPORT WAS ADOPTED

.....

### CALL TO THE BAR

The following candidate was presented to the Treasurer and Convocation, and was called to the Bar, and the degree of Barrister-at-law was conferred upon her by the Treasurer :

Ann-Marie Jones

.....

## FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Pepper (Chairman), Chilcott, Fennell, Guthrie, Lohead, Ogilvie, Scace, Shaffer and Tebbutt.

## ADMINISTRATION

### ERRORS AND OMISSIONS INSURANCE LEVY

Under Section 36 of The Law Society Act a member who fails to pay any fee or levy to the Society within four months of the due date is liable for suspension. The Errors and Omissions Insurance Levy was due on 1st January 1981. Notices mailed in December 1980 gave members an option of paying in full or in two equal instalments (with an amount added).

Members who elected to pay in two instalments were advised that the second instalment would be due on 1st June, 1981 and notices will be sent to these members later this month.

There are 512 members who have not paid any part of the levy nor submitted an application for exemption. The Committee recommended that the rights and privileges of these members be suspended by Convocation on 1st June, 1981 and that the members in default be notified immediately.

*See motions, p.208.*

### CANADIAN BAR ASSOCIATION

At its meeting in April, the Committee approved the use of the Society's premises for a brunch meeting on Sunday, 14th June, in connection with a joint meeting of the Councils of the Ontario and Quebec divisions. The Committee recommended that the cost of the brunch, estimated at \$1,200, be borne by the Canadian Bar Association.

The Committee was asked by the Association to reconsider this decision. Mr. Potts, President of the Ontario Branch of the Canadian Bar Association, attended with the permission of the Chairman of Finance to address the Committee.

The Committee recommended that the Society not extend its hospitality beyond making the premises available.

### INSURANCE VALUATIONS

At its last meeting, the Committee had before it the following accounts for approval in connection with the preparation of new building valuations for insurance purposes:

Dalton Engineering	\$5,736.47	
A. Heeney	4,260.00	<u>\$9,996.47</u>

The Committee had previously approved expenditure of \$5,000 for this project and Mr. Heeney was asked to provide an explanation for the over expenditure. A letter from Mr. Heeney dated 15th April was before the Committee.

The Committee recommended that the accounts be paid, the Secretary to discuss them with Mr. Heeney.

### ARCHITECT'S ACCOUNTS

Mr. Heeney submitted the following accounts and the Committee was asked to approve these for payment:

Account dated May 4, 1981	Routine consultations	\$1,230.00
Account dated April 29, 1981	Percentage of various maintenance items	404.07
Account dated April 29, 1981	Fire alarm systems	1,879.72

*Approved*

### PENSION PLAN REVIEW

Peat, Marwick and Partners have submitted a further account in the amount of \$2,544 for professional fees and expenses for the period 1 February, 1981 to 31 March, 1981, making a total of \$4,202. The fees are to be shared with the Ontario Legal Aid Plan on a 40/60% basis.

*Approved*

### MEMBERSHIP UNDER RULE 50

#### Retired Member

The following member who is sixty-five years of age and



fully retired from the practice of law, requested permission to continue his membership in the Society without payment of annual fees. His formal application was before the Committee.

Patrick Martin Draper

Consecon

*Approved*

## RESIGNATION

The following member applied for permission to resign his membership in the Society and submitted his application in support:

Douglas Esmond Sanders

Vancouver, B.C.

Mr. Sanders wished to be relieved of the necessity of publishing in the Ontario Reports. He was suspended by Convocation on 2 March, 1981 for failure to pay his fees for 1980-81.

*Approved*

## LIBRARIES AND REPORTING COMMITTEE

### County Library Grants

The Committee had before it a memorandum listing those law associations that had sent in their Annual Returns for 1980 and setting out the amounts of the grants to which they appear to be entitled under the Regulation in 1980 and 1981. The Libraries and Reporting Committee approved these grants at its meeting on 7th May, 1981, subject to the approval of this Committee.

*Approved*

## INFORMATION

### ROLLS AND RECORDS

#### Appointments to the Bench

The following members have been honoured by their appointment to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

Bernard Melville Kelly, Q.C.  
Toronto

Called – 25 June 1959  
Appointed Provincial Court Judge,  
Criminal Division, Judicial District  
of York – 9 March 1981

Pamela Ann Sigurdson  
Toronto

Called – 22 March 1968  
Appointed Provincial Court Judge,  
Civil Division, Judicial District of York –  
10 April 1980

Raymond Joseph Walneck, Q.C.  
Thunder Bay

Called – 26 June 1958  
Appointed Provincial Court Judge,  
Criminal Division, District of Thunder Bay –  
15 April 1981

*Noted*

## Deaths

The following members have died:

Harold Franklin Lazier, Q.C.  
Hamilton (Life Member)

Called – 20 September 1928  
Died – 19 April 1981

Ernest Parnell Lee, Q.C.  
Bracebridge (Life Member)

Called – 20 June 1929  
Died – 9 April 1981

Robert Alan MacDougall, Q.C.  
Woodstock (Life Member)

Called – 19 January 1928  
Died – 27 November 1980

Victor Harrison Tillson, Q.C.  
Tillsonburg (Life Member)

Called – 7 June 1923  
Died – 3 September 1980

Ernest Bradley Griffith, Q.C.  
Toronto

Called – 21 November 1940  
Died – 29 April 1981

Thomas Francis Hartney  
Toronto

Called – 29 June 1949  
Died – 31 March 1981

Joseph Augustus Cosentino, Q.C.  
Weston

Called – 20 June 1935  
Died – 2 April 1981

*Noted*

It was moved in Convocation, seconded and *lost* that the date of suspension of those in default of Errors and Omissions Insurance levy be changed to 15th June, 1981.

## THE REPORT WAS ADOPTED

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## MOTION TO SUSPEND: ARREARS OF ERRORS AND OMISSIONS INSURANCE LEVY 1981

It was moved, seconded and *carried* that the Barristers and Solicitors who have failed to pay the levy prescribed under

Section 53 of The Law Society Act by 1st June, 1981 and who have not been granted exemption from coverage by that date be suspended from 1st June, 1981 for a period of one year and from year to year thereafter or until their levies are paid or until they have been granted exemption from coverage.

Of the 406 members whose names were before Convocation on 15th May, 1981, 92 were suspended as of 1st June, 1981. Of these 76 were subsequently reinstated and the following 16 are still suspended:

James William Andrew	Hamilton
Harold Vincent Bordonaro	Toronto
Tanner Franklin David Elton	Ottawa
Claude Douglas Fitzgibbon	Port Hope
Cornelius Allan Foran	Cologne, West Germany
Otto Alvin Ivany	Sault Ste. Marie
Chester Jaremey	Toronto
John William Kentish, Jr.	Toronto
Jan Josef Munk	Kitchener
Tarcisio Nella	Toronto
Allan Henry Posner	Thornhill
Reuben Richman, Q.C.	Willowdale
Carol Jean Robbins	Toronto
Robert Arthur Savage	Oakville
Gordon Christian Vadum, Q.C.	Toronto
Edward Joseph Whiteside	Tottenham

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### FINANCE COMMITTEE (Continued)

Mr. Pepper presented the Report of the Finance Committee of its meeting on Thursday, 14th May, 1981.

The following members were present: Messrs. Pepper (Chairman), Brulé, Lochead and Ogilvie.

### ADMINISTRATION

#### SUB-COMMITTEE ON SALARIES – 1981

The report of the Sub-Committee on Salaries was before

the Committee.

*Approved*

## THE REPORT WAS ADOPTED

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### LEGISLATION AND RULES COMMITTEE—Mr. McWilliams

Mr. P. K. E. McWilliams, Chairman, presented the Report of the Legislation and Rules Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. McWilliams (Chairman), Bragagnolo, Cass, Lohead and Ruby.

## ADMINISTRATION

### THE LAW SOCIETY ACT PROPOSED AMENDMENTS

The Committee reviewed a summary of proposed amendments to The Law Society Act which have been approved by Convocation and submitted to the Attorney General from June 7th, 1977 to date but which as yet have not been enacted.

The Committee recommended that the appropriate steps be taken to promote the enactment of these proposed amendments.

## INFORMATION

### INCORPORATION OF LAW PRACTICES

Mr. Mark Orkin was in attendance at the meeting at the request of the Committee to discuss his proposals for draft legislation allowing for the incorporation of law practices. Mr. Orkin's letter of March 4th, 1981 to Mr. Lohead in this regard was received by the Committee, tabled and discussed.

The Committee recalled an opinion it had received in January of 1979 from Mr. Stanley Edwards of Messrs. Fraser

and Beatty wherein he commented on certain difficulties arising out of a Draft Income Tax Regulation which would seem to have precluded an incorporated law practice from qualifying for the small business deduction unless incorporated law practices were permitted under the laws of all the provinces.

The Committee instructed and authorized Mr. Orkin to confer with Messrs. Thom and Scace concerning the present status of this regulation, specifically as to whether an incorporated law practice would now receive the benefit of the small business deduction even though the incorporation of law practices is not yet permitted under the laws of all the provinces. Mr. Orkin was further authorized to seek the advice of Messrs. Thom and Scace on the question of whether the small business deduction, if now permitted under the Income Tax Regulations, would be available to each incorporated partner in a law firm or whether only one small business deduction would be available to the entire firm. Mr. Orkin was further authorized, if recommended by Messrs. Thom and Scace, to retain independent counsel for an up-to-date opinion concerning these issues and to report to this Committee accordingly.

### THE REPORT WAS ADOPTED

Mr. O'Brien suggested that the Society retain counsel to represent it in matters having to do with government. The Treasurer will appoint a small special committee to consider the suggestion.

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### PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Wednesday, 8th April, 1981, which was not reached at the April Convocation.

The following members were present: Mr. Brulé (Chairman), Mrs. Legge, Messrs. Noble and Wardlaw. Messrs. Doner,



Hargraft and Marshall were also present at the Chairman's request.

## ADMINISTRATION

### COVERAGE – PRACTISING BOTH IN AND OUT OF ONTARIO

A member of the bars of Ontario, Manitoba and Saskatchewan, whose work comes 60% – 65% from the province of Ontario and the balance from Manitoba, wanted his whole practice to be covered by the Ontario policy. He was advised that the Ontario policy cannot cover work originating and being handled in his Manitoba office. The Ontario policy according to its wording “applies to acts or omissions committed by an insured in connection with his/her practice as a member of The Law Society of Upper Canada ...”

The member asked that the matter be considered by the Committee and pointed out that in Manitoba he is not required to carry insurance because they believe that the Ontario coverage is all that is required. A letter from Mr. Morland of Marsh and McLennan was before the Committee, as well as the correspondence between the Society and the member.

The Committee recommended he be advised that the Ontario coverage applies only to acts or omissions committed by an insured in connection with his practice as a member of The Law Society of Upper Canada, and does not cover his Manitoba practice.

### DIFFERENTIAL LEVIES

A member who practises in Toronto wrote to the Society urging that fresh consideration be given to a scheme of differential levies based on practice restrictions and loss experience. His letter was before the Committee.

The Committee recommended he be advised that the Committee gave careful consideration to his suggestions but concluded that at least for the present it would not be feasible to implement them.

## **PRACTICE ADVISORY SERVICE**

A report from the Director of the Practice Advisory Service dated March 1981 was before the Committee.

The Committee recommended that Messrs. Thom and Marshall be appointed to represent the Society on the Steering Committee for the alcoholism programme referred to in the Director's report.

The Committee recommended that the Director be authorized to attend at Yellowknife at the expense of the Law Society of The Northwest Territories to assist them in their Law Office Management and Risk Management Programmes.

## **INFORMATION**

### **COUNSEL FEES**

A list of fees paid in March 1981 was before the Committee.

*Noted*

### **ADJUSTERS' FEES**

A list of fees paid in March 1981 was before the Committee.

*Noted*

### **MONTHLY REPORT**

Mr. Hargraft's monthly report for March 1981 was before the Committee.

*Noted*

## **THE REPORT WAS ADOPTED**

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Mr. Brulé presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Mr. J. R. Barr (Vice-Chairman in the Chair), Mrs. Legge, Messrs. Noble, Ogilvie and

Wardlaw. Miss Morham, Messrs. Hargraft and Marshall were also present at the Chairman's request.

## POLICY

### TITLE INSURANCE

The Committee was asked to consider whether as a matter of policy the Society should encourage the availability of title insurance, either in addition to, or as an alternative to, the Society's compulsory coverage in the real estate area of practice.

The Committee recommended that the availability of title insurance not be encouraged for the following reasons:

1. Title insurance was developed in jurisdictions with quite different conditions of practice. The Ontario system of title registration does not exist in jurisdictions where title insurance prevails.
2. A separate premium is payable for title insurance coverage in respect of each title. The total cost of coverage in respect of transactions being handled by each law office would greatly exceed the cost of coverage under the present insurance plan. This expense would be passed on to clients and would result in an overall increase in the cost to the public of obtaining legal services.
3. Title insurance companies provide coverage only on the opinion of solicitors of their own choosing. Consequently if a client selects a lawyer who has not been approved by the title insurance company, the cost of the transaction is increased. The effect is to cause clients to select only lawyers who have been approved by title insurance companies and the number of these would be limited by criteria set by the company.
4. The protection afforded by title insurance is narrower than the protection afforded by the Society's insurance plan. Many difficulties arising in real estate transactions have nothing to do with title and would not be covered by title insurance, though they would be covered by the Errors and Omissions insurance policy.
5. Coverage under title insurance is limited to the value of the policy and would not provide full coverage if the value of the property had increased.

## ADMINISTRATION

### LAND TITLES OFFICE – EXECUTIONS

Mr. R. A. Hummel wrote to the Attorney-General for Ontario with a copy to the Law Society, the President of the

York Law Association and the Canadian Bar Association, about the problem facing solicitors who have to wait two to three hours in the Land Titles Office to have executions stamped and also the waiting time in the Sheriff's office to have the executions checked. The Ontario Law Reform Commission had been working on this problem and reported in September 1979. A final report was tabled in March this year.

The problem is a matter of concern to the Law Society in that it is a potential for loss under the errors and omissions insurance coverage. Some time ago, Mrs. Legge and Mr. Nathan Strauss represented the Law Society on a Special Committee of the Ontario Section of the Canadian Bar Association (Real Estate Section) which made submissions to the Attorney-General.

The Committee was asked to consider what action, if any, the Society should take.

The Committee recommended that the Chairman of this Committee with one or two of his nominees attend upon the appropriate Minister, place the facts before him and urge that appropriate action be taken.

#### **EXEMPTION FROM COVERAGE HOLDING OUT AS A PARTNER**

The Society requires members who are held out to be partners, to be covered whether or not, in fact, they are partners, and even though they are not engaged in practice. This position has been questioned and the Committee was asked to consider the application for exemption from coverage by a member who does not engage in practice but whose name forms part of the firm name and also appears on the letterhead under the heading "Associate Counsel". The correspondence was before the Committee.

The Committee recommended that the application be denied on the ground that the presence of the member's name on the letterhead exposes the member to liability.

#### **PRACTICE ADVISORY SERVICE**

A report from the Director of the Practice Advisory Service dated April 1981 was before the Committee.

*Noted*

## INFORMATION

### COUNSEL FEES

A list of fees paid in April 1981 was before the Committee.

The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	\$ 801.25	
1978	12,398.53	
1979	21,899.99	
1980	18,870.90	
1981	<u>200.00</u>	<u>\$ 54,170.67</u>

*Noted*

### ADJUSTERS' FEES

A list of fees paid in April 1981 was before the Committee.

<i>Fund Year</i>	<i>Amount Paid</i>	
Old Fund	\$20,532.12	
1977	2,971.90	
1978	6,220.73	
1979	10,756.30	
1980	36,032.98	
1981	<u>803.70</u>	<u>\$ 77,317.73</u>

*Noted*

### MONTHLY REPORT

Mr. Hargraft's monthly report for April 1981 was before the Committee.

Total of claims paid in April are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	\$40,554.68	
1978	44,626.33	
1979	88,141.20	
1980	95,540.60	
1981	<u>3,269.86</u>	<u>\$272,132.67</u>

*Noted*

THE REPORT WAS ADOPTED

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## **PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground**

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Doran (Vice-Chairman), Catzman, Fennell, Guthrie, Lerner, McWilliams, Outerbridge and Mrs. Sutherland.

### **POLICY**

#### **SUB-COMMITTEE ON THE LEGAL REPRESENTATION OF CHILDREN**

In April of 1980 the Committee appointed a Sub-Committee to inquire into the relationship between the child and his or her lawyer in child welfare proceedings.

The Committee approved the Sub-Committee's report and recommended to Convocation that the report be adopted and that the profession be advised.

In Convocation the Chairman accepted a change to one sentence in the report which, with the change incorporated, is as follows:

#### **REPORT OF THE SUB-COMMITTEE ON THE LEGAL REPRESENTATION OF CHILDREN**

##### **TO ALL MEMBERS OF THE PROFESSIONAL CONDUCT COMMITTEE**

Your SUB-COMMITTEE ON THE LEGAL REPRESENTATION OF CHILDREN begs leave to report:—

The Professional Conduct Committee appointed a sub-committee on legal representation of children in April of 1980 composed at that time of Professor Arthurs (Chairman), Roger D. Yachetti, Samuel Lerner and Roseanne Sutherland, to enquire into the relationship between the child and his or her lawyer in child welfare proceedings. Prior to the enactment in 1978 of s.20 of The Child Welfare Act, there was no statutory right for legal representation of children in child welfare proceedings. Section 20 provides:

20.—(1) A child may have legal representation at any stage in proceedings under this Part.

(2) Where on an application under this Part a child does not have legal representation, the court shall as soon as practicable in the proceedings, determine whether legal representation is desirable to protect the interests of the child and if at that or any later stage in the proceedings the court determines that legal representation is desirable the court shall direct that legal representation be provided for the child.

(3) In determining whether legal representation is desirable to protect the interests of the child under subsection 2 where,

- (a) the court is of the opinion that there is a difference in the views of the child and,
  - (i) the views of the society, or
  - (ii) the views of a parent of the child,
 and the society intends that the child be removed from the care of his or her parent or any other person or remain in the care of the society pursuant to an order under paragraph 2 or 3 of subsection 1 of section 30, as the case may be;
- (b) the child is in the care of the society and a parent is not present at any stage of the proceedings;
- (c) the child is in the care of the society and is alleged to be a child upon whom abuse, as defined in subsection 1 of section 47, has been inflicted; or
- (d) an order under section 33 excluding the child from the hearing is made or is likely to be made,

the court shall direct that legal representation be provided for the child unless, having regard to the views and preferences of the child where such views and preferences can reasonably be ascertained, the court is satisfied that the interests of the child are otherwise adequately protected. 1978, c.85, s.20.

With the implementation of s.20, there was obvious and widespread confusion amongst those members of the profession practising in this field as to what their role is in representing children.

Is the child to be treated as any other client? Or, should the lawyer act as the child's guardian and advocate his opinion as to the best interests of the child which may or may not conflict with the child's wishes. Or, is some combination of these roles appropriate. Further, if the lawyer is to represent the child's wishes, does the solicitor/client privilege prevent him from disclosing facts he has learned from the child which do not support the child's position. Does it make a difference if these facts indicate the child may be in a position of peril, or if the child is of an age where he or she appears to be able to "instruct" their lawyer.

As the nature of the relationship between the lawyer and the person he represents is generally a professional conduct matter, the Professional Conduct Committee appointed this Sub-Committee to consider the lawyer's role in representing children.

The Sub-Committee met on June 20, 1980 and approved the terms of reference of the Sub-Committee, which were published in The Ontario Reports with a request that interested members of the profession make submissions to the Sub-Committee. In addition, twenty-nine letters were sent to various organizations and persons concerned with child welfare asking for their submissions. The Sub-Committee received thirty submissions, some of which were quite lengthy and very thoroughly researched. The submissions

were circulated amongst the members of the Sub-Committee for their review.

Professor Arthurs resigned from the Sub-Committee due to other commitments and Ian W. Outerbridge was named in October 1980 as the new Chairman of the Sub-Committee. At the same time, a non-Bencher, B. Thomas Granger, was appointed to the Sub-Committee and Lloyd W. Perry, the Official Guardian, asked to meet with the Committee as a consulting member. A meeting of the Sub-Committee was held on November 21, 1980 at which Mr. Perry attended. Marion Lane, counsel for the organization, Justice for Children, met with the Chairman in his office on January 8, 1981 to discuss their interpretation of the role of counsel in representing children. A further meeting of the Sub-Committee took place on Thursday, March 12, 1981. In addition to the submissions as previously noted, members of the Sub-Committee met with the Official Guardian, Lloyd W. Perry, and also representatives of Justice for Children and audited a programme sponsored by that group especially related to the problem of child advocacy as it is referred.

The submissions presented widely different opinions of the role of the children's advocate. Even between different arms of the Provincial government, there were different points of view. The Office of the Official Guardian believes the appropriate role for the lawyer is to act as a guardian and advocate for what is in the best interest for the child as seen by the lawyer. This would include presenting the child's wishes to the Court as well as to the lawyer's opinion as to what is the best resolution of the matter which may or may not differ from the child's wishes. On the other hand, the submission of the Children's Services Division of The Ministry of Community and Social Services (as well as many other organizations) advocated the lawyer should treat his child client as he would any other client as long as the child has the capacity to state a preference as to the outcome of the court proceedings.

They do not see a need for amending the present Rules of Professional Conduct, both in connection with following the child client's instructions and the solicitor and client privilege. They maintain the rules of privilege should be the same for all clients, children and adults regardless of capacity. Justice for Children, an organization whose object is to promote and foster greater recognition of children's rights, also advocated there be no change in the Rules of Professional Conduct. They argued the reason for the s.20 amendment to The Child Welfare Act was to give children a voice in proceedings which affected their rights and future. They felt strongly that the child's voice should not be watered down by someone else's opinion of what is good for him, least of all by counsel appointed to represent him. They argue the lawyer is not trained to determine what is in the child's best interests, and furthermore, to do so in conflict with the child's wishes only increases the child's mistrust of the judicial process.

There has been some case law on what is the appropriate role of counsel in child welfare proceedings. The Sub-Committee reviewed two judgments from Family Court decisions that in some respects have different points of view as to the nature of legal representation contemplated by s.20. Your Sub-Committee is of the view that an appeal to a higher court is the only means of settling the substantive issue. The interpretation of statute is a matter for the courts, not the Law Society, to resolve in any event. In our opinion, the wording of s.20 is ambiguous and may encompass both the Official Guardian's

and Justice for Children's interpretation of "legal representation". Further, s.20(2) is unclear as to whom the court directs the legal representation.

It has always been the policy of the Law Society not to become involved in questions of law reform. In many of the submissions received, their view as to the appropriate role of counsel depended on the organization's or person's philosophical approach as to how society can best protect its children. Those in favour of a more paternalistic approach tend to favour the Official Guardian's viewpoint, while those who believe the legal principles of natural justice should equally apply to matters affecting children's rights as well as adults' tend to adopt the same point of view as the Justice for Children organization. While this debate as to the appropriate direction of our juvenile system is an interesting one, it is certainly not one in the opinion of your Sub-Committee for Professional Conduct or for Convocation.

We have been asked to consider whether the Rules of Professional Conduct should be changed to permit counsel representing children not to follow the instructions of the child if to depart from the instructions were, in counsel's opinion, in the child's "best interests". We were also asked to consider whether the Rule on solicitor/client privilege should be amended to permit disclosure when it would be in the "best interests" of the child.

Your Sub-Committee does not recommend there be any changes to the present Rules of Professional Conduct. These Rules are applicable when there is a true solicitor/client relationship. They would not apply if the intent of s.20 was to have a guardian-type of legal representation as is argued by the Official Guardian.

When the child does not have the capacity to fully understand the consequences of the proceeding he is involved in then the relationship with his or her lawyer is not the normal solicitor/client relationship. But this is not a new problem. Our profession has confronted this problem historically in the many criminal cases in which infants have had the benefit of defence counsel. It is with a more mature child who can be said to have a capacity to instruct his counsel that the problem arises. When there is concern that the child may be lacking in capacity to provide instructions, the appointment of a legal guardian may be necessary. If the child is mature and responsible enough to accept the consequences of his or her acts and decisions and understands fully the nature of the proceedings and can express a preference as to its resolution, the Committee tends to favour the traditional solicitor/client approach rather than the guardian-type of representation. Decisions as to the capacity of the child to properly instruct counsel must be determined by the individual lawyer in the particular circumstances. One of the factors that the lawyer would take into account in making this decision would be the ability of the child to accept rationally the advice he or she is receiving. If the child stubbornly, without reason, refuses to accept the advice of counsel, it may be that the child lacks the maturity to properly instruct counsel.

We have concluded that there should be no exception to the present Rule on solicitor/client privilege. The Rules now permit disclosure of confidential information to prevent a crime. Again, it would be up to the individual lawyer to decide if any breach of confidentiality is warranted in the circumstances. Obviously, the Rule only contemplates disclosure in extreme circumstances.



When the court directs under s.20 that legal representation is needed, the Official Guardian under its Child Representation Programme sees that representation is provided. The Official Guardian selects a lawyer on a rotation basis from a panel of lawyers who have completed a course on child representation presented by the Official Guardian's Office. The lawyer is paid by the Official Guardian's office. There may be a few cases where the child has expressed a preference for a specific lawyer. We are advised that the child's preference is simply a factor the Official Guardian's office considers in appointing the counsel and is not necessarily the determining factor. There is nothing in s.20 that refers to the Official Guardian's office providing counsel, but practically it would be difficult for a child to privately retain the lawyer of his choice. We did receive a submission that Legal Aid should provide assistance in this circumstance. Your Committee is of the view that at least in protection proceedings, the present system of providing a lawyer from the panel of lawyers kept by the Official Guardian's office is adequate. We understand that any lawyer can be on the panel provided they take the appropriate course. We fear that in some cases the child's choice of counsel may be really that of his parents or the Children's Aid Society.

The terms of reference arrived at, at the Sub-Committee's initial meeting, were very broad and included nearly every situation where a lawyer might be representing children. However, as the submissions dealt exclusively with child welfare proceedings, our recommendations were largely concerned with that particular forum. However, in criminal proceedings, which juvenile delinquency proceedings effectively are, it is the understanding of the Sub-Committee that the traditional solicitor and client role is presently adopted by most counsel. In our opinion, that is the appropriate role.

Even where a child may lack the capacity to properly instruct counsel, in our view there is no place in a quasi-criminal proceeding for counsel representing a child to argue what is in his opinion the best interests of the child. Counsel should not be deciding whether training school would be "good" for the child. Without wishing to be placed in the role of a substantive arbiter of the law, the Sub-Committee concluded that s.20 probably amounted to a recognition of the right of the child to counsel, and if counsel were, indeed, retained for the child, separate and independent from the provisions of s.20, subsection 2, that counsel would unquestionably have a relationship with the child which was in accordance with the ordinary rules of conduct. His duty would be to the child, and only to the child, subject to his duty to the court. The relationship of solicitor and client would be established, and there would be a solicitor and client privilege with respect to communications between the child and the lawyer. The situation must be directly related to the retainer of a child in criminal proceedings.

The lawyer, in such circumstances, would have to satisfy himself as to the ability of the child to give instructions. In the absence of capacity to give instructions, the lawyer is under a duty not to accept the instructions, and to advise the court that the infant, in his opinion, is incapable of giving instructions, at which point the Official Guardian should be notified by either the lawyer or the court.

The Sub-Committee did not believe that it was its place to offer any opinion as to how the Official Guardian should conduct his duties.



The Sub-Committee had difficulty in accepting that counsel appointed, under subsection 2 of s.20, was in any different position. The construction sought to be placed on subsection 2 by those supporting the view that the role of counsel was that of a quasi-guardian, was an interpretation which placed particular emphasis on the words "to protect the interests of the child", and seemed to be oblivious of the use of the phrase, "legal representation", which phrase is also used in subsection 1 and subsection 3 of s.20. If the Sub-Committee were called upon to make a determination of the substantive effect of subsection 2, the conclusion of the Sub-Committee would be that the phrase, "to protect the interests of the child" is not used in the subsection to modify the words "legal representation", but rather to describe the circumstances in which it would be desirable that such legal representation be appointed.

This interpretation is borne out by the subsequent wording of subsection 3.

In any event, the Sub-Committee cannot accept the view that there is any difference in the type of legal representation to be afforded under s.20(2) than is ordinarily afforded by a solicitor to his client as contemplated under s.20(1), and the relationship of the solicitor to the infant should be governed by the same rules, particularly the rules of confidentiality.

The Sub-Committee especially rejects the suggestion that there is a duty on the solicitor to make any disclosure to the court, or to anyone with respect to information in his possession acquired in the course of the solicitor and client relationship, even when, in the opinion of the solicitor, it is in the best interests of the child to act contrary to the child's instructions. The solicitor is not the judge of the best interests of the child, and is not, under any circumstances, to be excused for a breach of the solicitor and client relationship. If the solicitor does not believe he can accept the instructions of the child, then he should withdraw from the matter. He should, in all events, conduct himself as if he was acting for an adult.

The Sub-Committee rejects the suggestion that the solicitor has a duty to the court to advise the court, or to help or assist the court in its deliberation if such advice or assistance constitutes a disclosure of information which is otherwise privileged, or if it is to act contrary to the instructions of the client. No such duty exists upon a solicitor in law, and there is no special circumstances made out in the case of infants.

The Sub-Committee feels that if the legislature or the Ministry of the Attorney General is of the view that some special circumstances exist in the case of infants requiring some special form of representation, the legislature should be explicit in the wording of such legislation, and there should be no ambiguity whatsoever in such legislation. Particularly is this so where such legislation would, in the ordinary course, be entirely contrary to the traditional role of solicitor and client.

In making these observations, the Sub-Committee is very much aware of the current trend and thinking with respect to the handling of children and infants, and much aware of the need for counseling. The Sub-Committee does not believe its place is to either approve or disapprove of the use of the adversary process in these circumstances, but does remark upon the fact that

the legislature has sought to utilize the adversary process, and unless they legislate expressly to the contrary, one must assume that the process they are utilizing is the traditional one.

It is not the role of the Professional Conduct Committee to recommend changes in substantive law, nor is it the role of the Professional Conduct Committee to recommend changes in procedural law. Particularly, it is not the role of the Professional Conduct Committee to recommend the introduction of therapeutic or social work programs. The Sub-Committee does point out to all concerned that lawyers are not, by reason of their training, necessarily equipped to work in the fields of social work or in the fields of child psychology, and in the absence of any legislation, one might even question whether or not it is appropriate for that type of delegation to take place based solely on the criteria of "legal representation". The Committee feels that the phrase "legal representation" in itself confers the meaning that it is advice with respect to the legal rights of the child which is being provided, and that advice is being provided to the child, not to the parents, not to the court, and not to the society, but only to the child.

#### **SUB-COMMITTEE ON LAW CLERKS**

The Committee appointed a Sub-Committee to look into the role of law clerks in September 1979.

The Committee approved the Sub-Committee's report and recommended to Convocation that the report be adopted, but that before the profession is advised, the views of the Bench should be obtained as to the recommendations contained in the report.

Convocation directed that a copy of the report be sent to every Benchers with a request that the Benchers give careful consideration to it and write any comments they wish to make to Mr. Ground or Mr. Doran.

The report was withdrawn.

#### **MANAGEMENT COMPANY PROVIDING SALARIED LAWYERS TO LAW FIRM**

The Committee considered at its two most recent meetings the propriety of an arrangement whereby the management company of a law firm pays the salaries of three employed lawyers and then charges the law firm a contracted fee (which is approximately 10% greater than the salaries being paid to the lawyer employees by the management company). The law firm takes the position that the Law Society has in fact approved such an arrangement and that this approval was reported to the profession in the Minutes of Convocation held on July 17, 1980.

The Committee was of the opinion that this arrangement would mean that a corporation could carry on the practice of law which is not permitted under the existing Rules. Moreover, the Committee noted that the proposal which Convocation had before it on July 17th, 1980 concerned an employment agency, namely Technical Overload, which inquired into the possibility of supplying lawyers to law firms on a temporary basis.

A memorandum synthesizing the problem, together with copies of all relevant material including an excerpt from the Minutes of Convocation, was before the Committee and Convocation.

At the April Convocation this matter was referred back to the Committee in order that it could consider the case of *The Queen v. Campbell* decided by the Supreme Court of Canada in June of 1980.

After considering the Supreme Court's decision the Committee reaffirms its earlier position that this arrangement is not permitted under the existing Rules.

#### **THE REPORT AS AMENDED WAS ADOPTED**

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#### **CLINIC FUNDING REPORT**

Mr. Noel Ogilvie presented the Report of the Director of Legal Aid, dated 11th May, 1981, with respect to Clinic Funding.

#### **CLINIC FUNDING**

The Clinic Funding Committee submitted a report to the Director recommending funding for community legal clinics.

The Director recommended to Convocation that the report of the Clinic Funding Committee dated May 11, 1981 be adopted.

Set out below are the recommendations of the Clinic Funding Committee contained in the said Report:

The Clinic Funding Committee reviewed the initial decisions of the clinic funding staff with respect to funds for community clinics for the fiscal

period 1981/82, and recommended approval as follows:

<i>Clinic</i>	<i>Up to</i>
Bloor-Bathurst Information Centre	\$ 28,477
Canadian Environmental Law Association	208,295
Community Legal Education Ontario	186,902
Community Legal Services of Niagara South	106,823
Flemingdon Community Legal Services	111,453
Halton Hills Community Legal Clinic	76,783
Hastings and Prince Edward Legal Services	101,131
Industrial Accident Victims Group of Ontario	151,188
Injured Workers' Consultants	220,839
Jane Finch Community Legal Services	105,128
Landlord's Self Help Centre	79,097
Legal Assistance Kent	100,913
Legal Assistance of Windsor	221,444
London Legal Clinic	116,512
McQuesten Legal and Community Services	182,850
Metro Tenants Legal Services	182,691
Rexdale Community Information Directory	137,412
Riverdale Socio Legal Services	131,482
Strathcona Community Legal Services	112,247
Tenant Hotline	182,893
Thunder Bay District Native Legal Counselling Services	244,454
Toronto Community Legal Assistance Services	145,916
Waterloo Region Community Legal Services	77,258
York Community Services	76,103

### THE REPORT WAS ADOPTED

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### UNAUTHORIZED PRACTICE — Mr. Chilcott

Mr. W. D. Chilcott, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Wednesday, 8th April, 1981, which was not reached at the April Convocation.

The following members were present: Messrs. Chilcott (Chairman), Furlong, Strauss and White.

### INFORMATION

1. Three accounts were approved.
2. Two letters were received from a solicitor who complained that a Patent and Trade Mark agent was listed in the telephone directory, yellow pages, under the heading "Lawyers – patents, trademarks & copyrights". An announcement card, a copy of a newspaper article and an advertisement which appeared in the newspaper were also before the Committee. The Secretary was instructed to refer this matter to counsel for a prosecution.
3. A solicitor wrote complaining that a secretary-clerk was holding herself out as a barrister and solicitor at a branch office of a solicitor. The Secretary was instructed to refer this matter to an investigator to ascertain further information.
4. A discussion took place concerning divorce kit advertisements in newspapers. The Secretary was instructed to further investigate this matter.
5. A solicitor indicated in a letter that an individual was about to commence incorporating companies and forwarded a written opinion of a solicitor given to a client, that the proposed activities of the individual did not contravene Section 50 of The Law Society Act. However, by reason of the fact that there was no evidence that the individual has incorporated companies, the Secretary was instructed to write to the solicitor, advising that the matter had been considered and that no action will be taken at the present time.

### THE REPORT WAS ADOPTED

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Mr. Chilcott presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Chilcott (Chairman), McWilliams, Shaffer and Strauss.

### INFORMATION

1. One account was approved.
2. A solicitor indicated a concern that an individual may be



holding herself out as a solicitor. The Secretary was instructed to write to the solicitor who complained thanking her for sending the material to the Society and advising her that there is insufficient evidence of unauthorized practice under Section 50 of The Law Society Act.

3. A solicitor advised that an individual was carrying on the business of incorporating companies, processing estates of deceased persons and doing other paralegal services. The individual indicated that his organization had been approved by the Law Society. The Secretary was instructed to write to the individual informing him that the Society understands that he has advised some of his clients that his organization has received approval from the Law Society. The letter should request that the individual provide the Society with the specific details of any approval he feels he has received from the Society. The Secretary was instructed to retain counsel to obtain a legal opinion to see whether the organization carried on by the individual is practising law.

4. An agency's brochure which offered various services was submitted by a solicitor. The Secretary was instructed to write to the agency to express the Society's concern that the use of phrases such as legal advice and legal counselling in the brochure appears to be unauthorized practice and the Society's request that the agency cease and desist using phrases such as these or phrases with similar import.

5. A solicitor forwarded an advertisement which indicated that a company may be holding itself out as a solicitor by incorporating companies. The Secretary was instructed to write to the solicitor complaining and advise him that the Society is investigating the matter. Final consideration of this matter is to be deferred until the legal opinion referred to in item 3 has been received.

#### **THE REPORT WAS ADOPTED**

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#### **DISCIPLINE COMMITTEE—Mr. Genest**

**Re: C. ABDUL RASHID, Toronto**

Mr. R. D. Yachetti, Vice-Chairman, placed the matter

before Convocation.

The reporter was present.

The solicitor did not attend, nor was he represented by counsel. Mr. Ian J. Roland appeared for the Society.

Convocation had before it the Report of the Discipline Committee, dated 1st May, 1981, together with an Affidavit of Service, dated 4th May, 1981, by Heather Ann Werry, that service had been effected on the solicitor by registered mail on 1st May, 1981, and a further Affidavit of Service, dated 6th May, 1981, by Steven Csamer, Process Server, that personal service had been made on the solicitor on 6th May, 1981.

Mr. Roland advised Convocation that proper service had been made on the solicitor.

The Benchers had received copies of the Discipline Committee's Report prior to Convocation and waived the reading of the Report.

The Report of the Discipline Committee, dated 1st May, 1981, found that the solicitor was guilty of professional misconduct; he had misappropriated over \$50,000 of clients' trust funds.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 1st May, 1981, be adopted.

Counsel and the reporter returned.

Counsel was advised of the motion that had been adopted.

Convocation was informed that the Recommendation as to Penalty of the Discipline Committee is that the solicitor should be disbarred.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel was advised of Convocation's disposition of the matter.

Counsel and the reporter retired.

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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 The Honourable Mark MacGuigan, P.C., Secretary of State for External Affairs, The Honourable Mr. Justice Mayer Lerner of the High Court of Justice for Ontario, and Mrs. Catherine Anderson, Executive Assistant to The Honourable Mark MacGuigan.

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# **CONVOCATION RESUMED AT 2:30 P.M.**

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## **PRESENT:**

The Treasurer and Messrs. Arthurs, Barr, Bynoe, Carter, Carthy, Cass, Chilcott, Furlong, Ground, Guthrie, Mrs. Legge, Messrs. Noble, O'Brien, Ogilvie, Pepper, Ruby, Scace, Mesdames Sutherland and Tait, Messrs. Thom, White, Willoughby and Yachetti.

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## **DISCIPLINE COMMITTEE (Continued)**

**Re: DAVID ROY GILBERT, Toronto**

Mr. Yachetti placed the matter before Convocation.

The reporter was present.

Mr. Pepper withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. R. S. Paddon, Q.C. The Society was represented by Mr. T. H. Rachlin, Q.C.

Convocation had before it the Report of the Discipline Committee, dated 27th April, 1981, together with an Affidavit of Service, dated 30th April, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 27th April, 1981.

The Benchers having received copies of the Report prior to Convocation, the reading of the Report was waived.

The Report of the Discipline Committee, dated 27th April, 1981, found that the solicitor was guilty of professional misconduct. Having retained the sum of \$935 to pay an account on behalf of a client, he failed to pay the said account; he misled the Law Society, when it enquired as to the payment of this account, by stating in five letters that the account had been paid when in fact it had not been paid; he failed to produce the requisite documents to the person designated by the Law Society to investigate his books and records, and to maintain proper books and records; and he drew monies improperly from his trust account and failed to maintain a sufficient balance in his trust account to meet all his obligations to clients.

Mr. Paddon made submissions respecting the Report.

Mr. Rachlin made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 27th April, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's action.

The Recommendation as to Penalty of the Discipline Committee was read to Convocation and was that the solicitor:

- (a) be reprimanded in Convocation;
- (b) be ordered to pay the Society's costs;
- (c) be ordered to provide to the Society no later than the 15th of the month following a monthly listing of his trust obligations and a trust bank reconciliation, such reports to be delivered for a period of nine months.

Mr. Paddon filed a letter, dated 12th May, 1981, from Mr. M. C. Detheridge, C.A., advising Mr. Paddon that the solicitor's books and records were current as of 30th April, 1981, and that his trust bank account and clients trust ledger were in balance as of that date.

Mr. Paddon asked that the penalty not be published. He was informed that if the solicitor is reprimanded in Convocation, publication must follow.

Mr. Paddon asked that the matter be referred back to the Committee for the penalty of reprimand to be administered there.

Mr. Rachlin made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that by Order the solicitor:

- (a) be reprimanded in Convocation;
- (b) be ordered to pay the Society's costs;
- (c) be ordered to provide to the Society no later than the 15th of the month following a monthly listing of his trust obligations and a trust bank reconciliation, such reports to be delivered for a period of nine months.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been carried, and the solicitor was informed of his right of appeal. The solicitor waived his right of appeal and requested that the Order of Reprimand in Convocation be carried out forthwith.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

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**Re: DAVID A. WETMORE, Toronto**

Mr. Yachetti placed the matter before Convocation.

The reporter was present.



The solicitor attended without counsel. The Society was represented by Mr. W. Michael Temple, Q.C.

Convocation had before it the Report of the Discipline Committee, dated 1st May, 1981, together with an Affidavit of Service, dated 4th May, 1981, by Deborah Anne Witthames, that service had been effected upon the solicitor by registered mail on 1st May, 1981.

The Benchers had received copies of the Report prior to Convocation. With the concurrence of the solicitor, the reading of the Report was waived.

The Report of the Discipline Committee, dated 1st May, 1981, found that the solicitor was guilty of professional misconduct; he had failed to report and account promptly to a client respecting a real estate trust transaction, and had failed to file with the Society the required reports respecting his practice.

The solicitor made no submissions with respect to the Report.

Mr. Temple made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 1st May, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been carried.

The Recommendation as to Penalty of the Discipline Committee was read to Convocation as follows: "that David A. Wetmore be reprimanded in Convocation and ordered to pay the costs of the Society incurred in the investigation and the hearing of this Complaint, within ninety days of such order being made." The solicitor's prior record of disciplinary action by the Society was read to Convocation also.

The solicitor made no submissions respecting penalty.

Mr. Temple made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the solicitor, by Order, be reprimanded in Convocation and ordered to pay the

costs of the Society incurred in the investigation and the hearing of the Complaint, within ninety days of such Order being made.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion respecting penalty that had been carried in Convocation, and the solicitor was informed of his right of appeal.

The solicitor waived his right and requested that the Order of Reprimand in Convocation be carried out forthwith.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

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#### **PUBLIC RELATIONS COMMITTEE—Mr. Goodman**

Mr. L. S. Willoughby presented the Report of the Public Relations Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Goodman (Chairman), Farquharson, Outerbridge and Willoughby. Mr. Beaufoy was also present at the Chairman's request.

#### **ADMINISTRATION**

##### **PAMPHLETS**

The Society issued five pamphlets covering Wills, Car Accidents, Buying a House, Partnerships, and Know Your Lawyer.

38,000 pamphlets were distributed and there remain 1,600 on Partnerships. Distribution was through Legal Aid Area Offices, 35 Community Legal Clinics and 5 Legal Aid Societies. The pamphlet entitled "Know Your Lawyer" was popular among high school law teachers.

The Committee was asked to consider reprinting some or all of the pamphlets with amendments where needed and to consider having fresh pamphlets on new topics prepared.

The Committee recommended that the pamphlets be redesigned to put the title in the top third and checked as to whether the information requires amendments, and that all of

them be amended to include reference to lawyer referral and Legal Aid, at an estimated cost of \$17,000.

### **THE REPORT WAS ADOPTED**

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### **UNFINISHED BUSINESS**

Mr. Pepper, the Chairman of the following Special Committees, not having returned to Convocation, the Reports of the Committees were directed to stand: J. Shirley Denison Bequest, Investments.

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### **DISCIPLINE COMMITTEE (Continued)**

#### **GENERAL REPORT**

Mr. Yachetti presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Ogilvie (Vice-Chairman), Cass, Catzman, Ruby and Mrs. Sutherland.

#### **POLICY**

#### **DEFINITION OF SOLICITOR/CLIENT RELATIONSHIP IN THE GUIDELINES**

Convocation referred to this Committee the question of what is included in the term in Paragraph 1 of the Guidelines for the Compensation Fund "solicitor/client relationship". Recent Referees' Reports have indicated that there has been a development in the thinking of what is included in the solicitor/client relationship. Seven years ago, the Referees were of the opinion that there must be a prior transaction between the solicitor and the client so that when the funds were advanced by the client to the solicitor it could be said that there then existed a solicitor/client relationship. In recent years Referees' Reports indicate that a prior transaction is not necessary and

the advancing by a client of funds to a solicitor to invest in a mortgage on a specific property for a specific term and interest rate would create the relationship of solicitor/client which would result in a successful claim to the Fund.

The Committee recommended that the Sub-Committee reviewing the 1975 Report of a sub-committee, chaired by Mr. Finlayson, that looked into procedures in the light of defalcations, consider this matter.

## ADMINISTRATION

### REGULATION ON BANKRUPT LAWYERS

The question of the adequacy of the protection afforded by the Society's Regulation respecting members who become bankrupt has been raised by the President of the Hamilton Law Association.

The Committee recommended no further action be taken. The Secretariat is to draw up standard procedures to follow when notified of a solicitor's bankruptcy.

### COMPENSATION FUND LEVY FOR ENSUING YEAR

A copy of Mr. H. O. Stinton's report of April 30th, 1981 and a yearly comparison for the period 1970-81 were before the Committee and Convocation. In his report Mr. Stinton recommended that the Compensation Fund Levy for 1981-82 remain at \$90 per member.

The Committee recommended that the Compensation Fund Levy for 1981-82 be set at \$100 per member.

It was moved in Convocation, seconded and *lost* that the Compensation Fund Summary for 1981-82 remain at \$90.

## THE REPORT WAS ADOPTED

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### COMPENSATION FUND SUMMARY

Mr. Noel Ogilvie, Vice-Chairman, presented the Compen-

sation Fund Summary for the period ended 30th April, 1981.

### COMPENSATION FUND SUMMARY

For the Period from 1st July, 1980 to 30th April, 1981

(10 months)

TOTAL RECEIPTS	\$ 1,400,726.93
TOTAL DISBURSEMENTS	<u>\$ 626,591.40</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 774,135.53
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,348,117.24</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$12,546,080.06</u></u>

### THE SUMMARY WAS RECEIVED

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### LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Arthurs, Barr, Catzman, Doran, Lamont, Lerner, Noble, Scace, Shibley, Mrs. Tait, Messrs. Wardlaw and Willoughby.

### POLICY

#### FORMULATION OF POLICIES FOR DEALING WITH BAR ADMISSION COURSE PETITIONS

The Director was requested to prepare a report on the formulation of existing policies dealing with typical petitions from candidates who are entering the Bar Admission Course. The Director's report dated April 29th, 1981 was before the Committee.

The Committee recommended that the report be adopted.



Convocation directed that this item stand and that copies of the Report be forwarded to the Benchers for their comments.

## **BAR ADMISSION COURSE ARTICLING INTERVIEWS**

The Ontario Association of Law School Articling Committees made representation to the Chairman concerning the policy adopted by Convocation on the interviewing and hiring of articling students. A letter dated April 9th, 1981, from Shane Brown, on behalf of the Association, addressed to the Chairman and the Chairman's reply dated April 15th, 1981 were before the Committee.

The Committee recommended that no change in the policy be made at this time and that an item be included in the Communique reminding the profession of the policy adopted by the Society.

## **PROPOSAL FOR PART-TIME COURSES LEADING TO AN LL.B. DEGREE**

The Society has received a letter from Scott Forsyth, Project Co-ordinator of The Levy-Coughlin Partnership which is conducting a study on part-time education in Ontario universities for the Ontario Ministry of Colleges and Universities. The Society is asked to state its policy on part-time degree credit education in law and among other things, to give its reasons for such policy. Mr. Forsyth's letter dated March 26th, 1981 was before the Committee.

The Committee recommended that the Chairman respond to the letter in the terms discussed in Committee. A copy of the Chairman's reply was before Convocation.

## **NEW COMBINED LL.L./LL.B. PROGRAMME AT OTTAWA UNIVERSITY**

The Society was advised that the Senate of the University of Ottawa has given approval to a new combined LL.L./LL.B. programme which will be put into effect September, 1981. A letter dated February 10th, 1981 written by Professor B.K. Arlidge to the Secretary with an attached information sheet

outlining the programme, a copy of the Director's letter of April 2nd, 1981 to Professor Arlidge and the latter's reply of April 13th, 1981 were before the Committee and Convocation.

The Committee recommended that the amended special LL.L./LL.B. programme of the Faculty of Law of the University of Ottawa be approved.

## **ADMINISTRATION**

### **1982 MARCH SPECIAL LECTURE SERIES**

It was recommended that the 1982 March Special Lecture Series be held at Osgoode Hall on Thursday, Friday and Saturday, March 4th, 5th and 6th, 1982, and further that the Chairman and Vice-Chairman be appointed with power to add and to plan the content and form of the Series.

The Committee recommended that Mr. Catzman and Mr. Doran be appointed Chairman and Vice-Chairman respectively of the 1982 March Special Lecture Series.

### **BAR ADMISSION COURSE 1981-82 TEACHING TERM TIMETABLE**

The Director recommended that the draft timetable for the 1981-82 teaching term be adopted and approved.

The Committee recommended that the timetable for the 1981-82 teaching term be approved as amended.

### **BAR ADMISSION COURSE 1980-81 FINAL REPORT OF THE BOARD OF REVIEW**

The final report of the Board of Review for the 22nd Bar Admission Course 1980-1981 was before the Committee.

*Received*

### **BAR ADMISSION COURSE FACULTY CHANGES**

Mr. Joseph W. O'Brien, Q.C., resigned as Head of Section of the Bar Admission Course section on Civil Procedure II.

Mr. James MacDonald, Q.C., resigned as Head of Section of the Bar Admission Course section on Family Law.

The Director recommended that Mr. Philip M. Epstein be appointed Head of Section of Family Law for 1981-82.

The Committee recommended that the foregoing changes in faculty be accepted and approved.

#### **BAR ADMISSION COURSE HERBERT EGERTON HARRIS ADVOCACY SCHOLARSHIP**

The Herbert Egerton Harris Advocacy Scholarship is awarded annually to the student obtaining the highest combined marks in Civil Procedure I and Civil Procedure II in the teaching term of the Bar Admission Course. The award is made out of the interest of a capital sum paid to the Law Society Foundation three years ago by the partners of Mr. Harris in honour of his many years at the advocacy bar. A number of members of the marketing board of the Ontario Federation of Agriculture have together raised a sum of money in excess of \$5,000 which they wish to have added to the Herbert Egerton Harris Advocacy Scholarship fund with the intention that the income from the two funds will be used to provide a first and second prize for the highest and second highest combined marks in Civil Procedure I and Civil Procedure II. The letter of 29th April, 1981, from Mr. J. R. Barr, Q.C., to the Director was before the Committee.

The Committee recommended that the said prize be accepted and approved.

#### **SPECIAL PETITIONS**

Nineteen petitions were before the Committee for consideration. Three were appeals from failure in the 22nd Bar Admission Course and the Committee recommended that these be referred to the sittings of the Committee established to consider such appeals. One was for permission for the late filing of an application for admission as a student member. This petition was accompanied by supporting documents, fee and penalty and a similar petition had been presented to the Admissions Committee. The Committee recommended approval of this petition.

Nine petitioners sought permission to defer entry into the teaching term of the Bar Admission Course for one year to

September 1982. Seven wished to pursue post-graduate studies, one to teach on the faculty of law at an approved university and one to enter into service under articles in Edmonton for qualification for admission to the Alberta Bar. The Committee approved all nine petitions.

Five petitioners whose credentials had been assessed by the Joint Committee on Foreign Accreditation expected to complete the requirements imposed by the Joint Committee and to receive Certificates of Qualification from the Joint Committee before September 1981. Each petitioner asked that service under articles for a three-month period from June to September 1981 be accepted in full of the articling requirement for admission to the Bar Admission Course and that upon receipt of his Certificate of Qualification he be permitted to enter the teaching term of the Bar Admission Course. The Committee recommended that in each case the petition be denied and the petitioner advised that on receiving the Certificate of the Joint Committee, he should proceed in the same manner and subject to the same requirements as a candidate graduating from law school with an LL.B. degree.

Finally, the Committee gave consideration to the petition of a member of the Bar of New Brunswick who had been called in 1971. From September 1971 to March 1974 this petitioner was employed by the Royal Trust Company in Montreal as a trust officer, working in the area of estates and trusts. Since April 1974 the petitioner has been a corporate counsel with the Royal Bank of Canada and is now senior counsel providing legal services to the domestic and corporate operations of the bank. As a corporate counsel in Montreal the petitioner was given restricted membership in the Bar of the Province of Quebec. The petitioner proposed to move to the District Law Department of the Royal Bank in Toronto and to article to a member of The Law Society of Upper Canada in that Department. The petitioner asked the Society to do as follows:

1. Waive the five year requirement under subsection (4a) of Section 26;
2. Waive or alternatively, reduce the requirement under subsection (4) of Section 26 to serve under articles of clerkship from twelve consecutive months to:
  - (a) three consecutive months articling beginning June 1st, 1981; or

- (b) nine consecutive months articling beginning December 1, 1981 which period will include holidays not exceeding two weeks; or
  - (c) any other period of articling up to twelve consecutive months considered appropriate.
3. Reduce the number of courses to be taken under the Bar Admission Course pursuant to subsection (4) of Section 26 of The Law Society Act.

In November 1979 the petitioner asked the Society for similar relief. At that time the Committee recommended, and Convocation approved, that the five-year limitation under Regulation 26(4a) be extended to permit the petitioner to enter the Bar Admission Course in the event of her prospective move to Toronto, that her request respecting service under articles stand pending further information and particulars from her concerning her move to Ontario and her work in relation to the law of Ontario, and that her request to take less than the whole of the teaching term of the Course be denied.

With respect to the three requests in the petition before it, the Committee recommended:

1. That this request be allowed;
2. That the petitioner be required to serve the prescribed period of service under articles in Ontario and that this request be otherwise denied;
3. That this request be denied.

## INFORMATION

### BAR ADMISSION COURSE AND CONTINUING EDUCATION

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 30th April, 1981, and reviewed a statement setting out the Continuing Education programmes presented in April 1981 and the publications report for the month of April 1981.

### THE REPORT AS AMENDED WAS ADOPTED

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## LIBRARIES AND REPORTING COMMITTEE—

Mr. Farquharson

Mrs. R. M. Tait presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Farquharson (Chairman), Lerner, Shaffer, Shibley, Mrs. Tait and Mr. Willoughby. Messrs. G. W. Howell and D.V. Burnett were also present.

## ADMINISTRATION

### COMPUTER SEARCHING SERVICE

The Committee heard a report from Mrs. MacIver, Librarian of the County of York Law Association, concerning the operation of the Computer Searching Service which has been installed and is operating on a test basis in the County of York Library. This matter was deferred until the June meeting to consider Mr. Howell's cost analysis.

## COUNTY AND DISTRICT LAW LIBRARIES

### ANNUAL GRANTS

The Associations listed below have sent in their Annual Returns for the year 1980. The amounts of the grants which they should receive under the Regulation in 1981 and those which they received in 1980 are as follows:

	1980	1981
Brant	\$2,000	\$2,000
Hamilton	2,000	2,000
Lambton	1,845	2,000
Muskoka	1,220	1,565
Peel	2,000	2,000
York Region		2,000
Sudbury	2,000	2,000

*Approved,* subject to the approval of the Finance Committee.

**REPORTING****ONTARIO REPORTS – COPYRIGHT**

The Secretary submitted letters from Gordon Henderson, Q.C., and Bruce C. McDonald concerning the wording of the copyright notice in the Ontario Reports. After a discussion concerning the legal opinion of counsel for the Law Society, this matter was deferred until a special meeting of the Committee at 1:30 p.m.; on Thursday, June 18th, 1981.

**INFORMATION****BOOK LIST**

A list of 19 new acquisitions by the Great Library was approved.

**GIFTS AND DONATIONS**

The following books were donated to the Great Library:

Eileen Mitchell Thomas, Q.C., Ottawa	4 Volumes of texts
Directors of the Health League of Canada	<i>Hieronymous Fracastorius</i> by The Hon. W. R. Riddell (for the Riddell Collection)

*Noted*

**COUNTY AND DISTRICT LAW ASSOCIATIONS****COUNTY LAW LIBRARY VISITS**

The Committee had before it Mr. Howell's report of his visits to the following Associations: Grey, Bruce, Hamilton, Peel, Victoria.

*Noted*

**REPORTING****ONTARIO REPORTS**

The Secretary reported that the Society had received a credit of \$8,592.65 as a result of an increase of the DLR pick-up for the quarter, January 1st to March 31st, 1981.

*Noted*

**REPORTING****CANADA LAW BOOK DATA BASE**

The Secretary submitted a copy of Mr. Mark's letter of November 11th, 1980, in which he requested the consent of the Society to permit Canada Law Book Limited to add to its Data Base the cases published in the Ontario Reports but not published in either DLR or CCC. As the copyright is in the Society, the Society's consent would be necessary. The Secretary submitted a copy of a letter from James Dube of July 15th, 1980 in which he gives his legal opinion on the matter. This matter was deferred to a special meeting of the Committee to be held at 1:30 p.m., on Thursday, June 18th, 1981. (Mr. Shibley took no part in the discussion and refrained from voting.)

**THE REPORT WAS ADOPTED**

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**LETTER FROM DEAN STANLEY M. BECK****OSGOODE HALL LAW SCHOOL OF YORK UNIVERSITY**

The Treasurer read a letter dated 7th May, 1981, from Dean Stanley M. Beck announcing that Mr. George A. Johnston, Q.C., for many years the Society's Chief Librarian and now its Archivist, will receive an honorary degree at York University on 12th June, 1981, at 2:30 p.m. and extending to members of the profession an invitation to attend.

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**CONVOCATION ROSE AT 4:05 P.M.**

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Confirmed in Convocation 19th June, 1981.

**JOHN D. BOWLBY**

Treasurer

# **MINUTES OF SPECIAL CONVOCATION (ABRIDGED)**

Friday, 22nd May, 1981  
9:30 a.m.

## **PRESENT:**

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Arthurs, Barr, Brulé, Bynoe, Carter, Carthy, Cass, Catzman, Cooper, Doran, Fennell, Ferrier, Finlayson, Furlong, Genest, Ground, Guthrie, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, Noble, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Shaffer, Shibley, Mesdames Sutherland and Tait, Messrs. Tebbutt, Thom, Tobias, Wardlaw and Yachetti.

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## **SPECIAL COMMITTEE ON THE PEAT, MARWICK REPORT**

Mr. G. D. Finlayson, Chairman, presented the Report of the Special Committee on the Peat, Marwick Report dated 15th May, 1981.

## **REPORT OF THE BENCHERS AD HOC COMMITTEE ON THE PEAT, MARWICK REPORT CONCERNING THE LAW SOCIETY OF UPPER CANADA**

Members of the Ad Hoc Committee of Benchers (the "Committee") appointed by the Treasurer have considered, and discussed at several meetings, the report prepared by Peat, Marwick and Partners entitled "A Review of the Secretariat of the Law Society of Upper Canada", dated March, 1981 (the "Report"), copies of which were distributed to Benchers at Convocation on April 16.

The basic premise of the Report is that the Secretariat should be reorganized to meet the considerable challenges confronting the Society. The Committee favours acceptance of this premise and of the Report, except for changing certain provisions on the administrative side, and for certain changes in titles to be consistent with statutory requirements. (The present

structure of the Society is established by The Law Society Act. Section 8 provides that the Secretary is the chief administrative officer of the Society. No change in the title of this office can be made without an amendment to the statute.)

While we accept the Report's recommendations, which seek to establish specific areas of authority and lines of accountability for the Society's professional staff, we believe that some suggestions in the Report do not reflect the unique nature of the Society's operations. In its approach to the problems of the Society, the Report has tended to look to business precedents to create a new structure for the Society. This approach would be valid to the extent that the Society's operations closely resemble those of a large business. However, only to a limited extent is there such a resemblance. A business has a product to sell; it must find and keep its customers; it must sell its products; it must manage its production costs and must produce a profit. In contrast, the Society has a statutory obligation to represent and be responsible to the public for its professional members — a restricted, clearly defined "clientele". Its income is fixed by levy on its members and by grants. It has no product to sell and, more important, it is a non-profit organization which recovers only those costs which are necessary to maintain its operations.

Moreover, the Society has a number of duties and functions which are not part of the job of any business corporation. For instance, a wide-ranging and deeply-established pattern of activities relating to the professional aspects of the practice of law in the province is a particular and unique facet of the Society's operations. The Society has been functioning for close to two hundred years. It occupies a building that it built for itself one hundred and fifty years ago that is very much a part of the life of the profession. Customs and observances have grown up which play a large part in the activities of the Benchers and the profession.

Legal education has always been and still is at the centre of the Society's work and purposes. Since its inception the Society has exercised governance over the legal profession in this province, including control over legal education. The Society's role remained virtually unchanged until the 1950's, when responsibility for legal education was rightly shared with the universities. This development did not result in a diminution of



the Society's leadership in the field. The Bar Admission Course and the ever-expanding need for continuing legal education of the profession made sure that this did not happen.

The Society makes submissions relating to professional matters to various bodies including the Ontario Cabinet and the Professional Organizations Committee. It maintains professional contacts with the Canadian Bar Association and other professional organizations. There are further contacts between the Society and members of the profession, the government, and the public at large, quite apart from complaints as to professional services.

The Society publishes the Ontario Reports, one of the major series of law reports in Canada, publishes its own magazine "The Law Society Gazette", circulates to its members a regular informational bulletin entitled Communiqué, and sends reports and correspondence to the profession on a wide variety of matters.

The Society also stays in touch with its membership, and consequently with the public, on matters of current interest to it and the Society by letters from the Treasurer and the Secretary and where considered appropriate by formal questionnaire. This written communication is over and above informal visits by the Treasurer and other Society officials to the County and District Law Associations which supplement the formal annual meeting and the Statutory County and District Law Association meeting with the Society. These various tasks of communication require skilful handling by a well-informed and well co-ordinated staff.

Discipline matters are occupying the attention of both the Bench and the Secretariat to an increasing extent, and these matters generate tasks of processing public enquiries and complaints, investigation, preparation and follow-up which must be performed by the Society's staff, thus diverting them from other activities.

The Society has been propelled into the responsibility for operating a Compensation Fund and an Errors & Omissions Insurance Fund which demand a staff which is large, skilled, and adept in the intricacies of the insurance business.

And so it goes. There has been growth in all areas: education, libraries, admissions and transfers. In each case, new

and different demands are being placed upon the Secretariat. In general, the Society has new needs for a staff which is sophisticated, deployed to maximum advantage, and appropriately directed.

It is of particular concern to the Committee that the special needs on what might be termed the "professional" side of the Society, in contrast to the "financial and administrative" side, be fully recognized. Adequate scope must be provided for them in any organizational framework which is devised to embrace the Society's activities.

By the same token, the Committee stresses the fundamental importance of introducing into the Society's organizational framework appropriate functions and lines of responsibility to accommodate its rapidly increasing business, financial and administrative requirements. As noted in the Report itself, over the past decade membership in the Society has doubled to more than 14,000, and is increasing by over 1,000 per year; professional insurance claims activity has quadrupled, and new or expanded services have been put in place. At the same time, the Secretariat has doubled in size to more than 150 persons, with an annual operating budget now in excess of \$4,000,000 reflecting both the increased numbers of staff and inflationary pressures.

During this period of expansion — and for some time previously — there has been little fundamental change in the modus operandi of the Society, and administrative and executive management practices have not kept pace with the Society's growth nor with its increasingly complex role.

The Committees of Convocation, which are directly absorbing the shock of this expansion, have been called on to give increasingly greater commitments of their time. General agreement exists that there is a severe lack of staff support in organizing and assisting in the work of these committees. It is urgent that steps be taken to correct this. In some instances the committees have felt that the Society's "civil service" has not been able to provide the necessary assistance to enable them to carry out their work effectively and efficiently. All of these factors point to the validity of the recommendations in the Report for modernizing and expanding the capabilities of the Society on the financial and administrative side.

The report of this Committee does not recommend any change in the direct reporting relationship which now exists between the staff of the Secretariat and Committees of Convocation. This is deliberate. Our Committee feels very strongly that the long-established committee system which has served the Society so well through the years should be preserved, and strengthened. Indeed, it is the firm hope of this Committee that its recommendations will revitalize the committee system by providing the support staff which will reduce detail to the minimum and permit those committees to concentrate on broad administrative and reporting responsibilities and still permit sufficient time for the policy-making function on which they are so eminently qualified to advise. The Committee strongly recommends both that the direct reporting relationship between the Secretariat and committees be kept, and that the committees issue clear directives to the members of the Secretariat who deal with them about what is expected of them in this separate reporting function.

The Committee in principle favours the formation of an Executive Committee as proposed in the Report, which would include the Treasurer and chairmen of major committees. This committee structure is portrayed in chart form in Exhibit 3 of the Report. However, the Special Committee on Convocation, which is chaired by Professor Harry Arthurs, has been clarifying the roles and defining the relationships of the committees to each other and to the Secretariat, and it appears the work of that Special Committee, in part, will deal with the function of an Executive Committee. Accordingly, this Committee defers to the work of the Special Committee for particular recommendations as to the nature and attributes of an Executive Committee. On the revised organizational chart it will be seen that the Executive Committee is positioned so as to appear advisory in nature and not as part of any proposed chain of reporting responsibility.

To reflect the foregoing comments, the Committee favours several revisions to the proposals in the Report. These revisions, in descriptive terms, are as follows:

- (i) the title "Executive Director" replaced by the title "Secretary";
- (ii) formation of an Executive Committee;

- (iii) segregation of the Bar Admission Course and the Continuing Legal Education Program from other professional purposes programs, as a separate grouping of functions. (Because of the recent decision of the Legal Education Committee as approved by Convocation to have separate senior personnel in charge of Continuing Legal Education and Bar Admissions, the suggestion is that there be a Director for each function and that the appointment of a Deputy Secretary — Education be contemplated for the future.)
- (iv) the title “Senior Director” replaced by the title “Deputy Secretary” for those officials directly beneath the Secretary on the organizational chart; and
- (v) clarification that the Deputy Secretary — Professional Purposes, has direction generally of the professional staff, including responsibility for counsel, auditors and secretarial support for both disciplinary and professional concerns.

There was considerable discussion within the Committee as to the advisability of being too precise in defining reporting functions at the third level (the level below the deputy secretaries) on the organizational chart. It is emphasized that at this level the suggestions are tentative and that by carrying out the recommendations that will affect the upper levels, and with the benefit of experience, adjustments in the reporting function at the third level may well be made in the future.

The Committee has formed its views based on devising (or revising) an organizational structure that will serve the Society well into the future. This report is not concerned with personalities or questions of present incumbents. No recommendations are now being made by the Committee, nor are any implied, as to who ought to fill the positions contemplated in the revised organizational structure. The Committee anticipates that Society personnel will be available to be considered for these positions, along with others who may apply, and that there may also be advertising for candidates to fill new positions.

It was moved in Convocation, seconded and *carried* that the Report of the Special Committee be adopted.



Mr. Robert Humphrey of Peat, Marwick & Partners attended Convocation to answer questions from the Benchers relating to the Peat, Marwick Report. Following the question period Mr. Humphrey withdrew from Convocation.

The Treasurer advised Convocation that he would be appointing a new Special Committee to deal with the implementation of the Report and that such new Special Committee would report to Convocation on a regular basis.

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

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#### CONVOCATION RESUMED AT 2:00 P.M.

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#### PRESENT:

The Treasurer and Messrs Arthurs, Barr, Bynoe, Carter, Carthy, Cass, Catzman, Doran, Fennell, Ferrier, Finlayson, Furlong, Genest, Ground, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, O'Brien, Ogilvie, Pepper, Ruby, Scace, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wardlaw and Yachetti.

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#### SPECIAL COMMITTEE ON CONVOCATION

Mr. H. W. Arthurs, Chairman, presented a further Report of the Special Committee on Convocation.

It was moved and seconded but *not put* that the Report be adopted.

It was moved and seconded but *withdrawn* that the last sentence under the heading "Executive Committee" on Appendix 2 to the Report be deleted.



A number of further suggested amendments to the Report were put forward by the Benchers present. Mr. Arthurs agreed to withdraw the Report and to present a revised Report to the next Convocation taking into account the suggestions and proposed amendments put forward by the Benchers.

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**CONVOCATION ROSE AT 3:30 P.M.**

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Confirmed in Convocation 19th June, 1981.

**J. D. BOWLBY**

**Treasurer**



THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

**Volume 6      Number 6**



## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 19th June, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Barr, Bragagnolo, Brulé, Bynoe, Carter, Carthy, Cass, Catzman, Chadwick, Chilcott, Cooper, Farquharson, Ferrier, Furlong, Genest, Ground, Henderson, Lamont, Mrs. Legge, Messrs. Lohead, McWilliams, Noble, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Shibley, Mesdames Sutherland and Tait, Messrs. Thom, White, Willoughby and Yachetti.

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### MINUTES

The Minutes of Special Convocation of 14th May, 1981, of Convocation of 15th May, 1981, and of Special Convocation of 22nd May, were confirmed.

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### APPOINTMENT OF SPECIAL COMMITTEE ON IMPLEMENTATION OF THE PEAT, MARWICK REPORT

The Treasurer advised Convocation of the appointment of a special committee to implement the recommendations of the Committee which had considered the review of the Secretariat of the Society conducted by Peat, Marwick and Partners.

The Special Committee, under the chairmanship of Mr. P.B.C. Pepper, is composed of Messrs. Arthurs, Barr, Doran, Ferrier, Finlayson, Furlong, Genest, Ground, Ogilvie and Scace, with Mr. Brendan O'Brien as Special Adviser to the Committee.

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# **SPECIAL COMMITTEE ON IMPLEMENTATION OF THE PEAT, MARWICK REPORT**

Mr. P.B.C. Pepper, Chairman, presented the Report of the Special Committee on Implementation of the Ad Hoc Committee Report on the Peat, Marwick Report. The Special Committee's Report is dated 16th June, 1981.

Convocation, on 22nd May, 1981, adopted the recommendations of a special committee of Convocation under the chairmanship of George D. Finlayson, Q.C. This Committee had examined a review of the Secretariat of the Law Society conducted by Peat, Marwick and Partners.

Mr. Finlayson's committee, in its report, stated as follows:

There has been growth in all areas: education, libraries, admissions and transfers. In each case, new and different demands are being placed upon the Secretariat. In general, the Society has new needs for a staff which is sophisticated, deployed to maximum advantage, and appropriately directed.

It is of particular concern to the Committee that the special needs on what might be termed the "professional" side of the Society, in contrast to the "financial and administrative" side, be fully recognized. Adequate scope must be provided for them in any organizational framework which is devised to embrace the Society's activities.

By the same token, the Committee stresses the fundamental importance of introducing into the Society's organizational framework appropriate functions and lines of responsibility to accommodate our rapidly increasing business, financial and administrative requirements. As noted in the Report itself, over the past decade membership in the Society has doubled to more than 14,000, and is increasing by over 1,000 per year; professional insurance claims activity has quadrupled, and new or expanded services have been put in place. At the same time, the Secretariat has doubled in size to more than 150 persons, with an annual operating budget now in excess of \$4,000,000 reflecting both the increased numbers of staff and inflationary pressures.

During this period of expansion — and for some time previously — there has been little fundamental change in the *modus operandi* of the Society, and administrative and executive management practices have not kept pace with the Society's growth nor with its increasingly complex role.

Following the May Convocation, the Treasurer struck a Special Committee of Convocation to implement changes in the Secretariat of the Law Society to reflect changes contemplated in such reports.

Mr. Brendan O'Brien, Q.C. was appointed Special Adviser



to the Committee.

The Committee met on May 28th, June 4th, 11th and 16th, 1981.

With the assistance of its Special Adviser, Mr. Brendan O'Brien, Q.C., a study was made of the offices of "Treasurer" and "Secretary" as to how such offices relate to the authority of Convocation having regard to The Law Society Act, its Regulation and Rules.

A review of the relevant provisions reveals the following:

- (a) Section 7 of the Act makes the Treasurer "President and head of the Society";
- (b) Section 8 of the Act makes the Secretary "the Chief Administrative Officer of the Society";
- (c) Section 54 of the Act provides that "Convocation may make rules relating to the affairs of the Society and without limiting the generality of the foregoing" sub-section 8 states:

Providing for the appointment and prescribing the duties of the Secretary, one or more deputy Secretaries and assistant Secretaries, and such other officers as are considered appropriate.

- (d) Rule 19 deals with the office of Treasurer including provisions for an "Acting Treasurer" in certain circumstances;
- (e) Rule 20 deals with the duties of the Secretary, it provides that he shall perform the duties imposed upon him by The Law Society Act, the Regulations and Rules made under the Act, or by Convocation, or the Treasurer, and the rule also sets out other specific duties.

In summary, it would appear, as matters now stand, the Secretary is responsive to the specific provisions in the Act and Regulation which impose rights and duties upon him, and to the duties set forth in Rule 20, together with such additional duties as may be imposed by Convocation or the Treasurer.

The Committee examined the question of the power of Convocation to appoint a new officer of the Society who would function in the area between the Treasurer and the Secretary. Section 54(8) of the Act specifically authorizes the appointment of "such other officers as are considered appropriate". It was the opinion of the adviser to the Committee that this section empowers Convocation to make the appointment of such a new officer.

The conclusion reached by the Committee was that the provisions of The Law Society Act, the Regulation and Rules raise no obstacle to the creation of a new officer of the Society, forming part of the office of Treasurer, designated "Under Treasurer" borrowing the title used in the Inns of Court, and that Rule 19 be amended accordingly.

It is, therefore, recommended by this Committee that the title and office of Secretary shall remain unchanged, subject to the amendment of existing Rule 20, by deleting Rule 20 (1) (e) which provides:

subject to the direction of the Finance Committee, perform the duties usual to the office of treasurer of a corporation and in this capacity shall,

- (i) keep or cause to be kept full and accurate books of account,
- (ii) control the receipt and disbursement of the Society's funds and the safekeeping of its securities,
- (iii) deposit or cause to be deposited the Society's funds in a bank or trust company, and
- (iv) render monthly, except in July and August, a statement of account to the Finance Committee showing the state of the bank account, the income and expenditure for the year to date, a comparison with the previous year and with the budget for the current year.

The Committee further recommended that pursuant to Section 54, the Society create a new office of "Under Treasurer". The officer who will fill this position will be responsible to the Treasurer and Convocation, and will serve as general manager and co-ordinator of the many functions of the Society, and shall carry out executive policy. In addition, during the initial period, this officer will have the special function of implementing the organizational changes that are contemplated.

The Committee then deliberated at length as to whom it would be appropriate to recommend to Convocation to fill the position of Under Treasurer, should such new office be created.

After reviewing several alternative selection procedures and considering several persons suggested, it was the view of the Committee that a candidate for such office should be:

- (1) a highly-respected member of the legal profession of senior standing;
- (2) possessed, if at all possible, with knowledge of the workings of the Governing Body of the Law Society and its Traditions;
- (3) a person who has experience in matters of Corporate finance and administration;

- (4) a person known to the existing staff and members of the bench and who would be likely to command their respect and cooperation.

The Treasurer and the Chairman of the Committee with the above in mind and also being charged by the Committee that the situation the Society faces calls for immediate action, attended on the law offices of Mr. A.B. Shepherd, Q.C., at London, June 4th, 1981. After some discussion he indicated a willingness to serve as Under Treasurer for a period of six months to two years or until a successor is appointed.

It is the unanimous opinion of the Committee endorsed by the Treasurer and the Special Adviser that Mr. Shepherd is eminently qualified to fill the new position and the Committee strongly recommended his appointment upon terms to be worked out with him by the Treasurer and Mr. Pepper.

The proposed changes have been discussed in detail with the Secretary, Mr. Jarvis, and he is prepared to co-operate fully with Mr. Shepherd.

The Committee also considered the need for building in the quadrangle to provide much needed additional space for the expanding staff. Discussions with Mr. Heeney are continuing and it is hoped that a detailed recommendation will be ready for the Special Convocation to be held in July.

It was moved, seconded and *carried* that the Report be adopted.

It was moved, but not seconded, and therefore *not put* that the title of the new Executive Officer recommended in the Report be "Deputy Treasurer".

It was moved, seconded and *carried* that the Rules made under The Law Society Act be amended by deleting clause (e) of Rule 20(1) and adding the following new subsection (6) to Rule 19:

(6) To assist the Treasurer in the discharge of his executive duties, Convocation may appoint an officer who shall be known as "Under Treasurer" who will be responsible to the Treasurer and to Convocation and who shall perform such duties as Convocation may assign to him from time to time.

It was moved and seconded but *withdrawn* that the following words be added to the new subsection (6) of Rule 19:

... and that the Under Treasurer in discharging such duties shall be deemed to be acting on behalf of the Treasurer.

It was further moved and seconded, but *lost* that the introductory words of subsection (1) of Rule 20 be amended by deleting the phrase "... or the Treasurer," and replacing it with the words "... the Under Treasurer or the Treasurer,".

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### ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Chilcott, Ferrier, Lamont, Mrs. Sutherland and Mr. White.

### ADMINISTRATION

#### OCCASIONAL APPEARANCE

*Jack Michael Giles* of the Province of British Columbia, applied to proceed under Section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces", in the case of *Regina vs. Jim Pattison Enterprises Ltd.* Mr. Giles complied with the requirements of Section 10, presented a Certificate of Good Standing and asked to receive his call to the Bar of Ontario at the June Convocation.

*Dale Bernard Pope* of the Province of British Columbia, applied to proceed under Section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces", in the case of *Regina vs. Jim Pattison Enterprises Ltd.* Mr. Pope complied with the requirements of Section 10, presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the June Convocation.

Both seek to appear for *Jim Pattison Enterprises Ltd.* which has been charged under the Combines Act and is to be tried in Ontario.

*David Matas* of the Province of Manitoba, applied to proceed under Section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces", in the case of *Durall Construction Limited et al vs. W.A. McDougall Limited, the Corporation of the City of Hamilton, et al.* Mr. Matas complied with the requirements of Section 10, presented



a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the June Convocation.

*Kenneth Zaifman* of the Province of Manitoba, applied to proceed under Section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces", in the case of *Regina vs. Giuseppe and Vincenza Calamusa*. Mr. Zaifman complied with the requirements of Section 10, presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the June Convocation. At its meeting on 7th May, 1981, the Committee had Mr. Zaifman's application before it and recommended that it stand for further information respecting the reason for Mr. Zaifman to appear in Ontario. Mr. Zaifman's letter setting forth the circumstances was before the Committee.

*Approved*

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Transfer from another province

The following candidate, having passed the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$411, applied for call to the Bar and to be granted Certificates of Fitness:

Theodore Nemetz  
Andrew Blanchard Wiswell

Province of British Columbia  
Province of Manitoba

The following candidates, having passed the comprehensive examination on the common law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$541, applied for call to the Bar and to be granted Certificates of Fitness:

Lionel Berger  
Michael Arthur Meighen

Province of Quebec  
Province of Quebec

### Call to the Bar for an Occasional Appearance

At its meeting on 11th June, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces", and that upon giving the necessary undertakings, they be called to the Bar and admitted as solicitors:

Jack Michael Giles  
Dale Bernard Pope

Province of British Columbia  
Province of British Columbia



David Matas  
Kenneth Zaifman

Province of Manitoba  
Province of Manitoba

*Approved*

## **ADMISSION OF STUDENTS—AT—LAW**

### **Bar Admission Course**

A further four candidates, having complied with the relevant Regulations, paid the required fee of \$101, and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

*Approved*

## **DIRECT TRANSFER FROM QUEBEC**

The Committee considered two applications to transfer to practise in Ontario from members of the Quebec Bar, both of whom sought to proceed under Regulation 4(2). In one case the Chairman and the Secretary had determined that the work done by the candidate during the past five years with respect to investigation and research under the Combines Investigation Act in Ottawa-Hull satisfied the requirements of the said Regulation. Both applications were approved.

## **COMMON LAW EXAMINATION AND STATUTES AND PROCEDURES EXAMINATION**

A candidate who wrote and failed the common law examination in June 1980 requested permission to extend her eligibility period to enable her to write the examination in January 1982. A second candidate who due to pressure of work had been unable to write the examinations although approved to do so requested an extension of his eligibility period to enable him to sit the common law examination in September 1981 and the Statutes and Procedure examination in November 1981. The Committee granted the extensions requested.

## **PETITION**

The Committee considered and approved one petition that permission be granted for the late filing of documents for

admission to student membership. The petitioner submitted all necessary documents, the requisite fee and a fine for late filing. A similar petition was presented to the Legal Education Committee.

### 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:

Theodore Nemetz  
 Andrew Blanchard Wiswell  
 Lionel Berger  
 Michael Arthur Meighen  
 Jack Michael Giles  
 Dale Bernard Pope  
 David Matas  
 Kenneth Zaifman

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### SPACE REQUIREMENTS

Mr. Pepper, Chairman of the Special Committee on the Implementation of the Peat, Marwick Report, advised that the recommendations of the Report contemplated approximately 14 new people and that consideration had been given to accommodation for such persons, including consultation with the Society's architect, Mr. Heeney, and with the Society's general contractors, Dalton Engineering & Construction (1974) Limited. Mr. Pepper advised that the current proposal under consideration was to construct a new reading room for the Bar Admission Course students over the existing quadrangle and to convert the Phillips Stewart Library into nine or ten new offices and that the estimated cost for such construction was \$198,000 plus architect's fees.

It was moved, seconded and *carried* that the Special

Committee on the Implementation of the Peat, Marwick Report proceed with the construction of a reading room over the existing quadrangle and the conversion of the Phillips Stewart Library into new offices at a cost not to exceed \$198,000 plus architect's fees.

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### LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 6th May, 1981.

The following members were present: James B. Chadwick, Chairman, Mr. Barr, Ms. Cornish, Messrs. Ellis, Ferrier, Harris, Mrs. Jarmain, Messrs. Lamb, Michon, Noble, Ogilvie, Russell, Mrs. Smyth, Mrs. Tait and Mr. Tebbutt.

The following observer member was also present: Robert Holden, solicitor, for the Criminal Lawyers' Association.

Also present by invitation were: Mr. D. Clancy, Deputy Area Director, Ottawa-Carleton, Mrs. G. Grant, Area Director, Middlesex, Oxford and Perth, Mr. D. Warner, Area Director, Victoria and Haliburton, and J. Stockwell, solicitor, editor Area Directors' Manual.

### REPORT OF THE DEPUTY DIRECTOR

#### (a) Finance

The Director's report, pursuant to Section 95(2), for the twelve months ended March 31, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$3,163,000, as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	2,173,000	
Civil certificate accounts	723,000	
Student Legal Aid Societies	47,000	
Area Office costs	232,000	
Provincial Office costs	<u>330,000</u>	3,505,000

*Under budget*

Community Clinic Funding	110,000	
Duty Counsel payments	72,000	
Legal Advice accounts	10,000	
Salaried Duty Counsel programme	30,000	
Research Facility	63,000	
Special Projects	<u>57,000</u>	<u>342,000</u>
		<u>3,163,000</u>

Income from sources other than the Province of Ontario was under budget by \$2,548,000 as follows:

<i>Under budget</i>	\$	\$
Law Foundation	2,150,000	
Client contributions	190,000	
Costs recovered	<u>266,000</u>	<u>2,606,000</u>

*Over budget*

Miscellaneous income	<u>58,000</u>
	<u>2,548,000</u>

*Summary of the Fiscal Year*

The Plan started the year with a deficit of	66,000
Expenditure was greater than approved budget by	3,163,000
In addition, income fell short of expectations by	<u>2,548,000</u>
	5,777,000
The Province provided extra funds totalling	<u>5,800,000</u>
The Plan finished the year with a surplus of	<u>23,000</u>

**(b) Statistics**

The following table compares reported activity for the fiscal year 1980-81 with the activity for the previous fiscal year.

	<i>12 months ended</i>		<i>% Change from</i>
	<i>Mar. 31, 1981</i>	<i>Mar. 31, 1980</i>	<i>last year</i>
Summary Legal Advice	41,619	44,410	- 6.3
Referrals to other agencies	68,549	64,385	+ 6.5
Applications for certificates	112,511	118,007	- 4.7
Refusals	40,291	39,178	
As a percentage of applications	35.8	33.2	+ 2.8
Certificates issued	79,943	83,776	- 4.6
Persons assisted by Duty Counsel:			
Fee for service	161,799	155,926	
Salaried Duty Counsel	<u>64,161</u>	<u>52,233</u>	
Total	<u>225,960</u>	<u>208,159</u>	+ 8.6

### (c) Write-Offs

George E. Wallace, Q.C., approved the write-off of the following amount due to the Legal Aid Fund: \$17,115.56.

### (d) Annual Report of the Director

The Annual Report of the Director for the year ended March 31st, 1981 pursuant to Section 96 of the Regulation, was approved by the Committee.

A copy of the Annual Report was before Convocation.

## LEGAL ACCOUNTS

### (a) REPORT OF THE LEGAL ACCOUNTS OFFICER

#### Reviews

	<i>March 1981</i>	<i>12 Months to March 31, 1981</i>	<i>12 Months to March 30, 1980</i>
Reviews on hand	906		
Reviews received in	<u>155</u>	1694	1696
	<u>1061</u>		
Settlements reviewed in	244	1105	839
Settlements awaiting review at end of	<u>817</u>		
	<u>1061</u>		



## Appeals

	<i>January</i>	<i>February</i>	<i>March</i>
Appeals to Taxing Master received during	5	—	1
Appeals heard by Taxing Officer	2	1	—
Appeals pending at the end of the month	5	3	5
Appeals abandoned	—	1	—

## Activity

	<i>1980/81 Fiscal Year</i>		<i>1979/80 Fiscal Year</i>	
	<i>Month of March/81</i>	<i>12 Months to March/81</i>	<i>Month of March/80</i>	<i>12 Months to March/80</i>
Accounts on hand at beginning	12924	12454	11469	7273
Accounts received	<u>6607</u>	<u>68701</u>	<u>6319</u>	<u>68465</u>
Total Accounts to be processed	19531	81155	17788	75738
Less: Files cancelled	326	709	247	614
Accounts processed	<u>6681</u>	<u>67922</u>	<u>5087</u>	<u>62670</u>
Balance	<u>12524*</u>	<u>12524</u>	<u>12454</u>	<u>12454</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	456	4565	347	3453
Supplementary Accounts	<u>450</u>	<u>3842</u>	<u>323</u>	<u>3211</u>
Total	<u>906</u>	<u>8407</u>	<u>670</u>	<u>6664</u>

\* Of this number 850 accounts have been examined, letters have been sent to solicitors, and further information is awaited.

Accounts being distributed to Examiners on April 1, 1981 were received as follows:

Criminal New Tariff	March 12, 1981	Civil New Tariff	February 6, 1981
Criminal Old Tariff	March 2, 1981	Civil Old Tariff	January 23, 1981

## (b) LEGAL ACCOUNTS BACKLOG

At its April meeting the Committee reviewed the backlog of legal accounts and considered a "blitz" to reduce the said backlog.

### The Legal Aid Committee now recommends:

That the Legal Accounts Officer be instructed to take steps forthwith to eliminate the backlog in the payment of outstanding solicitors' accounts with the objective that a solicitor's account be processed and paid within an average of six weeks of its receipt.

And that the Legal Accounts Officer retain such temporary personnel, including if necessary, solicitors acting as duty counsel, in such numbers as she deems fit, in order that the objective can be achieved within six months.

### AMENDMENTS TO REGULATIONS

The Legal Aid Committee appointed a sub-committee to review the Legal Aid Regulations and Forms and to make recommendations to the Legal Aid Committee. Robert E. Barnes, Q.C., was appointed Chairman of the said sub-committee.

In July, 1980 the Sub-Committee forwarded to the Legal Aid Committee its proposed amendments.

The Legal Aid Committee at its August, 1980 meeting reviewed in depth the suggested amendments. The Director was instructed to forward the proposed amendments to the following for their suggestions and comments:

- (a) Members of the Legal Aid Committee,
- (b) Observer members of the Legal Aid Committee,
- (c) Ministry of the Attorney General,
- (d) Chairmen of all Legal Aid Area Committees,
- (e) All Area Directors.

During the fall of 1980, hundreds of comments on the proposed amendments were received. The amended forms were also forwarded to the Area Directors for their comments in October, 1980. The Sub-Committee met during the months of January and March to review and consider the comments received.

The Committee reviewed some of the proposed amendments to the Regulation and to date has approved a number of Regulations, which include Regulations not amended, those with minor "housekeeping" amendments, and those which are major in their content.

The Legal Aid Committee will call an all-day meeting and complete its review of the proposed amendments.

The proposed amendments which the Committee approved were before Convocation.

## **AREA COMMITTEES**

### **(a) APPOINTMENTS**

#### **Waterloo County**

G. E. Taylor, solicitor  
G. J. Onorato, solicitor

#### **Manitoulin and Sudbury District**

Mr. Larry Gavin

### **(b) RESIGNATIONS**

#### **Waterloo County**

E. S. Hafemann, solicitor

#### **Niagara North**

Ms. Wilma Scott, solicitor

## **THE REPORT WAS ADOPTED**

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Mr. Chadwick presented the Report of the Legal Aid Committee of its meeting on Wednesday, 10th June, 1981, in Barrie.

The following members were present: James B. Chadwick, Chairman, Messrs. Barnes, Ellis, Mrs. Fleming, Messrs. Harris, Jones, Linden, Ogilvie, Russell, Mrs. Smyth, Messrs. Tobias and Wallace.

## **LEGAL AID COMMITTEE MEETING BARRIE, ONTARIO**

The Legal Aid Committee held its June meeting in Barrie, Ontario, on Wednesday, June 10, 1981. The theme of the meeting was "Legal Aid in the Eighties". A notice to the profession and the judiciary was inserted in the May 22, 1981 and

May 29, 1981 editions of the Ontario Reports inviting all members of the local Bar and the judiciary from the following areas to attend; Counties of Bruce, Dufferin, Durham, Grey, Muskoka, Parry Sound, Simcoe, Victoria & Haliburton, and York North.

Over 300 personal invitations were sent to the members of the judiciary, area directors, chairmen of local legal aid area committees, personnel in clinics, presidents of the local law associations and social service representatives.

A number of area directors, representatives of area committees and social service representatives attended, together with representatives of the judiciary and law enforcement agencies. The news media were also well represented.

The Chairman and senior administrative staff discussed recent innovations in the Plan and matters of public interest.

## **REPORT OF THE DEPUTY DIRECTOR**

### **(a) Finance**

The Director's report pursuant to Section 95(2) for the first month of the new fiscal year shows that payments from the Legal Aid Fund totalled \$4,753,000. Income from all sources totalled \$5,414,000, leaving a balance in the Fund at, April 30, 1981, of \$661,000.

The distribution of the Plan's budget for this fiscal year has not yet been completed and, in any event, comparisons with budget at this early stage are not too useful.

### **(b) Statistics**

During the month of April, the number of persons making contact with area offices totalled 18,705, which is an increase of 21 over the same month in 1980. Certificates issued show an increase of 683, while persons assisted by Duty Counsel are reported as having decreased by 1,268.

Again, it would be misleading to draw comparisons on the basis of only one month's activity.

## LEGAL ACCOUNTS

## (a) REPORT OF THE LEGAL ACCOUNTS OFFICER

## Reviews

	<i>April 1981</i>	<i>1 Month to April 30/81</i>	<i>1 Month to April 30/80</i>
Reviews on hand	817		
Reviews received in	<u>159</u>	159	119
	<u>976</u>		
Settlements reviewed in	168		
Settlements awaiting review at end of	<u>808</u>	143	166
	<u>976</u>		

## Appeals

	<i>February</i>	<i>March</i>	<i>April</i>
Appeals to Taxing Officer received during	—	1	2
Appeals heard by Taxing Officer	1	—	1
Appeals pending at the end of the month	3	5	6

## Activity

	<i>1981/82 Fiscal Year</i>		<i>1980/81 Fiscal Year</i>	
	<i>Month of April, 1981</i>	<i>1 Month to April, 1981</i>	<i>Month of April, 1980</i>	<i>1 Month to April, 1980</i>
Accounts on hand at beginning	12524	12524	12454	12454
Accounts received	<u>5612</u>	<u>5612</u>	<u>5657</u>	<u>5657</u>
Total Accounts to be processed	18136	18136	18111	18111
Less: Files cancelled	31	31	34	34
Accounts processed	<u>6026</u>	<u>6026</u>	<u>5984</u>	<u>5984</u>
Balance	<u>12079*</u>	<u>12079</u>	<u>12093</u>	<u>12093</u>

In addition to the number  
of accounts for services completed  
there were:

Interim Accounts	450	450	474	474
Supplementary Accounts	<u>348</u>	<u>348</u>	<u>273</u>	<u>273</u>
Total	<u>798</u>	<u>798</u>	<u>747</u>	<u>747</u>



- \* Of this number 750 accounts have been examined, letters have been sent to solicitors, and further information is awaited.

*Dates being worked on*

Criminal New Tariff	April 7, 1981	Civil New Tariff	March 11, 1981
Criminal Old Tariff	April 27, 1981	Civil Old Tariff	February 12, 1981

**(b) LEGAL ACCOUNTS BACKLOG**

The Legal Accounts Officer called a meeting of the Standing Committee on Legal Accounts, under the chairmanship of Robert J. Carter, Q.C., for Monday, June 29, 1981 to review with the Sub-Committee the steps being taken to achieve the Plan's objective that within the next six months the processing of lawyers' accounts for payment will be reduced to within five to six weeks of receipt.

To aid in accomplishing this objective the Plan has implemented a "Blitz" on accounts currently awaiting approval and payment.

**CLINIC FUNDING**

**(a) Combined Review of Activity of Law Students in Clinics and Student Legal Aid Societies**

This Committee reviewed a letter from Peter Tobias, Q.C., Chairman, Clinic Funding Committee, advising that the said Committee is studying University Clinics funded by the Committee to determine the nature of the work performed and to assess special needs and responsibilities which presently exist and which may develop in the future.

The Clinic Funding Committee requested that a review be undertaken simultaneously of Student Legal Aid Societies and that these reviews be co-ordinated by the Clinic Funding Manager and the Deputy Provincial Director.

The Legal Aid Committee approved the Clinic Funding Committee's request. The letter from Mr. Tobias was before Convocation.

**(b) Funding – Independent Community Clinics for the Fiscal Year 1981/82**

The Legal Aid Committee considered in depth a report

from Mr. Tobias, Chairman, Clinic Funding Committee, wherein he set out the Clinic Funding Committee's request to the Attorney General of Ontario for the designation of Clinic Funds for the fiscal period 1981/82 in the amount of \$5,470,000, pursuant to Section 157 of the Regulation.

The said Section reads as follows:

157. The moneys required for the purposes of this Part shall be paid out of the moneys designated by the Attorney General for the purposes of this Part.

The Committee unanimously endorsed the Clinic Funding Committee's request to the Attorney General.

#### **STUDENT LEGAL AID SOCIETIES AND UNIVERSITY-BASED CLINICS SUPPLEMENTING SALARIES FOR LAW STUDENTS**

The Committee reviewed in depth a report from the Deputy Director dated May 29, 1981 requesting the distribution of funds totalling \$95,666, being the amount required to raise the salary level of law students working in University Legal Aid Clinics and Student Legal Aid Societies from \$132 to \$185 a week. This total amount is in respect of 13 weeks of summer employment.

The Legal Aid Committee approved that the said sum be paid out of the Ontario Legal Aid Plan's budget and that the Plan attempt to recover the said sum from the Ministry of the Attorney General during the Plan's negotiations with the said Ministry for the fiscal year 1981/82.

The Deputy Director's report was before Convocation.

#### **NATIONAL LEGAL AID RESEARCH CENTRE FUNDING**

In September, 1980, Convocation approved that the Ontario Legal Aid Plan contribute \$23,457 as its share of the National Legal Aid Research Centre's expenses for the fiscal year April, 1980 to March, 1981 and that the Centre be supported in principle for the subsequent fiscal year, 1981/1982.

The Committee unanimously approved the National Legal Aid Research Centre's request for a contribution of \$37,286 for the fiscal year 1981/1982.

A copy of the Director's memorandum to the Legal Aid Committee was before Convocation.

### **MENTOR PROJECT**

In February, 1980, Convocation approved the establishment of a "Mentor Program" which was designed to encourage senior counsel to provide assistance to junior members of the Bar.

Two of Ontario's senior criminal counsel, Arthur Maloney, Q.C. and David Humphrey, Q.C., were asked to serve as Co-Chairmen of the Board of Mentors. The Board consists of 27 senior criminal counsel in York Region.

The Mentor Program formalized collaboration between junior and senior members of the Bar to ensure that junior counsel have access to the wisdom of experience of more senior counsel.

The Committee approved a request that a "Mentor Hotline" be made available to enable a junior counsel to contact a member of the legal aid staff, who will then locate a mentor who is available to speak immediately with the junior counsel.

The Committee also approved that the "Mentor Hotline" be available to lawyers working on criminal legal aid certificates no matter where they are located in the province.

The method of establishing this province-wide "Mentor Hotline" will be the obtaining of a Zenith Number which will be publicized, permitting counsel practising outside Metropolitan Toronto to be placed in contact with a Mentor.

### **SUBCOMMITTEE RE: THE USE OF PARALEGALS**

A Sub-Committee under the chairmanship of Hugh Guthrie, Q.C., was appointed to study the principles and make recommendations with respect to suggestions made in a report prepared by a solicitor which recommended that a paralegal be retained by the Plan to work in the area of parole and to review the use which is being made within the Plan of paralegals and to

consider whether there are other areas in which paralegals can be used effectively.

The Committee unanimously approved the Report of the said Sub-Committee dealing with the use of paralegals in parole matters.

A copy of the Report was before Convocation.

#### **PROVINCIAL OFFICE SUB-LEASE TO THE LAW FOUNDATION OF ONTARIO**

The Legal Aid Committee approved the request that The Law Foundation of Ontario sublet approximately 1,300 sq. ft. of space on the 11th floor of the Provincial Director's office, at 145 King Street West, Toronto.

A copy of the Sub-Lease which was approved by the Committee was submitted to Convocation.

#### **SALARIES**

- (a) **Administrative Staff of the  
Ontario Legal Aid Plan  
(not forming part of the secretarial and  
clerical group paid on a bi-weekly basis)**

The Committee unanimously approved a Report of the Standing Committee re: Staff Salaries, under the chairmanship of Mr. Noel Ogilvie, dated June 2, 1981. The said Report was before Convocation.

- (b) **Clinic Funding Staff**

The Committee unanimously approved a Report of the Clinic Funding Committee, under the chairmanship of Peter Tobias, Q.C., dated June 8, 1981. The said Report was before Convocation.

- (c) **Area Directors' Retainers**

The Committee unanimously approved a Report of the Sub-Committee re: Area Directors' Retainers, under the chairmanship of George E. Wallace, Q.C., dated June 10, 1981. The said Report was before Convocation.

## **PUBLIC INFORMATION**

For Convocation's information a memorandum from the Public Information Officer with respect to the distribution of Legal Aid Pamphlets was submitted.

## **AREA COMMITTEES**

### **(a) APPOINTMENTS**

#### **Wellington County**

Edgar H. Shane, solicitor

#### **Brant County**

Murray Tarrison, solicitor

Joan Aspey, court reporter

#### **Ottawa Carleton**

Ms. Nancy Adams, Federal Government

Solicitor General's Department

### **(b) RESIGNATIONS**

#### **Brant County**

Howard Moore, Q.C.

## **THE REPORT WAS ADOPTED**

.....

## **PEAT, MARWICK REPORT ON THE LEGAL AID PLAN**

Mr. Chadwick introduced the Report of Peat, Marwick and Partners on the Legal Aid Plan. This Report was referred to in the Report of the Legal Aid Committee to Convocation on 16th April, 1981. (*See Minutes of Convocation, p. 183.*)

Mr. Chadwick advised that the recommendations in the Peat, Marwick Report as to the hiring of a Deputy Director of Legal Services had been tentatively adopted by the Committee and that the Committee had advertised this position.

Mr. Chadwick then reviewed all the recommendations of



the Report.

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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 The Honourable Mr. Justice D. H. Carruthers of The High Court of Justice for Ontario, His Honour Judge Frank E. Dunlap of the County Court of the County of Renfrew, Mr. Jake G. Dunlap, Q.C., of Ottawa, and Mr. J. H. Potts, Q.C., of Toronto.

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# CONVOCATION RESUMED AT 12:15 P.M.

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## PRESENT:

The Treasurer and Messrs. Arthurs, Barr, Bragagnolo, Brulé, Carthy, Cass, Catzman, Chadwick, Chilcott, Farquharson, Ferrier, Furlong, Genest, Mrs. Legge, Messrs. Lohead, McWilliams, Noble, O'Brien, Ogilvie, Pepper, Ruby, Mrs. Sutherland, Messrs. Thom, White, Willoughby and Yachetti.

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## LEGAL AID COMMITTEE (Continued)

### PEAT, MARWICK REPORT

### ON THE LEGAL AID PLAN (Resumed)

It was moved, seconded and *carried* that:

1. Convocation refer the Peat, Marwick Report to an Ad Hoc Committee, to be appointed by the Chairman of the Legal Aid Committee, for further study and then re-submitted

to Convocation together with the proposals of the Ad Hoc Committee;

2. Convocation authorize a search for lawyers to fulfil additional senior administrative functions within the Legal Aid Plan;
3. In the interim the Legal Aid Plan create job descriptions for senior administrative staff.

.....

## CLINIC FUNDING REPORTS

Mr. Chadwick presented the Report of the Director of Legal Aid, dated 5th June, 1981, with respect to Clinic Funding.

### CLINIC FUNDING

The Clinic Funding Committee submitted a report to the Director recommending funding for community clinics.

The Director recommended to Convocation that the report of the Clinic Funding Committee dated June 5th, 1981 be adopted.

The following are the recommendations of the Clinic Funding Committee contained in the said Report:

The Clinic Funding Committee met on May 20, 1981 to consider requests for leave to appeal from initial decisions of the clinic funding staff pursuant to s.150(3) of the Regulation on clinic funding.

The Clinic Funding Committee decided to deny the requests for leave to appeal as submitted by eight community clinics because the requests did not raise any new issues of policy. The Committee further decided that the funding proposed for these clinics as set out in the initial decisions of the clinic funding staff was appropriate, and the Committee therefore recommended approval of funds for these clinics, as follows:

<i>Clinic</i>	<i>Up to \$</i>
Centre for Spanish-Speaking Peoples	52,334
Community Legal Services (Ottawa-Carleton)	150,276
Correctional Law Project (Queen's)	76,560
Kenora Community Legal Clinic	87,862
Mississauga Community Legal Services	176,850
Neighbourhood Legal Services	185,115
Rural Legal Services (Queen's)	44,065
Sudbury Community Legal Clinic	157,966

At the same meeting the Clinic Funding Committee decided to grant requests for leave to appeal from three clinics and scheduled hearings in each case to take place on June 2, 1981.

The Committee met on June 2, 1981 for the purpose of hearing appeals from three community clinics.

As a result of the hearings in these appeals, the Clinic Funding Committee recommended approval of funds for two of these clinics, as follows:

<i>Clinic</i>	<i>Up to \$</i>
Advocacy Resource Centre for the Handicapped	87,540
Keewaytinok Native Legal Services	110,750

The Clinic Funding Committee deferred the hearing scheduled for Parkdale Community Legal Services to a later date. The Committee recommended approval of funds for Parkdale according to the initial decision of the clinic funding staff, pending the hearing in this matter, as follows:

Parkdale Community Legal Services	up to \$516,297
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## THE REPORT WAS ADOPTED

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Mr. Chadwick presented a further Report of the Director of Legal Aid, dated 15th June, 1981, an addendum to the Report of 5th June, 1981.

## CLINIC FUNDING

### ADDENDUM TO THE REPORT OF THE CLINIC FUNDING COMMITTEE DATED JUNE 5, 1981

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

The Director recommended to Convocation that the report of the Clinic Funding Committee dated June 15, 1981 be adopted.

The following are the recommendations of the Clinic Funding Committee contained in the said Report:

#### *Extension of Clinic Funds*

At its meeting on June 2, 1981, the Clinic Funding Committee decided to recommend approval for the extension of funds for community clinics at

the 1980/81 rate pending the designation of funds by the Attorney General pursuant to s.157 of the Regulation, and the implementation of the Attorney General's decision.

*Funds for Administration*

At its meeting on June 2, 1981, the Clinic Funding Committee also confirmed additional funds for the Centre for Spanish-Speaking Peoples in an amount up to \$1,943 for the purpose of administration and bookkeeping expenses for the fiscal period 1981/82. This amount was inadvertently omitted from the Committee's decisions on requests for leave to appeal on May 20, 1981, but the Committee so recommended.

## THE REPORT WAS ADOPTED

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### MEETING WITH COUNTY AND DISTRICT LAW ASSOCIATIONS

The Treasurer reported orally on the meeting on Friday, 12th June, 1981, with the Presidents of the County and District Law Associations. He reported that those present expressed concern at the number of lawyers entering the profession and its effect on the delivery of legal services. With respect to the Preferred Areas of Practice programme, they pointed out that designation does not necessarily reflect expertise. They also said that a more equitable formula is needed for the allocation of funds to County Law Libraries; that the Law Society should expand its participation in public relation projects, and that communication between the governing body and the profession should be further strengthened.

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### DISCIPLINE COMMITTEE—Mr. Genest

Re: RONALD J. FAULKNER, Ottawa

Mr. Pierre Genest, Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Bragagnolo and Chadwick withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend nor was he represented by counsel. Mr. Ernest A. DuVernet, Q.C., appeared for the Society.

The solicitor was called three times but made no reply.

Convocation had before it the Report of the Discipline Committee, dated 4th June, 1981, together with an Affidavit of Service, dated 9th June, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 5th June, 1981. Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found that the solicitor was guilty of professional misconduct and conduct unbecoming a barrister and solicitor. He had misappropriated clients' trust funds in excess of \$41,000, failed to follow his clients' instructions, and failed to maintain sufficient funds in his trust account to meet his trust obligations to clients.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 4th June, 1981, be adopted.

Counsel and the reporter returned.

Counsel was advised of the motion that had been carried.

Convocation was advised of the Recommendation as to Penalty of the Discipline Committee, that the solicitor be disbarred.

Counsel made no submissions.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel was advised of Convocation's action.

Counsel and the reporter retired.

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### UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. P. K. E. McWilliams presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Chilcott (Chairman), Furlong, Shaffer and White.

#### ADMINISTRATION

1. Five accounts were approved.
2. A letter was received complaining about an individual carrying on a divorce kit agency. The complainant was led to believe that the individual was a solicitor. The Secretary was instructed to refer this matter to counsel for investigation.
3. A letter was received enclosing an advertisement from an Ottawa newspaper on Tuesday, May 5th, 1981 indicating assistance to immigrants with signing of legal documents. The Secretary was instructed to refer this matter to the Society's investigator.

#### THE REPORT WAS ADOPTED

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### LIBRARIES AND REPORTING COMMITTEE—

Mr. Farquharson

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Willoughby (Vice-Chairman in the Chair), Bragagnolo, Shaffer and Mrs. Tait. Mr. G. W. Howell was also present.

#### ADMINISTRATION

#### APPLICATION TO THE LAW FOUNDATION OF ONTARIO

The Secretary reported that an application to The Law

Foundation of Ontario could be made in the amount of \$97,103.25 for salary adjustments. The Committee recommended that an application be made to The Law Foundation of Ontario in the amount of \$97,103.25.

#### COUNTY LAW LIBRARIES GRANTS CENTRAL ADMINISTRATIVE PROGRAM

The Secretary reported that nine counties are in arrears of maintenance of subscriptions totalling \$12,320. The Committee recommended that the following arrears of maintenance payments be made:

Dufferin	\$ 525
Haldimand	585
Huron	1,050
Lennox & Addington	1,000
Lindsay	500
Muskoka	2,700
Nipissing	2,900
Northumberland	935
Rainy River	2,125

#### ANNUAL GRANTS TO COUNTY LAW ASSOCIATIONS

The Associations listed below sent in their annual returns for the year 1980. The amounts of grants which each should receive under the Regulation in 1981 and those that they received in 1980 are as follows:

	1980	1981
Algoma	\$2,000	\$2,000
Frontenac	2,000	2,000
Halton	2,000	2,000
Kent	2,000	2,000
Lincoln	2,000	2,000
Norfolk	1,285	1,355
Parry Sound	770	950
Prescott & Russell	900	935
Rainy River	750	750
Waterloo	2,000	2,000

*Approved,* subject to the approval of the Finance Committee.

# REPORTING

## ONTARIO REPORTS

### COMPETITIVE BIDS

The Secretary reported that competitive bids were sought from three law book publishers in November 1980 and requested instructions as to whether the same three publishing companies should be sent an Invitation to Tender. The Committee recommended that the same three publishing companies be sent an Invitation to Tender with a copy of the correspondence to be sent to Canada Law Book Limited as a courtesy.

## INFORMATION

### BOOK LIST

A list of 28 new acquisitions by the Great Library was submitted for approval.

*Approved*

## THE REPORT WAS ADOPTED

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## DISCIPLINE COMMITTEE (Continued)

**Re: REUBEN RUBY RICHMAN, Metropolitan Toronto**

Mr. Genest placed the matter before Convocation.

The solicitor was not in attendance. Mr. Edward L. Greenspan appeared for the solicitor and Mr. Ronald G. Chapman for the Society. The reporter was sworn.

Convocation had before it the Report of the Discipline Committee, dated 29th May, 1981, together with an Affidavit of Service, dated 9th June, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 3rd June, 1981. Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found that the solicitor was guilty of professional misconduct. He had misappropriated over \$50,000 of

clients' trust funds.

Mr. Chapman made no submissions.

Mr. Greenspan stated that the solicitor accepted the Report.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 29th May, 1981, be adopted.

Counsel was advised of the motion that had been carried.

Counsel was advised of the Recommendation as to Penalty of the Discipline Committee, that the solicitor be disbarred.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel was advised of Convocation's action.

Counsel and the reporter retired.

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## GENERAL REPORT

Mr. Genest presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Furlong (Vice-Chairman acting as Chairman), Ogilvie (Vice-Chairman), Cass, Humphrey, White and Mrs. Sutherland.

## ADMINISTRATION

### REGULATION RE BANKRUPT LAWYERS

This matter was considered by the Committee at its meeting on May 7th, 1981 and instructions were given to propose procedures to be followed in respect of lawyers who declare bankruptcy.

The following procedures were suggested:

- (1) The Society is arranging with the Superintendent of the Bankruptcy Office in Ottawa, Mr. Brazeau, to be advised when a member declares bankruptcy.
- (2) This information is to be passed to the audit department who will then write to the solicitor pointing out the provisions of all of the regulations with the request that the solicitor describe arrangements made respecting his trust account and secondly that he forward a Statement of Affairs when available.
- (3) If no reply is received within one week an auditor to attend at the solicitor's office. In addition, his failure to reply to be treated in the normal disciplinary manner.
- (4) When the Statement of Affairs is received, it is to be reviewed by the audit department to determine whether it reveals any facts which should be investigated further. If the Statement of Affairs does raise any questions, an audit will be commenced. If the Statement of Affairs shows only the usual creditors, banks, charge card companies, etc., no full scale audit will be conducted, however, the member will be placed on the next spot audit list.
- (5) The Legal Aid Plan is to be asked to provide notice of members against whom Notices of Attachment are served.

*Approved*

## APPOINTMENT OF REFEREES

It was moved in Convocation, seconded and *carried* that this item be referred back to the Committee.

## RE: MICHAEL DELANEY COMPENSATION FUND

The Committee considered a letter from R. A. Hummel, Q.C., counsel for the claimants to the Compensation Fund, Mr. and Mrs. Hykawy who are claiming \$69,000.00. He asked for an early hearing of the evidence by a Referee and an interim payment pending the hearing of all of the claims of the other claimants.

The Committee recommended that Mr. Hummel be advised that the Committee has no power to make an interim payment before the matter has been heard.

## RULE 17 – DISBARRED PERSONS

Harry S. LaForme who practises in Toronto seeks the express approval of Convocation to be permitted to occupy



office space with, use the services of or employ in connection with his law practice, a person who was struck off the roll of solicitors in England in 1979.

The Committee recommended that on the basis of the material before it approval not be given under Rule 17 to permit the member to retain, occupy office space with, use the services of or employ in any capacity having to do with his law practice the person identified in the correspondence.

## INFORMATION

### COMPENSATION FUND

The Compensation Fund Summary reflecting activity during the month of May is set out hereunder:

#### COMPENSATION FUND

For the Period from 1st July, 1980 to 31st May, 1981

(11 months)

TOTAL RECEIPTS	\$ 1,420,538.50
TOTAL DISBURSEMENTS	<u>\$ 716,329.67</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 704,208.83
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,278,190.54</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$12,797,177.26</u></u>

*Noted*

### SUMMARY OF FORM 2/3 LETTERS FOR MAY 1981

*Noted*

### SUMMARY OF SPOT AUDIT REPORTS MAY 31, 1981

*Noted*

## THE REPORT AS AMENDED WAS ADOPTED

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## APPOINTMENT OF AUDITOR

It was moved, seconded and *carried* that Messrs. *Clarkson Gordon* be appointed Auditors of the Society for a period of one year from 1st July, 1981.

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## APPOINTMENT OF REPRESENTATIVES

### (a) CANADIAN BAR ASSOCIATION

It was moved, seconded and *carried* that the *Treasurer* and Mr. *R. W. Cass* be appointed the Society's representatives on the Council of the Canadian Bar Association to take office at the end of the Annual Meeting of the Association in 1981.

### (b) FEDERATION OF LAW SOCIETIES OF CANADA

It was moved, seconded and *carried* that the *Treasurer* and Mr. *R. D. Yachetti* be appointed the Society's representatives to the Federation of Law Societies of Canada.

### (c) NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE IN CANADA

It was moved, seconded and *carried* that Mr. *G. F. Henderson* be appointed the Society's representative to the National Council on the Administration of Justice in Canada.

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## LIBRARIES AND REPORTING COMMITTEE(Continued)

Mr. Farquharson presented the Report of the Libraries and Reporting Committee of its meeting on Friday, 12th June, 1981.

The following members were present: Messrs. Farquharson (Chairman), Bragagnolo, Shaffer, Shibley and Mrs. Tait.

## INFORMATION

1. The Secretary submitted a copy of a letter from Canada

Law Book Limited requesting the consent of the Society to permit cases in the Ontario Reports, which are not published in either DLR or CCC, to be added to its Data Base. Mr. W. L. Cowing, President, and Mr. Alan Marks, Executive Vice President, attended the meeting to discuss their request. The Committee discussed the matter and instructed the Secretary to defer the matter until the next meeting. Mr. Shibley took no part in the discussion.

### THE REPORT WAS ADOPTED

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### FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Pepper (Chairman), Brulé, Chilcott, Ogilvie, Shaffer and Tebbutt.

### ADMINISTRATION

#### BUDGET 1981/82 AND ANNUAL FEE

A summary of the estimated income and expenditure in the Society's General Fund for the year beginning 1st July, 1981, was before the Committee. It showed a budgeted excess of revenue over expenses (other than Legal Education) of \$67,685.

At its June meeting the Legal Education Committee had before it estimates showing an excess of revenue over expenses for the Department of Continuing Education of \$44,934 and a deficit for the Bar Admission Course of \$783,552. These estimates were not approved but referred back to the Director of Legal Education and the Finance Administrator for revisions which will reduce the deficit. The Bar Admission Course deficit will be the subject of an application for a grant from The Law Foundation of Ontario.

The budgeted excess of revenue over expenses for the General Fund is based on a proposed increase in members'

annual fees from \$260 in 1980/81 to \$300 in 1981/82. Convocation has already approved an increase in the Compensation Fund levy from \$90 to \$100, so that the total amount payable by members on 1st October 1981 (if the fee recommendation is approved) will be \$400 compared to \$350 for 1980/81.

The Committee recommended the Annual Fee be set at \$300 for 1981/82 exclusive of Compensation Fund levy, which has been set at \$100, making a total fee of \$400. (*See motion, p. 292.*)

### MAINTENANCE COSTS

The Ministry of Government Services submitted its accounts for maintenance and steam for the year ended 28th February, 1981, for those parts of the building not covered by separate meters. These accounts are as follows:

1.	Share of hydro, water and maintenance	\$33,474.61	
2.	Share of steam	<u>9,595.00</u>	<u>\$43,069.61</u>

Last year the accounts totalled \$46,771.44.

Mr. Heeney reviewed the accounts and recommended them for payment.

*Approved*

### LIFE MEMBERS

Pursuant to Rule 49, the following were eligible to become Life Members of the Society effective 18th June, 1981:

D'Arcy Blair, Q.C.	Toronto
Robert Douglas Jennings, Q.C.	Toronto
Eric Hamilton Silk, Q.C.	Streetsville
Reginald Harvey Soward, Q.C.	Toronto
Harry Mundell Vila	Burlington
The Honourable David James Walker, Q.C.	Toronto
Sydney Winkler, Q.C.	Toronto
James Arthur Wright, Q.C.	Montreal

*Approved*

### CHANGES OF NAME

The following member requested that her name be changed on the rolls of the Society and submitted the required

## documentation:

<i>From</i>	<i>To</i>
Verna Evelyn Cuthbert-Kelly	Verna Evelyn <i>Cuthbert</i> (Maiden Name)

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Donna Marie Eansor-Fullerton	Donna Marie <i>Eansor</i> (Maiden Name)
John Martin Wissentz	John Martin <i>Wissent</i> (Court Order)
Louis Leonidas Douramakos	<i>Luis</i> Leonidas Douramakos (Court Order)
Deborah Anne Ernst	Deborah Anne <i>Hastings</i> (Married Name)

*Approved*

## RESIGNATION

*Hugh Richard Latimer* of Yellowknife applied for permission to resign his membership in the Society and submitted his declaration in support. Mr. Latimer's notice of his intention to resign was published in the issue of the Ontario Reports of 24th April, 1981.

*Approved*

## MEMBERSHIP UNDER RULE 50

## Retired Members

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

James Bicknell Keachie	Toronto
Ian Grant Wahn, Q.C.	Toronto

## Incapacitated Member

The following member requested consideration of his application as a disabled member to continue his membership



in the Society without payment of annual fees:

Terrence Norman Hunt

Shakespeare

*Approved*

## **ERRORS AND OMISSIONS INSURANCE**

2,700 members elected to pay the 1981 Errors and Omissions Insurance levy by instalments. A reminder was sent to these members in May that the second instalment was to be paid by June 1st.

405 members have not paid the second instalment and the Committee was asked to recommend what further action should be taken.

The Committee recommended that a further notice be sent.

## **LIBRARIES AND REPORTING COMMITTEE**

### **County Library Grants**

At its meeting on 11th June, 1981, the Libraries and Reporting Committee considered a memorandum listing those law associations which had sent in their annual returns for 1980 and setting out the amounts of the grants to which they appear to be entitled in 1980 and 1981, and approved the amounts of the grants to be paid to those associations in 1981, subject to the approval of this Committee.

*Approved*

## **USE OF PREMISES**

The Family Law Section of the County of Carleton Law Association requested permission to use the Bar Admission Course facilities in Ottawa on several occasions each year to hold working meetings. The Committee was asked to consider the use of the premises for this purpose.

*Approved*, on the understanding that maintenance costs are paid by the Law Association.

## ROLLS AND RECORDS

### Appointment

The following member was honoured by his appointment to judicial office and his membership in the Society will be placed in abeyance upon his assuming office:

Gary Richard Kunnas Thunder Bay	Called – 23 March 1973 Appointed Provincial Judge, Family Division, District of Thunder Bay – 4 May 1981
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### Deaths

The following members have died:

George Harold Fort, Q.C., Simcoe	Called – 18 September 1941 Died – 10 May 1981
Ernest Parnell Lee, Q.C. Bracebridge (Life Member)	Called – 20 June 1929 Died – 9 April 1981
Rene Sutherland MacColl Toronto	Called – 26 March 1965 Died – 15 May 1981
David Lewis, Q.C. Ottawa	Called – 15 June 1950 Died – 23 May 1981
John William Sheppard Simcoe	Called – 17 October 1935 Died – 1 March 1981
John Calvin Lyonde Toronto	Called – 28 June 1956 Died – 28 May 1981
William Murray Thom Kitchener	Called – 26 March 1965 Died – 6 June 1981

### Re-admission

The following member was readmitted to the rolls of the Society:

John Robert Crerar Hamilton	Called – 29 June 1949 Re-admitted – 14 May 1981
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### Disbarments

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

Gordon David Goldman Toronto	Called – 10 April 1964 Disbarred – Convocation 14 May 1981
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Abdul Rashid  
Toronto

Called – 26 March 1971  
Disbarred – 15 May 1981

# THE REPORT WAS ADOPTED

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## MOTION: ANNUAL FEE 1981/82

It was moved, seconded and *carried* that the Annual Fee for membership in the Society for the fiscal year 1981/82 be \$300 per member, exclusive of the Compensation Fund levy.

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## PETER JOHN ELLIOTT

Mr. Pepper referred to correspondence with respect to this member's cheque which was returned marked "NSF" and outlined the circumstances which subsequently led to the member being suspended in error for non-payment of fees.

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## UNFINISHED BUSINESS

A number of Reports and other items on Convocation's agenda were not reached and were directed to stand to the Special Convocation to be held on Thursday, 16th July, 1981.

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## CONVOCATION ROSE AT 5:10 P.M.

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Confirmed in Convocation 18th September, 1981.

J. D. BOWLBY  
Treasurer

## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

Thursday, 16th July, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Arthurs, Barr, Cass, Catzman, Chadwick, Chilcott, Farquharson, Ferrier, Finlayson, Furlong, Ground, Guthrie, Lamont, Mrs. Legge, Messrs. Noble, O'Brien, Outerbridge, Ogilvie, Pepper, Ruby, Scace, Shaffer, Mrs. Sutherland, Messrs. Thom, Tobias, Wardlaw, White, Willoughby and Yachetti.

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### MEETING WITH THE ATTORNEY GENERAL FOR ONTARIO

The Treasurer reported orally on a meeting he had attended with The Honourable R. Roy McMurtry, Attorney General for Ontario, Mr. H. Allan Leal, Deputy Attorney General, and Mr. Archie G. Campbell, Assistant Deputy Attorney General, Policy, Planning and Intergovernmental Affairs, on Monday, 29th June, 1981, at Campbell House.

Various matters of mutual concern were discussed, including recommendations made by the Professional Organizations Committee respecting advertising, the Attorney General's status as a Benchler, the number of lawyers in the profession and the status of amendments to The Law Society Act and its Regulation.

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### DISCIPLINE COMMITTEE—Mr. Genest

#### REPORT OF THE SUB-COMMITTEE TO SELECT SENIOR COUNSEL DISCIPLINE PROCEEDINGS

Mr. M. A. Catzman, Chairman of the Sub-Committee, presented the Report of the Sub-Committee to Select Senior Counsel Discipline Proceedings dated 2nd July, 1981.

The Committee met on Thursday, 11th June, 1981 at 9:00 a.m., the following members being present: Messrs. Catzman (Chairman) and Humphrey.

The Committee again met on Thursday, 2nd July, 1981 at which time the following members were present: Messrs. Catzman (Chairman), Doran and Humphrey.

Convocation on March 20th, 1981 approved a recommendation of the Discipline Committee that the Society retain on staff a full-time counsel to supervise the Society's discipline operations and prosecute cases on behalf of the Society.

Accordingly, a Sub-Committee of the Policy Section of the Discipline Committee was struck to select a suitable candidate for the position of Senior Counsel Discipline Proceedings. Mr. Catzman was appointed Chairman and Messrs. Humphrey, Doran and Ruby were appointed as members.

An advertisement setting out the duties of the new position was drafted and approved by the Chairman of the Discipline Committee. The advertisement was placed in three editions of the Ontario Reports, May 1st, May 8th and May 15th, 1981. The fact that such a post had been created was also reported in the Communiqué of March 20th, 1981.

The response to the advertisement was very good and the Society received over 25 applications. Copies of the applications were circulated to all Committee members for their review. A meeting was then held on June 11th, 1981, to determine which candidates warranted a personal interview. A short list was prepared and circulated to those members of the Committee who were unable to be present at the meeting.

Interviews were scheduled for Thursday, July 2nd, 1981 from 9:00 a.m. to 3:00 p.m. Seven candidates were interviewed on that date.

There were some candidates who, due to previous commitments, could not be present on July 2nd. It was originally hoped that these persons could be interviewed prior to July 16th, 1981. However, the earliest date that was available was July 24th and that date has been set to complete the interviews.

As indicated above, it was hoped that the Committee would have been able to bring forward a candidate to the Special Convocation in July; however, this has not proven



feasible. There is an element of urgency in that it is desirable that once a candidate has been selected he be confirmed promptly in order that he can make arrangements to commence his duties at the Society as soon as practicable.

Accordingly, the Committee requested that following the conclusion of interviews on July 24th, it be given the authority to appoint the Senior Counsel Discipline Proceedings in consultation with the Treasurer and the Chairman of the Discipline Committee.

### THE REPORT WAS ADOPTED

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### SPECIAL COMMITTEE ON CONVOCATION

Mr. H. W. Arthurs, Chairman, presented the Report of the Special Committee on Convocation, dated 19th June, 1981, which had been directed by Convocation on 19th June, 1981, to stand to this Special Convocation.

1. At its Special Convocation on 16th December 1980, Convocation approved in principle the rationalization of our existing committee structure to avoid great disparities in workload, the dissipation of the effort of members over several areas of activity, the necessity for numerous and necessarily brief meetings, etc. Convocation, on 22nd May, discussed an earlier draft of this Report, and made numerous suggestions which have been taken into account to a considerable extent in this draft. In addition, the Peat Marwick study of the Society recommended some clearer definition of responsibilities within the secretariat, and it is important that Convocation should give some indication of which areas should be grouped together to assist in this work. Finally, if any new structure is to be put in place when new committees are appointed, some decisions must be taken now.

2. It is assumed that the principle of delegation, endorsed by Convocation on the 16th December 1980, will be implemented, and much of the present detailed decision-making will be performed by staff acting within policy guidelines laid down by Convocation and the committees.

3. The outcome of these recommendations would be:

- (a) that committees which are presently inactive or over-active would have their workloads evened out;
- (b) each member of Convocation would serve on only one of five major "action" committees, and their sub-committees;
- (c) some members of Convocation would also serve on a second tier of committees, of which only the Finance Committee presently exists;
- (d) the number of *ad hoc* and special committees and sub-committees would diminish;
- (e) meetings would be easier to schedule, and would be better organized;
- (f) present arrangements relating to the Discipline Committee and the House Committee are left unchanged; however, a further report on discipline procedures will be forthcoming.

4. It is recognized that, in some cases, duties are assigned by the Society's Regulation to various committees. Recognizing that amendments to such regulations may take some time to secure, for an interim period it may be necessary that the same group of benchers be designated both as members of the former committee and as members of the new committee which will assume its functions. This will be the case, for example, in relation to the Admissions Committee, whose functions will largely pass to the Education, Libraries and Information Committee. In any event, appropriate changes must be made forthwith in the Society's Rules, reflecting the new structure; committee membership and responsibilities can be defined with more precision at that stage.

5. Because the new arrangements represent something of a departure from those which have prevailed hitherto, it would be appropriate for Convocation to review these arrangements in February or March 1983, with a view to making any necessary changes for implementation when the new committee memberships are struck in May, 1983.

6. The proposed committees and the new terms of reference for committees, with a possible schedule for Committee Day, are set out below:

## PROPOSED COMMITTEES – TERMS OF REFERENCE

### EXECUTIVE COMMITTEE

The Executive Committee might include the Treasurer, the chairmen of the other six committees, and two or three benchers at large. However, the Treasurer might find a smaller committee more useful, and should be afforded some discretion as to its composition. The Executive Committee would ensure that problems are channelled to the appropriate committees, that the work of these committees is progressing properly and finding appropriate space on Convocation's agenda, and maintain close liaison with the Society's senior administrators to ensure implementation of Convocation's policies. Where necessary, it could assist and advise the Treasurer in responding to important issues until these can be dealt with through regular channels. The Executive Committee would not possess any decision-making powers presently vested in Convocation.

### FINANCE AND ADMINISTRATION

This committee would essentially function in the area of the present Finance Committee, but with greater emphasis on the administration of the Society, especially in relation to the development of personnel policies, and similar matters. It would prepare a budget following appropriate inputs from the other committees. It would have power to act (subject to statute) in regard to such matters as minor building changes, equipment purchases, etc. It would be responsible (with co-opted members from other committees if needed) for senior staff appointments through search committees, etc. Sub-committees might be formed to perform functions presently entrusted to the House Committee, Shirley Denison Bequest Fund, etc. Finance and Administration would also deal with such matters as the financial control aspects of Errors and Omissions Insurance, and the Compensation Fund.

### POLICY PLANNING

This committee would give the Society what it now lacks – a capacity to be pro-active rather than reactive, especially in relation to long-term issues. It would be available to handle such matters as the "numbers" issue, advertising, etc., but would also identify and select issues for scrutiny, with the assistance of the proposed Research Officer. Where appropriate, such issues might be referred to another committee, or explored by means of a joint sub-committee.

### LEGAL AID

No change proposed.

### PUBLIC, GOVERNMENT AND COMMUNITY RELATIONS

This Committee would undertake the work of the present Public Relations and Legislation Committees. However, its more general mandate would be the external relations of both the Society and the profession. This might include such matters as comments on pending legislation, public education in law, inter-professional co-operation, and the scope of the

profession's monopoly (including unauthorized practice).

## **EDUCATION, LIBRARIES AND INFORMATION SERVICES**

This committee should absorb the present Legal Education, Admissions and Library and Reporting Committees. Libraries should be viewed as vehicles for conveying information, and linked to the Society's Continuing Legal Education activities. "Information services" should include computerized retrieval systems which also have a similar function. This committee also should lay down guidelines in the area of admissions whose routine aspects should be delegated to staff, subject only to appeal to the Committee. It should cease to deal with student petitions except on appeal. Likewise in the Library area it should define general policies, but leave individual purchasing decisions in the hands of qualified professional librarians. Financial control aspects of the Library would remain with the Finance and Administration Committee, and the appropriate financial officers of the Society. Where necessary, sub-committees might be struck to deal with matters which require individualized judgments (e.g., special calls, petitions).

## **PROFESSIONAL CONDUCT**

This committee would remain largely unchanged, but would assume responsibility for supervising the Practice Advisory Service and other non-financial aspects of the present Practice and Insurance Committee.

## **DISCIPLINE POLICY**

Unchanged

## **NOTES**

### **1. Co-ordination**

It is particularly important that the work of committees and the secretariat concerned with setting and maintaining standards of behaviour and competence should be closely co-ordinated. It is proposed that the chairmen of Professional Conduct and Discipline should meet regularly with the Deputy Secretary (Professional Purposes) and other interested officials, to ensure that the Society's policies and procedures reflect experience gained and problems confronted in these two areas. In the formulation of policies (but not in the disposition of individual enquiries or complaints) it may be desirable for the two committees to meet jointly.

### **2. Membership**

Each of the last four committees, (Public, Government and Community Relations; Education, Libraries and Information Services; Professional Conduct; and Discipline Policy) would have in the order of 10-15 members, as would, presumably, Legal Aid. The Policy Planning and Finance and Administrative Committees would each have a somewhat smaller membership (8-12) and could not overlap with each other. The Executive Committee would have a membership of 9 or 10 - six committee chairmen, Treasurer, and 2 to 3 members-at-large.

### PROPOSED SCHEDULE – COMMITTEE DAY

10:30 a.m. – 1:00 p.m.

1. Legal Education, Libraries, Information
2. Discipline Policy
3. Professional Conduct
4. Legal Aid\*

2:00 p.m. – 4:00 p.m.

1. Public Community and Government Relations
2. Finance and Administration
3. Policy and Planning

4:00 p.m. – 5:00 p.m.

Executive Committee

\*In view of the significant number of non-bencher members of the Legal Aid Committee, that Committee should be invited to decide whether it wishes to change its meeting day.

It was moved, seconded but *not put* that the Admissions Committee continue to be a committee of Convocation.

It was moved, seconded but *not put* that action on this Report be deferred.

### THE MOTION THAT THE REPORT BE ADOPTED WAS LOST

It was moved, seconded and *carried* that the Report be adopted in principle and implemented in stages.

It was moved, seconded and *carried* that an executive committee be appointed.

The Treasurer is to propose to Convocation the names of those who are to form the executive committee which should include the Chairmen and Vice-Chairmen of Finance, Discipline, Professional Conduct and Legal Aid Committees.

It was moved, seconded and *lost* that a policy planning committee be appointed.

The Treasurer is to appoint a policy planning committee subject to ratification by Convocation.

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## DISCIPLINE COMMITTEE (Continued)

Re: BRUCE ALEXANDER CARSON, Ottawa

Mr. R. D. Yachetti, Vice-Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Arthurs, Catzman, Chadwick and Pepper withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. Ian G. Scott, Q.C. Mr. Ronald G. Chapman represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 3rd July, 1981, with attached proof of service on the solicitor by courier and on his counsel personally on 3rd July, 1981. Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found that the solicitor was guilty of professional misconduct. He had forged the signature of the president of a corporation and misappropriated over \$15,000 belonging to the corporation for which he acted; forged the signature of a client from whom he misappropriated over \$4,000; and misappropriated \$4,900 belonging to another client.

No submissions were presented with respect to the Report.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 3rd July, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been carried.

The Recommendation as to Penalty of the Discipline Committee was read, i.e., that the solicitor be disbarred.

Mr. Scott made submissions as to penalty and presented 16 letters attesting to the character, integrity and professional competence of the solicitor. These letters bore dates in May 1981 and were from the Vice-Chairman of the Ontario

Municipal Board, the Mayor of Ottawa, the Catholic Archbishop of Ottawa, the Mayor of the Township of West Carleton, two Toronto businessmen, two Ottawa businessmen, eight members of the Society, seven practising in Ottawa and one in Toronto.

Mr. Chapman made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved, but not seconded, that the solicitor's rights and privileges as a member of the Society be suspended for a five year period.

The motion that the solicitor be disbarred was *carried*.

The motion that the solicitor be suspended, not being seconded, was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's disposition of the matter.

The solicitor, counsel and the reporter retired.

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**Re: ABRAHAM IRVING JACOB COPELAND, Toronto**

Mr. Genest placed this matter before Convocation on Friday, 19th June, 1981.

The reporter was sworn.

The solicitor attended without counsel. Mr. John A.B. Macdonald appeared on behalf of the Society.

The matter was first before Convocation on Friday, 15th May, 1981, when counsel for the solicitor was permitted to withdraw from the case and the solicitor was granted an adjournment to permit him to obtain counsel. The adjournment was to Friday, 19th June, 1981, and the matter was made

peremptory on that date.

The solicitor asked that the matter be adjourned to give him a further opportunity to obtain counsel.

Mr. Macdonald made submissions respecting the question of a further adjournment.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the request for an adjournment be denied.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's decision.

The reading of the Report of the Discipline Committee, dated 28th April, 1981, was waived, the Report having been distributed to the Benchers prior to the May Convocation.

The Report found the solicitor guilty of professional misconduct and conduct unbecoming a barrister and solicitor. He had twice before been disciplined and undertook to the Society to file reports respecting his practice, but failed to honour the undertaking. He had failed to pay over \$50,000 to a client which was owing in respect of a judgment against him for negligence in his practice and was petitioned into bankruptcy by the client. He had failed to produce records required in connection with the Society's investigation.

There was a dissenting report by one member of the Committee with respect to one particular of the Complaint found by a majority of the Committee not to be established.

The minority Report found the solicitor guilty of professional misconduct in that he had failed to advise the adjusters for the Society's Errors and Omissions Insurance Policy, thereby jeopardizing his insurance coverage and the client's ability to obtain compensation for his losses, though he had knowledge of circumstances which might give rise to a claim against him for negligence in connection with his practice.

Convocation did not adopt the minority Report.

Mr. Macdonald made submissions respecting the Report. He referred to The Law Society Act, s. 33(1)(c) and asked that

“... and conduct unbecoming a barrister and solicitor...” be deleted from a paragraph in which it appeared erroneously.

The solicitor agreed and Convocation so ordered.

Mr. Macdonald made further submissions in support of the majority decision.

The solicitor made no submissions.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the charges found established by all three members of the Discipline Committee be adopted.

The solicitor, counsel and the reporter returned.

Convocation was advised of the Recommendation as to Penalty of the Discipline Committee.

Mr. Macdonald made submissions as to penalty.

The solicitor made no submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that the penalty be as recommended by the Discipline Committee, namely,

That the solicitor be suspended by Convocation from the practice of law for a period of six months on the understanding that he would give a specific written undertaking to The Law Society of Upper Canada, which would include the paragraphs set out below:

- (a) to bring up to date all the filings arising from his undertaking to the Discipline Committee of December 12th, 1978 within two months of his suspension by The Law Society of Upper Canada;
- (b) not to engage in the private practice of law following the suspension period for five years save in a setting where he is in association with or shares office space with another member of The Law Society of Upper Canada, who is in good standing and who is acceptable to the Law Society;
- (c) not to operate a trust bank account without the express permission of the Discipline Committee of The Law Society of Upper Canada;
- (d) and to continue indefinitely to make the filings arising from his undertaking to the Discipline Committee of December 12th, 1978 for the period after his suspension from the practice of law has come to an end;

and that the solicitor sign an acknowledgment at the same time as he signs the undertaking, which acknowledgment would provide that he understands that

the breach of any of the paragraphs contained in his undertaking to The Law Society of Upper Canada may result in the initiation of a formal Complaint against him based on such breach.

It was moved in amendment and seconded that in place of paragraph (b) of the proposed undertaking set out above, the solicitor be permitted for the next five years to practise only as an employee of another member of the Law Society.

It was moved and seconded that the solicitor's rights and privileges be suspended from 19th June, 1981, the suspension to run for a period of two years beyond the date on which he files the required reports respecting his professional records.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motions as to penalty before Convocation and the solicitor was informed that in view of the fact a more serious penalty was moved than that recommended by the Discipline Committee, he is entitled to an adjournment.

The solicitor, counsel and the reporter withdrew.

After a brief interval, the solicitor, counsel and the reporter returned.

The solicitor requested an adjournment.

An adjournment was granted to a Special Convocation to be held on Thursday, 16th July, 1981, copies of all motions respecting penalty to be sent to the Solicitor.

The solicitor, counsel and the reporter retired.

When the matter came before Convocation on 16th July, 1981, the Treasurer reviewed the course of the matter and the four motions respecting penalty that had been placed before Convocation on 19th June, 1981.

The reporter was sworn.

The quorum consisted of the following Benchers, all of whom had been present in Convocation when the matter was before it on 19th June, 1981:



The Treasurer and Messrs. Arthurs, Barr, Cass, Catzman, Chadwick, Chilcott, Farquharson, Ferrier, Furlong, Mrs. Legge, Messrs. Noble, O'Brien, Ogilvie, Pepper, Ruby, Mrs. Sutherland, Messrs. Thom, White, Willoughby and Yachetti.

The solicitor attended with his counsel, Mr. Bert Raphael, Q.C. Mr. John A. Olah appeared on behalf of the Society.

Mr. Raphael advised Convocation that he was not in a position to address the question of penalty and asked that the matter be further adjourned.

Mr. Olah made submissions respecting the question of a further adjournment.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the request for an adjournment be denied.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the request for an adjournment had been denied.

The solicitor, counsel and the reporter withdrew. They returned.

Mr. Raphael made submissions as to penalty and filed a letter, dated 15th July, 1981, from Mr. Allan I. Copeland, Public Accountant, relative to his proposed audit of the solicitor's books.

Mr. Olah made submissions as to penalty.

The solicitor, counsel and the reporter retired.

The motion that the solicitor be disbarred was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's action.

The solicitor, counsel and the reporter retired.

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Re: ROBERT ARTHUR SAVAGE, Milton

Mr. Yachetti placed the matter before Convocation.

The reporter was sworn.

The solicitor attended without counsel. Mr. Frank N.S. Marrocco represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 29th June, 1981, together with an Affidavit of Service, dated 3rd July, 1981, by Maura Pellegrino, Private Investigator, that service had been effected on the solicitor personally on 30th June, 1981. Copies of the Report were sent to the Benchers prior to Convocation.

The reading of the Report was waived by the solicitor.

The Report found that the solicitor was guilty of professional misconduct. He had misappropriated over \$60,000 belonging to a client.

The solicitor made no submissions respecting the Report.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 29th June, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been adopted by Convocation.

The Recommendation as to Penalty of the Discipline Committee was read, namely, disbarment.

The solicitor made no submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's disposition of the matter.

The solicitor, counsel and the reporter retired.

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## **PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground**

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Ground (Chairman), Humphrey, Lamont, Outerbridge, Wardlaw and Mrs. Sutherland.

### **POLICY**

#### **LAWYER'S INVOLVEMENT IN PRIVATE ADOPTIONS**

The Society's attention has been drawn to situations where lawyers involved in private adoptions appear to have charged excessive fees to their clients. The Child Welfare Act Regulations limit the fees which a licensed agent may charge to \$1,500. The Ministry interprets the Regulations to permit the cost of legal or medical expenses incurred to be charged in addition to the \$1,500 fee. There are apparently situations where clients have paid lawyers fees of between \$10,000 to \$15,000 for their assistance in the adoption process.

The Committee recommended that, when a lawyer acts as a licensed agent, he or she should not charge a legal fee over and above the statutory fee of \$1,500. Moreover, where a lawyer is involved in the private adoption process other than as a licensed agent, the fees charged by the lawyer should be justifiable on the basis of the legal services performed and the lawyer should not be a party to any arrangement whereby the fees for services could be characterized as a finder's fee. As well, the Committee recommended that this be published to the profession in the Communiqué.

### **ADMINISTRATION**

#### **FIRM NAMES**

Mr. J. W. McMaster, Q.C., of the Toronto firm of

McMaster, Montgomery questioned the use by the seven Toronto lawyers of McMaster and Associates of that firm name. There are no persons by the name of McMaster in the firm of McMaster and Associates. The partners of McMaster and Associates purchased the McMaster name from the William James McMaster estate. The late William James McMaster practised in the west end of Toronto with the late A.R. McIntyre.

Mr. J.W. McMaster contended that paragraph 8(b) of the Commentary under Rule 13 prohibits the use of the name McMaster and Associates since there is no person by the name of McMaster practising in the firm nor has there ever been.

The law firm of McMaster and Associates argued that paragraph 8(b) has no application. It subsequently advised the Society that it plans to drop "and Associates" from its name and replace it with the name of a partner in the firm.

The Committee was of the opinion that it was not proper for the McMaster name to be used since there was never any connection between the firm and anyone with the surname McMaster. The clear implication of the Society's rules dealing with firm names is that there has to be some sort of connection between the firm and an individual before the individual's name may be used in the firm name.

The discussion of the firm names resulted in a conclusion by the Committee that it would be useful to have an opinion from counsel on the subject. It was decided that Mr. Mark Orkin, Q.C., should be approached to give an opinion.

### THE REPORT WAS ADOPTED

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### LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. D. Ground presented the Report of the Legal Education Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Mr. J.J. Carthy, Chairman, Messrs. Arthurs, Ferrier, Ground, Lamont, Outerbridge, Wardlaw, Willoughby.

## POLICY

### FORMULATION OF POLICIES FOR DEALING WITH BAR ADMISSION COURSE PETITIONS REPORT OF THE DIRECTOR

The Director's report concerning the formulation of policies for dealing with Bar Admission Course petitions dated April 29th, 1981 was before the Committee on May 7th, 1981 at which time the Committee recommended that the report be accepted and approved. Convocation directed that this matter stand to allow consideration of the report by members of Convocation. The said report was distributed to all members of Convocation.

The Committee recommended that the following report dated 29th April, 1981, as amended, be approved:

### FORMULATION OF POLICIES FOR DEALING WITH BAR ADMISSION COURSE PETITIONS REPORT OF THE DIRECTOR

For the purposes of this report a study has been made of the types of petitions which have been made to the Legal Education Committee by candidates in the Bar Admission Course or who are applying to enter the Bar Admission Course asking for a modification of the requirements laid down under the statutory regulations under The Law Society Act. The chief regulations are those contained in Regulations 26(4) to 26(6) inclusive.

For the most part the petitions fall into a number of main categories and while petitions of the same type have not been allowed or denied uniformly, the practice of the Committee shows that certain policies have been established which have been departed from only in cases involving special circumstances.

The following are the typical categories of petitions with which the Committee has dealt and the established policies for allowing or denying the petition.

#### **I    *Petitions to Defer Entry into the Teaching Term of the Bar Admission Course after Completion of Service Under Articles***

These petitions are made to the Legal Education Committee under Regulation 26(4)(a), which requires that the Bar Admission Course shall consist of service under articles of clerkship for twelve consecutive months within the eighteen-month period preceding entry into the teaching term. Under Regulation 26(4b) the Legal Education Committee may modify that requirement in any case involving exceptional circumstances. It has been the policy of the Committee to allow these



petitions for a period of one year only. Where the candidate seeks a deferral of longer than one year, it has been the policy of the Committee to grant a one year deferral with a direction that if at the end of that period the candidate has reason for asking for further time, another application should be made on the basis of the circumstances which then prevail.

Grounds on which these petitions have been so allowed are as follows:

- (a) to accept an appointment as a teacher at a law school;
- (b) to undertake post-graduate studies in law;
- (c) to accept a position to serve in a legal capacity with a department or agency of a government in Canada;
- (d) on medical or compassionate grounds;
- (e) by reason of financial inability to support self and/or dependants;
- (f) to qualify for practice in another jurisdiction where a real intention to return to Ontario and complete the Bar Admission Course is shown;
- (g) to move with a spouse to another jurisdiction where a real intention to return to Ontario and complete the Bar Admission Course is shown.

Grounds on which these petitions have been denied are the following:

- (h) where the candidate wishes to defer entry into the teaching term for unspecified personal reasons;
- (i) where the candidate wishes to move to another jurisdiction without any real intention to return to Ontario and complete the Bar Admission Course.

## II *Petitions to Exempt or to Shorten and Abridge the Articling Requirement of the Bar Admission Course*

These petitions are made to the Legal Education Committee again under Regulation 26(4)(a) and Regulation 26(4b) referred to above.

Grounds on which these petitions have been allowed are the following:

- (a) where a petitioner qualified to enter the Bar Admission Course, fails to do so and fails to enter into articles of clerkship at the proper time and at a later date makes application for admission and shows *de facto* service under articles for the prescribed period;
- (b) where a candidate has broad experience in the practice of law elsewhere in Canada and will serve under articles of clerkship in Ontario in substantial, though not complete, fulfilment of the articling requirement.

Grounds on which these petitions have been denied are the following:

- (c) where a candidate, notwithstanding whatever prior experience in the practice of law outside of Ontario, seeks permission to serve under articles of clerkship other than by way of substantial fulfilment of the articling requirement;
- (d) where a candidate seeks to be exempted from the articling requirement.

### III *Petitions to be Allowed to Complete the Bar Admission Course After the Five-Year Period Commencing at Graduation from Law School*

These petitions are made to the Legal Education Committee under Regulation 26(4a) which requires that the Bar Admission Course shall be completed by every student-at-law within the five-year period commencing at graduation from a law course in a university in Canada approved by Convocation. Again under Regulation 26(4b), the Legal Education Committee may modify this requirement in any case involving exceptional circumstances.

Grounds on which these petitions have been allowed are the following:

- (a) where the petitioner, since graduation from law school, has been engaged in a legal capacity in government or corporate work or in a law school.

Grounds on which these petitions have been denied are the following:

- (b) where the petitioner, since graduation from law school has been engaged in other than a legal capacity and is unable to demonstrate any continued connection with the study or practice of law.

It is recommended that upon approval of these policies, the Director should make a ruling on each petition on the basis of the policy and inform the applicant as to the manner in which the policy is being applied and advise the applicant that if he or she does not accept the ruling the petition may be referred to the Committee. It is further recommended that the Director should alert the Committee as to changes in circumstances from time to time that require new policy directions or a re-consideration of existing policy and further that when a petition does come before the Committee it be accompanied by the Director's memorandum summarizing the current policy.

## ADMINISTRATION

### SPECIAL PETITIONS

Thirteen petitions were considered by the Committee. One petitioner requested permission for the late filing of documents for admission to student membership, submitted all necessary documents, the requisite fee and a fine for late filing, and further requested that the late filing fine be waived. A similar petition was before the Admissions Committee. The

Committee recommended that the late filing fee be not waived and the petition otherwise allowed. Two petitioners who had failed the teaching term of the Bar Admission Course sought permission to defer repeating the teaching term until September 1982. One petitioner, who had been granted a deferment previously and whose interest lies in the field of labour relations, wished to continue his present employment with a labour union in order to gain experience in that field. The other petitioner wished to continue with his involvement in assisting the Union of Ontario Indians in constitutional reform and other legal matters. Both petitions were granted.

Two petitioners requested permission to defer entry into the teaching term of the Bar Admission Course for an indefinite period. One petitioner had accepted a position as Foreign Service Officer with the Department of External Affairs and had been advised that he would be given leave-of-absence to complete the Bar Admission Course at some future time. The Committee recommended that he be given permission to defer entering the teaching term for a period of one year. The other petitioner advised that she was moving to Calgary with a view to practising law in the Province of Alberta. The Committee recommended that her petition be denied.

Four petitioners wished to defer entering the Bar Admission Course until September 1982. One who expected to complete his service under articles in July wished to accept a position to play and teach hockey in France in the coming year. The other three petitioners had been granted one-year deferments previously. One who had requested deferment to move with her husband to Windsor advised that her mother was very ill and required the petitioner's time and attention. The second who had attended graduate studies in law had accepted a one year appointment to the Faculty of Law at the University of Windsor. The third had been employed as Director of Communications of the Canada-Israel Committee, representing the Canadian Jewish community in all matters relating to Canada-Israel public affairs including legal matters, and wished to continue in that position. All four petitions were granted.

A petitioner who had been granted two deferments of one year each, the last to accompany her husband to Mauritius, advised that she had been unable to obtain employment there in a legal field and sought permission to enter the teaching term of

the Bar Admission Course in September 1981. The petition was granted.

A petitioner who had obtained the LL.B. degree in 1976 commenced service under articles in 1977 but did not file proof of service under articles because she did not expect to complete such service due to pregnancy. Following five months of such service under articles, from 1977 to 1979 she was involved in legal and community work on a freelance basis. In June 1979 she again commenced service under articles with a second solicitor and worked with him for approximately seven months. In May 1981 she commenced service under articles with a third solicitor and is presently working with him. She requested that the two periods of five and seven months service under articles plus a third period of approximately six months from May to October 1981 with her present principal be accepted in full of the articling requirement, that she be permitted the intervening time to spend with her children and that the five-year limitation be extended to allow her to enter the teaching term of the Bar Admission Course in September 1982. The Committee granted the petition.

A Manitoba solicitor who had been granted permission to try the prescribed examinations on the Statutes of Ontario and on Practice and Procedure in Ontario in November 1980, failed the examinations. Her eligibility expired in December 1980 and was extended by the Admissions Committee to May 1981, but she did not try the examinations in May. She petitioned for permission to take the full Bar Admission Course and requested that the five-year rule be extended to permit her to do so. The Committee recommended that the petition be allowed on condition that the petitioner enter the Bar Admission Course and commence service under articles before September 1st, 1981.

Finally the Committee considered a petition which had been before it in April 1981 and directed to stand pending receipt of further particulars by the Director. The petitioner was called to the Quebec Bar in 1976 and practised in Montreal from that time to August 1978 and from then partly in Montreal and partly in Toronto until February 1981. In March 1981 she applied for admission to the Bar Admission Course and filed articles of clerkship with an Ontario solicitor. The petitioner sought permission to have the period served under



articles from March 31st to August 31st, 1981 without time off for holidays or that the work that she had done under the supervision of the same solicitor for the period from September 1st, 1980 to August 31st, 1981 be accepted in full of the articling requirement, that she be permitted to enter the teaching term of the Bar Admission Course in September 1981 and that the five-year limitation period be extended to permit her to complete the Bar Admission Course in 1982. The petition was allowed.

## INFORMATION

### LONDON PREMISES

The lease of the premises currently occupied by the Law Society in London terminates at the end of June, 1982 and no renewal thereof can be obtained. The sub-committee appointed in February, 1981 to search for new premises has studied a number of properties. A canvass of older buildings including schools has shown the same to be too expensive to renovate and maintain and the sub-committee has found it necessary to direct its search to office premises. To date the most suitable property under study is one located on Talbot Street in the centre of London. It appears that unfurnished space at this location may be adapted to the Society's needs, perhaps most notably by reason of having a nine foot ceiling more suitable to use for lecture room space than most office space locations. The space has been examined by an architect retained by the Society and the architect is presently studying costs both in terms of rent, landlord improvements and tenant improvements and negotiations will be undertaken with respect to these matters, commencement date and possible early termination of the lease of the Society's present premises. The premises will provide space for a lecture room with capacity for 200 persons in a theatre-style setting arrangement, up to eight seminar rooms and accommodation for office staff and faculty.

In 1980-81 the London branch of the Bar Admission Course was made up of 148 students which for seminar purposes broke down into six seminar groups. The number of candidates who have to date opted for the teaching term in London in the 1981-82 term is 120 and it appears unlikely the total number will exceed 125. In consequence whereof the



number of seminar groups will be not more than five.

*Noted*

### **ISADORE LEVINTER MEMORIAL AWARD**

The following provision is contained in the will of the late Isadore Levinter, Q.C.

To the Law Society of Upper Canada the sum of \$3,000 to be invested as the said Law Society may see fit, out of which it shall pay each year out of the income the sum of \$150.00, if the income is less than \$150.00 a year, then to pay only the income, if more the excess shall be added to the capital, to the student who graduates from the Bar Admission Course and whose standing is second highest and who is called to the Bar of Ontario. If for any reason this gift shall fail, I direct that the same shall be paid for a cause in the interest of the Society as directed by the then Treasurer. This award shall be known as "THE ISADORE LEVINTER MEMORIAL AWARD".

The said sum was received from the executors of the said will and deposited with The Law Society Foundation.

*Noted*

### **BAR ADMISSION COURSE AND CONTINUING LEGAL EDUCATION**

The Committee reviewed a statement setting out the Continuing Education programmes held in May 1981 and the publications report for the month of May 1981; and considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 31st May, 1981.

### **THE REPORT WAS ADOPTED**

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Mr. Ground presented the Report of the Legal Education Committee of its meetings on Tuesday, 7th July, and Wednesday, 8th July, 1981, with respect to petitions by way of appeal from failure of four student members in the 22nd Bar Admission Course.

The Committee met on Tuesday, 7th July, 1981, at 2:15 p.m., the following members being present: Messrs. M.A. Catzman (Acting Chairman), Genest and Goodman.

The Committee considered the petition of one student member who was represented by counsel. On the evidence given, the Committee was satisfied that at the time of sitting the failed examination, the petitioner was unable to perform adequately by reason of extreme and exceptional personal problems which he was then experiencing and that he had knowledge and competence entitling him to be called to the Bar.

The Committee recommended that he be given a certificate of successful completion of the Bar Admission Course.

The Committee met again at 3:30 p.m., the following members being present: Messrs. M.A. Catzman (Acting Chairman), Doran, Genest and Goodman.

The Committee considered the petition of one student member who appeared in person before it and was not represented by counsel. Having heard the evidence, the Committee concluded that the student had demonstrated exceptional circumstances relating to his performance on the failed examination which explained his failure and that he had knowledge and competence entitling him to be admitted to practice.

The Committee recommended that he be given a certificate of successful completion of the Course.

The Committee met on Wednesday, 8th July, 1981, at 2:15 p.m., the following members being present: Messrs. Thom (Acting Chairman), Doran and Lamont.

The Committee considered petitions from two student members. The first was represented by counsel. On the evidence given, the Committee was satisfied that at the time of sitting the failed examination, the petitioner was unable to perform at the level of his knowledge and experience by reason of illness and further, on the basis of evidence given by his former principal, the petitioner had qualities and experience entitling him to be admitted to practice.

The second petitioner was also represented by counsel who made opening submissions, asked that the Committee hear the petitioner in the absence of counsel and withdrew. On the basis of the oral and written evidence before it, the Committee was satisfied that at the time of sitting the examination in question, the petitioner was unable to perform adequately by reason of

extreme and exceptional personal problems which he was then experiencing and that he had knowledge and competence entitling him to be admitted to the Bar.

The Committee recommended that each of these petitioners be given a certificate of successful completion of the Bar Admission Course.

### **THE REPORT WAS ADOPTED**

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Mr. Ground presented the Report of the Legal Education Committee of its meeting on Thursday, 16th July, 1981.

The following members were present: Mr. J. D. Ground, Acting Chairman, Messrs. Arthurs, Barr, Catzman, Ferrier, Lamont, Noble, Ruby, Scace, Thom, Wardlaw and Willoughby.

### **ADMINISTRATION**

#### **BAR ADMISSION COURSE**

#### **APPOINTMENT OF NEW DIRECTOR**

The sub-committee appointed to find a new Director for the Bar Admission Course recommended Mr. S. Ronald Ellis, Q.C., be appointed the new Director of the Bar Admission Course for a term of five years to commence January 1st, 1982 or July 1st, 1982, the choice of such date to be determined by the arrangements which can be made by Mr. Ellis for the termination of his present employment by the Osgoode Hall Law School of York University. Mr. Ellis agreed to accept such appointment and asked that no official announcement thereof be made in the Communiqué or otherwise until September 1st, 1981. The Committee recommended that Mr. Ellis be appointed Director of the Bar Admission Course on these terms.

#### **LONDON PREMISES**

The Committee considered the present situation in the search for new premises for the Bar Admission Course and Continuing Legal Education in the City of London. The search sub-committee has under consideration a firm proposal made by

450 Talbot Street Limited for the rental of premises at that address. A part of the proposed space is presently occupied by the Middlesex Legal Aid offices and by the Legal Aid Clinic. The space which is offered would be more than sufficient for the needs of the Bar Admission Course in the coming year and negotiations are currently being made which could result in the Bar Admission Course and Legal Aid sharing the space on a temporary basis. The search sub-committee also has at least one other property under serious consideration. As decisions must be made before the end of August, it is recommended that a special committee be appointed to consider proposals and to make decisions as negotiations for the rental of London premises proceed between this date and the next meeting of Convocation.

It was moved in Convocation, seconded and *carried* that Professor Ronald Ellis be appointed Director of the Bar Admission Course for a period of five years on the terms described in the Report.

### THE BALANCE OF THE REPORT WAS ADOPTED

Convocation directed that the Special Committee with respect to the rental of London premises be composed of Messrs. Carthy, Ground, Lerner, Shepherd and Collins-Williams.

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### SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. P.B.C. Pepper, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 7th May, 1981.

The following members were present: Messrs. Pepper (Chairman), Cass and Farquharson.

### ADMINISTRATION

#### REQUESTS FOR FUNDS

An applicant who has not practised since 1979, does not have an office, nor any trust funds, states that he receives \$216

per month social security payments, and supplements this by odd jobs. He is actively seeking employment and will take a course at the Metropolitan Rehabilitation Centre if he is not successful. The Chairman authorized a grant of \$500 in April 1981 and the Committee was asked to ratify this grant.

An applicant who has not practised since his suspension in April 1973 wrote to the Society on 10th April 1981 that he had used his pension income to visit his ex-wife who was seriously ill in Vancouver. On the return flight his luggage had been lost and the only clothes he had were those he wore on the flight and slippers. He requested assistance from the fund. The Chairman authorized a grant of \$500 on 28th April 1981 and the Committee was asked to ratify this grant.

The Committee approved these two requests.

An applicant attended at the Secretary's Office and requested financial assistance from the Fund so that he may pay his Errors and Omissions levy.

He had, to date, received \$3,000 from the Fund from August 1978 until June 1980.

The Committee recommended that no grant be made.

### **THE REPORT WAS ADOPTED**

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Mr. Pepper presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 11th June, 1981.

The following members were present: Messrs. Pepper (Chairman), Cass and Ogilvie.

### **ADMINISTRATION**

#### **REQUEST FOR FUNDS**

A letter dated 3rd May, 1981 enclosing a statement of income and expenses was before the Committee for consideration. The applicant is the divorced wife of a solicitor who suffered brain damage in an accident in 1968. She has two



daughters who are near the completion of their high school education. During 1980 she received \$500 each in May, June, September and December bringing the total paid to her from the Fund since May 1970 to \$15,500.

The Committee recommended that she receive a grant of \$500.

### **THE REPORT WAS ADOPTED**

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### **SPECIAL COMMITTEE ON IMMIGRATION ACT**

Mr. W. D. Chilcott, Chairman, presented the Report of the Special Committee on Immigration Act of its meeting on Thursday, 11th June, 1981.

The following members were present: Mr. Chilcott (Chairman), Mrs. Sutherland, and Mr. Tobias.

### **ADMINISTRATION**

The Secretary submitted a discussion paper prepared for the Minister of Employment and Immigration by a Task Force. A letter from the Minister was tabled asking for the views of the Law Society on this matter. The Secretary was instructed to invite solicitors, whose preferred area of practice is immigration law, to join the Committee at future meetings so that input could be obtained from Ottawa, Hamilton, Windsor and Sudbury.

### **THE REPORT WAS ADOPTED**

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### **PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé**

Mr. J. R. Barr, Vice-Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 11th June, 1981.

The following members were present: Mr. Brulé (Chairman), Mrs. Legge, Messrs. Ogilvie, Tebbutt and Wardlaw. Messrs. Hargraft and Maltman were also present at the Chairman's request.

## ADMINISTRATION

### REFUND OF ERRORS & OMISSIONS

#### INSURANCE LEVY

#### JOHN N. PEPPER

George B. Cooke of the firm of Cooke, Dickinson & Pepper wrote to the Society advising that John N. Pepper would be leaving the firm on 27th March, 1981 to work in the Attorney-General's office and enclosed a cheque for \$205 as payment for his 1981 levy. He was advised that anyone who retires from private practice before 1st July can apply for a refund of one half the annual levy and that he should pay \$425 which is the first instalment, or if he paid \$820, the Society would refund \$410. Mr. Cooke objected to having to pay this further amount and asked that the matter be referred to the Committee. He also asked that the late payment penalty of \$30, which was subsequently charged, be reimbursed to Mr. Pepper.

The Committee confirmed that the policy is to refund only half the year's levy, and that Mr. Cooke be so informed.

The Committee also recommended that the Secretary prepare a booklet containing policy decisions made by the Practice and Insurance Committee as a guide to the Committee. It is not the intention to dig out from the distant past for this purpose, except to the extent that it comes to the Committee's attention from time to time. The booklet is to be indexed as far as practical and to be available to the members at each meeting.

### PAYMENT OF COUNSEL'S ACCOUNT

#### DENIS J. POWER

A letter dated 23rd December 1980 from F.C. Maltman & Co. Ltd. enclosing an account from Denis J. Power, was before the Committee.

The Committee recommended that the account be paid without interest.

## PRACTICE ADVISORY SERVICE

A report dated May 1981, from the Director of the Practice Advisory Service was before the Committee.

*Approved*

## INFORMATION

### COUNSEL FEES

A list of fees paid in May 1981 was before the Committee.  
The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	\$ 388.53	
1978	\$ 2,937.00	
1979	\$ 9,305.90	
1980	\$15,645.53	
1981	<u>\$10,674.07</u>	<u>\$ 38,951.03</u>

*Noted*

### ADJUSTERS' FEES

A list of fees for May 1981 was before the Committee.  
The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
Old Fund	\$ 7,502.99	
1977	\$ 4,518.25	
1978	\$ 7,228.00	
1979	\$16,025.63	
1980	\$53,218.28	
1981	<u>\$ 9,194.47</u>	<u>\$ 97,687.62</u>

*Noted*

### MONTHLY REPORT

Mr. Hargraft's monthly report for May 1981 was before the Committee.

Totals of claims (including defence costs) paid in May 1981 are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	(\$15,194.26)	
1978	\$83,287.49	
1979	\$96,815.05	
1980	\$59,938.37	
1981	<u>\$ 9,500.00</u>	<u><u>\$234,346.65</u></u>

*Noted***THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 1:00 P.M.**

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Confirmed in Convocation 18th September, 1981.

J. D. BOWLBY  
Treasurer

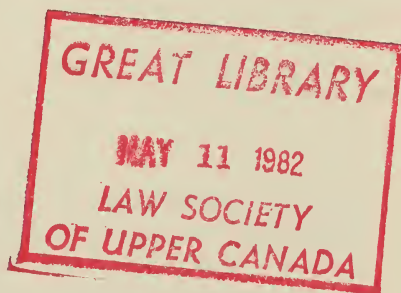






THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation



**Volume 6**

**Number 7**



## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 18th September, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Arthurs, Barr, Bragagnolo, Brulé, Bynoe, Carter, Cass, Chadwick, Chilcott, Cooper, Crane (after his election), Doran, Farquharson, Fennell, Ferrier, Finlayson, Furlong, Genest, Goodman, Ground, Guthrie, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Scace, Shaffer, Shibley, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, White and Yachetti.

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### MINUTES

The Minutes of Convocation of 19th June, 1981 and the Minutes of Special Convocation of 16th July, 1981 were confirmed.

.....

### ELECTION OF BENCHER

**JOHN DOUGLAS CRANE, Q.C.**

A vacancy having been caused in Convocation by the elevation of The Honourable Marvin A. Catzman to The High Court of Justice for Ontario, Convocation proceeded to elect a qualified candidate in accordance with the provisions of Section 22(2) of The Law Society Act.

It was moved, seconded and *carried* that Mr. J. D. Crane of Toronto be elected a Bencher to fill the vacancy in Convocation.

Mr. Crane entered Convocation and was welcomed to the Bench by the Treasurer.

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## APPOINTMENT OF EXECUTIVE COMMITTEE

The Treasurer informed Convocation that he had named the following to constitute the Executive Committee: Messrs. *Carthy, Chadwick, Doran, Ferrier, Genest, Ground, Ogilvie and Pepper*, with Messrs. *Finlayson* and *O'Brien* as Special Advisers, under the chairmanship of the *Treasurer*.

.....

## REMEMBRANCE DAY SERVICE

### (a) Time and Place 1981

It was moved, seconded and *carried* that the Society's observance of Remembrance Day be held on Thursday, 12th November, 1981, at 12:30 p.m., at the Society's Second World War Memorial in the Main Rotunda at Osgoode Hall.

### (b) Appointment of Special Committee

The Treasurer appointed Mr. *E. A. Goodman* as Chairman with Mr. *Noel Ogilvie* to act as the Special Committee to assist with the arrangements for the Society's observance of Remembrance Day.

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## ANNUAL MEETING

### TIME AND PLACE 1981

For a number of years the Society has been holding its Annual Meeting in conjunction with the mid-winter meeting of the Canadian Bar Association but this year the Association is not holding a mid-winter meeting. It was proposed that the Society's Annual Meeting be held on or about 6th February, 1982, which will be the 150th anniversary of the first meeting of Convocation held in Osgoode Hall.

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## DATES FOR MEETING DAY AND CONVOCAION IN OCTOBER 1981

The Meeting Day for Committees in October has been

rescheduled and will be held on Thursday, 15th October, 1981.

There will be two Convocations summoned in October — a Special Convocation on Thursday, 22nd October, and the Regular Convocation on Friday, 23rd October, 1981.

.....

## **STANDING COMMITTEES CONSTITUTION FOR 1981–1982**

It was moved, seconded and *carried* that the constitution of the Standing Committees for 1981-82 be as follows:

### **1. FINANCE:**

P.B.C. Pepper, Chairman; A.R.A. Scace, Vice-Chairman

Brulé, Chilcott, Farquharson, Fennell\*, Finlayson\*, Guthrie, Henderson, Lothead, O'Brien\*, Ogilvie, Shaffer, Sheard\*, Tebbutt, Wilson\*

### **2. LEGAL EDUCATION:**

J. J. Carthy, Chairman (Bar Admission Course); L. K. Ferrier, Co-Chairman (Continuing Legal Education); S. Lerner, R. E. Shibley, J. G. M. White, Vice-Chairmen

Barr, Brulé, Crane, Doran, Goodman, Ground, Henderson, Lamont, Noble, Ruby, Scace, Tait, Thom\*, Wardlaw, Willoughby

### **3. DISCIPLINE:**

P. Genest, Chairman; P. G. Furlong, C. C. Ruby, R. D. Yachetti, Vice-Chairmen

All members of Convocation

#### **— Policy Section:**

P. Genest, Chairman; P. G. Furlong, C. C. Ruby, R. D. Yachetti, Vice-Chairmen

Affleck, Cass, Cooper, Finlayson\*, Humphrey, Legge, Ogilvie, Sutherland, White

### **4. PROFESSIONAL CONDUCT:**

J. D. Ground, Chairman; B. C. Bynoe, J. J. Wardlaw, Vice-Chairmen

Fennell\*, Genest, Guthrie, Humphrey, Lamont, Lerner, McWilliams,



Outerbridge, Strauss\*, Sutherland, Tobias

**5. PUBLIC RELATIONS:**

A. B. Doran, Chairman; I. W. Outerbridge, Vice-Chairman

Carter, Ferrier, Goodman, Ground, Legge, Ogilvie, Scace, Yachetti

**6. LEGAL AID:**

J. B. Chadwick, Chairman; R. J. Carter, C. B. Noble, Vice-Chairmen

Barnes, Barr, Bragagnolo, Bynoe, Cornish, Crane, DeLorey, Ellis, Ferrier, Goodman, Guthrie, Linden, Ogilvie, Tait, Tebbutt, Tobias, Wallace, Yachetti

**7. PRACTICE AND INSURANCE:**

J. A. Brulé, Chairman; J. R. Barr, Vice-Chairman

Chadwick, Doran, Farquharson, Legge, Noble, O'Brien\*, Ogilvie, Tebbutt, Wardlaw

**8. ADMISSIONS:**

L. L. Legge, Chairman; D. H. L. Lamont, Vice-Chairman

Affleck, Carthy, Cass, Chilcott, Cooper, Finlayson\*, Henderson, Pepper, Sheard\*, Sutherland, White, Willoughby

**9. LEGISLATION AND RULES:**

P. K. E. McWilliams, Chairman; R. W. Cass, Vice-Chairman

Common\*, Crane, Goodman, Legge, Lohead, Wilson\*

**10. UNAUTHORIZED PRACTICE:**

W. D. Chilcott, Chairman; R. C. Bragagnolo, Vice-Chairman

Carter, Chadwick, Furlong, McWilliams, Shaffer, Strauss\*, Tobias, White

**11. LIBRARIES AND REPORTING:**

G. H. T. Farquharson, Chairman; B. Shaffer, L. S. Willoughby, Vice-Chairmen

Bragagnolo, Lerner, Tait, Yachetti

## 12. COMPENSATION FUND:

N. Ogilvie, Chairman

Bynoe, Chilcott, Farquharson, Scace, Shibley

\*Ex-officio Benchers

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## DISCIPLINE COMMITTEE—Mr. Genest

Re: JOEL EMMANUEL TENCER, Toronto

Mr. P. Genest, Chairman, placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Ian G. Scott, Q.C. The Society was represented by Mr. Thomas J. Lockwood.

Convocation had before it the Report of the Discipline Committee, dated 31st August, 1981, together with an Affidavit of Service, dated 4th September, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 3rd September, 1981.

On consent of counsel, the reading of the Report of the Discipline Committee, which had been sent to the Benchers prior to Convocation, was waived.

The Report found that the solicitor had charged clients more for disbursements than was actually paid out with the result that over \$13,000 stands on his books as owing to unspecified clients.

Mr. Scott accepted the Report and made no submissions respecting it.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is that the appropriate penalty would be a reprimand in Convocation.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 31st August, 1981, be adopted.

Mr. Scott made submissions respecting penalty and asked that the penalty be a reprimand in Committee, or a reprimand in Convocation without publication.

Mr. Lockwood made submissions respecting penalty.

Mr. Scott made submissions in reply.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that the solicitor be reprimanded in Convocation.

It was moved and seconded that the matter be referred back to the Discipline Committee for a decision respecting the disposition of the money standing on the books of the solicitor as owing to clients, and when it has been disbursed in accordance with that decision, the Committee make a further recommendation to Convocation respecting penalty.

It was moved, but not seconded, that Convocation by order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved, but not seconded, that the solicitor be reprimanded in Convocation without publication of his name but that the fact of the reprimand and the nature of the offence be published in the Communiqué, and that the solicitor be required to contribute \$14,000 to a charitable organization in his community agreed upon by the solicitor, Mr. Scott, Mr. Lockwood and the Chairman of the Discipline Committee.

It was moved and seconded that the solicitor be reprimanded in Convocation and required within sixty days to satisfy the Society that he has reimbursed those to whom the money standing on his books belongs. This motion was *withdrawn*.

The motion that the solicitor be reprimanded in Convocation was *carried*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been carried and that Convocation expressed concern that money stands on the solicitor's books which does not belong to him and that the Society would advise him with respect to its disposition. The solicitor was informed of his right of appeal.

The solicitor waived his right of appeal and requested that the Order of Reprimand in Convocation be carried out forthwith.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

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### ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Ground, Lamont, Pepper, Scace and Mrs. Sutherland.

### ADMINISTRATION

#### OCCASIONAL APPEARANCE

*Marshall William Brock* of the province of Quebec, applied to proceed under Section 10 of the Regulation "Occasional appearance in Ontario of lawyers from other provinces", in the case of *Regina vs. Uranerz Canada Ltd.* Mr. Brock complied with the requirements of Section 10 of the Regulation and presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the September Convocation. His letter was before the Committee setting forth the circumstances.

*Douglas Christian Robertson* of the province of Quebec, applied to proceed under Section 10 of the Regulation "Occasional appearance in Ontario of lawyers from other provinces", in the case of *Regina vs. Uranerz Canada Ltd.* Mr. Robertson complied with the requirements of Section 10 of the Regulation and presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the September Convocation.

Mr. M. William Brock and Mr. Douglas C. Robertson both seek to appear for Uranerz Canada Ltd. which has been charged under the Combines Act and is to be tried in Ontario.

*Approved*

## CALL TO THE BAR AND CERTIFICATES OF FITNESS

### Bar Admission Course

The following candidates, having successfully completed the Twenty-second Bar Admission Course, filed the necessary documents and paid the required fee of \$210, applied for call to the Bar and to be granted Certificates of Fitness:

Daniel Francis Hadley  
Stephen Paul Martin  
George Bryan Porter

*Approved*

### Call to the Bar for an Occasional Appearance

At its meeting on 10th September, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearance in Ontario of lawyers from other provinces" and that upon giving the necessary undertakings they be called to the Bar of Ontario and admitted as solicitors:

Marshall William Brock  
Douglas Christian Robertson

Province of Quebec  
Province of Quebec

*Approved*

## ADMISSION OF STUDENTS—AT—LAW

### Bar Admission Course

Five further candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

A total of 202 candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary papers, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 24th Bar Admission Course.

*Approved*

## DIRECT TRANSFER

The Committee considered three applications to transfer to practise in Ontario, two from members of the Bar of Nova



Scotia and one from a member of the Bar of Saskatchewan. All three applicants sought permission to proceed under Regulation 4(1). All three applications were approved.

#### **DIRECT TRANSFER FROM QUEBEC**

The Committee considered two applications to transfer to practise in Ontario, one from a member of the Bar of Quebec and the other from a Notary commissioned and sworn in Quebec. Both sought permission to proceed under Regulation 4(2). On 16th November, 1973 Convocation adopted the recommendation that practice as a notary in the province of Quebec be accepted as satisfying the requirements of Regulation 4(2)(a). Both applications were approved.

#### **FULL-TIME MEMBERS OF THE FACULTIES OF APPROVED LAW SCHOOLS**

The following members of approved law faculties asked to be called to the Bar and to be admitted as solicitors without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario upon payment of a fee of \$200. Letters confirming the eligibility of the applicants had been received from the Deans of the relevant law schools.

Pepita Capriolo

B.C.L. McGill University 1975

B.C.L. Oxford University 1979

Peter Philip Mercer

LL.B. University of Western Ontario 1976

LL.B. Cambridge University 1977

*Approved*

#### **COMMON LAW EXAMINATION**

Two candidates were approved by the Committee to proceed under Regulation 4(2). The candidates were identified only by number and a report of the examiners was before the Committee. Both candidates passed.

*Approved*

#### **PETITIONS**

The Committee considered and approved three petitions for permission for the late filing of applications for admission

as students in the Bar Admission Course, which were accompanied in each case by the requisite documents, the required fee and a fine for late filing. Similar petitions had been submitted to the Legal Education Committee.

### ADMISSION

A correspondant was called to the Bar of Sri Lanka in 1966, and practised there until 1970, when he moved to England. He was admitted as a solicitor in England and Wales in 1972.

Following an investigation by the Solicitors' Disciplinary Tribunal, he was found guilty of conduct unbefitting a solicitor in that he:

- (a) utilised for his own purposes money held and received by him on behalf of clients;
- (b) utilised money held and received by him on behalf of certain clients for the purposes of other clients;
- (c) obtained authorities from certain clients to pay moneys into his office account without disclosing that this office account was overdrawn;
- (d) obtained authorities from clients to pay their money into his office account in circumstances which did not satisfy the provisions of Rule 9(2)(a) Accounts Rules 1967;
- (e) obtained authorities from clients to pay their moneys into his office account in circumstances which did not satisfy the provisions of Rule 9(2)(a) of the Accounts Rules 1975.

His name was struck off the Roll of Solicitors in 1976. He appealed against the Tribunal's decision in the High Court and the House of Lords and the appeal was dismissed with costs to The Law Society.

He asked whether these circumstances would prevent him being called to the Bar of Ontario if he qualified in other respects.

The Committee recommended he be advised that he cannot satisfy the requirements of Section 27 of The Law

Society Act.

### 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:

Daniel Francis Hadley  
Stephen Paul Martin  
George Bryan Porter  
Marshall William Brock

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### DISCIPLINE COMMITTEE (Continued)

**Re: HENRY LEONARD RITTERSPORN, Q.C., Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

The solicitor did not attend and was not represented by counsel. Mr. Ronald G. Chapman represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 17th August, 1981, together with an Affidavit of Service, dated 19th August, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 18th August, 1981, and a memorandum, dated 17th September, 1981, from Stephen E. Traviss to the Chairman of the Discipline Committee advising, inter alia, that the solicitor did not plan to attend before Convocation.

The Report of the Discipline Committee having been sent to the Benchers prior to Convocation, the reading of it was waived.

The Report found that the solicitor was guilty of professional misconduct. He had misappropriated over \$25,000

belonging to his clients, permitted an action to be dismissed on behalf of a client, and misrepresented to the Society the status of those proceedings.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 17th August, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee was disbarment.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter withdrew.

The motion was *carried*.

Counsel and the reporter returned.

Counsel was advised of Convocation's disposition of the matter.

Counsel and the reporter retired.

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**Re: DONALD GROVER R. MacDONALD, Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

The solicitor did not attend and was not represented by counsel. Mr. Chris G. Paliare attended on behalf of the Society.

Convocation had before it the Report of the Discipline Committee, dated 27th August, 1981, together with an Affidavit of Service, dated 2nd September, 1981, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 31st August, 1981.

Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found the solicitor guilty of professional misconduct. He had misappropriated over \$100,000 belonging to clients and co-venturers.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 27th August, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee was that the solicitor be disbarred.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter retired.

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**Re: CHESTER JAREMEY, Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

Messrs. Affleck, Barr and White withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend nor was he represented by counsel. Mr. Thomas J. Lockwood represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 3rd September, 1981, together with an Affidavit of Service, dated 9th September, 1981, by Mauro Pellegrino, Private Investigator, that he had effected service upon the solicitor personally on 3rd September, 1981.

Copies of the Report having been forwarded to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found the solicitor guilty of professional misconduct. Having previously been disciplined, he failed to file the necessary declarations and reports respecting his practice and showed complete disregard for the requirements of the Society's rules and regulations.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 3rd September, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee was that the solicitor be disbarred.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of



Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter withdrew. They returned.

Mr. Lockwood replied to questions from the Bench.

Counsel and the reporter withdrew.

The motion was *carried*.

Counsel and the reporter returned.

Counsel was advised of Convocation's disposition of the matter.

Counsel and the reporter retired.

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## GENERAL REPORT

Mr. Genest presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Genest, Chairman, Furlong, Ogilvie and Yachetti, Vice-Chairmen, Cass, Cooper, Finlayson, Humphrey, Mrs. Sutherland, and Mr. White.

## POLICY

### TRUST FUNDS

#### DISPOSITION OF BALANCE AFTER DISBARMENT

The Law Society applied to the Court for an order directing the disposition of funds frozen in Michael J. Delaney's trust account. The balance was insufficient to meet his trust obligations. Mr. Justice Pennell concluded that the rule in *Clayton's Case, DeVayne vs. Noble* (1816) 1 Mer. 572; 35 E.R. 767 should be applied, namely, that "where sums are paid into and drawn out from time to time on a single running account, if there is no express intention to the contrary and no special circumstances from which such an intention can be implied, the accounts rendered are evidence that the payments in on one side are appropriated to the payments out on the other side in

the order in which they take place; i.e., the first item on the debit side is discharged or reduced by the first item on the credit side. By this rule the beneficiaries of the trust deposits are entitled to share in inverse order to the time deposits were made.” His Lordship suggests that the Law Society seek legislative action that would confer upon them a discretion in allocating remaining trust assets rather than being compelled to apply the inflexible formula sustained by the Court.

The Committee recommended that no action be taken. Money most recently deposited in a lawyer’s trust account is most easily identified and to attempt to determine all *cestuis que trusts* and establish the indebtedness to each would be administratively extremely difficult and costly and the result of doing so would not necessarily lead to an equitable result. Those who do not receive what is due them can apply for payment from the Compensation Fund.

## **HEARING PROCEDURES**

### **STATUTORY POWERS PROCEDURE ACT**

The Committee is asked to consider whether the statutory warning to witnesses as outlined in the Suggested Procedures to be Followed at a Sitting of a Panel of the Discipline Committee, paragraph 5 needs to be followed (*see s.14(1)(2) of The Statutory Powers Procedure Act*).

The Committee recommended that a form be prepared outlining a witness’s rights under the Canada Evidence Act and be supplied to the witness in advance of the hearing. It was the Committee’s view that the Chairman should continue to advise witnesses of their right to object to answer any question.

## **BOOKS AND RECORDS**

### **SECTION 19 OF THE REGULATION**

#### **ACCOUNTS RECEIVABLE**

The section of the Law Society’s Regulation which prescribes the records members must keep does not require that a clients’ general ledger account (account receivable) be maintained. As originally drafted in 1969 such a requirement was included but was deleted by the Discipline Committee with Convocation’s approval.

The Committee recommended that the regulation respecting books and records be amended to provide that members must keep a clients' general ledger showing separately for each client all fees and disbursements charged and all payments received or transfers from trust on account of those charges and any balance owing by or to each client on general account and that this amendment be made subsection (k) of section 19 of the Regulation.

## **ADMINISTRATION**

### **APPOINTMENT OF REFEREES**

The Committee recommended that The Honourable Mayer Lerner and His Honour Benjamin Grossberg be appointed Referees to hear applications to the Compensation Fund and make recommendations therein to the Discipline Committee.

### **SENIOR DISCIPLINE COUNSEL — DUTIES**

The Committee considered a memorandum outlining the suggested duties of Senior Discipline Counsel.

The Committee recommended approval in principle of the duties and functions of the Senior Discipline Counsel as set out in the memorandum.

### **DISCIPLINE STAFF**

#### **ASSISTANT SECRETARIES**

#### **INVESTIGATOR**

Convocation approved of two Assistant Secretaries being engaged to work primarily in the discipline field. One of these positions has now been filled.

The Committee now recommended that Convocation authorize the engagement of one further Assistant Secretary (in addition to the one already authorized but not yet engaged) on the usual probationary basis to work primarily in the discipline field.

Convocation had approved in principle of the appointment of an investigator to work in the discipline field and the Committee appointed a Sub-committee consisting of Messrs.

Carter, Doran, Ogilvie and Ruby to recommend to the Committee who should be appointed.

*Approved in principle by Convocation, subject to the approval of the Finance Committee.*

## THE REPORT AS AMENDED WAS ADOPTED

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### FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Pepper (Chairman), Brulé, Chilcott, Farquharson, Fennell, Lohead, Ogilvie, Shaffer, Tebbutt and Wilson.

## POLICY

### ERRORS AND OMISSIONS INSURANCE MEMBERS DEDUCTIBLES

A total of \$760,339.57 is shown on the books as owing to the Society for members deductibles, made up as follows:

159	Members where collection action is being taken	\$522,618.91
14	Members where the liability has not yet been established	46,045.50
<u>26</u>	<u>Members where the amount is uncollectible</u>	<u>191,675.16</u>
<u>199</u>	<u>Members</u>	<u>\$760,339.57</u>

The Under-Treasurer proposed that arrangements be concluded with the Bank of Montreal by which members indebted to the Society receive bank loans to be used to pay the Society. The Bank of Montreal is prepared to make such arrangements. The Society would provide a blanket guarantee of \$1,000,000.

The Committee recommended that the proposed scheme be approved; that the 159 members where collection action is being taken be required, within six weeks, to attend before the Secretary to explain their default; and that the requirement in the insurance contract which obliges the Society to pay the

individual deductibles when not paid by the member, be referred to the Practice and Insurance Committee for reconsideration.

The Committee also recommended the passing by Convocation of the necessary enabling resolution and the execution of the guarantee.

*See motion, p. 352.*

## ADMINISTRATION

### COLLECTION OF SOCIETY FEES AND LEVIES

In a letter dated 3rd June, 1981, the Secretary proposed a method of billing and collecting fees and levies payable by members, which would replace the present system. A brief outline of the suggested system is as follows:

- a) Using the Society's computer, set up an account with the Society for every member.
- b) Send each member an itemized bill for the various fees and levies as they become due.
- c) Include on each bill a statement that it is to be paid within, say, thirty days and that thereafter interest at prime plus 1% will be charged.
- d) Treat overdue accounts as collections and either make arrangements for payment, or sue, reserving always the right to impose the sanction of suspension and enforce it strictly.

The Committee recommended the approval of this recommendation so that the necessary programming changes can be implemented.

### ERRORS AND OMISSIONS INSURANCE LEVY 1982

The Practice and Insurance Committee will recommend the renewal of the existing Errors and Omissions Insurance policy for a six-month period, 1st January to 30th June, 1982. Accordingly members will be billed for six month's levy, payable 1st January, 1982.

The Committee recommended approval of the levy being billed for a six-month period.



## ERRORS AND OMISSIONS INSURANCE

(a) There are 50 members who elected to pay 1981 Errors and Omissions Insurance Levy in two instalments, but who did not pay the second instalment due on 1st June, 1981. Notices have been sent. The Committee recommended that the rights and privileges of those members be suspended as at 1st October 1981.

*See motion, p.351.*

(b) There are 27 members called to the Bar in April or May 1981 who have neither paid Errors and Omissions Insurance Levy nor filed a claim for exemption. Three notices have been given – the first handed to student members in the Bar Admission Course, the second and third mailed. The Committee recommended that their rights and privileges be suspended as at 1st October 1981.

*See motion, p.351.*

## ERRORS AND OMISSIONS INSURANCE FUND CLAIM

A claim against the Society was made by James A. Calvert on behalf of himself and others claiming the Society was negligent in calling James H. Pearson to the Bar and not auditing his books during his practice. Pearson was later disbarred and Calvert claimed unsuccessfully against the Compensation Fund. The Writ against the Society was issued in March 1980, and the Society retained Lorne Morphy to defend it. The Finance Committee approved the retainer at the rate of \$500 per day and \$50 per hour. The action against the Society was dismissed when the statement of claim was struck out on the ground that it disclosed no reasonable cause of action

The Society was given costs but counsel recommended that they not be taxed. He estimated that they could be taxed at between \$2,500 and \$3,500.

Counsel's bill in the amount of \$6,500 plus \$88.40 disbursements was paid out of the Errors and Omissions Fund.

Since the Society itself is an insured under the Errors and Omissions Insurance scheme, it is responsible for an individual deductible of \$5,000. The Committee recommended that this be paid to the Errors and Omissions Fund by the Society out of

its general funds.

#### **PEAT, MARWICK MANAGEMENT CONSULTANT STAFF SURVEY**

Peat, Marwick and Partners submitted their final account for professional fees, dated June 30, 1981, in the amount of \$1,640 plus \$540 disbursements, bringing their total billing for professional fees to \$33,580 plus disbursements of \$2,833. In October 1980, Convocation approved the engagement of Peat, Marwick and Partners at an estimated fee of \$28,000 plus disbursements.

The Committee recommended approval of payment of this account.

#### **APPOINTMENTS**

The Under-Treasurer recommended the appointment of D. V. Burnett, C.A., to the position of Director of Finance. Reporting to the Under-Treasurer, the Director of Finance will be responsible for the following:

- Treasury including investments
- Accounting & Bookkeeping including budgetary control
- Personnel & Payroll
- Data Processing
- Office Services including Members Records
- Administration of Errors & Omissions Insurance

The Under-Treasurer further recommended the appointment of B. Chamandy, C.A. to the position of Assistant Director of Finance.

At its meeting earlier today, the Libraries and Reporting Committee recommended the appointment of Mr. Glen Howell as Chief Librarian, effective 1st October 1981.

The Committee recommended the approval of these appointments.

#### **EMPLOYEE PENSION PLAN**

A report of the Finance Administrator, following a review of the Pension Plan by Peat, Marwick and Partners, recommended the following changes:

1. Plan document to be rewritten.
2. Interest on refunds of employees' contributions to employees leaving to be increased from 4% to the rate paid by chartered banks on non-chequing savings accounts.
3. Definition of final earnings to be amended from average of last five years to average of last three years.

The estimated cost of Items 2 and 3 is \$12,000 per annum. A suggestion to amend the plan to make all employee contributions voluntary was also reviewed. The question of indexing pensions was deferred pending a review of each pensioner's individual circumstances.

The Committee recommended that Item 2 be approved.

#### **BUILDING – HEATING & AIR CONDITIONING**

The Committee approved the appointment of consulting engineers to review the heating and air conditioning systems now installed in Osgoode Hall, with a view to determining potential energy and cost savings improvements with the choice of consultants and amount of fee to be approved by the Chairman.

#### **CAFETERIA SUBSIDY**

For several years a subsidy has been paid to Mr. Mike Hinzl because of losses sustained on examination and study days. This arises because of a decrease in sales on these days, coupled with the need to pay a full day's pay to all cafeteria employees.

In 1980/81 there were 18 examination and study days on which sales averaged \$121.67 per day compared to \$583.62 on teaching days. It is estimated that the loss sustained is 50% of the sales drop. The subsidy is therefore calculated as:

$$18 \times 50\% (\$583.62 \text{ minus } \$121.67) = \$4,157$$

Last year the subsidy was \$3,398.

The Committee recommended approval of this payment.

#### **BEQUEST – MRS. MILLING**

The Society received a bequest of \$3,000 under the Will

of the late Mrs. Aileen Milling. This is an outright bequest to the Society with no stated limitations or restrictions.

The Committee gratefully noted this bequest.

### LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society, effective 17th September 1981:

Edward Ormonde Butler, Q.C.	Belleville
John Price Erichsen-Brown	King
Henry George Goodman	Toronto
Murray Morris Herman, Q.C.	Toronto
Thomas Hunter Lines	Duncan
John Francis McGarry, Q.C.	Willowdale
George James McIlraith	Ottawa
Allan Morris Mills, Q.C.	Newmarket
Alexander Heber Nethery, Q.C.	Sarnia
Maxwell Franklin Reycraft	Scarborough
Franklin David Turville, Q.C.	Toronto

*Approved*

### MEMBERSHIP RESTORED

The Honourable *Mayer Lerner* gave notice under Section 31 of The Law Society Act that he retired as a Judge of The Supreme Court of Ontario on 11th May, 1981 and wished to be restored to the rolls of The Law Society. Accordingly, his membership was restored effective 17 June 1981.

Mr. Lerner was entitled to Life Membership in the Society, having been called to the Bar on 19th September, 1929.

*Approved*

### CHANGE OF NAME

#### (a) Members

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

<i>From</i>	<i>To</i>
Brigitte Juliane Geisler-James	Brigitte Juliane <i>Geisler</i> (Maiden Name)
Janice Ann Mofford	Janice Ann <i>McCart</i> (Maiden Name)

Susan Linda Hershberg  
 Heidi Suter-McEwen  
 Deborah June Tuck  
 Patricia Louise Vassil

Susan Linda *Van Der Hout* (Maiden Name)  
 Heidi *Suter* (Maiden Name)  
 Deborah June *Matz* (Maiden Name)  
 Louise *Angélique de la Fayette*  
 (Court Order)

*Approved*

## (b) Student Members

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Giacomo Formusa	<i>John Anthony</i> Formusa (Court Order)
Katherine Anne Molnar	Katherine Anne <i>Regasz-Rethy</i> (Married Name)
Jan Zdenek Ort	<i>John Edward</i> Ort (Court Order)
Ronald William Groszman	Ronald William Groszman <i>Linden</i> (Court Order)
Anna Mark	Anna Mark <i>Kleinberg</i> (Married Name)

*Approved*

## RESIGNATION

*Joel Sheldon-Zangwill Wagman* submitted his resignation from the Society, dated 26 May, 1981, in accordance with his undertaking given 25 June, 1980. This arrangement was accepted by the former Chairman of the Discipline Committee, and was before the Finance Committee for approval.

*Approved*

## MEMBERSHIP UNDER RULE 50 RETIRED MEMBER

The following member who is sixty-five years of age and fully retired from the practice of law, requested permission to continue his membership in the Society without payment of annual fees. His formal application was before the Committee.

John Feasby Fullerton

Agincourt

Mr. Fullerton's rights and privileges were suspended by Convocation on 2nd March, 1981 by reason of his failure to pay



annual fees for 1980-81.

*Approved*, subject to Mr. Fullerton paying the arrears in fees.

## INFORMATION

### ROLLS AND RECORDS

#### Appointments to the Bench

The following members have been honoured by their appointment to judicial office and their membership in the Society was placed in abeyance upon their assuming office:

Kenneth George Ouellette Windsor	Called – 28 June 1956 Appointed County Court Judge County of Essex – 1 June 1981
Keith Alexander Hollett Toronto	Called – 25 March 1966 Appointed County Court Judge Judicial District of York – 1 June 1981
Hugh David Logan Lindsay	Called – 19 April 1963 Appointed County Court Judge County of Simcoe – 1 June 1981
John Patrick Matthews, Q.C. Niagara Falls	Called – 19 June 1941 Appointed County Court Judge Judicial District of York – 1 June 1981
Richard Jeffrey Flinn, Q.C. London	Called – 17 February 1955 Appointed County Court Judge County of Middlesex – 1 June 1981
Marvin Adrian Catzman, Q.C. Toronto	Called – 10 April 1964 Appointed Judge, Supreme Court of Ontario – 17 July 1981
Joseph Wesley O'Brien, Q.C. Toronto	Called – 8 April 1960 Appointed Judge, Supreme Court of Ontario – 17 July 1981

#### Deaths

The following members have died:

Howard Wilfred Alles, Q.C. Toronto (Life Member)	Called – 20 November 1930 Died – 10 June 1981
Francis Walton Dowler, Q.C. London	Called – 21 September 1944 Died – 16 June 1981

Harry Philip Beahen, Q.C. Ottawa	Called – 18 September 1947 Died – 31 May 1981
John Malcolm Robb, Q.C. Toronto	Called – 21 September 1939 Died – 17 June 1981
Ants Eric Kerson, Q.C. Toronto	Called – 27 June 1957 Died – 1 July 1981
Russell Norman McCormick Toronto (Life Member)	Called – 22 May 1914 Died – 25 June 1981
Robert Hewett Littlejohn Toronto (Life Member)	Called – 15 November 1928 Died – 9 December 1980
William Douglas Chambers, Q.C. Toronto	Called – 17 March 1967 Died – 20 June 1981
Dalton Gilbert Dean, Q.C. Haileybury	Called – 17 September 1936 Died – 6 July 1981
William Lyle Moore, Q.C. Kingston	Called – 17 November 1938 Died – 10 July 1981
Mierslow Leon Pieprzak Hamilton	Called – 26 March 1965 Died – 15 July 1981
Stanley Hall Beck Toronto (Life Member)	Called – 17 January 1925 Died – 19 July 1981
Julia Helen Meyer Toronto	Called – 19 April 1978 Died – 20 July 1981
Frederick Arthur Dashwood Scarborough (Life Member)	Called – 17 September 1925 Died – 25 July 1981

## Disbarments

The following former members were disbarred and struck off the rolls, and their names were removed from the rolls and records of the Society:

Ronald John Faulkner Nepean	Called – 23 March 1973 Disbarred – Convocation 19 June 1981
Reuben Richman, Q.C. Willowdale	Called – 13 April 1962 Disbarred – Convocation 19 June 1981
Bruce Alexander Carson Ottawa	Called – 24 March 1972 Disbarred – Convocation 16 July 1981
Robert Arthur Savage Oakville	Called – 27 June 1957 Disbarred – Convocation 16 July 1981
Abraham Irving Jacob Copeland Toronto	Called – 17 September 1953 Disbarred – Convocation 16 July 1981

*Noted*

.....

# CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.

.....

The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice John W. Brooke of The Court of Appeal for Ontario, Mr. T. H. Rachlin, Q.C., President of The Advocates' Society, and Mr. Ronald G. Thomas, Q.C., President of the Criminal Lawyers Association.

.....

# CONVOCATION RESUMED AT 2:40 P.M.

.....

## PRESENT:

The Treasurer and Messrs. Arthurs, Barr, Bragagnolo, Brulé, Bynoe, Carter, Carthy, Cass, Chadwick, Chilcott, Crane, Doran, Farquharson, Fennell, Ferrier, Finlayson, Furlong, Genest, Guthrie, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, O'Brien, Ogilvie, Pepper, Ruby, Scace, Shaffer, Shibley, Mesdames Sutherland and Tait, Messrs. Tobias, White and Yachetti.

.....

## FINANCE COMMITTEE (Continued)

Convocation resumed its consideration of the Report of the Finance Committee.

## THE REPORT WAS ADOPTED

.....

**MOTIONS TO SUSPEND (2):  
ARREARS OF ERRORS AND  
OMISSIONS INSURANCE LEVY**

**1. MEMBERS IN DEFAULT OF SECOND INSTALMENT**

It was moved, seconded and *carried* that the Barristers and Solicitors who had failed to pay the second instalment of the levy prescribed under Section 53 of The Law Society Act and who had not been granted exemption from coverage be suspended from 1st October, 1981 for a period of one year and from year to year thereafter or until their levies are paid or until applications for exemption from coverage are approved.

Of the 39 members whose names were before Convocation on 18th September, 1981, 39 were suspended as of 1st October, 1981. Of these 34 were subsequently reinstated and the following 5 are still suspended:

Jeffrey Alan Bear	Windsor
Wing Fong	Agincourt
Paul Edward Girard	Thunder Bay
Paul Francis O'Neill	Toronto
Stanley Sukerman	Toronto

**2. MEMBERS CALLED IN APRIL AND MAY 1981**

It was moved, seconded and *carried* that the Barristers and Solicitors who had failed to pay the levy prescribed under Section 53 of The Law Society Act and who had not been granted exemption from coverage be suspended from 1st October, 1981 for a period of one year and from year to year thereafter or until their levies are paid or until applications for exemption from coverage are approved.

Of the 25 members whose names were before Convocation on 18th September, 1981, 13 were suspended as of 1st October, 1981. All 13 were subsequently reinstated.

.....

**MOTION: ERRORS AND OMISSIONS INSURANCE  
GUARANTEE TO BANKER TO COVER LOANS  
TO MEMBERS FOR UNPAID DEDUCTIBLES**

It was moved, seconded and *carried* that the Society guarantee payment to the Bank of Montreal of all present and future debts and liabilities now or at any time and from time to time due or owing to said Bank by members authorized by the Society to borrow money in connection with Errors & Omissions Insurance up to a limit of \$1,000,000 at any one time, the whole in the terms set out in Form No. L.F. 42 of the Bank of Montreal submitted to this meeting, and that the Treasurer, together with the Secretary, be and they are hereby authorized to sign and execute such form and deliver the same to the Bank of Montreal.

.....

**LEGAL AID COMMITTEE—Mr. Chadwick**

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Friday, 17th July, 1981.

The following members were present: Mr. James B. Chadwick, Chairman, Mr. Barnes, Ms. Cornish, Professor Ellis, Mrs. Jarman, Messrs. Jones, Lamb, Linden, Noble, Mrs. Tait, Messrs. Wallace and Yachetti.

The following observer members were present: Nola Garton, solicitor, for the Criminal Lawyers Association and Victor Paisley, solicitor, for the Advocates' Society.

Also present by invitation: Messrs. Derek Freeman and Alan D. Levy, solicitors, for The Canadian Bar Association; Mr. D. Clancy, solicitor, Deputy Area Director, Ottawa-Carleton; Mrs. G. Grant, solicitor, Area Director, Middlesex, Oxford and Perth; Mr. D. Warner, solicitor, Area Director, Victoria, Haliburton; and Mr. J. Palter, solicitor, Area Director, Durham.

**POLICY**

**REPORT OF THE SUBCOMMITTEE  
RE AMENDMENTS TO REGULATIONS AND FORMS**

In May, Convocation approved all housekeeping amend-



ments to the Regulations and also proposed major amendments to Regulations 20, 25, 60, 84 and 86.

The Legal Aid Committee approved all proposed amendments to the Legal Aid Forms *with the exception of Form 2* and the proposed amendment to Regulation 30. The amended Forms together with amended Regulation 30 were before Convocation.

## ADMINISTRATION

### STANDING COMMITTEE ON LEGAL ACCOUNTS

The Standing Committee on Legal Accounts met with the Legal Accounts Officer to discuss ways of eliminating the backlog of accounts and to discuss the "blitz". In May Convocation approved the recommendation:

That the Legal Accounts Officer be instructed to take steps forthwith to eliminate the backlog in the payment of outstanding solicitors' accounts with the objective that a solicitor's account be processed and paid within an average of six weeks of its receipt.

And that the Legal Accounts Officer retain such temporary personnel, including if necessary, solicitors acting as duty counsel, in such numbers as she deems fit, in order that the objective can be achieved within six months.

The Legal Aid Committee approved the Sub-Committee's recommendation:

That the Legal Accounts Officer

1. Immediately hire three criminal Accounts Examiners to replace the three present Examiners who will be leaving in July and August.
2. To the extent that training and space allow, hire additional Examiners as required to cope with the volume of accounts.
3. To quicken the time in processing accounts, authorize experienced Examiners to settle an account in an amount up to \$1,000 gross fee when no discretionary fee or decision to increase or decrease the account is required.

The Committee also approved the proposed increase in the fee to be paid to psychiatrists performing services under The Ontario Legal Aid Plan.

The Report was before Convocation.

## **REPORT OF THE SUB-COMMITTEE RE COMPUTERIZATION**

In October, 1980 Convocation approved:

That authorization be given to the Sub-Committee to prepare a tender for an outside systems analyst not employed in equipment sales to study the Plan's present system of accounts examination and payment on the existing tariff with a view to recommending methods of decreasing cost and increasing efficiency, and the calling for such tenders, with the proviso that the lowest or any tender may not necessarily be accepted and that the acceptance of any tender is subject to the approval of the Legal Aid Committee.

The Report of the Sub-Committee re Computerization which was before Convocation requested authority to retain and the Legal Aid Committee approved the retaining of Ms. Terri Pristupa to assist the Sub-Committee in the preparation of the said tender.

## **WRITE-OFFS**

Mr. George E. Wallace approved the write-off of the following total of amounts due to the Legal Aid Fund: \$39,147.40.

## **INFORMATION**

### **MEETING WITH THE ATTORNEY GENERAL**

The Chairman of the Legal Aid Committee met with the Attorney General on Thursday, July 16, 1981. Items which were discussed with the Attorney General were set out in a letter from the Chairman to the Director, dated July 24, 1981, which was before Convocation.

## **REPORT OF THE JOINT COMMITTEE OF THE CIVIL LITIGATION AND FAMILY LAW SECTIONS OF THE ONTARIO BRANCH OF THE CANADIAN BAR ASSOCIATION**

A Report of the Joint Committee to the Legal Aid Committee of The Law Society of Upper Canada was reviewed by the Committee. The Chairman advised:

- (a) That Convocation will receive a copy of the Report in September.

- (b) That the Peat Marwick Report on the Effectiveness and Efficiency of the Organization and Administration of the Ontario Legal Aid Plan dealt with a number of the said Report's concerns.
- (c) That an Ad Hoc Committee which was being formed to implement the Peat Marwick Report would review matters dealing with Legal Accounts.
- (d) That a Task Force comprising members of the Ministry of Community and Social Services and the Legal Aid Committee was reviewing Financial Eligibility Criteria.
- (e) That the Standing Committee on Legal Accounts was to review the Tariff in the autumn.
- (f) That a copy of the Report will be forwarded to Area Directors requesting their comments.

The Report was before Convocation.

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's report pursuant to Section 95(2) for the period ended May 31, 1981, shows that payments from the Legal Aid Fund totalled \$9,130,000 compared with \$8,558,000 for the same two month period last year. Income from all sources totalled \$9,911,000 compared with \$7,815,000 in 1980.

The balance in the Fund at May 31, 1981, was \$803,000.

The distribution of the Plan's budget for this fiscal year has not yet been completed and therefore no comparison is made with the budget.

### Statistics

The following table compares reported activity for the first two months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>2 Months ended</i>		<i>% Change</i>
	<i>May 31, 1981</i>	<i>May 31, 1980</i>	<i>from last year</i>
Summary Legal Advice	6,654	7,324	- 9.1
Referrals to other agencies	11,833	11,503	+ 2.9
Applications for certificates	17,903	18,347	- 2.4
Refusals	5,925	6,754	- 12.3
As a percentage of applications	33.1	36.8	
Certificates issued	13,525	12,859	+ 5.2

	<i>2 Months ended</i>		<i>% Change</i>
	<i>May 31, 1981</i>	<i>May 31, 1980</i>	<i>from last year</i>
Persons assisted by Duty Counsel:			
Fee for service	27,077	25,082	
Salaried Duty Counsel	<u>7,410</u>	<u>8,092</u>	
Total	<u>34,487</u>	<u>33,174</u>	+ 4.0

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>May 1981</i>	<i>2 Months to May 31, 1981</i>	<i>2 Months to May 31, 1980</i>
Reviews on hand	808		
Reviews received	<u>85</u>	244	364
	<u>893</u>		
Settlements reviewed in	91	259	313
Settlements awaiting review			
at end of	<u>802</u>		
	<u>893</u>		

### Appeals

	<i>March</i>	<i>April</i>	<i>May</i>
Appeals to Taxing Officer received during	1	2	4
Appeals heard by Taxing Officer	—	1	1
Appeals pending at the end of the month	5	6	10

### Activity

	<i>1981/82 Fiscal Year</i>		<i>1980/81 Fiscal Year</i>	
	<i>Month of May 1981</i>	<i>2 Months to May 1981</i>	<i>Month of May 1980</i>	<i>2 Months to May 1980</i>
Accounts on hand at beginning	12079	12524	12093	12454
Accounts received	<u>5324</u>	<u>10936</u>	<u>6051</u>	<u>11708</u>
Total Accounts to be processed	17403	23460	18144	24162
Less: Files Cancelled	34	65	30	64
Accounts Processed	<u>5396</u>	<u>11422</u>	<u>5725</u>	<u>11709</u>
Balance	<u>11973*</u>	<u>11973</u>	<u>12389</u>	<u>12389</u>

In addition to the number of accounts  
for services completed there were:

Interim Accounts	402	852	363	837
Supplementary Accounts	<u>335</u>	<u>683</u>	<u>370</u>	<u>643</u>
Total	<u>737</u>	<u>1535</u>	<u>733</u>	<u>1480</u>

\* Of this number 566 Accounts have been examined, letters have  
been sent to solicitors and further information is awaited.

*Dates being worked on*

Criminal New Tariff	May 11, 1981	Civil New Tariff	April 9, 1981
		Civil Old Tariff	March 12, 1981

## MEDIA COVERAGE

The Committee received for its information five news items from the Public Information Officer with respect to Legal Aid which were before Convocation.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### Essex County

Frank Montello, Q.C.  
Lou Bendo, businessman  
Samuel Mossman, solicitor

Ms. Mary Fox, solicitor  
Ms. Mary Ellen McIntyre,  
Law Student at Windsor

### (b) RESIGNATIONS

#### Essex

Robert E. Barnes, Q.C.  
Dalton E. Charters, solicitor  
David Fisher  
Alphonse Gignac, solicitor  
Mrs. Mary Van Erp

#### Victoria & Haliburton

P. G. Thomas, M.S.W.

## THE REPORT WAS ADOPTED

.....

Mr. Chadwick presented the Report of the Legal Aid Committee of its meeting on Wednesday, 9th September, 1981.



The following members were present: Mr. Noel Ogilvie in the Chair, Messrs. Barnes, Barr, Bynoe, Ms. Cornish, Messrs. DeLorey, Ellis, Mrs. Jarman, Messrs. Jones, Lamb, Linden, Michon, Noble, Russell, Mesdames Smyth and Tait.

The following observer members were also present: Robert Holden, solicitor, for the Criminal Lawyers Association, and Victor Paisley, solicitor, for the Advocates' Society.

## POLICY

### AD HOC COMMITTEE REPORT

On June 19, 1981, Convocation approved the appointment of an Ad Hoc Committee to consider and make recommendations with reference to the implementation of the Peat, Marwick Report on the Efficiency and Effectiveness of the Organization and Administration of The Ontario Legal Aid Plan.

There were two meetings of the Committee held on Tuesday, August 4, 1981 and Wednesday, August 5, 1981. The Legal Aid Committee reviewed in depth the said Ad Hoc Committee Report and the Committee approved in principle the recommendations of the Ad Hoc Committee on the understanding:

- (a) That an Implementation Committee be struck;
- (b) That those implementing the recommendations be free to propose organizational modifications below the level of deputy director that are in conformity with the spirit of the reforms recommended in the Ad Hoc Committee Report; and
- (c) That applications for the Deputy Director, Legal position be open to the present staff in the Director's office.

The Ad Hoc Committee Report was before Convocation.  
(See p.363-6)

## ADMINISTRATION

### WRITE-OFFS

George E. Wallace, Q.C., approved the write-off of the following total of amounts due to the Legal Aid Fund: \$23,948.19.

## INFORMATION

### SUB-COMMITTEE RE JUDGES' COMPLAINTS

In October, 1979, Convocation approved the appointment of a Sub-Committee to consider all complaints from judges concerning a solicitor's conduct while representing a legally aided client. It was noted that such a committee would not only report to the Legal Aid Committee but might also assist the Legal Accounts Officer in determining the payment of an account.

Mr. Clive Bynoe, Chairman of said Sub-Committee presented a report to the Legal Aid Committee a copy of which was before Convocation.

### REPORT OF THE PROVINCIAL AUDITOR

A Report of the Financial Statements and the Audit of The Ontario Legal Aid Plan for the year ended March 31, 1981 was before the Committee and Convocation.

### REPORT OF THE DEPUTY DIRECTOR

#### (a) Finance

The Director's report, pursuant to Section 95(2), for the four month period ended July 31, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$741,000 as follows:

<i>Over budget</i>	\$	\$
Civil certificate accounts	638,000	
Legal Advice accounts	3,000	
Student Legal Aid Societies	308,000	
Area Office costs	67,000	
Provincial Office costs	<u>98,000</u>	1,114,000
<i>Under budget</i>		
Duty Counsel payments	53,000	
Criminal certificate accounts	92,000	
Salaried Duty Counsel Programme	31,000	
Community Clinic funding	90,000	
Research Facility	68,000	
Special Projects	<u>39,000</u>	<u>373,000</u>
		<u>741,000</u>

Income from sources other than the Province of Ontario exceeded budget by \$274,000 as follows:

Client contributions	216,000
Costs recovered	30,000
Miscellaneous income	<u>28,000</u>
	<u>274,000</u>

### (b) Statistics

The following table compares reported activity for the first four months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>4 Months ended</i>		<i>% Change</i>
	<i>July 31, 1981</i>	<i>July 30, 1980</i>	<i>from last year</i>
Summary Legal Advice	14,557	14,521	+ 0.2
Referrals to other agencies	22,955	24,114	- 4.8
Applications for certificates	36,239	37,496	- 3.4
Refusals	11,785	14,163	- 16.8
As a percentage of applications	32.5	37.8	
Certificates issued	26,699	26,395	+ 1.2
Persons assisted by Duty Counsel:			
Fee for service	55,398	53,406	
Salaried Duty Counsel	<u>16,327</u>	<u>16,542</u>	
Total	<u>71,724</u>	<u>69,948</u>	+ 2.5

### (c) IBM Data Processing — Renewal of Contract

The Legal Aid Committee approved the renewal of a contract with IBM Data Processing in accordance with the terms and conditions as set out in a memorandum from the Deputy Director dated August 26, 1981, a copy of which was before Convocation.

### (d) Law Society Pension Plan

The Committee reviewed in depth and approved a memorandum from the Deputy Director dated August 25, 1981 setting out the proposed changes to The Law Society's Pension Plan. A copy of the memorandum was before Convocation.

### REVISED ESTIMATE OF THE COST OF THE PLAN FOR THE CURRENT FISCAL YEAR, 1981/1982

The Legal Aid Committee reviewed and approved a

memorandum from the Deputy Director dated August 26, 1981, setting out the revised estimate of the cost of the Plan for the current fiscal year, 1981/1982. A copy of the memorandum was before Convocation.

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>July 1981</i>	<i>4 Months to July 31, 1981</i>	<i>4 Months to July 31, 1980</i>
Reviews on hand	816		
Reviews received	<u>108</u>	493	715
	<u>924</u>		
Settlements reviewed in	72	458	734
Settlements awaiting review at end of	<u>852</u>		
	<u>924</u>		

### Appeals

	<i>May</i>	<i>June</i>	<i>July</i>
Appeals to Taxing Officer received during	4	4	1
Appeals heard by Taxing Officer	1	2	1
Appeals pending at the end of the month	10	12	12

### Activity

	<i>1981/82 Fiscal Year</i>		<i>1980/81 Fiscal Year</i>	
	<i>Month of July, 1981</i>	<i>4 Months to July, 1981</i>	<i>Month of July, 1980</i>	<i>4 Months to July, 1980</i>
Accounts on hand at beginning	10589	12524	13466	12454
Accounts received	<u>4082</u>	<u>21320</u>	<u>5617</u>	<u>23236</u>
Total Accounts to be processed	14671	33844	19063	35690
Less: Files cancelled	36	140	35	133
Accounts processed	<u>6680</u>	<u>25749</u>	<u>3684</u>	<u>20213</u>
Balance	<u>7995*</u>	<u>7995</u>	<u>15344</u>	<u>15344</u>

In addition to the number of accounts  
for services completed there were:

Interim Accounts	431	1734	380	1543
Supplementary Accounts	<u>233</u>	<u>1278</u>	<u>321</u>	<u>1291</u>
Total	<u>664</u>	<u>3012</u>	<u>701</u>	<u>2834</u>

\* Of this number 620 accounts have been examined, letters have  
been sent to solicitors and further information is awaited.

*Dates Being worked on*

Criminal New Tariff	July 22, 1981	Civil New Tariff	July 2, 1981
Criminal Old Tariff	June 17, 1981	Civil Old Tariff	May 19, 1981

## APPOINTMENTS TO LEGAL AID COMMITTEE

In June, 1981, Mr. Daniel A. Harris resigned as representative for the Student Legal Aid Societies on the Legal Aid Committee. The Committee approved the appointment of Mr. Tom DeLorey of the Faculty of Law, University of Western Ontario, retroactive to June 26, 1981.

In August 1981, Robert P. Armstrong, Q.C., observer member for the Advocates' Society, resigned as the representative to the Legal Aid Committee. The Committee approved the appointment of Victor S. Paisley, solicitor, to replace Mr. Armstrong.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### Essex County

Jerry Woloschuk, businessman  
Allan D. Houston, Q.C.

#### Wellington County

Mark P. Hebner, solicitor  
Theodore Farley, solicitor  
Terrence Jackman, solicitor

#### District of Cochrane

Ralph E. W. Carr, solicitor  
John Kukurin, solicitor

#### Leeds & Grenville Counties

Lt. Bob Beasley,  
Salvation Army

#### Oxford County

A. A. Bishop, retired Sheriff, Oxford  
P. D. McIntyre, solicitor  
F. Porter, solicitor

#### Simcoe County

Helen Maxwell, Coordinator of  
Community Services Work,  
c/o Probation Office,  
Simcoe Court House



**(b) RESIGNATIONS****Leeds & Grenville Counties**

Captain Tom Oldfield,  
Salvation Army

**Simcoe County**

Captain Moore, Salvation Army

**Victoria & Haliburton Counties**

P. G. Thomas, M.S.W.

**ATTACHMENT:**

**REPORT OF THE AD HOC COMMITTEE  
ON THE PEAT MARWICK REPORT CONCERNING  
THE EFFECTIVENESS & EFFICIENCY OF THE  
ORGANIZATION & ADMINISTRATION  
OF THE ONTARIO LEGAL PLAN**

On June 19th, 1981, Convocation of the Law Society of Upper Canada directed James B. Chadwick, Q.C., Chairman of the Legal Aid Committee, to appoint an Ad Hoc Committee for the purpose of considering the recommendations and implementation of the report prepared by Peat, Marwick and Partners, Management Consultants with reference to the effectiveness and efficiency of the organization and administration of the Ontario Legal Aid Plan.

In addition, the Ad Hoc Committee was directed to consider the recommendations made by the legal staff of the Provincial Director's Office which had been distributed to some Benchers prior to Convocation on June 19th 1981.

Pursuant to the direction of Convocation, Mr. Chadwick appointed the following people to be members of the Ad Hoc Committee:

George D. Finlayson, Q.C. Chairman	J. Roderick Barr, Q.C.
James B. Chadwick, Q.C. Secretary	Clayton Ruby
Robert J. Carter, Q.C.	Mrs. Peggy Smyth
Lee K. Ferrier, Q.C.	A. G. B. Campbell, Q.C.
Noel Ogilvie, Esq.	Alan D. Levy
D. W. Jones, Esq.	Robert L. Holden
Roger Yachetti, Q.C.	Mrs. Reginae Tait
C. Bruce Noble, Q.C.	

The Committee met on Tuesday, August 4th and Wednesday, August 5th 1981, at Osgoode Hall. The following members of the Committee were in attendance; Messrs. Finlayson, Chadwick, Ferrier, Ogilvie, Jones, Noble, Ruby, Mrs. Smyth, Messrs. Campbell, Levy, Holden and Mrs. Tait.

The Committee reviewed the report prepared by Peat, Marwick and Partners dated March, 1981. It also reviewed the report prepared by the legal staff at the Provincial Director's Office and submitted to certain Benchers at Convocation. In addition, the Committee considered a further report prepared and distributed by the legal staff of the Provincial Director's Office as well as the Canadian Bar Association Report on the administration of Legal Aid.

In order to better understand the reports referred to above, the Committee met with and heard representations from the following persons:

Robert Humfrey	Peat, Marwick
Hugh Crosthwait	Peat, Marwick
Dermott McCourt	Deputy Provincial Director
Kenneth Chase	Research Director
Glyde Hone	Associate Provincial Director
Harold Levy	Special Projects Coordinator
Mary Jane Mossman	Clinical Funding Manager
Audrey C. R. Rosenthal	Legal Accounts Officer
Andrew Lawson, Q.C.	Provincial Director

The author of the Canadian Bar Association report, Alan D. Levy, was a member of the Committee.

As pointed out in the Peat, Marwick Report, the Ontario Legal Aid Plan has grown from a four million dollar operation in 1968 to a 36.5 million dollar operation in 1980. The number of employees has increased from 117 in 1968 to 309 in 1980.

There is no question that the continuing demand for additional Legal Aid services will cause both the costs of administration of the Legal Aid Plan and the number of staff to increase in the next decade.

The Legal Aid Committee was concerned about the future of the Plan and its administration and, therefore, contracted with Peat, Marwick to do an evaluation and assessment of the administration and to make recommendations for the future administration structure for the Legal Aid Plan.

It became apparent from reading the reports both of Peat, Marwick and the staff, particularly as amplified by the representations of members of the staff, that administrative matters within the Plan are confined to the individual departments. There is in point of fact no clearly defined pyramid of authority and of necessity or expedience the various senior personnel have developed their own internal staff upon whom they have imposed their own standards of discipline and efficiency. Inevitably, this has resulted in an uneven performance by more junior employees throughout the Plan and can, if it has not already done so, create an unhealthy atmosphere where employees at the same salary level have differing demands made on their time and skills.

At the senior level, the problem is even more acute. While acknowledging a nominal responsibility to report to the Provincial Director, it is apparent from what these senior persons stated and proposed that they prefer to carry out their professional responsibilities autonomously and report when necessary directly to the Legal Aid Committee or to other committees with responsibilities in their area such as the Clinical Funding Committee or the Joint Committee comprised of representatives of the Attorney General's Department and the Legal Aid Committee.

In addition, the Legal Aid Committee and a number of sub-committees have taken on administrative roles which probably should be handled by administrative officers within the Plan itself. The Legal Aid Committee and its members should be freed from day to day administrative decisions in order that they may devote more time and effort to the development of policy and future planning for Legal Aid. This Committee can see no conflict in having

an administrative chain of authority which is clearly defined while at the same time recognizing the importance of the policy making roles of the Committee. In fact, the lack of clearly established lines of authority in purely administrative matters has forced the committees to become involved in day-to-day detail of implementation of policy which they are neither anxious to assume or capable of executing.

The Peat, Marwick Report has provided a recommended organizational chart. The Ad Hoc Committee considers the organization structure recommended by the Peat, Marwick Report as a workable recommendation and feels that it would give more strength to the administration and future growth of the Plan. It should be implemented as soon as possible.

This Committee likewise feels that the reporting of administrative decisions by the senior legal staff should follow the organizational chart (with one exception) and that there should not be any direct reporting to either the Legal Aid Committee or sub-committees of the Legal Aid Committee.

The Committee feels that if this structure is adopted, it should allow the senior staff personnel to devote more time to the functions required in their various departments and will provide uniformity in administrative decisions. Once a clear line of authority has been established, the confusion which appears to be in existence now should disappear.

It should be made quite clear that this Committee does not feel that the Peat, Marwick Report is a reflection upon the personal ability of the present senior administrative staff. On the contrary, the Committee acknowledges that the senior administrative staff is responsible and performs its professional duties in a very effective manner. Our job is to free it from administrative detail so that it can perform the professional functions for which it is so uniquely suited.

In considering the organizational structure, the Committee is of the opinion that the two deputy directors should be identified as the Deputy Director, Finance, and the Deputy Director, Legal. It is recognized that it will be extremely important that these two deputy directors communicate with each other and both be responsible for the making of administrative decisions. We also feel that the Public Information Officer should report to the Deputy Director, Legal, but otherwise would endorse the proposed organizational chart.

The Committee recognizes that to properly implement the organizational structure there will have to be the completion of the job descriptions which are presently being prepared. We are confident that once the responsibilities of senior staff and their departments are clearly defined much of the present confusion of reporting responsibilities will be eliminated.

Both the Canadian Bar Association Committee Report and the Peat, Marwick Report identify problems pertaining to the administration in the legal accounts office. It is apparent from reviewing these reports and hearing the representations of the various parties that improvement must be made in the processing of legal accounts. The Committee has been assured by the Chairman of the Legal Aid Committee that there are a number of sub-committees of the Legal Aid Committee that are looking at various methods and procedures for changes in preparation, processing and paying of solicitors'

accounts. The Committee recognizes that this particular area is very sensitive to the profession and delay in processing the accounts is reflected in criticism from the profession. Hopefully, the reports of the sub-committees and the Legal Aid Committee will be available in the near future and will alleviate the existing problems. In addition, the reorganization and restructuring of the administration should allow the professional people in that particular department to spend more time implementing the necessary changes to assist the future growth of the department.

In conclusion, the Ad Hoc Committee recommended the adoption of the Peat, Marwick Report as set out in the organizational chart referred to, subject to the changes previously indicated, and anticipates that if this organization structure is adopted it will leave the Legal Aid Committee with more time to deal with policy and give clear instructions to the administrative officers with reference to the operation of the Plan.

## THE REPORT WAS ADOPTED

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## CLINIC FUNDING REPORT

Mr. Chadwick presented the Report of the Director of Legal Aid, dated 11th September, 1981, with respect to Clinic Funding.

## CLINIC FUNDING

The Clinic Funding Committee submitted a Report to the Director recommending funding and reporting on various projects.

The Director recommended to Convocation that the Report of the Clinic Funding Committee, dated September 11, 1981 be adopted.

The following are the recommendations of the Clinic Funding Committee contained in the said Report:

### 1. *Review of Initial Decisions*

In accordance with s.148(1)(c) of the Clinic Funding Regulation, the Committee reviewed initial decisions of the clinic funding staff for the establishment of four new clinics, and recommended approval as follows:

<i>Clinic</i>	<i>Up to \$</i>
North Niagara Community Legal Assistance	51,500
Orillia and District Legal Services	48,000
Scarborough Community Legal Services	75,700
West End Legal Services (Ottawa)	62,500



## 2. *Applications*

In accordance with s.148(1)(m) of the Clinic Funding Regulation, the Committee made decisions with respect to applications from clinics, and recommended approval as follows:

	<i>Up to \$</i>
Supplementary Legal Disbursements	
Sudbury Community Legal Clinic	2,000
Training Programs	
Keewaytinok Native Legal Services	1,000

In addition, the Committee decided to grant further extensions to August 31, 1981 in relation to two training programs originally funded in 1980/81 at the industrial Accident Victims' Group of Ontario and at Injured Workers' Consultants. Accordingly, the Committee recommended approval.

## 3. *Appeal*

The Committee allowed an appeal by Parkdale Community Legal Services, and recommended approval of additional funds in an amount of \$3,000 in accordance with its decision in the appeal.

## 4. *Report: Kenora Community Legal Clinic*

The Committee reviewed correspondence from Mr. Wayne Spragge, Chairman of the Board of Directors of Kenora Community Legal Clinic, a clinic funded by the Clinic Funding Committee. The correspondence from the clinic had been sent to the Secretary of the Law Society of Upper Canada and was forwarded by the Secretary to the Clinic Funding Committee for consideration.

The Committee concluded that the issues raised in Mr. Spragge's letter were fully considered by the Committee in May 1981. At that time, pursuant to s.150(3) of the Regulation, the Committee considered this clinic's request for leave to appeal from the initial decision of the clinic funding staff, which had imposed the "Supervision" condition. The Committee refused the clinic's appeal, and, in accordance with s.150(5), there is no appeal from the Committee's decision.

The following is the Committee's decision as set out in the Chairman's letter of 22nd May, 1981, to Mr. Spragge:

The application of your clinic for leave to appeal the initial decision of the clinic funding staff with respect to funds for 1981/82 was considered by the Clinic Funding Committee at its meeting on May 20, 1981.

Pursuant to the Regulation on clinic funding and, in particular, s.148, the Clinic Funding Committee has responsibility to monitor the efficacy of the operation of each clinic funded by the Committee. In the past, in accordance with this authority, the Committee has decided to terminate funding for a clinic where the clinic failed to make effective use of public funds. In your case, the Committee is aware that the clinic funding staff considered making a recommendation to the Committee to initiate proceedings pursuant to s.153



of the Regulation. However, the clinic funding staff decided to recommend to the Committee, in view of the value and importance of the clinic in Kenora, to impose stringent conditions and controls on the operation of the clinic in an attempt to give the Board a set of guidelines which would effect the required reforms to ensure an efficient operation.

In determining the appeal, the Clinic Funding Committee is satisfied that the conditions in issue in this application were necessary and appropriate in light of the serious questions raised by the evaluation report as to the manner in which the clinic was operating and in light of the fact that, at the time the conditions were imposed by the letter from the clinic funding staff dated March 5, 1981, no written response had been forwarded by the clinic to the evaluation report (which had been forwarded to the clinic in September, 1980). It is the opinion of the Committee that the clinic funding staff has acted in accordance with the policies of the Committee.

Accordingly, the application for leave to appeal is denied.

## THE REPORT WAS ADOPTED

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### PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. A. B. Doran, Vice-Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Ground (Chairman), Doran (Vice-Chairman), Fennell, Genest, Humphrey, Lamont, Lerner, Strauss and Mrs. Sutherland.

## POLICY

### SUB-COMMITTEE ON LAW CLERKS

In May of 1981 the Committee adopted the Report of its Sub-Committee looking into the role of law clerks and recommended to Convocation that it be adopted and that the views of the Bench be obtained prior to the profession being advised.

At the May Convocation there was considerable discussion and it was decided that the matter be deferred to permit any Benchers who wished to send his comments to Mr. Ground or Mr. Doran to do so.

Several submissions were received and these have been considered by the Committee which revised the original Report adopted by it.

The Committee recommended that Convocation adopt the revised Report and that, prior to its being published to the profession, the views of the Bench be obtained including those of the Masters. The revised Report was before Convocation.

*Received by Convocation and directed to be circulated among the profession.*

## INFORMATION

### REPORT ON THE ROLE OF LAWYERS ACTING AS MORTGAGE BROKERS

In May the Report was circulated to the members of the profession with a request that they submit any comments they might have by October 1st, 1981. To date 73 letters have been received. A Report synopsizing these will be before the Committee at its October meeting.

### JOINT SUB-COMMITTEE OF THE DISCIPLINE AND PROFESSIONAL CONDUCT COMMITTEES TO REVIEW CERTAIN PORTIONS OF THE 1975 FINLAYSON REPORT RE PROCEDURES IN THE LIGHT OF DEFALCATIONS

This Sub-Committee, under the chairmanship of Mr. White, has been examining business relationships between lawyer and clients and has held two meetings to date. A Report should be forthcoming in a few months' time.

### REPRINTING OF THE PROFESSIONAL CONDUCT HANDBOOK

2,000 copies of the Professional Conduct Handbook have been received at the Society's offices. 1,000 have been given to the Bar Admission Course students. 1,000 are presently in the Publications Department of the Continuing Legal Education Department. 16,000 remain to be printed and these will be sent out to the members of the profession. This should be done by the beginning of October.

### THE REPORT AS AMENDED WAS ADOPTED

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## **PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé**

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Mr. Brulé (Chairman), Messrs. Barr, Doran, Farquharson, Mrs. Legge, Messrs. Noble and Tebbutt. Messrs. Shepherd, Hargraft, Doner, Morland and Marshall were also present at the Chairman's request.

### **ADMINISTRATION**

#### **FAILURE TO NOTIFY ADJUSTERS UNDER THE ERRORS AND OMISSIONS INSURANCE POLICY**

The Attorney General raised, in a letter to the Treasurer, the question whether the public is adequately protected from a lawyer's negligence where liability under the Errors and Omissions Policy has been denied on the grounds that the insured has failed to provide the insurer with details of a possible claim.

This matter is also before the Discipline Policy Committee. Rule 3 of the Rules of Professional Conduct reinforces the policy requirements so that it is clear that a charge of professional misconduct can be laid where a member has failed to give proper notice to the adjusters. The relevant material and correspondence was before the Committee.

The Committee recommended that this particular matter be discussed with the Society's insurer, and that the possibility be investigated of the Society or another interested party giving the required notice. This along with other possible solutions should be discussed with an experienced insurance counsel.

#### **LEVY FOR 1982**

The Society's brokers, Marsh & McLennan Limited, were asked to explore changing the coverage period for the Society's Errors and Omissions Insurance Plan from a calendar year to a year ending 30th June. This would be a better time of year for approaching the market for renewals and also coincide with the

Society's financial year.

In addition Marsh & McLennan Limited were asked to advise the Society on whether to remove defence costs from the deductible and whether such a change would be acceptable to the insurers.

A letter from Mr. Hugh Morland, Vice-President of Marsh & McLennan Limited, was before the Committee, together with their report dated 8th September, 1981.

The Committee recommended that Proposal I be accepted, that is, that coverage be extended for six months; that the terms of the renewal to begin July 1st, 1982 be negotiated, and that the question of the levy for the extension period and the matter of defence costs being subject to the deductible stand to the October meeting.

## **PRACTICE ADVISORY SERVICE**

The Director's report for August 1981 was received by the Committee.

The Director had prepared for presentation to the July Special Convocation, the Practice Advisory Service's first Annual Report, covering the period 28th July, 1980 to 30th June, 1981, but it was not reached. It was approved by the Committee.

The following is a brief summary of the first Annual Report:

During its first 11 months to 30th June 1981, the Service provided direct assistance to 287 lawyers or law firms. Of these, 101 lengthy interviews for general assistance concerning office administration were held with the lawyer or firm, most of which were in the law office. 48 of these were outside the area of Metropolitan Toronto and involved travel throughout Ontario. The Service also assisted lawyers with 120 inquiries concerning specific office administration questions and 66 requests for guidance in dealing with client legal matters. Many Toronto lawyers have generously provided assistance to the Director in specialized fields. Allowing for partners and associates in the firms assisted, it is estimated that over 400 lawyers have received guidance directly or indirectly from the Service.

In February 1981, there were meetings with 59 Bar Admission students in groups to provide general advice concerning the opening of their own practices, and in March, 37 students in various parts of Ontario attended sessions in small groups to discuss questions concerning establishment of their offices.

The Service has also been involved in several special projects including preparation and distribution of recommendations to the Profession concerning undertakings and mortgage discharges on real estate closings, assistance in establishing the Ontario Bar Alcoholism Programme in co-operation with lawyers associated with Alcoholics Anonymous, and meetings with representatives of County and District Law Associations to discuss areas of mutual assistance. The Service has also made arrangements to participate in the Bar Admission Course Section on Office Administration to provide instruction on filing systems and file management, using tickler systems for Errors and Omissions loss control and to insure timely progress in handling client matters.

The Benchers have authorized the Director to accept an invitation to attend at Yellowknife, N.W.T., for three days in August to lecture and to assist individual offices concerning Risk Management and Office Administration.

## INFORMATION

### COUNSEL FEES

Three lists of fees paid in June, July and August, 1981 were before the Committee. The totals were noted as follows:

<i>Fund Year</i>	<i>June 1981</i>	<i>Amounts Paid July 1981</i>	<i>August 1981</i>
Old Fund	—	—	11,974.47
1977	1,934.00	451.00	—
1978	12,578.69	8,725.33	19,250.01
1979	49,252.91	7,350.86	5,976.51
1980	30,545.34	31,844.27	24,620.89
1981	7,077.12	13,265.45	11,772.60
	<u>\$101,388.16</u>	<u>\$ 61,636.91</u>	<u>\$ 73,594.48</u>

### ADJUSTERS' FEES

Three lists of fees paid in June, July and August, 1981 were before the Committee. The totals were noted as follows:

<i>Fund Year</i>	<i>June 1981</i>	<i>Amounts Paid July 1981</i>	<i>August 1981</i>
Old Fund	—	1,250.81	706.31
1977	112.00	1,310.00	1,898.75
1978	1,045.95	4,465.00	11,715.07
1979	8,707.61	12,778.50	13,319.51
1980	15,976.02	40,853.33	36,419.66
1981	12,962.01	26,130.54	35,694.17
	<u>\$ 38,803.59</u>	<u>86,788.18</u>	<u>\$ 99,047.16</u>
John Doe's		<u>18,700.00</u>	
		<u>\$105,488.18</u>	



## MONTHLY REPORT

Mr. Hargraft's monthly reports for June, July and August, 1981 were before the Committee. Totals of claims (including defence costs) paid in those months were noted as follows:

<i>Fund Year</i>	<i>Amounts Paid</i>		
	<i>June 1981</i>	<i>July 1981</i>	<i>August 1981</i>
1977	10,379.43	14,750.29	11,297.75
1978	19,598.08	54,686.30	30,327.70
1979	131,952.42	41,722.56	49,156.49
1980	101,759.20	104,933.73	118,293.87
1981	67,325.81	40,221.98	19,027.42
	<u>\$331,014.94</u>	<u>\$256,314.86</u>	<u>\$228,103.23</u>

## THE REPORT WAS ADOPTED

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## LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Arthurs, Barr, Doran, Ferrier, Ground, Lamont, Lerner, Noble, Outerbridge, Scace, Shibley and Mrs. Tait.

## POLICY

### BAR ADMISSION COURSE — ARTICLING EVALUATION

A draft form for evaluating the articling experience was before the Committee on Thursday, May 7th, 1981. The said draft form required the evaluation to be made anonymous with respect to both principal and student. The Director was asked to bring forward for study and consideration an articling evaluation form in which both principal and student would be identified. Such draft form was before the Committee. This item was before the Committee on Thursday, June 11th, 1981 and allowed to stand.

The Committee recommended that this item be referred back to the sub-committee to review the Bar Admission Course, for further consideration.

## **ADMINISTRATION**

### **BAR ADMISSION COURSE BUDGET ESTIMATES 1981-82**

The budget estimates for the year July 1st, 1981 to June 30th, 1982 were before the Committee on Thursday, June 11th, 1981 and allowed to stand for further revision and as revised were approved by the Committee.

### **CONTINUING LEGAL EDUCATION BUDGET ESTIMATES 1981-82**

The budget estimates for the year July 1st, 1981 to June 30th, 1982 were before the Committee on Thursday, June 11th, 1981 and allowed to stand for further revision and as revised were approved by the Committee.

### **BAR ADMISSION COURSE FACULTY CHANGES**

The Director recommended that Mr. Peter Webb, Q.C., of Toronto be appointed head of section of Civil Procedure II for the year 1981-82.

Mr. A. de Lotbiniere Panet resigned as senior instructor in Ottawa of the Accounting and Analysis of Financial Statements section.

The Director recommended that Mr. Michael T. Connolly be appointed senior instructor in Ottawa of the Accounting and Analysis of Financial Statements section for the year 1981-82.

Mr. Arnell S. Goldberg, Q.C. resigned as senior instructor in Ottawa of the Creditors' and Debtors' Rights section.

The Director recommended that Mr. S. Russell Kronick be appointed senior instructor in Ottawa of the Creditors' and Debtors' Rights section for the year 1981-82.

Mr. John W. Cram, Q.C., resigned as senior instructor in London of the Estate Planning section.

Mr. Jeffrey Flinn, Q.C., senior instructor in London of the Creditors' and Debtors' Rights section, was appointed a Judge of the County Court of the County of Middlesex on May 28th, 1981.

The Director recommended that Mr. Martin Stambler, Q.C., be appointed senior instructor in London of the Creditors' and Debtors' Rights section for the year 1981-82.

Mr. Robert M. McClean resigned as senior instructor in London of the Family Law section.

The Director recommended that Mr. B. T. Granger, Q.C., be appointed senior instructor in London of the Family Law section for the year 1981-82.

Mr. William Wood resigned as senior instructor in London of the Accounting and Analysis of Financial Statements section.

The Director recommended that Mr. P. F. McGrath be appointed senior instructor in London of the Accounting and Analysis of Financial Statements section for the year 1981-82.

Mr. J. J. Wardlaw, Q.C., resigned as head of section of the former Estate Planning section.

*Approved*

## CALL TO THE BAR DATES

The Director recommended that the following dates be approved for the Special Convocation for Call to the Bar of the successful candidates in the 23rd Bar Admission Course, subject to the availability of suitable space on the said dates in the three centres.

Toronto	—	Tuesday, April 6th, 1982 Wednesday, April 7th, 1982
London	—	Tuesday, April 13th, 1982
Ottawa	—	Wednesday, April 14th, 1982

*Approved*

## CONTINUING LEGAL EDUCATION PROPOSAL RE COMMERCIAL TAPES

A proposal was received from Mr. Harold Mitgang of Video Update Limited that the Law Society purchase from his company six continuing legal education video tapes produced

by him and described in his letter of May 7th, 1981 to the Director. Mr. Mitgang advised that one of these tapes is fully edited and his cost was \$7,000 and that the remaining tapes are raw footage and his cost of each was \$3,000. He further advised that the five raw footage tapes can be edited at a cost of \$3,500 to \$4,000 each. Mr. Mitgang indicated a preparedness to negotiate a sale price in the range of his cost.

The Committee recommended that the proposal be not accepted.

#### **BAR ADMISSION COURSE DESTRUCTION OF EXAMINATION BOOKS**

The Committee was asked to approve the destruction of the examination answer books and computer cards of the teaching term of the 22nd Bar Admission Course which ended in February, 1981, with the exception of such records of the students who failed.

The Committee was further asked to approve the destruction of the examination answer books in the examination on Professional Responsibility, written by the students in the articling term of the 22nd Bar Admission Course, subject to the prior filing of the required certificate respecting such examination, for each answer book so destroyed.

*Approved*

#### **REPORT OF THE SUB-COMMITTEE ON THE PREFERRED AREAS OF PRACTICE PLAN**

A draft report of the sub-committee on the preferred areas of practice plan was before the Committee.

The Committee recommended that this matter be referred back to the sub-committee to consider and report on the effect which the abandonment of the preferred areas of practice plan will have on advertising and on continuing legal education programming and attendance at programmes.

#### **FACULTY APPOINTMENTS Toronto, Ottawa and London as indicated**

It was recommended that the following appointments be

made for the teaching term which commenced September 2nd, 1981:

### (a) Civil Procedure

To continue as Head of Section, R. J. Rolls, Q.C.

Group Instructors (Osgoode Hall): L. A. J. Barnes, R. A. Blair, W. P. Cipollone, D. J. Brown, J. A. Campion, T. J. Dunne, J. T. Fidler, Joyce Harris, J. A. Hodgson, J. I. Laskin, T. R. Lederer, W. J. Miller, A. C. Millward, R. G. Oatley, J. C. Osborne, Paul Pape, L. A. Pattillo, G. D. Peacock, M. J. Penman, Stan Raphael, L. D. Roebuck, M. E. Royce, Master D. H. Sandler, W. V. Sasso, J. D. Sloan, D. G. Stinson, J. D. Weir.

Stand-by Instructors (Osgoode Hall): Gloria Adair, J. B. Casey, E. A. Cronk, Igor Ellyn, D. H. Jack, D. C. McTavish, F. P. Morrison, H. D. Pitch, Martin Scisizzi, M. M. Smith.

To continue as Senior Instructor, Ottawa, G. R. Morin, Q.C.

Group Instructors (Ottawa): B. A. Carroll, G. H. Cooligan, W. M. Davis, D. J. Power, T. D. Ray, W. J. Simpson.

Stand-by Instructors (Ottawa): D. W. Scott, W. B. Spooner, P.C.P. Thompson, G. P. Kelly.

To continue as Senior Instructor, London, C. M. V. Pensa, Q.C.

Group Instructors (London): J. W. Makins, P. B. Hockin, B. J. Sullivan, J. F. Belecky, C. S. Ritchie.

Stand-by Instructors (London): R. A. Beccarea, J. C. Kennedy, B. E. Payne, P. M. Stillman.

### (b) Civil Procedure II

Appointed Head of Section, Peter Webb, Q.C.

Group Instructors (Osgoode Hall): G. D. E. Adair, F. R. Bowman, B. J. E. Brock, B. D. Brown, D. J. Brown, H. J. B. A. Dickie, D. G. Duke, Norman Dyson, M. N. Ellis, G. W. Glass, M. J. Haffey, K. E. Howie, Paul Jewell, C. A. Keith, Ted Kerzner, R. C. Lee, J. L. MacFarlane, C. M. McIntyre, L. H. Mandel, R. D. McLean, Allan O'Donnell, Harvey Poss, T. H. Rachlin, V. I. Rogers, J. R. Wesley, W. S. Wagle, M. H. Wunder, E. A. Sabol.

Stand-by Instructors (Osgoode Hall): C. C. R. Godden, B. L. Gluckstein, L. G. Harlock, R. W. Heather, R. E. Stephenson, Daphne Johnston, J. S. Lyons, B. P. Papazian, W. P. Somers.

Appointed Senior Instructor, Ottawa, P. A. Webber, Esq.

Group Instructors (Ottawa): J. H. Haydon, G. D. Hunter, W. R. Hunter, H. B. Starr, A. R. O'Brien.

Stand-by Instructors (Ottawa): D. J. Hughes, R. M. Nelson.

To continue as Senior Instructor, London, J. R. Caskey, Q.C.

Group Instructors (London): D. H. Proudfoot, W. A. Jenkins, G. L. Bladon, Armand Morrow, V. J. Calzonetti.

Stand-by Instructors (London): R. E. Hutton, D. J. Murphy, B. A. Foster, W. L. Dewar.



**(c) Family Law**

Appointed Head of Section, P. M. Epstein, Esq.

Group Instructors (Osgoode Hall): J. M. Banfill, G. W. Brigden, T. W. Caskie, M. T. Chilco, Rodica David, L. S. Dranoff, F. G. Felkai, L. K. Ferrier, G. W. Glass, J. C. Goldberg, J. G. Goodwin, S. M. Grant, G. P. Johnstone, D. H. Lissaman, E. M. Macdonald, P. F. Marchildon, R. E. Mesbur, N. A. Nolasco da Silva, R. J. Otter, R. D. Preston, Elisabeth Sachs, Gerald Sadvari, P. D. Slan, G. K. P. Selzer, S. B. Smart, D. M. Starzynski, Patricia Wallace, J. H. Wilson.

Stand-by Instructors (Osgoode Hall): K. A. Cole, J. M. DeMarco, Igor Ellyn, S. W. Ireland, Lynn King, Benjamin Laker, S. E. Lang, M. D. Lipton, T. J. Lockwood, Rebecca Regenstreif, H. E. Sachs, Raymond Stancer, Albert Weisbrot.

To continue as Senior Instructor, Ottawa, Mrs. A. F. Thomson.

Group Instructors (Ottawa): T. C. Barber, Leonard Levenecrown, M. F. Monaghan, Mary J. B. Rice, W. L. Riley.

Stand-by Instructors (Ottawa): J. D. Snipper.

Appointed Senior Instructor, London, B. T. Granger, Q.C.

Group Instructors (London): J. J. Foreman, J. S. M. Mitchell, Alfred Mamo, J. J. Comartin, T. W. Hainsworth.

Stand-by Instructors (London): G. D. Cudmore, D. R. Aston, Gregory Ste. Marie.

*Approved*

**BAR ADMISSION COURSE****APPOINTMENT OF NEW DIRECTOR**

The Chairman announced the appointment of Mr. S. Ronald Ellis, Q.C., as the new Director of the Bar Admission Course for a term of five years to commence at a date to be fixed by agreement with Mr. Ellis not later than July 31st, 1982.

*Approved*

**SPECIAL PETITIONS**

The Committee gave consideration to 12 petitions. Three petitioners sought permission for the late filing of applications for admission to the Bar Admission Course, and each submitted an application with all requisite documents, the admission fee of \$101 and an additional fee of \$100 for late filing and as well submitted similar petitions to the Admissions Committee. The Committee granted all three petitions.

Three petitioners sought permission to enter the teaching term that commenced in September 1981. One petitioner had completed his articles in 1976, subsequently engaged in full-time teaching on the faculties of law of two approved universities and requested extension of the five-year limitation to permit him to enter the said term. The Director gave this petitioner conditional admission pending the Committee's decision. The second petitioner, a Manitoba solicitor employed in the Department of Justice of Canada since 1957, submitted articles of clerkship, with the usual proofs of service under articles, covering the twelve-month period commencing August 31st, 1980 and asked that the work covered by this period be accepted as articling experience in Ontario and in full of the articling requirement. The third petitioner, who received a Certificate of Qualification from the Joint Committee on Foreign Accreditation in September 1981 and was employed from 1974 to 1977 as a legal research officer with the Ontario Law Reform Commission and from 1977 to date as executive counsel to the Deputy Attorney General of Ontario, asked that his employment experience during the twelve-month period preceding September 1981, be accepted in full of the articling requirement. All three petitions were granted.

Two petitioners sought permission to defer entry into the teaching term of the Bar Admission Course until September 1982. One petitioner had completed service under articles in August 1981 and wished to take an articling position in Vancouver. The second petitioner had failed the teaching term of the 22nd Bar Admission Course and wished to continue in his employment as a Director of Finance at a College of Applied Arts and Technology. Both petitions were approved.

A petitioner, who had obtained a Certificate of Qualification from the Joint Committee on Foreign Accreditation in May 1981 and is a resident of Quebec, is unable to move to Toronto until October 1981. She had extensive experience in law in England and Canada, part of the latter experience being in Ontario. She obtained an articling position commencing 1st November, 1981 and asked that a ten-month period commencing on that date be accepted in full of the articling requirement. The Committee allowed the petition on condition that the petitioner serve under articles from November 1st, 1981 to August 31st, 1982, without time off.

One petitioner requested that the five-year limitation period be extended to permit her to complete the Bar Admission Course in 1983. This petitioner is a member of the Bar of Nova Scotia, having practised there from 1974 to 1979, and moved to Toronto when her husband was transferred to that city. Since March 1981 she has been proof-reading legal documents and letters at a Toronto law firm and commenced service under articles in the Ontario Ministry of Municipal Affairs on August 31st, 1981. The petition was granted.

A petitioner, who had completed service under articles in 1979 and had been granted permission to defer entry into the teaching term of the Bar Admission Course in 1979 and 1980 to pursue post-graduate studies in law in England, accepted an appointment as an assistant professor of law on the faculty of law of an approved university for a two year term and asked that he be granted a further deferment. The Committee recommended that the petition be denied and the petitioner advised that if he wishes to complete the Bar Admission Course at a future date, he should apply then and his petition will be dealt with on the basis of the circumstances which prevail at that time.

Finally, a petitioner who had received his LL.B. degree in 1978 and since that time has been employed playing hockey in West Germany sought an extension of the five-year period within which he must enter the Bar Admission Course to qualify for practice in Ontario until September 1984. A similar petition was submitted in September 1980 and was denied without prejudice to the petitioner's right to make a further application in 1981. The Committee recommended that the petitioner be permitted to defer commencement of service under articles for one year until September 1982 and that he be advised that any petition from him for further deferral at a future date may not be allowed.

## INFORMATION

### LONDON PREMISES

On July 27th, 1981 Mr. G. A. Davies of Messrs. Page & Steele, the Director and Mr. W. Buchner inspected three properties in London as possible sites for the Society's new premises in that city. The three locations were a part of the

London Towers Shopping Mall between King and Dundas Streets at Waterloo Street, the Ecôle Alexandra at 391 King Street and the C.N. Building at 205 York Street. Mr. Davies reported in writing on each of these three premises which report has been considered by the special committee.

On August 20th, 1981 Mr. E. A. Shepherd, Mr. Kenneth Jarvis, Mr. J. J. Carthy and the Director inspected premises at the London Towers Shopping Mall and thereafter Mr. Shepherd, Mr. Jarvis and the Director inspected the premises in the C.N. Building at 205 York Street. Both of these premises could be improved to meet the Society's needs and ongoing consideration will be given to them.

*Noted*

#### **CONTINUING EDUCATION PROGRAMMES**

A statement setting out a summary of the Continuing Education programmes held in June, July and August, 1981 was noted by the Committee.

#### **THE REPORT WAS ADOPTED**

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#### **SPECIAL COMMITTEE ON PUBLIC INFORMATION**

Mr. A. R. A. Scace presented the Report of the Special Committee on Public Information dated 12th September, 1981.

In February 1981, Convocation appointed a Special Committee of Convocation to enquire into all aspects of the question of the provision of information to members of the public.

The Committee members were the Treasurer (Chairman), Messrs. Carter, Outerbridge, Ground, Yachetti, Scace, Ogilvie, Ferrier, White, Goodman and Mrs. Legge.

The Committee met on the following dates:

February 14th, 1981	Present: Messrs. Bowlby (Chairman), Carter, Goodman, Ground, Outerbridge, Mrs. Legge, Messrs. Wardlaw, Yachetti, Beaufoy and Mrs. Sutherland.
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March 14th, 1981	Present: Messrs. Bowlby (Chairman), Carter, Ferrier, Scace, Ground, Yachetti, Mrs. Legge, Messrs. Ogilvie, Outerbridge and Beaufoy.
April 11th, 1981	Present: Messrs. Bowlby (Chairman), Carter, Ferrier, Ogilvie, Yachetti, Mrs. Legge, Messrs. Scace and Beaufoy.
September 12th, 1981	Present: Messrs. Bowlby (Chairman), Carter, Yachetti, Scace, Outerbridge, Doran and Beaufoy.

In addition to these meetings, visits were made by various members of the Committee to other jurisdictions to investigate public information and public relations programs and the manner in which the public information and public relations activities were structured from an organizational point of view.

In February, Messrs. Ferrier and Outerbridge accompanied by Messrs. Beaufoy and Tinsley travelled to Chicago and Springfield, Illinois, where they met with officials of the American Bar Association, the Chicago Bar Association and the Illinois State Bar Association. All of these organizations have been extensively involved in public information programs of varying types and all had public relations departments.

In February, Messrs. Ground and Yachetti, while attending the Federation of Law Societies' meeting in Saskatoon, canvassed the representatives of the other Law Societies in regard to the question of advertising.

In March, Mr. Yachetti accompanied by Messrs. Beaufoy and Tinsley attended in Montreal to investigate the public information programs undertaken by the Barreau du Quebec and the structure and function of the Barreau's public relations department.

In August, the Treasurer, Messrs. Carter, Scace, Beaufoy and Tinsley attended in London, England to investigate the public information programs undertaken by The Law Society of England and the organization and functions of the public relations department of The Law Society. A meeting was also held with the Secretary-General of the Senate of the Inns of Court and of the Bar to discuss that organization's public relations program.

Mrs. Legge undertook a survey of other self-regulatory professional organizations in Ontario to determine what



approaches they were taking in the areas of public information and public relations.

The results of these investigations were reported to your Committee and will be referred to later in this report.

The Committee directed its attention to three main areas:

- (a) Institutional Advertising.
- (b) Public Information Programs.
- (c) Public Relations.

## INSTITUTIONAL ADVERTISING

One of the Committee's primary functions was to investigate the feasibility of an institutional advertising campaign by the Law Society.

The demand for such a campaign came from the Society's membership. The Profession appeared to base its demand on two basic grounds:

- (a) To fulfill the public's perceived need for an expansion of advertising by lawyers,
- (b) To meet the need of the profession to provide a balance to the negative image of the profession being projected in the media.

The Treasurer has reported to Convocation on the results of his visits to the local law associations and he has indicated that the associations he attended were overwhelmingly in favour of institutional advertising for the reasons cited above. The Presidents of the local law associations in their meetings with the Benchers at Osgoode Hall and speaking on behalf of their membership have reinforced this position.

The Profession felt that an advertising campaign conducted by the Law Society to inform the public as to all the range of legal services available, the cost of those services and protections afforded them, i.e., taxation, would be more beneficial to both the public and the profession than allowing an expansion of individual advertising. Accordingly, the Committee undertook a review of programs of institutional advertising carried on in other jurisdictions.

In order to assess the experience of the various U.S. jurisdictions in the area of institutional advertising, it was decided to meet with the officials of the American Bar Association and the Illinois State Bar Association. The American Bar Association has been involved for some years in monitoring media campaigns instituted by bar associations throughout the United States of America. It has also, through its Commission on Advertising, been involved in the development of guidelines for the mounting of such advertising campaigns.

The Illinois State Bar Association has conducted an extensive and expensive media campaign on an institutional basis.

Messrs. Outerbridge, Ferrier, Beaufoy and Tinsley met with various representatives of the American Bar Association at its headquarters in Chicago. Miss Ann Draznin, Director, Legal Services Group, whose responsibilities included the provision of staff support to the Commission on Advertising, provided a copy of the American Bar Association's Commission on Advertising's Final Report and discussed the question of advertising in general.

Miss Draznin indicated that the initial large-scale media campaigns undertaken by various jurisdictions had not been as successful as anticipated. The main problem according to Miss Draznin and borne out by the Commission's final report, was not a lack of money or commitment (the Illinois State for example allocated some \$500,000 to its campaign), but rather a lack of careful planning manifested primarily in a lack of a coherent program dedicated to achieving specific results.

Miss Draznin indicated that many local associations entered the field of institutional advertising in an effort to forestall individual lawyer advertising following the *Bates* decision of the U.S. Supreme Court. Accordingly, campaigns were formulated in haste without any real thought being given to the purpose of the campaign. Additionally, pre-campaign research as to the target group, message effectiveness and other related matters was not conducted.

Miss Draznin indicated that as a result of the initial poor response to the campaign, most jurisdictions suspended their programs while they analysed the results. In 1979 and 1980 there was very little activity in the area of institutional advertising in the United States. Miss Draznin indicated that

some associations such as the Illinois State Bar Association having reviewed their programs are again embarking on media campaigns directed primarily at addressing a specific problem or program being undertaken by the association.

Miss Draznin's comments, based on her knowledge of campaigns mounted by local bar associations, were mirrored by the American Bar Association's Commission on Advertising's Final Report. The Commission on Advertising retained an independent consultant group to undertake an analysis and review of media campaigns conducted in the various United States jurisdictions. The data for this survey was gathered in the fall of 1979 and in total 54 state bar associations and 30 local bar associations were canvassed.

The Report states that the data available from surveys conducted after campaigns in the U.S. was generally speaking unreliable as in many instances the results were "contaminated" by improper polling procedures. In fact one of the major points emphasized by the Report was the need for professionally conducted market research both before and after a campaign.

In regard to the question of "image enhancement" advertising the Report concludes that, generally speaking, such image campaigns are undertaken by groups or organizations in a relatively secure economic position and who are interested in maintaining their image in the eyes of the public, so as to be able to exert some leadership in planning for the future of the group or organization. Before any bar association embarks on such a program, the Report advocates undertaking extensive research to make sure there is an image problem and, if there is a problem, whether or not institutional advertising will in fact be effective in combatting the poor image.

Generally speaking however, the Report found that most campaigns focused on the identification of legal needs and the means of finding a lawyer to satisfy those needs. The limited survey research which had been done indicated that these "threshold" issues are important to a significant portion of the American Public.

As to the question of the ultimate value of institutional advertising by bar associations, the Report concluded that a properly developed and executed campaign could be an effective communication vehicle for the legal profession. The data

available, limited though it was in scope and reliability, indicated that the public does hold attitudes about lawyers and legal needs which might successfully be affected by institutional advertising.

The Report concludes that the data available does not show that institutional advertising has had, to date, a significant effect on the public's attitude. However, there is also no clear indication that a well developed advertising campaign of sufficient duration could not be effective. The Report states that the major defects of the initial campaign, failure to clearly define the objective and failure to undertake the necessary pre-campaign data collection and pre-testing, must be overcome. A bar association campaign is no different from any other campaign and to be successful, must adhere to the basic steps in mounting a successful commercial campaign.

There is a need, according to the Report, to move from the short-term experimental programs instituted to date to long-term and more comprehensive programs such as those undertaken by non-lawyer professional organizations which have a total communications policy including advertising, public information programs and public relations.

The Illinois State Bar Association conducted a rather extensive advertising campaign including newspapers, radio and television. The thrust of their campaign was to provide information to the public on the threshold questions, i.e., situations in which persons should consult with a lawyer and how to contact a lawyer.

The campaign was extensive costing some \$500,000 and was not particularly successful. The reasons for its lack of success were those cited by the American Bar Association's Final Report: lack of planning and lack of adequate pre-campaign research.

As a result of its initial lack of success, the Illinois State Bar Association withdrew from large-scale institutional advertising while it conducted the necessary research. It is now embarking upon another large-scale campaign. However, it will be directed at advertising the Illinois State Bar Association's various public information programs.

The experience of The Law Society of England mirrors that of the various U.S. jurisdictions. The Law Society of



England was in the words of its Chairman of the Professional and Public Relations Committee "forced" into corporate advertising by the pressure of its members. The pressure was again twofold: to forestall any demand for wider individual advertising and to improve the image of the profession.

The Society, to finance a program of advertising, made a special levy on its members for three years: the first year the levy raised \$725,000, the second year \$700,000 and the third year \$900,000. The Society hired a professional advertising company to devise a suitable campaign which utilized both print media and television and radio. The costs for such large-scale campaigns were high. A press campaign of eight weeks duration with two insertions per week in various newspapers cost \$900,000. From a professional advertising point of view the campaigns were well done and in fact, won several awards for their style and presentation.

The Society has just recently had a survey conducted by an independent testing organization to determine the effectiveness of the campaigns. The results indicate that the campaigns resulted in a slight improvement of the profession's image. Based on basic advertising principles, the Society realized that to have any longlasting effect, the campaigns would have to be an ongoing commitment and it would involve the investing of substantial sums of money for relatively minor improvements in the public's perception of the profession.

As a result of their experiences over the last three or four years, The Law Society of England has re-assessed its approach to public relations and professional advertising. The objectives of the society in this area have now been defined as:

- (1) To increase public awareness of the nature of and the social need for the solicitor's profession;
- (2) To inform the public of the range of services available from the profession and the means whereby they may obtain these services;
- (3) To involve the profession in achieving these two objectives.

The details of the present campaign will be outlined below when dealing with the question of the provision of information to members of the public through various programs.



In summary, other jurisdictions bowing to similar pressures to those we are facing now, launched large-scale expensive institutional advertising campaigns in an attempt to both forestall the expansion of advertising by individual lawyers and to foster a more positive image of the profession. Those attempts, for the reasons set out in this report, have not been as successful as anticipated and some jurisdictions have abandoned the area altogether. All jurisdictions which we studied indicated that as a result of their experiences, they were placing more emphasis on public information programs, that is, providing members of the public with information required to enable them to make informed decisions in regard to those areas of law which most affect them, criminal law, family law, real estate, wills. This area of public information programs was the second area that this Committee investigated in some detail.

To give Convocation some idea of the scope of the programs now in effect, we have set out the details of various programs in those jurisdictions visited by members of this Committee. Before doing so, however, we should indicate that officials in all jurisdictions expressed the view these public information programs provided the best results on a cost effective basis for improving the image of the profession. By providing necessary information on legal matters, the organization providing the information is seen in positive light. The information also assists the layman in understanding the work being done by his lawyer.

In the United States, the American Bar Association has instituted several programs from the production of information pamphlets to more ambitious and wide reaching programs such as that undertaken by the Special Committee on Youth Education for Citizenship. In the area of the provision of legal information, the American Bar Association produces pamphlets such as "The American Lawyer; How to Choose and Use One", "Your Guide to Consumer Credit and Bankruptcy". These pamphlets are strictly informational in approach and are addressed to the threshold problems of setting out the basic law relating to a particular area, identifying common problems in that area and instructing persons how to contact a lawyer.

As indicated above, the American Bar Association has also undertaken more ambitious programs in an attempt to improve

the public knowledge of the law and the legal profession. One of these programs is the Special Committee on Youth Education for Citizenship established in 1971.

The mandate of the committee is to improve students' understanding of law, the American legal system and the role of the lawyer in that system. The committee is active at all levels from public schools through to university. The committee has been involved in the planning of courses for presentation in the schools and generally has attempted to foster and improve the teaching of law related subjects in schools. As a mark of its success, in 1971 there were approximately 125 law related education projects of which only 7 were state wide projects. By 1980, the American Bar Association estimated there were 400 such projects of which 35 were state wide in scope.

In addition, at the university level, there is the Commission on Undergraduate Education in Law. Again, the purpose is to provide students with a basic understanding of the American legal system. The commission has sponsored the writing of texts regarding the role of the legal profession in the development of the United States. The texts are used in university level programs and the commission has also been involved in the planning of curricula for the various programs.

Another program sponsored by the American Bar Association is the Gavel Awards Program. The American Bar Association gives awards in various media categories such as radio, television, magazines, newspapers and books for the best program or article dealing with the law or a law related subject. These are strictly prestige awards and there is no monetary prize. The awards have been in place now for 25 years and are highly sought after. Last year, there were 380 entries in all categories. The awards program promotes an interest in legal topics and encourages the various branches of the media to carry material relating to legal topics.

These latter two programs illustrate the wide range of activities which are encompassed by the term "public information".

Another program which members of the Committee examined while visiting the Chicago Bar Association is Dial-Law. This particular type of program is gaining popularity in several other jurisdictions and in addition to its operation in Chicago

and other U.S. jurisdictions, there is a dial-law program in Alberta, and British Columbia and Manitoba are also studying the program.

Dial-law is a collection of brief tape recorded messages (4 - 6 minutes) designed to provide telephone access to general information about particular areas of law and the operation of the legal system. In effect, the user calls a telephone number and listens to the tape rather than picking up a pamphlet and reading it.

The Chicago Dial-Law plan is a public service which is operated in conjunction with the Chicago Public Library Board which provides the staff (three operators, two full-time and one part-time) the equipment and the space. The Chicago Bar Association provides the tapes. The material is drafted by an expert in the particular area and is then taped by a professional announcer. The Chicago Bar Association has also borne the expense of advertising the program by way of newspaper advertisements and the production of four television commercials. The commercials feature the actor John Houseman (Paperchase) who donated his time. The commercials are aired at no charge by local television stations as public service announcements.

In all, there are 65 tapes covering such matters as family law, criminal law, court procedure, traffic tickets, employment law, discrimination, and consumer information. A catalogue of the tapes has been prepared and is distributed by the Chicago Library Board through its branch libraries. If a person is in possession of this catalogue, he can phone the Dial-Law number and ask for a specific tape by number. If he does not have a catalogue, he explains his problem to the operator who then selects the appropriate tape. After the tape has finished, the operator comes back on the line to ensure that the tape was the correct one.

If the user wishes to obtain the name of a lawyer, he remains on the line after the tape has finished and the operator comes on the line and provides him with a name from the Chicago Bar Association's Lawyer Referral Program. The Chicago plan is now averaging approximately 1,000 calls per week.

The Alberta program is entitled "Dial-A-Law" and is operated by Calgary Legal Guidance with assistance from the

Canadian Bar Association — Alberta Branch, and funding from the Alberta Law Foundation and the Law Society for Alberta.

The operation is similar to the Chicago Dial-Law Program. In the Alberta plan, however, the caller can request a written text of the tape which is sent to him at no cost.

In addition to persons calling to determine whether they have a legal problem, the program is also receiving calls from those who have already called a lawyer in regard to a particular problem as many lawyers now advise clients to call Dial-A-Law and ask for a particular tape before they attend for their first interview. Lawyers state that if the client does this he or she has a better understanding of the area and comes to the interview better prepared.

The plan has approximately 65 tapes. Six of the tapes were prepared by the Southern Real Property Section of the Alberta Branch of the Canadian Bar Association. The remaining tapes were prepared by students employed at Calgary Legal Guidance and each script was proof-read by the lawyers to ensure it was legally correct.

The equipment, some of which had to be specially designed, cost \$14,442. At the time of its start-up in October 1980, \$28,819 was expended in advertising the program. This consisted of advertisements in all of the Province's major and local newspapers. Twenty thousand pamphlets describing the operation were also prepared and distributed.

In England, The Law Society, in addition to the production and distribution of the usual pamphlets, also arranges to have articles written by solicitors on various topics such as conveyancing problems and published in magazines which are distributed by various organizations to the general public.

The Law Society has also experimented with renting a booth at a trade show and staffing the booth with solicitors who are knowledgeable in the area of the law most closely related to the trade. Their first attempt was a booth at the National Home Exhibition at Earls Court. The booth was staffed full-time by teams of two solicitors who passed out pamphlets related to conveyancing and other home related legal topics. They also answered questions from members of the public. The booth was very successful and there are



plans to expand the program throughout Britain utilizing volunteers from local law associations.

The Barreau du Quebec is experimenting with a unique concept in the area of continuing legal education which has public information applications. Due to the dispersion of its members throughout a large geographical area, the Barreau will be offering certain continuing legal education programs on the community cable-television station. A lawyer in the comfort of his own home or office will be able to turn on his television set and view a continuing legal education program. Members of the public will also be able to view the program.

It is hoped that by viewing these programs, the public will be made aware of the services a lawyer can offer and the occasions when a lawyer should be consulted. Officials of the Barreau also indicated that some thought was being given to making certain programs such as Landlord and Tenant more comprehensible by a lay person without sacrificing the primary objective of continuing legal education programs.

The above programs are examples of approaches being taken by other law associations to provide the public with important information about their legal rights and the operation of the legal system while at the same time improving the public image of the profession.

The public relations function of the American Bar Association is carried out by the Communications Division headed by Mr. Dick Collins. Mr. Collins is not a lawyer but has extensive background in journalism as a reporter and in public relations as a vice-president of communications in a large corporation.

The American Bar Association's Communications Division:

- (a) Produces legal journals and magazines such as the American Bar Association Journal and Bar Leader;
- (b) Organizes the special events such as the A.B.A. Gavel Award and Law Day;
- (c) Provides writing services for promotional news releases, annual reports and speech writing for officers of the A.B.A.
- (d) Prepares briefing papers for officers of the A.B.A. on current problems plus the scheduling of television, radio and press interviews for A.B.A. officials.



The question of the relative merits of an in-house public relations group as opposed to the retention of an outside public relations agency was discussed with Mr. Collins. Mr. Collins is of the opinion that an outside agency would not be successful, unless the association set out clearly defined goals so that both parties, the public relations firm and the association, knew what was expected and what the goals of the organization were in the area of public relations.

Mr. Collins stated that the expense of retaining an outside agency was in his opinion, not worth the return. He stated that for \$32,000 per year, a good agency would provide one with the services of a public relations consultant for one day a week. For the same price, he felt, one could hire a competent professional who would devote his entire time and energy to the association. Additionally, a full-time staff member would be readily available to respond to emergencies and situations requiring immediate action.

Mr. Collins stated another benefit is that over a period of time, the full-time staffer would become more familiar with the association and its public relations concerns and in some cases anticipate problems and provide a more useful service.

The Barreau du Quebec also has a public information department. The department is headed by Mr. Leon Bedard, a former journalist. He does not have any legal training. He reports to the Director-General (Secretary) of the Barreau. The department is responsible for:

- (a) Press and Media Communications;
- (b) Communications with the profession;
- (c) Communications with the public;
- (d) Production of the Barreau's newspaper, which in style and format is very similar to the Canadian Bar Association's National.

In addition to his duties relating to press and media relations, Mr. Bedard also organizes a speakers bureau, which provides speakers to various clubs and groups requesting a person to speak to their members on a particular issue. Both Mr. Blanchard, the Bâtonnier, and Micheline Audette Filion, the Director-General of the Barreau, felt that a full-time public information officer was essential to an organization that speaks

on behalf of a large and, given its role in Society, powerful profession.

The public relations function of The Law Society of England is carried out by the Professional and Public Relations Department, headed by Graham Lee, a solicitor who is also a member of the Institute of Public Relations. He has a staff of three, a Press Officer, a Co-ordinator of Parliamentary Relations, and a Co-ordinator of Professional Relations.

The department answers to the Professional and Public Relations Committee composed of 15 members drawn from the 70 member council of The Law Society. The Chairman of the Professional and Public Relations Committee is appointed for a three year term to provide for the necessary continuity and the committee itself is carefully structured so as to reflect the view of the major standing committees of the council. It was emphasized that the composition of the Professional and Public Relations Committee was approached with care in an effort to ensure that all views of council members are reflected within the make-up of the committee. The department operates on an annual budget of approximately \$750,000 and carries out all public information and public relations for the Society and to a lesser degree, because of the government's more visible control over legal aid in England than is the case here in Ontario, for legal aid.

With respect to legal aid, the Professional and Public Relations Department is involved on an ad hoc basis depending on the project. The Lord Chancellor's department exercises strict control over the legal aid budget and there are constraints on publicizing Legal Aid. Pamphlets relating to legal aid matters are printed and distributed throughout the government's central office of information. This has led to a general weakening of the Society's ability to determine the form and content of the information pamphlets. The Public and Professional Relations Department handles media relations for Legal Aid, assists with layout of pamphlets and produces the 28 regional legal aid referral lists which are distributed throughout the country to assist individuals in finding a lawyer.

To date, there have been no conflicts of interest between The Law Society and Legal Aid with respect to professional or public relations, although, the Secretary of the Legal Aid Committee admitted, there was a potential for such a conflict

inasmuch as Legal Aid is perceived as an "agent of government". The Law Society's public information program aimed at informing the public of their legal rights and remedies may lead to an increased demand on Legal Aid as members of the public being more aware of the law seek the services of a solicitor.

As indicated by the name, the department is also responsible for relations with the profession. This particular aspect of its function will be taking on increasing importance due to the new strategy adopted by the Society in regard to fostering a positive public image.

As indicated earlier in the report, the Society has just recently had a survey conducted by an independent testing organization to determine the effectiveness of its campaigns. The results indicate that the campaigns resulted in a slight improvement of the profession's image but that to have any longlasting effect, campaigns would have to be of an ongoing nature and would require substantial sums of money.

As a result of their experiences over the last three to four years, The Law Society has re-assessed its approach to public relations and professional advertising. It has now decided to place more emphasis on involving the profession in achieving two objectives:

- (a) To increase public awareness of the nature of the work of and the social need for the solicitor's profession;
- (b) To inform the public of the range of services available from the profession and means whereby they may obtain these services;

The Benson Report, a recent study of the legal profession in Britain, and The Law Society's own research, indicated that one of the most frequent complaints made by members of the public against their solicitor, was that the solicitor did not keep them adequately informed as to the progress of their file. Accordingly, the Society is presently developing a campaign aimed at the profession and emphasizing a solicitor's responsibility to keep the client informed. The content of the campaign will be of an educational nature and will emphasize that the individual lawyer is the Society's best public relations officer.

The campaign consists of articles appearing in The Law

Society's Gazette and audio-visual programs. The audio-visual programs were prepared by a marketing professional and attempt to apply general marketing techniques to the running of a law practice within the bounds set by the code of professional conduct. It is hoped that a program will be developed consisting of both audio-visual and printed materials which will then be distributed to the local law associations who will run the seminars for their own local members.

The Society has also been re-examining its public relations functions which has led it to be more conscious of the need to consult and to inform the profession more fully. Moves to make this process more complete and efficient have been undertaken. For example, local law secretaries now receive a quarterly report of the work of the Society's Standing Committees. Also, the Professional and Public Relations Committee has submitted consultation papers to local law society secretaries on a number of matters on which the views of the profession were sought to help the Committee in its deliberations.

The Committee has also made an effort to consult with specialist groups within the profession, i.e., the Commerce and Industry Group and the Local Government Group and to assist solicitors working in these areas of professional life. The Committee is attempting to bring more groups into the activities of the governing body recognizing the fact that newer areas of practice are developing which need recognition of their particular problems.

In addition to consulting with local law associations, the Professional and Public Relations Committee also runs seminars to train local law association officers in the skills of basic public relations. This then gives The Law Society a network of trained persons through the country so that they can respond on a regional basis to stories appearing in local media.

The Inns of Court do not have a permanent Public Relations Officer on staff at the present time. The Secretary of the Senate of the Inns of Court and of the Bar, Sir Arthur Power, indicated that for a period of time they did have a staff person who in addition to other tasks acted as a public information officer. His main function was to channel requests for information from reporters and broadcasters to the appropriate member of the Senate, who was an expert in the area of law in which the journalist was interested. Generally



speaking, public statements are usually made either by Sir Arthur or the President of the Senate of the Inns of Court and of the Bar.

Part of the reason for this lack of a full-time staff or public relations program is due to the fact that the Senate's constituency, the barristers, have no dealings directly with the public unlike solicitors. There is not, therefore, the same need in the areas of public information and public relations.

The Senate does, however, have on retainer a public relations firm. The firm was first hired at the time of the hearings which were conducted by the Benson Commission. It appeared as though the profession were in for a rough time at the hearings and the firm was hired to provide assistance in meeting the criticism raised at the hearings.

The firm gave advice on the best way to respond to specific matters raised at the meetings, and arranged interviews with journalists and broadcasters for selected members of the profession to ensure that the profession's view point was being adequately presented. Sir Arthur indicated that in this period the cost was approximately £10,000 per annum. In light of the results of the Benson Report and its fairly sympathetic treatment of the barristers' profession, Sir Arthur felt it was a worthwhile investment.

The firm which is still on a retainer basis, monitors the various media for adverse comments on the profession and brings these to the attention of the Senate together with suggested responses. The firm also runs small seminars for persons selected to be spokesmen on various issues to train them on interview techniques and dealing with the media.

In February, 1978, the Ontario Legal Aid Plan established a Public Information Department headed by John Beaufoy, a legal reporter with *The Globe and Mail* for four years. Prior to joining the Plan, Mr. Beaufoy had spent one year working for the then Ombudsman, Arthur Maloney, Q.C., in the area of public information and public relations.

Until the establishment of this office, there had been no formal information mechanism and no formal programs were carried out to inform the public, media, the legal profession, the judiciary or legislators of the vital role played by the Legal Aid Plan in the administration of justice. Since the establishment of



the Public Information Department several measures have been instituted to make such information available including:

1. A monthly Legal Aid Letter and bi-monthly News Update are distributed to every lawyer in Ontario and also to every judge, MP, MPP, Ontario Senator, Police Chief, Social Service Agency, High School Law Teacher, Area Committee Members, etc. The total distribution is approximately 19,000.
2. The distribution of a revised Legal Aid Pamphlet is made through supermarkets, libraries, schools, Social Service Agencies, MPP Offices, Legal Aid Offices and Clinics and Community Colleges. In addition, all 600 Liquor Control Board of Ontario stores have recently displayed the pamphlets.
3. Over 60,000 preventive law brochures have been distributed. These enable the public to better know their rights and obligations under the law.
4. An extensive program of speaking engagements has been undertaken. The Public Information Officer makes arrangements for such engagements, including, where requested, the writing of speeches.
5. An active campaign to encourage the media across the province to take interest in the Legal Aid Plan has produced an array of "feature" stories dealing, quite often, with the most basic principles and objectives of the Plan. In addition, the Public Information Officer deals constantly with enquiries from the media with respect to various aspects of the Plan.
6. Particular events have been utilized to enhance the image of the Plan and the profession — the free advice clinic during the Mississauga disaster; the return of the child kidnapped by his estranged father behind the iron curtain; the out of town meetings in London and Barrie.
7. The Law Society and the Legal Aid Program have received wide publicity through their participation in a series of television programs produced by CHCH-TV in Hamilton and broadcast in 12 locations throughout the province. Each program deals with a specific area of law such as family law, consumer law and others which are of direct interest to the general public.

In carrying out his duties, the Public Information Officer reports on a day-to-day basis, to the Provincial Director and has ongoing dealings with the Treasurer, the Benchers, the Secretary of the Law Society, senior staff of the Law Society and the Ontario Legal Aid Plan, Chairmen and Vice-Chairmen of the Legal Aid Committee and the other Standing Committees of Convocation, as well as with the Legal Aid Committee and Convocation itself.

The cost to the Legal Aid Plan of the Public Information Department for the fiscal period ending March 31, 1981 was \$121,516. Of this amount, \$47,091 was attributable to salaries for the Public Information Officer and his secretary, \$1,500 to travel costs. The remainder was expended on various programs and projects carried on by the department.

The Committee recommended:

- (a) That the name of the Standing Committee on Public Relations be changed to the Public Information Committee;
- (b) That the Public Information Committee be responsible to Convocation for:
  - (i) The development and implementation of programs to make available to the public, information concerning the law, the legal system and the legal profession;
  - (ii) Professional relations, i.e., communications with the profession;
  - (iii) Public relations;
- (c) That Mr. John Beaufoy be engaged as the Society's full-time information officer and that his salary, the salary of his secretary and the costs of the various public information programs be allocated appropriately among the Society's functions including Legal Aid;
- (d) That the scope of the Society's public information activities be greatly expanded and that the Public Information Committee be asked to report to Convocation in November with recommendations regarding specific programs to be undertaken by the Society such as pamphlets, Dial-Law together with the projected costs of such programs;
- (e) That the Society not enter into a campaign of institutional advertising at this time. The experience of other jurisdictions indicates that the results, both in terms of benefit to the public and to the profession, are not justified by the cost of such campaigns. The Society should, however, continue to monitor the development of institutional campaigns in other jurisdictions.

SUBJECT TO the approval of the Finance Committee respecting the financial implications,

**THE REPORT WAS ADOPTED**

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## UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. B. C. Bynoe, Vice-Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Chilcott (Chairman), Furlong, Shaffer and Strauss.

### ADMINISTRATION

1. Seven accounts were approved.

### INFORMATION

1. A report concerning an agency that incorporates companies was received from the investigator and a copy was sent to counsel for the Society for a legal opinion.
2. The Committee had before it 17 letters complaining about activities of five agencies and ten individuals. The following are the circumstances that gave rise to some of the complaints and the Committee's instructions with respect to them.

The advertisements of a divorce kit agency indicated it was drafting and processing documents in uncontested divorces. An agency was attempting to collect debts and an individual employee was holding himself out as a solicitor, saying that he was a member of the legal department. An agency was sending invoices for directories that had not been ordered. Another agency was practising law and an individual was holding himself out as a solicitor. The Secretary was instructed to write each of the complainants that based on the material before it the Committee found insufficient evidence of unauthorized practice.

The customer of a divorce kit agency stated that an individual represented himself as a solicitor. The Secretary was instructed to write the customer who complained to contact counsel for the Law Society.

A solicitor from another province acted as agent for the accused in Provincial Court (Criminal Division). The Secretary was instructed to inform the complainant that since agents are permitted to act on matters such as this, there was no evidence of unauthorized practice.

A solicitor from another province was holding himself out as a solicitor qualified to practise in Ontario and to give seminars. The Secretary was instructed to obtain further information from the complainant.

An individual was holding himself out as a solicitor and advising clients who were appearing before the Ontario Highway Transport Board. The Secretary was instructed to obtain further information.

### **THE REPORT WAS ADOPTED**

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### **LIBRARIES AND REPORTING COMMITTEE – Mr. Farquharson**

Mr. G. H. T. Farquharson, Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Farquharson (Chairman), Bragagnolo, Lerner, Shaffer, Mrs. Tait and Mr. Yachetti. Messrs. Howell and Burnett were also present.

### **ADMINISTRATION**

#### **REPORTING**

#### **ONTARIO REPORTS**

#### **COMPETITIVE BIDS**

The Secretary reported that competitive bids, including postage, were received from Butterworth & Co. (Canada) Ltd. and Canada Law Book Limited.

The Committee recommended that the tender of Butterworth & Co. (Canada) Ltd. be accepted to publish the Ontario Reports for the period January 1st to June 30th, 1982, and that Canada Law Book Limited be advised that the agreement dated August 2nd, 1979, would be terminated effective December 31st, 1981.

### **HAMILTON LAW ASSOCIATION**

The Secretary reported that he had received a copy of a

resolution passed by the Hamilton Law Association on August 11th, 1981 requesting special consideration in the distribution of Law Foundation funds for the development and administration of county law libraries.

The Committee recommended that the Hamilton Law Association be paid \$8,085 as an advance against funds to be allocated to the said Association from future grants received from The Law Foundation of Ontario.

### CHIEF LIBRARIAN

The Committee recommended the appointment of Mr. Glen W. Howell as Chief Librarian of the Society, as of October 1st, 1981.

### INFORMATION

#### BOOK LIST

A list of 41 new acquisitions to the Great Library was approved.

Mr. Shibley took no part in the discussions and did not vote.

Mr. Carthy took no part in the discussion as to the item respecting *Ontario Reports – Competitive Bids* and did not vote.

### THE REPORT WAS ADOPTED

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### SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. P. B. C. Pepper, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Pepper (Chairman), Cass and Chilcott.



## ADMINISTRATION

### APPLICATION

The Committee had before it a letter from an applicant who requested further assistance from the Fund since her disability payments were reduced because she took part time employment to augment her income. She received \$500 from the fund in June. The Committee recommended that she be granted \$500.

## INFORMATION

### CORRESPONDENCE

The Committee noted a letter from an applicant who had received a grant of \$500 in April.

## THE REPORT WAS ADOPTED

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### SPECIAL COMMITTEE ON IMMIGRATION ACT

Mrs. R. Sutherland presented the Report of the Special Committee on Immigration Act of its meeting on Thursday, 10th September, 1981.

The following members were present: Messrs. Chilcott (Chairman), Farquharson and Mrs. Sutherland.

## ADMINISTRATION

The Secretary submitted a brief from The Association of Immigration Lawyers. The Chairman welcomed the solicitors whose preferred areas of practice include Immigration Law, namely, Colin McKinnon, Robert Otto, Mendel Green and Gary Segal. The Chairman summarized the task force's concerns and invited comments from the solicitors present. After a discussion of the association's brief, the Chairman indicated that the next meeting of the committee would be held in October.

## THE REPORT WAS RECEIVED

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## DISCIPLINE COMMITTEE (Continued)

Re: JAMES M. KOPINAK, Cambridge

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

Messrs. Cass, Chadwick, Chilcott, Fennell, Finlayson, Furlong, Lohead, McWilliams, O'Brien, Ruby, Shaffer, Tobias and White withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended but was not represented by counsel. Mr. C. Anthony Keith, Q.C., appeared for the Society.

Convocation had before it the Report of the Discipline Committee, dated 29th July, 1981, together with an Affidavit of Service, dated 30th July, 1981, by Deborah Anne Witthames, that she had effected service upon the solicitor personally on 30th July, 1981.

The solicitor admitted service and waived the reading of the Report which had been sent to the Benchers prior to Convocation.

The Report found the solicitor guilty of professional misconduct. He had practised while under suspension and failed to file the required reports respecting his books and records.

The solicitor made no submissions respecting the Report.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 29th July, 1981, be adopted.

The Recommendation as to Penalty of the Discipline Committee was read to Convocation, namely, that the solicitor be reprimanded in Convocation and ordered to pay the costs of the Society incurred in the investigation and the hearing of the Complaint, within ninety days of such order being made.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that Convocation had adopted the Report of the Discipline Committee and informed that the Recommendation as to Penalty had been read.

The solicitor made no submissions respecting penalty.

Mr. Keith made recommendations as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order reprimand the solicitor in Convocation and that he be ordered to pay the costs of the Society incurred in the investigation and the hearing of the Complaint within ninety days of such order being made.

The solicitor and the reporter returned.

The solicitor was advised of Convocation's action and informed of his right of appeal. He waived his right of appeal and requested that the Order of Reprimand in Convocation be carried out forthwith.

The reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

Convocation directed that the Society audit the solicitor's accounts in six months.

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# CONVOCATION ROSE AT 4:55 P.M.

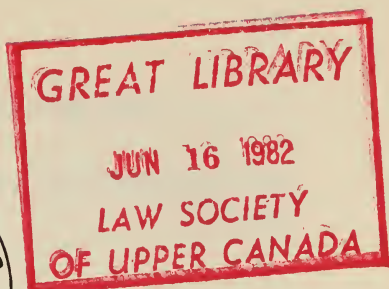
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Confirmed in Convocation 20th November, 1981.

J. D. BOWLBY

Treasurer



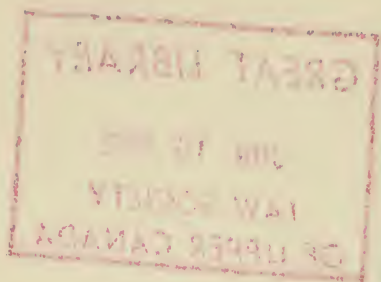


THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 6      Number 8





Second class mailing privileges applied for and pending.

## MINUTES OF SPECIAL CONVOCATION (ABRIDGED)

Thursday, 22nd October, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Barr, Brulé, Bynoe, Carter, Carthy, Cass, Chadwick, Crane, Ferrier, Furlong, Genest, Ground, Guthrie, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, McWilliams, Ogilvie, Outerbridge, Pepper, Ruby, Scace, Mrs. Tait, Messrs. Wardlaw, Willoughby and Yachetti.

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### DISCIPLINE COMMITTEE—Mr. Genest

Re: BERNARD R. FORGANG, Aurora

Mr. P. Genest, Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Barr, Bynoe, Carter, Crane, Furlong, Humphrey, McWilliams, Outerbridge, Ruby and Yachetti withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend and was not represented by counsel. Mr. George W. Brigden, Q.C., appeared for the Society.

Convocation had before it the Report of the Discipline Committee, dated 27th July, 1981, together with an Affidavit of Service, dated 29th September, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 23rd September, 1981. In further proof of service Convocation also had before it an Affidavit, dated 20th October, 1981, by Peter Brooke Bell, that on 28th September, 1981, he sent by courier to Mr. L. Herrington a letter, dated 28th September, 1981, a form of Affidavit of Service and a sealed brown envelope containing a copy of the Report of the Discipline Committee, dated 27th July, 1981, with accompanying material, the said envelope to be served on the solicitor

and the form of Affidavit of Service to be completed in accordance with the instructions contained in the said letter; and an Affidavit of Service, dated 2nd October, 1981, by Ian Whan, Private Investigator, that personal service had been effected upon the solicitor on 1st October, 1981.

Convocation waived the reading of the Report, copies of which had been distributed to the Bench prior to Convocation.

The Report of the Discipline Committee found that the solicitor was guilty of professional misconduct. He had misappropriated more than \$57,000 of clients' trust funds.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 27th July, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is disbarment.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter retired.

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**Re: ROBERT S. MERKER, Toronto**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

The solicitor did not attend nor was he represented by counsel. Mr. E. A. DuVernet, Q.C., appeared for the Society.

Convocation had before it the Report of the Discipline Committee, dated 13th July, 1981, together with an Affidavit, dated 28th September, 1981, by Brian Ross Fraser, that on 25th September, 1981, he mailed a brown envelope containing a true copy of the said Report with accompanying material to Larry Herrington of Albright Investigations Ltd.; an Affidavit, dated 20th October, 1981, by Peter Brooke Bell, that on 25th September, 1981, he sent by registered mail to Mr. L. Herrington a letter, dated 24th September, 1981, a form of Affidavit of Service and a sealed brown envelope containing a copy of the Report of the Discipline Committee, dated 13th

July, 1981, with accompanying material, the said envelope to be served on the solicitor and the form of Affidavit of Service to be completed in accordance with the instructions contained in the said letter; and an Affidavit of Service, dated 2nd October, 1981, by Ian Whan, Private Investigator, that personal service had been effected upon the solicitor on 1st October, 1981.

Convocation waived the reading of the Report, copies of which had been distributed to the Bench prior to Convocation.

The Report of the Discipline Committee found the solicitor guilty of conduct unbecoming a barrister and solicitor. He had been convicted in the criminal court of stealing over \$40,000 from clients.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 13th July, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is disbarment.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter retired.

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**Re: ALLAN HENRY POSNER, York**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

Messrs. Brulé, Bynoe, Carter, Humphrey, McWilliams, Ruby and Yachetti withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor did not attend, nor did any one on his behalf. Mr. Frank N. Marrocco represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 6th October, 1981, together with an Affidavit of Service, dated 8th October, 1981, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 6th October, 1981.

Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report of the Discipline Committee found the solicitor guilty of professional misconduct. He had misappropriated over \$23,000 of clients' trust funds.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 6th October, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is disbarment.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter retired.

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**Re: JAMES R. SWANBOROUGH, Q.C., Oakville**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

The solicitor did not attend, nor was he represented by counsel. Mr. Thomas J. Lockwood attended on behalf of the Society.

The matter was stood down.

Counsel and the reporter withdrew. (*See p. 414*)

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**Re: STEVEN M. LEIKEN, Ottawa**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

Messrs. Carter, Chadwick, Humphrey, McWilliams, Pepper and Ruby withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. L. Max, Q.C. Mr. R. G. Chapman represented the Society.



Convocation had before it the Report of the Discipline Committee, dated 17th July, 1981, together with an Affidavit of Service, dated 29th September, 1981, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 23rd September, 1981.

Copies of the Report having been sent to the Benchers prior to Convocation, Mr. Max waived the reading of the Report.

The Report of the Discipline Committee found that the solicitor was guilty of professional misconduct. He had misappropriated \$5,395 cash entrusted to him as the solicitor for an estate, and drafted false and misleading documents concerning the assets of that estate.

Having given notice to the Society by letter, dated 7th October, 1981, that the solicitor objected to certain findings of fact in the Report, Mr. Max made submissions as to the Report and replied to questions put by members of the Bench.

Convocation recessed for five minutes.

Mr. Chapman made submissions respecting the Report.

Mr. Max made submissions in reply.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 17th July, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been adopted.

Mr. Genest advised Convocation that the Recommendation as to Penalty of the Discipline Committee is disbarment.

Mr. Max made submissions as to penalty and filed a letter, dated 16th October, 1981, from M. W. Wright, Q.C., of Ottawa, with respect to the professional reputation, honesty and integrity of the solicitor.

Mr. Chapman made no submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved, seconded and *carried* that the rights and privileges of the solicitor as a member of the Society be suspended for a period of two years.

The motion that the solicitor be disbarred was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the penalty that Convocation had imposed.

The solicitor, counsel and the reporter retired.

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**Re: ROBERT GENE BONHAM, Mississauga**

Mr. Genest placed the matter before Convocation.

The reporter was sworn.

The solicitor attended with his counsel, Mr. Ronald G. Thomas, Q.C. Mr. John A. B. Macdonald represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 1st October, 1981, together with an Affidavit of Service, dated 5th October, 1981, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 2nd October, 1981.

Mr. Thomas waived the reading of the Report, copies of which had been forwarded to the Benchers prior to Convocation.

The Report of the Discipline Committee found the solicitor guilty of professional misconduct. He had carried out a series of deliberate misappropriations of relatively small amounts, generally by overcharging on his billings for disbursements.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 1st October, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the Report had been adopted.

Convocation was advised that the majority of the Committee recommended the penalty of suspension for a period of two years, and that thereafter, the solicitor be required to file quarterly, audited statements of his professional records for a period of five years. The minority dissenting opinion was that the recommended penalty should be disbarment.

Mr. Thomas made submissions as to penalty and answered questions put by members of the Bench.

Mr. Macdonald made submissions as to penalty.

Mr. Thomas made submissions in reply.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that the solicitor be suspended from the practice of law for a period of two years, and that thereafter for five years he be required to file quarterly, audited statements of his records.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

The motion that the solicitor be suspended was *lost*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the penalty that had been imposed by Convocation.

The solicitor, counsel and the reporter retired.

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#### CONVOCATION ADJOURNED FOR LUNCHEON AT 1:00 P.M.

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The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice Victor Leonard Dryer and The Honourable Mr. Justice Samuel Martin Toy, both of The Supreme Court of British Columbia.

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## CONVOCATION RESUMED AT 2:30 P.M.

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## PRESENT:

The Treasurer and Messrs. Barr, Carthy, Cass, Chadwick, Doran, Ferrier, Furlong, Genest, Ground, Guthrie, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, McWilliams, Ogilvie, Pepper, Ruby, Scace, Mrs. Tait, Messrs. Wardlaw and Yachetti.

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## DISCIPLINE COMMITTEE (Continued)

Re: JAMES R. SWANBOROUGH, Q.C., Oakville

(Resumed)

Mr. Genest again placed this matter before Convocation.

The reporter was sworn.

Messrs. Humphrey and Ruby withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor was not in attendance, nor did any one attend on his behalf. Mr. Thomas J. Lockwood appeared for the Society.

Convocation had before it the Report of the Discipline Committee, dated 6th October, 1981, together with an Affidavit of Service, dated 9th October, 1981, by Salma Andani, that service had been effected upon the solicitor by registered mail on 7th October, 1981.

Copies of the Report having been sent to the Benchers prior to Convocation, the reading of the Report was waived.

The Report of the Discipline Committee found that the solicitor had been guilty of professional misconduct. He had misappropriated over \$250,000 of clients' funds.

Mr. Lockwood advised Convocation that the solicitor had served on the Society a Notice of Application for Judicial Review, dated 16th October, 1981, and addressed the question

whether Convocation should proceed with consideration of the Report of the Discipline Committee.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 6th October, 1981, be adopted.

Counsel and the reporter returned.

Counsel was advised of the motion that was passed.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is disbarment.

Mr. Lockwood made no submissions.

Counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter returned.

Counsel was informed of Convocation's disposition of the matter.

Counsel and the reporter retired.

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#### Re: VICTOR BEUBE, Toronto

Mr. Genest placed the matter before Convocation.

Mr. Ferrier withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel Mr. Gavin MacKenzie. Mr. Miles D. O'Reilly, Q.C., represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 18th September, 1981, together with an Affidavit of Service, dated 28th September, 1981, by Brian Ross Fraser, that service had been effected upon the solicitor by registered mail on 24th September, 1981.

Mr. MacKenzie submitted that certain members of the Bench ought not to sit on this matter, namely, those that had



sat on a previous Discipline matter involving the solicitor, and placed before Convocation an affidavit sworn by the solicitor on 22nd October, 1981.

Mr. O'Reilly made submissions respecting the submissions as to a reasonable apprehension of bias.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation proceed.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised that the matter would proceed.

Copies of the Report of the Discipline Committee having been sent to the Benchers prior to Convocation, Mr. MacKenzie waived the reading of the Report and stated that the solicitor accepts it.

The Report of the Discipline Committee found the solicitor guilty of professional misconduct and conduct unbecoming a barrister and solicitor. He had misapplied about \$40,000 belonging to a client and failed to discharge his professional duty with integrity toward a number of other clients in connection with mortgage transactions, and as a result of his conduct as a litigant, he had been made the subject of an Order committing him to jail, an act which would cause the profession to be in disrepute.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 18th September, 1981, be adopted.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been passed.

Convocation was advised that the Recommendation as to Penalty of the majority of the Discipline Committee is disbarment, and that the Recommendation of the minority is that the solicitor be suspended from the practice of law for a period of one year.

Mr. MacKenzie made submissions as to penalty.

Mr. O'Reilly made submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

It was moved and seconded that Convocation by Order suspend the solicitor from the practice of law for a period of one year.

The motion for disbarment was *carried*.

The motion for suspension was *not put*.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of the motion that had been passed by Convocation.

The solicitor, counsel and the reporter retired.

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#### CONVOCATION ROSE AT 5:00 P.M.

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Confirmed in Convocation 20th November, 1981.

J. D. BOWLBY

Treasurer



## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 23rd October, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J.D. Bowlby) and Messrs. Barr, Brulé, Carthy, Cass, Chadwick, Crane, Doran, Ferrier, Furlong, Genest, Goodman, Ground, Henderson, Humphrey, Lamont, Lerner, McWilliams, Noble, O'Brien, Ogilvie, Outerbridge, Pepper, Ruby, Scace, Mrs. Tait, Messrs. Tebbutt, Thom, Tobias, Wardlaw, Willoughby and Yachetti.

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### MINUTES

The Minutes of Convocation of Friday, 18th September, 1981 were not available for presentation to Convocation.

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### A. E. SHEPHERD, Q.C. UNDER TREASURER

The Treasurer paid tribute to Albert Edwin Shepherd, Q.C., who died suddenly at his home in London on 27th September, 1981. Mr. Shepherd was appointed the Society's first Under Treasurer effective 1st July, 1981. He was elected a Bencher in Convocation on 15th June, 1973 to replace R.D. Steele, Q.C., who became a Bencher ex officio on that date. Mr. Shepherd was elected again in the Benchers election in April 1975 and resigned as a Bencher in June 1977 due to the pressure of business. He was Vice-Chairman of the Finance Committee in 1974 and Chairman of that Committee from 1975 until his resignation as a Bencher.

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### APPOINTMENTS TO STANDING COMMITTEES

It was moved, seconded and *carried* that Mr. *H.W. Arthurs* be appointed to the Legal Education Committee.

It was moved, seconded and *carried* that Mr. *J.D. Crane* be appointed to the Libraries and Reporting Committee.

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### APPOINTMENTS TO SPECIAL COMMITTEE

The Treasurer announced that he had appointed Mr. *H. W. Arthurs* and Mrs. *L. L. Legge* to the Executive Committee.

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### ANNUAL MEETING WITH COUNTY AND DISTRICT LAW ASSOCIATIONS 1981

It was moved, seconded and *carried* that the annual meeting of the Chairmen and Vice-Chairmen of the Standing Committees with representatives of the County and District Law Associations and representatives of the approved law faculties in the province take place on Friday, 11th December, 1981, beginning at 9:30 a.m., in the Third Floor Lounge at Osgoode Hall, and that coffee be served in Convocation Hall prior to the meeting and a buffet luncheon be served in Convocation Hall at the appropriate time.

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### SPECIAL CONVOCATION THURSDAY, 10TH DECEMBER, 1981

The Treasurer said that tentatively he had set Thursday, 10th December, 1981, for a Special Convocation for Discipline and the discussion of matters of policy.

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## REMEMBRANCE DAY OBSERVANCE 1981

The Treasurer reminded Convocation that the Society's Remembrance Day Service would be held on Thursday, 12th November, 1981, at 12:30 p.m., at the Society's Second World War Memorial in the Main Rotunda at Osgoode Hall, and that the regular monthly meetings of the Standing Committees would take place on that date.

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## MOTIONS TO AMEND THE RULES:

### 1. COMPENSATION FUND COMMITTEE

It was moved, seconded and *carried* that Convocation approve the establishment of a standing committee to be known as the Compensation Fund Committee; that Convocation delegate to the Compensation Fund Committee the powers conferred upon it under Section 51 of The Law Society Act; and that the Rules made under The Law Society Act be amended as follows:

THAT Rule 27 be amended by the addition of the following:

“11. Compensation Fund.”;

THAT Rule 37 be amended by the deletion of the following:

“and the administration of the Compensation Fund”;

AND THAT the following new Rule 46*b*. be added:

#### “COMPENSATION FUND COMMITTEE

46*b*. The Compensation Fund Committee is responsible to Convocation for the administration of the Compensation Fund, and it may make such arrangements and take such steps as it considers advisable to carry out its responsibilities.”

### 2. PUBLIC INFORMATION COMMITTEE

It was moved, seconded and *carried* that the name of the Public Relations Committee be changed to the Public Information Committee; and that the Rules made under The Law

Society Act be amended as follows:

THAT Rule 27 be amended so that item 8 thereunder reads:

“8. Public Information.”;

THAT Rule 28 (1) be amended by the deletion of the following:

“the Public Relations Committee,”;

AND THAT Rule 45 be amended to read:

“ PUBLIC INFORMATION COMMITTEE

45. The Public Information Committee is responsible to Convocation for all matters pertaining to:

- (i) the development and implementation of programs to make available to the public information concerning the law, the legal system and the legal profession;
- (ii) professional relations, i.e., communications with the profession; and
- (iii) public relations of the Society and its members;

and it shall make such recommendations to Convocation as it considers advisable to carry out its responsibilities.”

### 3. REGULAR CONVOCATION

It was moved, seconded and *tabled* that beginning in 1982 the regular monthly Convocation shall take place on the fourth Friday in each month and that Rule 21(1) made under The Law Society Act be amended to read:

“ 21.—(1) Except where otherwise directed by the Treasurer, Convocation shall meet in Osgoode Hall on the fourth Friday in each month, except in the months of July, August and December.”

.....

### 150TH ANNIVERSARY OF THE OPENING OF OSGOODE HALL

The Treasurer informed Convocation of the appointment of a special committee to consider and report to Convocation respecting arrangements to mark the 150th Anniversary of the

Opening of Osgoode Hall. The Special Committee consists of Messrs. Ferrier and Outerbridge with the Secretary (Mr. Jarvis) as Chairman.

Mr. Outerbridge reported orally to Convocation on the plans to mark the occasion.

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## ANNUAL MEETING 1981

It was moved, seconded and *carried* that the Annual Meeting of the Society for 1981 take place on Saturday, 30th January, 1982, at 4:00 p.m., in Osgoode Hall, following the Continuing Education Programme on Advocacy to be presented by the Canadian Bar Association.

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## ADMISSIONS COMMITTEE—Mrs. Legge

Mr. D. H. L. Lamont, Vice-Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Carthy, Chilcott, Cooper, Ferrier, Henderson, Lamont, Pepper, Mrs. Sutherland and Mr. White.

## ADMINISTRATION

### OCCASIONAL APPEARANCE

*Micheline Parizeau-Popovici* of the province of Quebec applied to proceed under Section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces" in the case of *Elaine Switzman Cantor vs Ronald Cantor*. Me Parizeau-Popovici complied with the requirements of Section 10 of the Regulation, presented a Certificate of Good Standing, and asked to receive her call to the Bar of Ontario at the October Convocation.

*Approved*

## CALL TO THE BAR AND CERTIFICATE OF FITNESS

### Bar Admission Course

The following candidate, having successfully completed the twentieth Bar Admission Course, filed the necessary documents and paid the required fee of \$210, applied for call to the Bar and to be granted a Certificate of Fitness. Mr. Maefs became a Canadian Citizen on 29th September, 1981, and a copy of his Certificate of Canadian Citizenship was before the Committee.

Frederic Leon Maefs

*Approved*

### Call to the Bar for an Occasional Appearance

At its meeting on 10th September, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces" and that upon giving the necessary undertaking, he be called to the Bar and admitted as a solicitor. Mr. Robertson was unable to attend at the September call to the Bar ceremony, and asked to receive his call to the Bar of Ontario at the October Convocation.

Douglas Christian Robertson

Province of Quebec

At its meeting on 15th October, 1981, the Admissions Committee recommended that the following be allowed to proceed under Section 10 of the Regulation concerning "Occasional appearances in Ontario of lawyers from other provinces" and that upon giving the necessary undertaking, she be called to the Bar and admitted as a solicitor.

Micheline Parizeau-Popovici

Province of Quebec

*Approved*

## ADMISSION OF STUDENTS—AT—LAW

### Bar Admission Course

Five further candidates, having complied with the relevant Regulation, paid the required fee of \$101 and filed the

necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 23rd Bar Admission Course.

A further total of 383 candidates, having complied with the relevant Regulation, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 24th Bar Admission Course.

*Approved*

## **DIRECT TRANSFER**

The Committee considered and approved an application to transfer to practice in Ontario by a member of the Alberta Bar who sought to proceed under Regulation 4(1).

## **FULL—TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS**

The following members of approved law faculties asked to be called to the Bar and admitted as solicitors without examination under Section 9 of the Regulation respecting full-time members of approved law faculties in Ontario upon payment of a fee of \$200. Letters confirming the eligibility of the applicants have been received from the Deans of the relevant law schools.

Raymond Louis Britt  
Faculty of Law  
University of Ottawa

LL.B. University of Western Ontario 1977  
LL.M. College of William and Mary 1979  
Admitted to Virginia State Bar 1979

Marc E. Gold  
Osgoode Hall Law School  
of York University

B.A. McGill University 1972  
LL.B. University of British Columbia 1978  
LL.M. Harvard University 1979

*Approved*

## **ADMISSION FOR OCCASIONAL COURT APPEARANCE**

*Gilbert Jamieson Clark* of the Province of Alberta, applied to proceed under Section 10 of the Regulation concerning "Occasional Appearances in Ontario of lawyers from other provinces" in the case of *Regina vs. Mediacom Industries Inc. — Les Entreprises, Mediacom Inc., Hoal Investments Ltd., Jim*



*Pattison Enterprises Ltd., Neonex Consumer Group Ltd., and Seaboard Advertising Co. Ltd.* Mr. Clark has complied with the requirements of Section 10, presented a Certificate of Good Standing and asked to receive his call to the Bar of Ontario at the November Convocation.

*Approved*

## COMMON LAW EXAMINATION

Two candidates were approved by the Committee to proceed under Regulation 4(2). Both sat the examination at the offices of the Bar Admission Course in Ottawa. The candidates were identified by number only and the report of the examiners was before the Committee.

Both candidates passed.

*Approved*

## PETITIONS

The Committee considered and approved two petitions for admission to the teaching term of the Bar Admission Course. Both petitioners had presented similar petitions to the Legal Education Committee which recommended to Convocation on 18th September, 1981, that the petitions be allowed. Convocation adopted that Committee's recommendations.

The Committee considered a third petition for permission to enter the Bar Admission Course. This petitioner, who is enrolled in a B.C.L. programme at Oxford University, England, said to be equivalent to a Canadian LL.M. degree, had obtained C.E.G.E.P. qualifications on the basis of which he had been accepted directly into the Faculty of Law at McGill University. Subsequently he was granted both an LL.B. degree and a B.C.L. degree. On completion of his B.C.L. programme in July 1982 he wishes to enter into articles of clerkship.

In 1976, Convocation approved requests from two students in their third year of the B.C.L. degree course who had entered with C.E.G.E.P. qualifications, that they complete a further year of non-legal university study before entering the LL.B. degree course, and if then successful, proceed to the Bar Admission Course.

The Committee recommended that this petition be denied.

## ADMISSION FOR OCCASIONAL COURT APPEARANCE

The Committee was asked to consider the question of Occasional Appearances.

The Benchers first approved a Regulation governing Occasional Appearances in Ontario in February, 1968. Since that time 69 members from other provinces have been called to the Bar in Ontario under Regulation 10 as follows:

1968	1 (Manitoba)
1971	1 (Alberta)
1972	2 (Manitoba, Quebec)
1973	1 (Manitoba)
1974	2 (Alberta, British Columbia)
1975	7 (1 British Columbia, 1 Manitoba, 5 Quebec)
1976	6 (1 Manitoba, 5 Quebec)
1977	7 (1 British Columbia, 3 Manitoba, 3 Quebec)
1978	12 (3 British Columbia, 5 Manitoba, 4 Quebec)
1979	12 (1 British Columbia, 6 Manitoba, 5 Quebec)
1980	9 (6 Manitoba, 3 Quebec)
1981	9 (1 Alberta, 2 British Columbia, 4 Manitoba, 2 Quebec)

*Convocation 20th October, 1978* It was moved and carried that the Society's representatives to the Federation of Law Societies of Canada request that consideration be given to the production of guidelines for the granting of leave to appear by members of other jurisdictions.

*Convocation 17th November, 1978* It was moved and carried that Regulation 10 be referred to the Legislation and Rules Committee to be redrafted to conform with Convocation's practice.

*Convocation 19th January, 1979* A draft of the amended Regulation 10 was put before Convocation for approval but the item was deleted from the Report. It read:

"10(2) The applicant shall undertake to Convocation that he will not otherwise engage in the practice of law in Ontario *except in special circumstances with permission of Convocation.*"

*Admissions Committee 8th March, 1979* A chart incorporating information from all governing bodies with respect to Occasional Appearances was received from the Federation and put before the Committee. The Committee recommended that subject to the approval of the Finance Committee, the fee for an Occasional Appearance be raised to \$500. Convocation on 16th March, 1979, referred the matter back to the Committee for further consideration.

*Admissions Committee 11th October, 1979* Subject to Convocation's direction, the Committee intends in future to recommend that the discretion be exercised to permit an Occasional Appearance only where it has been shown that otherwise the client would be seriously prejudiced. On the 19th October, 1979, at Convocation, it was moved and carried that the Committee's recommendation not be adopted.

*Admissions Committee 8th November, 1979* The Unauthorized Practice Committee reported to Convocation on 19th October, 1979, and recommended that the Admissions Committee should issue a standardized Occasional Appearance Certificate naming the matter to which authority extends. The Report was adopted and went before the Committee — Noted.

The Committee recommended that no action be taken at present.

### THE REPORT WAS ADOPTED

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### LIBRARIES AND REPORTING COMMITTEE—

#### Mr. Farquharson

Mr. L.S. Willoughby, Vice-Chairman, presented the Report of the Libraries and Reporting Committee of its meeting on Wednesday, 14th October, 1981.

The following members were present: Messrs. Farquharson (Chairman), Shaffer (Vice-Chairman), Lerner, Mrs. Tait, Mr. Yachetti and, by invitation, Messrs. J.D. Crane, C.B. Noble, G. Howell and D.V. Burnett.

### ADMINISTRATION

#### COUNTY LAW LIBRARY GRANTS

1. The Committee considered the present formula for distributing funds made available by the Law Society and The Law Foundation of Ontario and recommended, subject to the approval of the Finance Committee, that the Society seek an amendment to Regulation 36(a) under The Law Society Act to provide that every county and district law association,

excepting York, receive a Law Society grant of \$3,000; York County to continue to receive a grant of \$3,500 under Regulation 36(b).

2. The Committee proposed:

That commencing in 1982, the following policy should be followed in respect to the distribution of funds received from the Law Foundation for law library purposes;

- (a) each county or district law association except York, to receive a basic payment of \$7,500 plus a per capita payment of \$40.00 for each lawyer in private practice to a maximum grant of \$25,500 such grant to be paid quarterly in advance.
- (b) *Deleted on consent.*
- (c) the Central Administrative Program to be abolished.
- (d) each law association to be required to abide by minimum standards established by the Law Society in respect to the purchase of books and the employment of staff.
- (e) if funds received from the Law Foundation in any year are less than \$546,400.00, the basic payment shall be maintained at \$7,500 and the per capita payment reduced proportionately.

That a statement of the proposed policy as set forth above be circulated to the law associations and they be invited to comment not later than November 10th, 1981.

That this matter be placed on the agenda for the next regular meeting of this Committee.

### THE REPORT WAS RECEIVED

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Mr. Willoughby presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Messrs. Farquharson (Chairman), Shaffer (Vice-Chairman), Lerner, Mrs. Tait, Mr. Yachetti and, by invitation, Messrs. J. D. Crane, G. Howell and

D.V. Burnett.

## ADMINISTRATION

### REPORTING – BUTTERWORTHS NEW SERIES

The Secretary reported that Butterworths requested that commencing with the first part of the Ontario Reports in January 1982, it be called Ontario Reports, Third Series, Volume 1, Part 1. Alternatively, Butterworths suggested that commencing with the first part in January 1982, the words Second Series be deleted and the year be shown in square brackets. The Committee recommended that neither of these proposals be accepted and that the Secretary be instructed to advise Butterworths that the first part of the Ontario Reports in January 1982 should be Ontario Reports, Second Series, Volume 34, Part 1.

## INFORMATION

### ONTARIO REPORTS CANADA LAW BOOK LIMITED CASE SELECTION

The Secretary reported that the method of selecting cases to be reported in the Ontario Reports was under consideration. The Committee recommended that an item be placed in the Communiqué asking members of the profession to send their comments concerning the publication of the Ontario Reports to the Society.

### PHOTOCOPIERS FOR COUNTY LAW LIBRARIES

The Secretary submitted a report by Mr. Howell indicating possible arrangements for volume purchases or renting of photocopiers for County Law Libraries. The Committee recommended that the Society make an application to the Attorney General of Ontario to pay for photocopiers in all county law libraries on the basis that this Committee considered a photocopier an essential tool for legal research.



## GIFTS AND DONATIONS

The following gifts and donations have been received by the Great Library:

Austin M. Cooper, Q.C.

*Supreme Court Reports* 1970  
and 1976 Volume I

*Canada Law Reports* (Sup. Ct.)  
1953-1969

*Revised Statutes of Canada*  
*Statutes of Canada* 1972-1976

*Revised Statutes of Ontario* 1970

*Statutes of Ontario* 1971

*Halsbury's Laws of England*  
complete 2nd edition

His Honour Judge F.J. Cornish

16 titles

## BOOK LIST

A list of 37 new acquisitions by the Great Library was approved.

## DISPOSITION OF EXTRA MATERIALS

The Secretary submitted a report concerning the disposition of duplicate materials from the Great Library's collection. The Committee recommended that on disposition these materials be made available to the county libraries subject to the terms and conditions set out in the said report.

## ACCOUNT OF COUNSEL

The account of counsel, James Dubé of Blake, Cassels & Graydon, dated July 17th, 1981 in the amount of \$750 was approved by the Committee.

## CONTRACT TO PUBLISH ONTARIO REPORTS

The Secretary reported that the contract dated September 22nd, 1981 had been signed by both Butterworths as publisher and the Society for the period January 1, 1982 to June 30, 1982.

It was moved in Convocation, seconded and *carried* that the Committee consider what would be a correct term of the next contract for publication of the Ontario Reports.

### THE REPORT AS AMENDED 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:

Frederic Leon Maefs  
Micheline Parizeau-Popovici

.....

### FINANCE COMMITTEE—Mr. Pepper

Mr. P.B.C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Messrs. Pepper (Chairman), Tebbutt, Farquharson, Chilcott, Ogilvie, Shaffer, Henderson, Guthrie, Brulé.

### ADMINISTRATION

#### 1981/82 BUDGET — STAFF SALARIES

(a) Included in 1981/82 Budget (General Fund)

(i) *Discipline & Professional Conduct*

The following seven positions in Discipline were included at two-thirds of the annual salary cost reflecting the estimated average starting date:

1981/82  
Budget

Senior Counsel  
Secretary to Senior Counsel  
Assistant Secretary  
Secretary to Assistant Secretary  
Assistant Secretary  
Secretary to Assistant Secretary  
Investigator

and an additional secretary for Professional  
Conduct was also approved: \$143,000

(ii) *Finance*

Bookkeeper  
Bookkeeper  
Data entry operator 55,000

(iii) *Public Information*

50% of Public Relations Officer  
50% of Secretary to Public Relations Officer 27,000

(b) *Not Included in 1981/82 Budget*

Research Assistant to the Treasurer — Mr. R. Tinsley  
transferred from Assistant Secretary position  
Secretary to Research Assistant — Miss S. Sloyan  
(new hiring)  
Enquiries Officer — Mrs. B. Cousins  
(transferred from Switchboard/Receptionist)  
The total annual cost of these three salaries is 65,250

(c) *Discipline Committee* requested approval to fill the  
vacant position of Assistant Secretary created by the transfer of  
Mr. Tinsley. This vacancy is additional to the two new Assistant  
Secretary positions referred to in (a) above.

*Approved*

(d) *Public Information*

The Chairman of the Legal Aid Committee requested

that Mr. John Beaufoy and his assistant, Miss Irene Swierczynski, become employees of the Law Society so that their salaries are paid by the Society. The Legal Aid Plan would be charged back with time spent on Legal Aid matters.

Mr. John Beaufoy's and	
Miss Irene Swierczynski's salaries total —	\$ 51,186 p.a.
If transfer made November 1, 1981, current	
year charge (eight months)	34,124
Less charged back to Legal Aid	?
Budget as above	27,000

It was moved in Committee, seconded and *lost* that Mr. Beaufoy and his assistant be engaged by a written contract for 2 years beginning November 1981; his office to remain in the Legal Aid premises at 145 King Street West during the balance of 1981.

It was moved in Convocation, seconded and *carried* that the motion respecting Mr. *Beaufoy* be approved.

## BANKING ARRANGEMENTS

### INTEREST ON CURRENT ACCOUNTS

The Canadian Imperial Bank of Commerce offered to pay the Society interest at the bank's prime rate less 3% on any monthly average credit balances in the General Fund and Compensation Fund accounts that are in excess of \$24,000, provided that the Society:

- (a) Maintain a minimum balance of \$24,000 in the two accounts in total and
- (b) Sign a notice agreement that the Society "acknowledges that the Bank reserves the right to require 24 hours' notice of withdrawal".

The Bank has never required this notice in the past and has indicated that assuming the above notice agreement is signed, the Society will receive interest at the bank's prime rate less 3% retroactive to September 1, 1981.

*Approved*

The Committee recommended that the Chairman, the Director of Finance and the Secretary be empowered to make

more advantageous arrangements if possible.

### SHORT-TERM INVESTMENTS

The Society has approximately \$8,000,000 invested in short-term securities, of which the majority are treasury bills with maturities no greater than six months. These treasury bills are in bearer form and, as a result, have been left with investment dealers for safekeeping. These investments belong to the General Fund, the Compensation Fund and the Errors and Omissions Insurance Fund.

The Canadian Imperial Bank of Commerce and the Bank of Montreal have offered their "Acceptance and Delivery of Securities Service" and "Safekeeping Services". The cost of these services for one month is approximately \$300.00 for the Canadian Imperial Bank of Commerce and \$100.00 for the Bank of Montreal based on average face value of investments. The Canadian Imperial Bank of Commerce proposes to review the Society's security transactions at the end of the first three months to determine a flat annual charge.

Advantages to the Society in accepting these services include:

- (i) Treasury bills and other bearer short-term investments would be delivered by the investment dealer to the bank. This would ensure that the Society, through its agent, the bank, received the security for which the Society has instructed the bank to pay.
- (ii) Reinvestment of matured investments could be made on the day of maturity and thus the present loss of one day's interest would be eliminated.
- (iii) Administrative procedures would be more efficient than the present procedures.

*Approved*

### ANNUAL FEES

In February 1981, the Finance Committee recommended to Convocation that a number of members be suspended for non-payment of 1980/81 annual fees. One member, Mr. *Gerald Charles Molloy* of Regina, Saskatchewan, promised to mail a



cheque in time to avoid suspension and his name was removed from the list.

Mr. Molloy failed to keep his promise and it was recommended that his rights and privileges be suspended by Convocation on October 23, 1981.

*Approved*

*See motion p.441.*

## **ERRORS AND OMISSIONS INSURANCE**

Three members paid 1981 Errors & Omissions Insurance Levy with cheques which were subsequently dishonoured by the Bank due to insufficient funds.

These members did not answer correspondence requesting replacement cheques and it was therefore recommended that their rights and privileges be suspended by Convocation on October 23, 1981.

*Approved*

*See motion p.441.*

## **BEQUEST – MRS. AILEEN MILLING**

At its meeting of September 10, 1981, the Committee was advised that a bequest of \$3,000 had been received under the Will of the late Mrs. Aileen Milling. Convocation requested the Secretary to obtain any available details concerning this bequest. In spite of an extensive search for more background, little was available.

The Committee recommended that this sum be kept in trust, the income to be used for the purposes of the Muniments and Memorabilia Committee.

## **ANNUAL FINANCIAL STATEMENT**

The annual financial statement for the year ended 30 June 1981, together with report of the auditors, which was before

the Committee in draft form, was approved for submission to Convocation.

## LIFE MEMBERS

Pursuant to Rule 40, the following were eligible to become Life Members of the Society effective 15th October 1981:

William Eli Bird, Q.C.	Burlington
Roger Joseph Desrosiers, Q.C.	Windsor
Oliver William Durdin, Q.C.	London
Donald McClelland Findlay, Q.C.	King City
William Pattison Telford, Q.C.	Owen Sound

*Approved*

## MEMBERSHIP RESTORED

His Honour *Benjamin Grossberg* gave notice under Section 31 of The Law Society Act that he had retired as a County Court Judge on 27 January 1981 and wished to be restored to the rolls of The Law Society. Accordingly, his membership was restored effective 1st September 1981.

Mr. Grossberg was entitled to Life Membership in the Society having been called to the Bar on 15th November 1928.

Her Honour *Bertha Esther Thompson* gave notice under Section 31 of The Law Society Act that she had retired as a judge of the Provincial Court on 25 August 1981 and wished to be restored to the rolls of The Law Society. Accordingly, her membership was restored effective 2nd September 1981. (*See also Membership under Rule 50 – (b) Retired Members.*)

*Approved*

## CHANGE OF NAME

### (a) Members

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

<i>From</i>	<i>To</i>
Andrea Gail Brownstone	Andrea Gail Brownstone <i>Winograd</i> (Married Name)
Kathleen Margaret Csendes	Kathleen Margaret <i>Yeoman</i> (Married Name)
Jeanne Elizabeth Challis	Jeanne Elizabeth <i>Beverly</i> (Maiden Name)

### (b) Student Member

The following student member requested that her name be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Michele Mary Braniff	Michele Mary Braniff <i>Bumstead</i> (Married Name)

*Approved*

## MEMBERSHIP UNDER RULE 50

### (a) Incapacitated Members

The following members requested consideration of their applications as disabled members to continue their membership in the Society without payment of annual fees:

David Augustus Coon	Toronto
Frank Mariani	Toronto

### (b) Retired Members

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

Warner Cox Alcombrack, Q.C.	Bracebridge
Morris Sam Appleby	Toronto
Robert Lloyd Hunter	Toronto
Francis William Park	Toronto
John Donald MacKenzie Pollock	Willowdale
Maxwell Lewis Rapoport	Toronto
William Bellamy Rest, Q.C.	Toronto
Benson Audrey Rogers	Waterloo
William Shub, Q.C.	Willowdale
Sydney Smith, Q.C.	Toronto
Bertha Esther Thompson	St. Catharines
Joseph Kenneth Williams, Q.C.	Toronto

Donald Elliott Wade, Q.C.  
 Robert Scott White  
 Basil Hallas Clark  
 Donald Grant Neelands

Elmira  
 Toronto  
 Niagara Falls  
 Toronto

*Approved*

## COUNTY LAW LIBRARY GRANTS

The Libraries and Reporting Committee meeting considered the present formula for distributing funds made available by the Law Society and The Law Foundation of Ontario and recommended that the Society seek an amendment to Regulation 36(a) under The Law Society Act to provide that every county and district law association, excepting York, receive a Law Society grant of \$3,000; York County to continue to receive a grant of \$3,500 under Regulation 36(b).

*Approved*

## PORTRAITS

The Chief Justice of Ontario and the Chief Justice of the High Court requested that their portraits be painted. This year's budget included \$12,000 for portraits and the estimated cost of the two requests is \$20,000.

*Approved*

## BUILDING RENOVATIONS

As an alternative to building an additional floor in the space formerly known as the Quadrangle, the Society's architect is arranging to move the Student Library from its present location to the outer room of the Barristers' Lounge. The space thus vacated will be converted to offices. These renovations will be completed at an estimated cost of \$244,000 plus architect's fees.

*Approved*

## INFORMATION

### ROLLS AND RECORDS

#### Deaths

The following members have died:

Roland Oliver Daly, Q.C. Toronto (Life Member)	Called – 9 July 1915 Died – 20 September 1981
Henry Lewis Schreiber, Q.C. Hamilton	Called – 16 June 1938 Died – 24 September 1981
Floyd Earl Corner, Q.C. Aurora	Called – 21 September 1939 Died – 18 September 1981
Joseph Jacques Hector Corbeil Ottawa	Called – 26 March 1965 Died – 29 April 1981
Albert Edwin Shepherd, Q.C. London	Called – 19 June 1947 Died – 27 September 1981
George Hughes Lovatt, Q.C. Toronto (Life Member)	Called – 20 May 1920 Died – 24 September 1981
Leonard Holness, Q.C. Toronto	Called – 16 June 1938 Died – 14 September 1981
William Samuel Rosen, Q.C. Toronto	Called – 15 September 1932 Died – 7 September 1981
Charles Allen Thompson, Q.C. Toronto (Life Member)	Called – 25 May 1923 Died – 30 September 1981
Wilbert Ernest West, Q.C. Brampton	Called – 15 June 1939 Died – 3 October 1981
Frederick James Gormley Mississauga	Called – 29 March 1977 Died – 29 September 1981
William James Adams Toronto	Called – 19 September 1946 Died – 6 August 1981
William Schreiber, Q.C. Hamilton (Life Member)	Called – 16 October 1924 Died – 4 August 1981
Archibald Woodburn Langmuir, Q.C. Toronto	Called – 19 September 1940 Died – 30 August 1981
John Archibald Harstone Peterborough (Life Member)	Called – 20 March 1924 Died – 8 August 1981
John Norman Paterson Thunder Bay	Called – 18 September 1947 Died – 6 August 1981
William Ross Hitch, Q.C. Willowdale	Called – 23 June 1955 Died – 27 August 1981

## Disbarments

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

Chester Jaremey Toronto	Called – 20 March 1975 Disbarred – Convocation 18 September 1981
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Donald Grover R. Macdonald  
Toronto

Called — 16 September 1954  
Disbarred — Convocation  
18 September 1981

Henry Leonard Rittersporn  
Toronto

Called — 25 June 1953  
Disbarred — Convocation  
18 September 1981

## THE REPORT AS AMENDED WAS ADOPTED

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### MOTION TO SUSPEND: ARREARS OF ANNUAL FEES 1980/81

It was moved, seconded and *carried* that the following Barrister and Solicitor who has not paid his 1980/81 annual fees be suspended from practice for a period of one year from this date and from year to year thereafter, or until his fees are paid:

Gerald Charles Molloy

Regina, Saskatchewan

.....

### MOTION TO SUSPEND: ARREARS OF ERRORS AND OMISSIONS INSURANCE LEVY 1981

It was moved, seconded and *carried* that the rights and privileges of three Barristers and Solicitors who had failed to pay the levy prescribed under Section 53 of The Law Society Act and who had not been granted exemption from coverage be suspended from 23rd October 1981 for a period of one year and from year to year thereafter or until their levies are paid or until applications for exemption are approved.

The three members were suspended as of 23rd October 1981; two were subsequently reinstated and the following is still suspended:

Robert Richard Morris

Toronto

\$850.00

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## LEGAL AID COMMITTEE—Mr. Chadwick

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 7th

October, 1981.

The following members were present: James B. Chadwick, Chairman, Messrs. Barnes, Bragagnolo, Carter, Ms. Cornish, Messrs. Crane, DeLorey, Ellis, Ferrier, Mrs. Fleming, Messrs. Guthrie, Jones, Lamb, Linden, Michon, Noble, Ogilvie, Russell, Mrs. Smythe, Mrs. Tait, Messrs. Wallace and Yachetti.

The following observer member was also present: Robert Holden, solicitor, for the Criminal Lawyers Association.

## POLICY

### STEERING COMMITTEE REPORT

After in depth review the Legal Aid Committee approved the Report of the Steering Committee. Over the past months the Steering Committee had reviewed material with respect to uncontested divorce actions and was of the unanimous opinion that procedures with respect to the obtaining of an uncontested divorce, whether legal aid or otherwise, should be changed and steps should be taken to reduce the cost. The Committee was of the view that services to the client should not be minimized and corollary issues such as custody and property matters should receive proper legal advice. However, when a divorce is set down for trial a lawyer should not be necessary if the client's interests have been protected prior to the actual proceeding.

The Legal Aid Committee recommended that the Steering Committee continue to examine the whole procedure in obtaining a divorce. In particular, the procedures followed in England and Australia should be examined with a view to reducing the cost of legal aid and the administration of justice generally in divorce actions.

The Committee also approved the Steering Committee's recommendation that immediate steps be taken to reduce the cost of divorce actions under the Legal Aid Plan. The Director was instructed to write to Area Directors asking for their comments on the Steering Committee's proposal that when a certificate is issued in a matrimonial matter, in every case, after the examination for discovery, a second opinion should be obtained from counsel. At that point the Area Director will have the discretion as to whether it is necessary to appoint a senior civil duty counsel to review material with the solicitors

for the plaintiff and defendant and recommend whether a certificate should be continued.

The Report of the Steering Committee approved by the Legal Aid Committee was before Convocation.

It was moved in Convocation, seconded and *carried* that consideration of this item be deferred to the November Convocation.

## **SUB-COMMITTEE RE AMENDMENTS TO REGULATIONS AND FORMS**

In May, Convocation approved all the housekeeping amendments to the Regulations and also the proposed major amendments to Regulations 20, 25, 60, 84 and 86.

In July, Convocation approved all amendments to the Legal Aid Forms with the exception of *Form "2"*, (the Application Form), and the proposed amendment to Regulation 30.

The Legal Aid Committee recommended that the proposed Amendments to Regulations 42 and 53 be approved. The amended sections of Regulations 42 and 53 were before Convocation.

## **ADMINISTRATION**

### **REPORT OF THE SUB-COMMITTEE RE PUBLIC INFORMATION**

The Legal Aid Committee held two out-of-town Legal Aid Committee meetings in London and Barrie. Both meetings were designed to elicit comments and suggestions from various individuals and groups.

The Legal Aid Committee after in depth review approved a Report from the Public Information Sub-Committee which recommended that the next out-of-Toronto meeting of the Legal Aid Committee be held in Hamilton.

The said Sub-Committee also recommended that the Public Information Officer be authorized to make changes to the Plan's white pages telephone listings. There are approximately 600 white page sections across Ontario and the Plan is currently listed in each. Under the changes White Pages

telephone directory listings will be confined to those directories related to locations in which a legal aid area office exists. The Plan will continue to be listed in all Yellow Page listings under the heading, "Lawyers" and therefore information about the Plan will continue to be made available to all Ontario residents. This change will bring the Plan's listings into conformity with listings for the Law Society at a cost savings of \$26,951.

The Report of the said Sub-Committee was before Convocation.

#### **APPOINTMENT OF AREA DIRECTOR ESSEX COUNTY**

Kenneth G. Ouellette, solicitor, Area Director, Essex County, was appointed to the Essex County Bench in June, 1981. The Essex County Law Association and the Essex County Legal Aid Area Committee unanimously recommended that James R. Lawrenson, Deputy Area Director, be appointed Area Director. Mr. Lawrenson has been the Deputy Area Director for Essex County since July, 1969.

#### **INFORMATION**

##### **MENTOR PROGRAM**

The Mentor Program assists in encouraging the provision of advice and assistance to junior members of the Bar by experienced senior counsel. In June, Convocation approved a request that a "Mentor Hotline" be made available to enable junior counsel to contact a member of the Legal Aid staff, who will then locate a mentor who is available to speak immediately with the junior counsel.

Convocation also approved that the "Mentor Hotline" be available to lawyers working on Criminal Legal Aid Certificates no matter where they are located in the province. The method of establishing this province-wide "Mentor Hotline" is through a Zenith telephone number.

Convocation had before it a letter which was forwarded to all lawyers in Ontario on Criminal Legal Aid Panels and which publicizes the availability of the "Hotline".

## REPORT OF THE DEPUTY DIRECTOR

### Finance

The Director's report, pursuant to Section 95(2), for the five month period ended August 31, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$447,000 as follows:

<i>Over budget</i>	\$	\$
Civil certificate accounts	774,000	
Legal Advice accounts	3,000	
Student Legal Aid Societies	85,000	
Area Office costs	64,000	
Provincial Office costs	<u>114,000</u>	1,040,000
<i>Under budget</i>		
Duty Counsel payments	54,000	
Criminal certificate accounts	228,000	
Salaried Duty Counsel Programme	43,000	
Community Clinic funding	100,000	
Research Facility	101,000	
Special Projects	<u>67,000</u>	<u>593,000</u>
		<u>447,000</u>

The \$85,000 excess expenditure on Student Legal Aid Societies is recoverable from the Government under the Experience '81 summer funding programme.

Income from sources other than the Province of Ontario exceeded budget by \$485,000 as follows:

	\$
Client contributions	268,000
Costs recovered	81,000
Miscellaneous	<u>136,000</u>
	<u>485,000</u>

This income in excess of budget more than offset the expenditure overrun of \$447,000.

### Statistics

The following table compares reported activity for the first



five months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>5 months ended</i>		<i>% Change from last year</i>
	<i>Aug. 31/81</i>	<i>Aug. 31/80</i>	
Summary Legal Advice	18,223	17,895	+ 1.8
Referrals to other agencies	28,066	29,930	- 6.2
Applications for certificates	44,822	46,588	- 3.8
Refusals	14,230	17,536	- 18.9
As a percentage of applications	31.7	37.6	
Certificates issued	32,271	32,236	+ 0.1
Persons assisted by Duty Counsel:			
Fee for service	69,561	60,951	
Salaried Duty Counsel	<u>20,354</u>	<u>21,964</u>	
Total	<u>89,915</u>	<u>82,925</u>	+ 8.4

## REPORT OF THE LEGAL ACCOUNTS OFFICER

### Reviews

	<i>August 1981</i>	<i>5 Months to Aug. 31/81</i>	<i>5 Months to Aug. 31/80</i>
Reviews on hand	852		
Reviews received	<u>110</u>	603	844
	<u>962</u>		
Settlements reviewed in	141	599	826
Settlements awaiting review at end of	<u>821</u>		
	<u>962</u>		

### Appeals

	<i>June</i>	<i>July</i>	<i>August</i>
Appeals to Taxing Officer received during	4	1	-
Appeals heard by Taxing Officer	2	1	1
Appeals pending at the end of the month	12	12	11

## Activity

	<i>1981/82 Fiscal Year</i>		<i>1980/81 Fiscal Year</i>	
	<i>Month of Aug. 1981</i>	<i>5 Months to Aug. 1981</i>	<i>Month of Aug. 1980</i>	<i>5 Months to Aug. 1980</i>
Accounts on hand at beginning	7955	12524	15344	12454
Accounts received	<u>6039</u>	<u>27359</u>	<u>4664</u>	<u>27900</u>
Total Accounts to be processed	13994	39883	20008	40354
Less: Files Cancelled	39	179	34	167
Accounts Processed	<u>5549</u>	<u>31298</u>	<u>4744</u>	<u>24957</u>
Balance	<u>*8406</u>	<u>8406</u>	<u>15230</u>	<u>15230</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	378	2112	370	1913
Supplementary Accounts	<u>414</u>	<u>1692</u>	<u>232</u>	<u>1523</u>
Total	<u>792</u>	<u>3804</u>	<u>602</u>	<u>3436</u>

\*Of this number 650 Accounts have been examined, letters have been sent to solicitors and further information is awaited.

### *Dates Being worked on*

Criminal New Tariff	August 20, 1981	Civil New Tariff	August 7, 1981
		Old Tariff	July 20, 1981

## APPOINTMENT OF OBSERVER MEMBER TO THE LEGAL AID COMMITTEE

Robert Holden, solicitor, observer member for the Criminal Lawyers Association, recommended that Paul D. Copeland, solicitor, Toronto, be appointed as an additional observer member for the Criminal Lawyers Association. The Committee approved Mr. Copeland's appointment.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### Niagara North

M. Eleanor Lancaster, B.A., B.H.Sc., M.A.  
H. Christina MacNaughton, solicitor

**(b) RESIGNATIONS****York County**

William P. Bassel  
 Dr. Earl D. Myers  
 Ms. Lynn King

**Cochrane**

Robert N. Fournier  
 John K. Bracken  
 J. F. Reginald Leveque  
 Ann A. Barron

**Niagara South**

Frank Girdleston, solicitor

**THE REPORT AS AMENDED WAS ADOPTED**

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**CLINIC FUNDING REPORT**

Mr. P. B. Tobias, Chairman of the Clinic Funding Committee, presented the Report of the Director of Legal Aid, dated 13th October, 1981, with respect to Clinic Funding.

**CLINIC FUNDING**

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

The Director recommended to Convocation that the report of the Clinic Funding Committee dated October 13, 1981 be adopted.

The following are the recommendations of the Clinic Funding Committee contained in the said report:

*Applications to the Committee*

The Committee considered applications from clinics for funds in accordance with s.148 of the clinic funding Regulation and recommended approval as follows:

	<i>Up to \$</i>
<i>Training Funds</i>	
Rural Legal Services	440
<i>Supplementary Legal Disbursements</i>	
Injured Workers' Consultants	1,000

### *Review of Initial Decisions*

The Committee also reviewed initial decisions of the clinic funding staff in accordance with s.148 of the clinic funding Regulation, and recommended approval as follows:

	<i>Up to \$</i>
Bloor-Bathurst Information Centre	17,000
Community Legal Services of Niagara South	16,000

The Committee also recommended approval for the establishment of funding in an amount of up to \$5,000 for payment of career progress units to clinic employees in 1981/82 in accordance with the salary formula policies adopted by the Committee for clinic employees.

The Committee also recommended approval of funds in an amount of up to \$5,000 for expenses of rent and renovations, if required, for Legal Assistance of Windsor, which funds are to be used by the clinic only in accordance with special terms and conditions imposed by the Committee.

The said report also contained the following item:

#### *Composition of the Committee*

The Committee recorded its appreciation for the commitment of Ms. Mary Cornish to the work of the Clinic Funding Committee, and congratulated The Law Society of Upper Canada on the excellence of her appointment to the Committee from June 1979 until her recent resignation.

## THE REPORT WAS ADOPTED

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### UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. P. K. E. McWilliams presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Messrs. Chilcott (Chairman), Shaffer and Strauss.

### ADMINISTRATION

1. Two accounts were approved.
2. The Committee had before seven letters, three complaining about the activities of three individuals, three complaining about the activities of three agencies and the seventh requesting

advice. The following are the circumstances giving rise to each letter and the Committee's instructions.

A Michigan attorney was representing accused persons in Provincial Court (Criminal Division). The Secretary was instructed to write to the complainant and state that as the attorney had returned to Detroit the Society had no jurisdiction.

An agency was acting as a solicitor. The Secretary was instructed to write to the complainant advising that in the opinion of the Committee there was insufficient evidence of unauthorized practice.

An individual was practising law. The Secretary was instructed to refer this matter to counsel and if in his opinion there is sufficient evidence, to commence a prosecution for unauthorized practice.

A divorce kit agency was acting as a solicitor. The Secretary was instructed to refer this matter to an investigator or a solicitor and obtain a report for the Committee.

An individual asked for advice as to an incorporation agency that he was starting. The Secretary was instructed to refer this matter to counsel and if in the opinion of counsel an investigation was needed, to refer the matter to an investigator.

An individual was acting for clients in real estate transactions. The Secretary was instructed to refer this matter to counsel to ascertain if there was sufficient evidence of unauthorized practice.

An agency was offering an incorporation service. The Secretary was instructed to refer this matter to counsel for an opinion and if further information is required, to refer this matter to an investigator.

#### THE REPORT WAS ADOPTED

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#### PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé

Mr. J. A. Brulé, Chairman, presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 15th October, 1981.



The following members were present: Mr. Brulé (Chairman), Messrs. Barr, Chadwick, Doran, Farquharson, Mrs. Legge, Messrs. Noble, Ogilvie and Wardlaw. Messrs. Forbes, Hargraft and Marshall were also present at the Chairman's request.

## ADMINISTRATION

### UNPAID COUNSEL'S ACCOUNTS

The Committee approved payment of three accounts for counsel fees outstanding under the Lloyds Policy.

### PRACTICE ADVISORY SERVICE

The Director's Report for September 1981 was received by the Committee.

## INFORMATION

### COUNSEL FEES

A list of fees paid in September 1981 was noted by the Committee. The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	662.00	
1978	2,070.26	
1979	7,025.18	
1980	14,570.49	
1981	<u>21,232.60</u>	<u>\$45,560.53</u>

### ADJUSTERS' FEES

A list of fees paid in September 1981 was noted by the Committee. The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
Old Fund	4,879.74	
1977	2,510.95	
1978	6,381.88	
1979	20,293.23	
1980	21,974.84	
1981	<u>41,307.03</u>	<u>\$97,347.67</u>

**MONTHLY REPORT**

Mr. Hargraft's monthly report for September 1981 was noted by the Committee.

Totals of claims (including defence costs) paid in September 1981 are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	4,448.46	
1978	37,475.09	
1979	46,463.90	
1980	54,316.99	
1981	<u>23,521.85</u>	<u>\$166,226.29</u>

**THE REPORT WAS ADOPTED**

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**CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.**

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The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice Peter deC. Cory of The Court of Appeal for Ontario and The Honourable Mr. Justice Richard E. Holland of The High Court of Justice for Ontario.

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**CONVOCATION RESUMED AT 2:30 P.M.**

.....

**PRESENT:**

The Treasurer and Messrs. Barr, Carthy, Cass, Doran, Ferrier, Furlong, Genest, Ground, Lamont, McWilliams, Noble, Ogilvie, Pepper, Ruby, Scace, Mrs. Tait, Messrs. Tobias, Wardlaw and Willoughby.

.....

## **DISCIPLINE COMMITTEE—Mr. Genest**

### **GENERAL REPORT**

Mr. Genest presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Messrs. Genest (Chairman), Ruby and Yachetti (Vice-Chairmen), Cooper, Finlayson, Ogilvie, White, Mesdames Legge and Sutherland.

### **POLICY**

#### **COMPENSATION FUND INTERIM PAYMENTS**

At its June meeting this Committee concluded in a particular case that it had no power to authorize an interim payment out of the fund before the application had been heard.

The Committee was asked to consider whether this policy should be changed and if so on what basis and in what circumstances.

The Committee recommended that this matter be referred for consideration to the Compensation Fund Committee.

#### **LAWYER REFERRAL ROSTER ACTIVE INVESTIGATIONS**

The Committee was asked to consider whether it should be the Society's policy that Lawyer Referral be notified not to refer lawyers who are under investigation by the Society until the investigation has been disposed of. In the past, the Situation Sheet listing all the solicitors who have complaints registered against them has been kept confidential and therefore Lawyer Referral may refer a client to a lawyer while the Society is in the process of investigating his practice. Recently, the Society referred a client to a lawyer who was shortly afterwards disbarred. The client had given the referred lawyer a retainer which he would not return.

The Committee recommended that once a Complaint has been authorized a lawyer's name be removed from the Lawyer

Referral Roster until such time as the Complaint has been disposed of.

## **PAYMENT OF MONIES OUT OF TRUST REGULATION 18(11)**

Regulation 18(11) reads as follows:

Money other than money permitted by subsection 8 shall not be drawn from a trust account unless Convocation specifically authorizes in writing its withdrawal.

The amounts of \$2,592.30 and \$295.22 were carried forward as unidentified trust funds in a member's account from 1963. He drew this to the Society's attention in 1979. It was his accountant's opinion that the sums represented fees earned by his former partner but not transferred on completion of work. The sums have since been transferred by the member to his general account.

The Committee recommended that the solicitor's action be ratified by Convocation.

## **INVITATIONS TO ATTEND**

Section 12(2) of The Law Society Act reads:

An *ex officio* benchler under subsection 1 has all the rights and privileges prescribed by the rules, except that after the election of benchers in 1971 he no longer shall have the right to vote in Convocation or in a committee.

As no vote is required in respect of Invitations to Attend, the Committee was asked to consider whether ex-officio benchers should conduct all Invitations to Attend in order to relieve the discipline workload of regular benchers.

In view of the Regulations it was felt that this suggestion could not now be implemented. A special panel was struck to deal with a significant backlog of Invitations to Attend.

## ADMINISTRATION

### APPLICATION TO WITHDRAW FUNDS FROM A TRUST ACCOUNT – REGULATION 18(11)

A letter from a member explained that a client who cannot be located and is believed to be overseas has monies properly due him outstanding in the trust account of the firm. Under these circumstances the member sought permission under the Regulation to transfer the money from his trust account to a special interest bearing trust account to be maintained until his client is located.

The Committee recommended that Convocation accede to the member's request.

### THE REPORT WAS ADOPTED

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### COMPENSATION FUND SUMMARIES

Mr. Noel Ogilvie, Vice-Chairman, presented the Compensation Fund Summary for the period ended 30th June, 1981.

#### COMPENSATION FUND

For the Period from 1st July, 1980 to 30th June, 1981

(12 months)

TOTAL RECEIPTS	\$ 1,490,012.25
TOTAL DISBURSEMENTS	<u>\$ 831,525.87</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 658,486.38
BALANCE OF FUND at beginning of period	<u>\$ 1,573,981.71</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,232,468.09</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$13,260,811.43</u></u>

Mr. Ogilvie also presented the Compensation Fund Summary for the period ended 30th September, 1981.



COMPENSATION FUND

For the Period from 1st July, 1981 to 30th September, 1981

(3 months)

TOTAL RECEIPTS	\$ 64,494.80
TOTAL DISBURSEMENTS	<u>\$ 94,638.05</u>
EXCESS OF DISBURSEMENTS OVER RECEIPTS	\$ (30,143.25)
BALANCE OF FUND at beginning of period	<u>\$ 2,232,468.09</u>
BALANCE OF FUND at end of period	<u><u>\$ 2,202,324.84</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$15,255,271.06</u></u>

THE SUMMARIES WERE ADOPTED

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MOTION: ATTENDANCE OF BENCHERS  
ON DISCIPLINE MATTERS

It was moved, seconded and *carried* that the Discipline Committee report each month on the attendance of Benchers on Discipline matters, on a monthly and cumulative basis.

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LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J. J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Arthurs, Barr, Crane, Doran, Ferrier, Henderson, Lamont, Lerner, Noble, Outerbridge, White and Mrs. Tait.

POLICY

THE PREFERRED AREAS OF PRACTICE PLAN

It was moved in Convocation, seconded and *carried* that consideration of the question of the termination of the Plan be

deferred one month and that a special committee be appointed to consider the question of advertising the nature of a practice.

## **CONTINUING LEGAL EDUCATION CLINIC FUNDING**

The Clinic Funding Committee proposed that clinic lawyers be permitted to attend continuing legal education programmes of the Law Society for a reduced flat rate registration fee of approximately \$25.00 per programme. A letter dated April 29th, 1981 written by Mr. Peter Tobias, Q.C., Chairman, Clinic Funding Committee to Mr. James J. Carthy, Q.C., Chairman, Legal Education Committee and a report of the Clinic Funding Committee entitled "Proposal for Participation by Clinic Lawyers in Continuing Education Programmes" were before the Committee.

This item was before the Committee in June and September, 1981 and allowed to stand.

The Committee recommended that the request of the Clinic Funding Committee be denied.

## **ADMINISTRATION**

### **FACULTY APPOINTMENTS**

Toronto, Ottawa and London as indicated

It was recommended that the following appointments be made for the teaching term which commenced September 2nd, 1980:

### **Professional Practice Section**

#### **(i) Law Office Administration Division:**

To continue as Head of Section, Albert A. Strauss, Q.C.

Group Instructors (Osgoode Hall): Serge Anissimoff, P.M. Feldman, Linda Ciaschini, J.P. Hamilton, J.B. Keller, D.F. Lamont, Joyce M.A. Little, Lynn M.I. McCaw, J.B. Romanko, L. Anne Welwood, A.I. Wexler, W.G. Whittaker, M.H. Zwicker.

Stand-by Instructor: F.P. Oster.

To continue as Senior Instructor, Ottawa, L.M. Joyal, Q.C.

Group Instructors (Ottawa): Catherine D. Aitken, R.A. Barrette, D.P. Hamilton, J.L.D. King, H.R. McNeely, Paul Watson.

Stand-by Instructors: R.C. McLaughlin, G.H. Robichon.

To continue as Senior Instructor, London, Samuel Lerner, Q.C.

Group Instructors (London): L. R. Waller, G. H. Kleiman, W. L. Hewson.

Stand-by Instructors: J.D. Wright, W.B. Hagarty.

## (ii) Accounting in a Law Office Division:

To continue as Head of Section, J. Charles Vincent, C.A.

Group Instructors (Osgoode Hall): S.L. Berg, Alan Dewling, C.A., Ronald Flom, M.F. Garvey, C.A., Sheldon Goodman, S.M. Lax, P.F. Marchildon, A.F. Marshall, Steve Meadley, C.A., L.W. Newton, C.A., A.J. Packer, W.T. Pashby, J.W. Peace, Jeffrey Sherman, C.A., A.B. Tulk, W.J. Buckle, C.A., T.R. Hambley, C.A., S.R. Cole, C.A., F.D. Turack, C.A., I.S. MacGregor, J.A. Micules, C.A., Marvin Zweig, C.A., L.P.W. Meehan, C.A., R.J. Jackson, C.A., D.J. Allen, C.A., Peter Mashinter, C.A.

Stand-by Instructors: Bob Thompson, C.A., D.W. Hunter, C.A., Yvonne Kirby, Roger Roden, C.A., Mark Damelin, C.A.

Appointed Senior Instructor, Ottawa, Michael T. Connolly, C.A.

Group Instructors (Ottawa): D.A. Bishop, C.A., Marc Brulé, C.A., V.M. Duret, C.A., R.S. Ghosh, C.A., D.B. Osadca, C.A., A. Bonnie Wright, C.A.

Stand-by Instructors: Steven Bresolin, C.A., W.G. Fenton, C.A., F.B. Murphy, C.A.

Appointed Senior Instructor, London, Patrick F. McGrath, C.A.

Group Instructors (London): Donald Sheehy, C.A., John Leitch, C.A., John Campbell, C.A., B.R. Jackson, C.A., Michael O'Reilly, C.A.

Stand-by Instructors: Sheila LeClair, C.A., Ian McIntosh, C.A., Alan VanWeelden, C.A.

*Approved*

## SPECIAL PETITIONS

The Committee had before it three petitions for consideration. Two were of a routine nature and allowed by the

Committee. With respect to the third, the Committee recommended that its consideration be deferred pending receipt from the petitioner of certain further particulars.

## INFORMATION

### BAR ADMISSION COURSE AND CONTINUING EDUCATION

The Committee considered financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1980 to 30th June, 1981; and reviewed the summary of the Continuing Education programmes held in September 1981.

### THE REPORT AS AMENDED WAS ADOPTED

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### PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 15th October, 1981.

The following members were present: Messrs. Ground (Chairman), Wardlaw (Vice-Chairman), Genest, Lamont, Lerner, McWilliams, Outerbridge and Mrs. Sutherland.

## POLICY

### INTEREST ON TRUST MONEY WHICH IS PAYABLE TO THE LAWYER

It was moved in Convocation, seconded and *carried* that this item be referred back to the Committee for further consideration.

## ADMINISTRATION

### INDUSTRIAL RELATIONS INFORMATION SERVICE REQUEST FOR INFORMATION ON LAWYERS

The Federal Department of Labour has created an

Industrial Relations Information Service. The purpose of the service is to assist "individuals and organizations in the industrial relations field." Its staff works with clients to establish their specific requirements, and then works to find the relevant materials and information. The Director of this service has asked the Society for a listing of "those members whose practice is primarily or exclusively in the field of labour and industrial relations" for the purpose of informing them of the service this organization provides.

The Committee discussed this request and was of the opinion that the Director be advised that the Society does not possess the information he is requesting.

## **INFORMATION**

### **REPORT OF THE SUB-COMMITTEE ON MORTGAGE BROKERS**

The Committee considered a report which summarized the over 80 responses received from the profession to the proposals respecting lawyers acting as mortgage brokers. The Sub-Committee which brought forward the report and proposals will meet to discuss its recommendations in light of the responses received and will report to the Committee's November meeting.

### **THE REPORT AS AMENDED WAS ADOPTED**

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### **SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST**

Mr. P.B.C. Pepper, Chairman, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 15th October, 1981.

The following members were present: Mr. Pepper (Chairman), Mr. Ogilvie and Mrs. Sutherland.

## **ADMINISTRATION**

### **REQUEST FOR FUNDS**

The Committee had before it a request for financial



assistance made by a solicitor on behalf of the wife of a disbarred lawyer. The letter of request contained details of the applicant's assets, liabilities, income and expenditure. She has received \$7,700 to date, the last payment being made to her in October 1980.

The Committee recommended that she be granted \$1,000.

**THE REPORT WAS ADOPTED**

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**CONVOCATION ROSE AT 4:00 P.M.**

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Confirmed in Convocation 20th November, 1981.

J. D. BOWLBY

Treasurer





THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

**Volume 6      Number 9**



Second class mailing privileges applied for and pending.

## MINUTES OF CONVOCATION (ABRIDGED)

Friday, 20th November, 1981  
9:30 a.m.

### PRESENT:

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Barr, Bragagnolo, Brulé, Bynoe, Carter, Carthy, Cass, Chadwick, Chilcott, Cooper, Doran, Farquharson, Ferrier, Furlong, Ground, Henderson, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, Lohead, McWilliams, O'Brien, Ogilvie, Pepper, Ruby, Shaffer, Shibley, Strauss, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wardlaw, White, Willoughby and Yachetti.

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### MINUTES

The Minutes of Convocation of 18th September, 1981, of Special Convocation of 22nd October, 1981 and of Convocation of 23rd October, 1981 were confirmed.

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### APPOINTMENT OF SPECIAL COMMITTEES

(a) In conformity with the motion passed in Convocation on 23rd October, 1981, the Treasurer appointed a *Special Committee on Advertising the Nature of a Practice* consisting of Messrs. Doran, Ground and O'Brien.

(b) The Treasurer announced the appointment of a *Special Committee to consider the recent amendments to the Income Tax Act* respecting "work in progress" in lawyers' offices, which will work with a similar committee of The Canadian Bar Association, consisting of Messrs. Brulé, Ground, and Scace.

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# APPOINTMENT OF UNDER TREASURER

The Treasurer advised Convocation that Mr. *Colin E. Bennett* had agreed to serve as Under Treasurer of the Society, replacing the late Albert E. Shepherd, Q.C., of London.

.....

# APPOINTMENT OF REPRESENTATIVES CANADIAN BAR ASSOCIATION

It was moved, seconded and *carried* that Mr. *R. C. Bragagnolo* and Mr. *P.B. Tobias* be appointed the Society's representatives on the Council of The Canadian Bar Association in addition to the Treasurer and Mr. *R. W. Cass*.

.....

# RESIGNATIONS FROM STANDING COMMITTEES

- (a) Mr. *C. C. Ruby* resigned from the *Legal Education Committee*.
- (b) Mr. *G. H. T. Farquharson* resigned from the *Compensation Fund Committee*.

.....

# APPOINTMENTS TO STANDING COMMITTEES

- (a) It was moved, seconded and *carried* that Mr. *C. C. Ruby* be appointed to the *Professional Conduct Committee*.
- (b) It was moved, seconded and *carried* that Messrs. *C. B. Noble* and *L. S. Willoughby* be appointed to the *Compensation Fund Committee*.

.....

# DISCIPLINE COMMITTEE—Mr. Genest

Re: HOWARD EDWARD KATZ, Hamilton

Mr. *P. G. Furlong*, Vice-Chairman, placed the matter before Convocation.

Messrs. Carter and Cooper withdrew from Convocation, took no part in the discussions and did not vote.

The solicitor attended with his counsel, Mr. Philip M. Epstein. Mr. Thomas J. Lockwood represented the Society.

Convocation had before it the Report of the Discipline Committee, dated 2nd November, 1981, together with an Affidavit of Service, dated 5th November, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 4th November, 1981.

No objection was filed with respect to the findings contained in the said Report.

Mr. Lockwood advised Convocation that he was not ready to proceed and asked Convocation to return the matter to a committee so that cross-examination could take place on some of the evidence given in chief.

Mr. Epstein made submissions on the question of referring the matter back to the Discipline Committee.

Mr. Lockwood made submissions in reply.

The solicitor, counsel and the reporter withdrew.

It was moved and seconded but *withdrawn* that the matter be returned to a differently constituted committee, the Society to pay the costs of the proceedings to date.

It was moved, seconded and *carried* that the matter proceed today.

It was moved and seconded but *not put* that the matter be returned to the same committee to complete the hearing.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were informed of the motion that had been adopted.

Copies of the Report of the Discipline Committee, dated 2nd November, 1981, having been sent to members of the Bench prior to Convocation, the reading of the Report was waived.

In its said Report the Discipline Committee found that the solicitor had failed to maintain sufficient balances in his trust account to meet his trust obligations and failed to comply with

the provisions of the rule of professional conduct respecting borrowing from clients, but the Discipline Committee was satisfied that he had not been involved in the transfer of funds from his firm's trust account which had led to the disbarment of his two partners.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 2nd November, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee is that the solicitor be reprimanded in Convocation.

Mr. Epstein made no submissions as to penalty.

Mr. Lockwood made submissions as to penalty.

The solicitor, counsel and the reporter withdrew.

It was moved, seconded and *carried* that Convocation by order reprimand the solicitor in Convocation.

The solicitor, counsel and the reporter returned.

The solicitor and counsel were advised of Convocation's decision.

The solicitor waived his right of appeal.

Counsel and the reporter retired.

The Treasurer reprimanded the solicitor.

The solicitor retired.

.....

#### ADMISSIONS COMMITTEE—Mrs. Legge

Mrs. L. L. Legge, Chairman, presented the Report of the Admissions Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Mrs. Laura L. Legge (Chairman), Messrs. Chilcott, Cooper, Ferrier, Lamont, Pepper, Mrs. Sutherland and Mr. White.

## ADMINISTRATION

### OCCASIONAL APPEARANCE

*Vaughan Lawson Baird* of the province of Manitoba, applied to proceed under section 10 of the Regulation "Occasional appearances in Ontario of lawyers from other provinces" in the matter of *the Estate of The Right Honourable John George Diefenbaker, P.C.* Mr. Baird complied with the requirements of section 10 and presented a Certificate of Good Standing, and asked to receive his call to the Bar of Ontario at the November Convocation.

*Approved*

### CALL TO THE BAR AND CERTIFICATE OF FITNESS

#### Bar Admission Course

The following candidates, having successfully completed the Twenty-second Bar Admission Course, filed the necessary documents and paid the required fee of \$210, applied for call to the Bar and to be granted Certificates of Fitness:

Cary Robert Clewley  
Franklin Edward Troller

#### Special — Regulation 9

The following candidates, having filed the necessary papers, complied with the requirements of the Admissions Committee in their particular cases and paid the required fee of \$200, were entitled to be called to the Bar and to be granted Certificates of Fitness:

Pepita Capriolo

Faculty of Law  
University of Ottawa

Marc Emmett Gold

Faculty of Law  
Osgoode Hall Law School of  
York University

Peter Philip Mercer

Faculty of Law  
University of Windsor

### Transfer from another province

The following candidates, having passed the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$411, applied for call to the Bar and to be granted Certificates of Fitness:

Julia Yuen-Nam Lee	Province of Saskatchewan
Winston Churchill Waters McCalla	Province of Saskatchewan
Alan Victor Parish	Province of Nova Scotia

The following candidates, having passed the comprehensive examination on the common law and the examination set by the Examining Board, filed the necessary documents and paid the required fee of \$541, applied for call to the Bar and to be granted Certificates of Fitness:

Michael Norman Bergman	Province of Quebec
Colin Kirkland Irving	Province of Quebec
Peter Douglas McCallum	Province of Quebec

### Call to the Bar for an Occasional Appearance

At its meeting on 10th September, 1981, the Committee recommended that the following be allowed to proceed under Regulation 10 concerning "Occasional appearances in Ontario of lawyers from other provinces" and that upon giving the necessary undertaking, he be called to the Bar and admitted as a solicitor. Mr. Robertson was unable to attend at the September and October Convocations, and asked to receive his call to the Bar of Ontario at the November Convocation.

Douglas Christian Robertson	Province of Quebec
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At its meeting on 15th October, 1981, the Committee recommended that the following be allowed to proceed under Regulation 10 concerning "Occasional appearances in Ontario of lawyers from other provinces" and that upon giving the necessary undertaking, he be called to the Bar and admitted as a solicitor:

Gilbert Jamieson Clark	Province of Alberta
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At its meeting on 12th November, 1981, the Committee recommended that the following be allowed to proceed under



Regulation 10 concerning "Occasional appearances in Ontario of lawyers from other provinces" and that upon giving the necessary undertaking, he be called to the Bar and admitted as a solicitor:

Vaughan Lawson Baird

Province of Manitoba

*Approved*

## ADMISSION OF STUDENTS—AT—LAW

### Bar Admission Course

A further 182 candidates, having complied with the relevant Regulations, paid the required fee of \$101 and filed the necessary documents, applied under Regulation 26(5) for admission to the Law Society as students-at-law in the 24th Bar Admission Course.

*Approved*

## FULL—TIME MEMBERS OF THE FACULTIES OF APPROVED LAW SCHOOLS

The following member of an approved law faculty asked to be called to the Bar and admitted as a solicitor without examination under Regulation 9 respecting full-time members of approved law faculties in Ontario, upon payment of a fee of \$200. Professor Geva has been a full-time member of the faculty of Osgoode Hall Law School of York University since July, 1977, and a letter confirming this was received from the Dean. The applicant stated that from 1st July, 1980, to 30th June, 1981, he had sabbatical leave to teach at the University of Illinois. Professor Geva has resumed his active full-time teaching at Osgoode Hall Law School.

Benjamin Geva  
Osgoode Hall Law School  
of York University

LL.B. University of Jerusalem 1970  
LL.M. Harvard University 1975  
SJD Harvard University 1980  
Admitted to the Israeli Bar 1971

*Approved*

## REPORT OF THE EXAMINATION BOARD

The results of the examination on the Statutes and Pro-

cedures in Ontario held earlier this month were before the Committee. Ten candidates sat the examination. Six candidates passed and four failed.

*Approved*

## PETITION

A candidate who successfully completed the Twenty-second Bar Admission Course in February, 1981, petitioned the Legal Education Committee to defer her call to the Bar from April to September, 1981, and that petition was granted. In March, 1981, she moved to London, England, to work. She finds that due to pressure of work she is unable to return to Ontario until April, 1982, and asked that her call to the Bar be deferred until that time.

The Committee recommended that she be permitted to defer her call to the Bar until April, 1982, but no later than that date.

## 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:

Gary Robert Clewley  
Franklin Edward Troller  
Pepita Capriolo  
Marc Emmett Gold  
Peter Philip Mercer  
Julia Yuen-Nam Lee  
Winston Churchill Waters McCalla  
Alan Victor Parish  
Michael Norman Bergman  
Colin Kirkland Irving  
Peter Douglas McCallum  
Douglas Christian Robertson  
Gilbert Jamieson Clark

.....

## DISCIPLINE COMMITTEE (Continued)

### GENERAL REPORT

Mr. Furlong presented the General Report of the Policy Section of the Discipline Committee of its meeting on Thursday, November 12th, 1981.

The following members were present: Messrs. Genest (Chairman), Furlong (Vice-Chairman), Cass, Cooper, Finlayson, Ogilvie, Mrs. Sutherland and Mr. White.

### POLICY

#### PROPOSED GUIDELINES RE ISSUANCE AND HEARING OF COMPLAINTS WHERE CRIMINAL PROCEEDINGS ARE PENDING

The Committee was asked to formulate guidelines for the staff regarding the issuance and hearing of formal Complaints where criminal proceedings are pending. Mr. Sherriff presented a written proposal which was approved by this Committee and which was before Convocation.

Briefly, the guidelines recommended by the Committee are:

- (i) A Complaint authorization will be sought and the Complaint issued whenever a significant criminal charge has been laid.
- (ii) For cases where the Complaint concerns transactions identical to the criminal charge, the Society will agree to an adjournment of the hearing sine die pending the outcome of the criminal trial provided the public interest is protected by the solicitor entering into appropriate undertakings or by other means. Failure to execute the undertaking could result in the matter proceeding before the criminal charge provided the Society retain discretion to proceed if the criminal proceedings are unduly prolonged. *(As amended in Convocation, see motion p.472-3.)*
- (iii) In cases where the conduct alleged is referable to a transaction different from the conduct alleged in the criminal charge, the Society will proceed with the hearing of the Complaint or will proceed with those parts of the

Complaint that do not relate to the criminal trial.

(iv) Where the criminal conduct alleged concerns only the solicitor's personal life, the hearing would not proceed until after the criminal trial and undertakings not to practise in the interim would not be required by the Society.

(v) No action will be taken with respect to summary conviction offences unless clients are involved or the issue of fitness to practise arises.

It was moved in Committee, but not passed, that the above guidelines be subject to the proviso that the Law Society compensate claimants to the Compensation Fund whose claims are postponed pending the outcome of criminal charges for their additional losses incurred as a result of that postponement. (*See motions, below.*)

## ADMINISTRATION

### FORMAT OF REPORTING BENCHERS'

#### ATTENDANCE AT DISCIPLINE HEARINGS

Pursuant to the resolution of Convocation on October 23rd, 1981, the Committee approved the format before Convocation for reporting attendance of Benchers on discipline hearings. However, the Committee had reservations about the idea as no matter what format is chosen, there is bound to be some unfairness.

It was moved, seconded and *lost* that the Society compensate claimants to the Compensation Fund whose claims have been postponed pending the outcome of criminal charges for their additional losses incurred as a result of the postponement.

It was moved by way of amendment to the foregoing motion, seconded and *lost* that the words "may in appropriate cases" be inserted after the word "Society".

It was moved, seconded and *carried* that Guideline (ii) be amended by adding to the end thereof "provided the Society

retain discretion to proceed if the criminal proceedings are unduly prolonged”.

### THE REPORT AS AMENDED WAS ADOPTED

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### COMPENSATION FUND SUMMARY

Mr. Noel Ogilvie, Vice-Chairman (and Chairman of the newly appointed Compensation Fund Committee), presented the Compensation Fund Summary for the period ended 31st October, 1981.

### COMPENSATION FUND

For the Period from 1st July, 1981 to 31st October, 1981

(4 months)

TOTAL RECEIPTS	\$ 938,101.23
TOTAL DISBURSEMENTS	<u>\$ 138,716.14</u>
EXCESS OF RECEIPTS OVER DISBURSEMENTS	\$ 799,385.09
BALANCE OF FUND at beginning of period	<u>\$ 2,232,468.09</u>
BALANCE OF FUND at end of period	<u><u>\$ 3,031,853.18</u></u>
CLAIMS RECEIVED and in the course of being processed at end of period	<u><u>\$16,031,989.46</u></u>

### THE SUMMARY WAS RECEIVED

.....

### SUB-COMMITTEE ON DISCIPLINE PROCEDURES (SPECIAL COMMITTEE ON CONVOCATION)

Mr. J. R. Barr, Chairman of the Sub-Committee on Discipline Procedures, presented a revised Report dated November 1981.

Consideration of the Report was adjourned to the Special December Convocation.

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## FINANCE COMMITTEE—Mr. Pepper

Mr. P. B. C. Pepper, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. Pepper (Chairman), Chilcott, Farquharson, Finlayson, Ogilvie, Scace, Shaffer and Tebbutt.

## ADMINISTRATION

### EMPLOYEE PENSION PLAN

Since the last booklet was issued to employees several changes have been made to the plan. In considering a revised booklet, it has been suggested that if the plan itself were rewritten in a simpler format, then the plan itself could be issued to all employees. This would overcome the comments that the sort of booklet now handed to employees is not the plan document. Quotations have been received from Standard Life (\$1,300 — \$1,500) and from Peat, Marwick & Partners (\$2,500).

The Committee recommended that Standard Life rewrite the plan at their expense.

### ANNUAL MEETING

Last year's budget included \$15,000 under the heading Annual Meeting. Actual costs were \$11,228.05 which was made up as follows:

*Annual Meeting at Chateau Laurier, Ottawa  
February 1981*

Reception & Lunch	\$4,998.48	
Printing — Report & Agendas	1,021.68	
Reporting	247.50	
Travelling expenses — Benchers & staff	<u>4,960.39</u>	\$11,228.05

The current year's budget is again \$15,000 having been approved before it was known that the Annual Meeting is to be held at Osgoode Hall in conjunction with the Sesquicentennial of Osgoode Hall. The Chairman, in a letter to Ian W. Outerbridge, Q.C., indicated that the Law Society will protect

the Committee for the Sesquicentennial to the amount of \$25,000, these funds coming out of the present budget and, if necessary, next year's budget.

The Committee recommended the approval of this expenditure of funds.

## ANNUAL FEES

(a) *Duncan Crosby* who was called to the Bar in April, 1981 moved to British Columbia where he is serving under Articles. In a letter to the Secretary, dated October 8, 1981, he asked that the matter of annual fees for inactive members be brought to the attention of the Benchers. He pointed out that a levy of this size is a serious financial hardship.

(b) *Richard Summers* wrote that he is unemployed as a lawyer, that he attributes the oversupply of lawyers to the Law Society and that it is unconscionable that the Society requires unemployed members to pay the same rate as everyone else.

The Committee recommended that these requests be denied.

## ESTATE OF THE LATE SAMUEL WEIR

The Chairman advised the Committee of legacies under Mr. Weir's Will.

*Noted*

## COMPUTER

In their report on the management of the Society, Peat Marwick stressed the importance of installing a system of financial controls to replace the somewhat limited manual system now in place. The 1981/82 budget includes \$48,000 for "Financial Systems Package", being an estimate of the costs which might be incurred in acquiring software for a system using the Society's computer.

The late Mr. Shepherd recommended that outside help be sought to determine the Society's needs and evaluate available systems. Proposals have been received from Peat Marwick and from Woods Gordon.

1. Peat Marwick's proposal covers three phases. In the first,

requirements are defined. In the second phase, vendors are invited to submit software proposals. The third phase involves evaluation of these proposals, selection and implementation.

Their fee for this work, excluding implementation, is estimated by them at \$12,170, but they suggest that this could be reduced to approximately \$6,000, depending on how much of the Society's staff time is devoted to the project. Billing would be at the rate of \$525 per diem.

2. The Woods Gordon proposal envisages a broader examination of user requirements involving greater user participation. The view is that a long range approach to present and future needs will be beneficial. Their study would not be limited to utilizing the Society's existing ICL ME 29 computer but also would examine other available hardware.

Again, the fee would depend on the degree of involvement by the Society staff. Their estimate is fees ranging from \$25,000 to \$35,000.

The Committee recommended that Miss Teri Pristupa be invited to attend the next Committee meeting and meanwhile to have a preliminary view of the flow of paper in the Society.

## CHRISTMAS PARTY

It has been the practice of the Law Society to hold a Christmas party for employees. Last year the party cost approximately \$2,300.

The Committee recommended that this practice be continued.

## STAFF MEETING

The Chairman met with the employees of Finance and associated departments on October 22nd. A number of suggestions were made.

Mrs. Barbara Stewart, Lawyer Referral	—	Space requirements
Mrs. Linda Johnstone & Miss J. Louisseize	—	Data processing of members records
Mr. Tom Hocking, Members Records	—	Staff requirements
Mr. Bruce Chamandy	—	Organization Chart

The Director of Finance will be reporting to the Chairman on each of these suggestions.

*Noted*

## AUDITORS' FEES

Clarkson Gordon submitted two interim accounts:

- (a) On account of regular audit services for  
one year ended 30 June 1981 \$12,000

Last year their total fee for regular services was \$14,000. In the 1980/81 budget, an amount of \$15,500 was provided.

- (b) On account of special services — Errors and Omissions  
Insurance Fund \$10,000

When arrangements were made for this special examination, Clarkson Gordon estimated that their fee would be in the \$10,000 to \$15,000 range.

The Committee recommended payment of these two accounts.

## LIFE MEMBERS

Pursuant to Rule 49, the following were eligible to become Life Members of the Society effective 19th November 1981:

Robert James Harris	Uxbridge
Romaine Kay Ross, Q.C.	St. Catharines
Lillian Sandler	Toronto
Hyman Max Swartz, Q.C.	Toronto

*Approved*

## MEMBERSHIP RESTORED

*René J. Marin*, former County Court Judge, gave notice under Section 31 of The Law Society Act that he wished to be restored to the rolls of the Law Society. Accordingly his membership was restored effective 20 October 1981.

*Approved*

## CHANGES OF NAME

### (a) Members

The following members requested that their names be

changed on the rolls of the Society and submitted the required documentation:

<i>From</i>	<i>To</i>
Mary Elyse Curran	Mary Elyse <i>Strathy</i> (Married Name)
Elaine Kovinsky	Elaine <i>Harris</i> Kovinsky (Adding Maiden Name)
Amos Shlosberg	Amos <i>Donohue</i> (Court Order)
Faye Wynne McIntosh Janis	Faye Wynne <i>McIntosh-Janis</i>
Eva Lake	Eva Lake <i>Rodan</i> (Married Name)

### (b) Student Members

The following student members requested that their names be changed on the rolls of the Society and submitted the required documentation in support:

<i>From</i>	<i>To</i>
Anne Phyllis Warner	Anne Warner <i>McChesney</i> (Married Name)
Henry Krul	Henry <i>Charles Ross Krol</i> (Court Order)
Victor Manica	Victor <i>Joseph</i> Manica (Baptismal Name)
Mary Lois Osbaldeston	Mary Lois <i>Cornale</i> (Married Name)

*Approved*

(c) *Ian Craig Roxan* was called to Bar 10th April 1981. This is the name appearing on his birth certificate and the name by which he was called.

Mr. Roxan had asked, prior to call, to be called as *Ian Roxan*, the only name, he contends, by which he has been known since reaching age of majority.

He was advised that he may practise under the name Ian Roxan. He asked that the rolls of the Society be "rectified" to Ian Roxan and supported his petition in a lengthy submission. He particularly asked for this to be done because the Government of Ontario, to whom he had applied for a notarial seal, requires such a seal to be "in the *exact* form in which the applicant's *full* name appears on the records of the Law Society".

The Committee recommended approval of his petition.

### RESIGNATIONS

(a) *Michael C. Crowe* of Calgary, Alberta, applied for per-



mission to resign his membership in the Society and submitted his Declaration in support. Mr. Crowe requested that he be relieved of the requirements of publication in the Ontario Reports.

*Approved*

(b) *John Knutson Bracken* of Victoria, British Columbia, applied for permission to resign his membership in the Society and submitted his Declaration in support. Mr. Bracken requested that he be relieved of the requirement of publication in the Ontario Reports.

The Committee recommended approval of Mr. Bracken's request subject to his complying with the advertising requirements.

## MEMBERSHIP UNDER RULE 50

### Incapacitated Members

The following members requested consideration of their applications as disabled members to continue their membership in the Society without payment of annual fees:

Andre Antoine Joseph Pigeon  
Frank Hamilton Little

Blind River  
London

### (b) Retired Members

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

Robert Patrick Bateman Graham  
George Alexander Gale, Q.C.  
John Alexander Gordon  
Margaret Moncrieff Chambers  
James Robert Alexander Bright, Q.C.  
Frederick Hope Hamer, Q.C.  
Robert Herman Humphries  
Owen Mitchell Lockhart, Q.C.  
Edward Symons MacLachy  
James McCubbin, Q.C.  
Ronald Charles Merriam, Q.C.

Greenwich, Connecticut  
Willowdale  
Toronto  
Toronto  
Toronto  
Washago  
Willowdale  
Sarnia  
Ottawa  
Owen Sound  
Ottawa

Mary Alice Murray  
 John Nelson Weekes, Q.C.  
 John Joseph Wintermeyer, Q.C.  
 Jack Maurice Friedman  
 Oswald James Day Ross

Kingston  
 London  
 Kitchener  
 Mississauga  
 Agincourt

*Approved*

## **ERRORS AND OMISSIONS INSURANCE FUND**

A report, dated November 3, 1981, was received from Clarkson, Gordon following their special examination of the Errors and Omissions Fund.

## **ARCHITECT'S ACCOUNT**

Mr. Heeney submitted his account for fees in connection with a proposal to build an additional floor in space formerly known as The Quad. His account is \$7,680 being 4% of the estimated cost of the addition (\$192,000).

*Approved*

## **INFORMATION**

### **ROLLS AND RECORDS**

#### **(a) Appointments to the Bench**

The following members were honoured by their appointment to judicial office and their membership in the Society will be placed in abeyance upon their assuming office:

Joseph Henry Potts, Q.C.  
 Toronto

Called – 15 January 1953  
 Appointed Judge, Supreme Court of Ontario –  
 30 October 1981

Donna Jean Haley, Q.C.  
 Toronto

Called – 23 June 1955  
 Appointed County Court Judge  
 Judicial District of York –  
 30 October 1981

Paul Theodore Matlow, Q.C.  
 Toronto

Called – 17 March 1967  
 Appointed County Court Judge  
 Judicial District of York –  
 30 October 1981

David Forsythe Burt, Q.C. Toronto	Called – 29 June 1948 Appointed Master, Supreme Court of Ontario – 22 June 1981
Joanne Barbara Veit Edmonton	Called – 25 March 1966 Appointed Judge of the Court of Queen's Bench of Alberta – 18 June 1981
Alan Douglas Sheffield Almonte	Called – 24 March 1972 Appointed Provincial Court Judge, Family Division, Lanark County – 14 July 1981
Keith Munro Gibson, Q.C. Toronto	Called – 25 June 1953 Appointed County Court Judge, Judicial District of York – 29 July 1981
Paul Ubald Rouleau Cornwall	Called – 8 April 1960 Appointed County Court Judge, Judicial District of Ottawa-Carleton – 29 July 1981
Carol Elaine Mahood Huddart Victoria	Called – 26 March 1965 Appointed Judge of the County Court of Vancouver – 4 September 1981
William Francis Higgins Sarnia	Called – 24 June 1954 Appointed County Court Judge, Counties of Wellington & Brant – 16 July 1981
Michael George Bolan, Q.C. North Bay	Called – 22 June 1960 Appointed County Court Judge, Counties and Districts of Ontario – 17 July 1981
John Ambrose Scollin, Q.C. Ottawa	Called – 12 April 1976 Appointed Judge of the Manitoba Court of Queen's Bench – 16 July 1981
Joan Wilma Scott St. Catharines	Called – 23 March 1973 Appointed Provincial Judge, Family Division, Judicial District of Niagara North – 1 April 1981
Benzion Sischy, Q.C. Toronto	Called – 21 February 1958 Appointed Master, Supreme Court of Ontario – 1 May 1981
Douglas Albert Peppiatt, Q.C. Toronto	Called – 26 March 1965 Appointed Master, Supreme Court of Ontario – 13 October 1981

**(b) Deaths**

The following members died:

John Leigh Bishop, Q.C. Montreal	Called – 20 September 1919 Died – 21 March 1981
Angus Falconer Eaton Port Elgin	Called – 21 June 1951 Died – 6 September 1981
David Newman, Q.C. Toronto	Called – 21 November 1935 Died – 29 August 1981
Michael Clarence McInerney Whitby	Called – 23 March 1973 Died – 27 August 1981
John White Woodstock	Called – 20 September 1934 Died – 9 May 1981
Kenneth Murney Langdon Georgetown (Life Member)	Called – 18 September 1930 Died – 4 September 1981
Ted Theodore Wohl London	Called – 19 April 1964 Died – 10 October 1981
Maxwell Alexander Levy, Q.C. Toronto (Life Member)	Called – 18 October 1928 Died – 10 October 1981
Donald Wentworth Falconer, Q.C. Toronto	Called – 27 June 1950 Died – 19 October 1981
Leigh Hammill Snider, Q.C. Scarborough (Life Member)	Called – 18 May 1922 Died – 10 October 1981
Reginald Joseph Myers Chatham	Called – 16 June 1932 Died – 9 May 1981
Robert Craig Headrick Toronto	Called – 20 September 1957 Died – 8 September 1981
Innes McIntosh Allan Guelph	Called – 26 June 1958 Died – 15 July 1981

**(c) Disbarments**

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

Victor Beube Toronto	Called – 27 June 1957 Disbarred – Special Convocation 22 October 1981
Robert Gene Bonham Brampton	Called – 9 April 1976 Disbarred – Special Convocation 22 October 1981

Bernard Robert Forgang Willowdale	Called – 19 April 1963 Disbarred – Special Convocation 22 October 1981
Robert Sheldon Merker Scarborough	Called – 22 March 1968 Disbarred – Special Convocation 22 October 1981
Allan Henry Posner Thornhill	Called – 25 March 1966 Disbarred – Special Convocation 22 October 1981
James Reginald Swanborough, Q.C. Oakville	Called – 26 June 1958 Disbarred – Special Convocation 22 October 1981

### THE REPORT WAS ADOPTED

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#### PUBLIC INFORMATION COMMITTEE—Mr. Doran

Mr. A. B. Doran, Chairman, presented the Report of the Public Information Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. A. B. Doran (Chairman), J. D. Bowlby (Treasurer), Mrs. Legge, Messrs. Ogilvie and Scafe.

### POLICY

#### PROPOSED PROGRAMS FOR PUBLIC INFORMATION COMMITTEE AND BUDGET ESTIMATES

Convocation in September approved in principle the expansion of the Society's public information activities along the lines suggested in the Report of the Special Committee on Public Information.

The Public Information Committee was requested to prepare for Convocation's consideration in November suggested programs and estimated costs.

Attached for Convocation's consideration is an outline of the programs it is proposed the Public Information Committee undertake together with the cost estimated for the balance of the present budgetary period and a projection of the long term costs of the proposed programs.



It is to be noted that the proposed expenditures for the balance of the current fiscal period amount to \$3,500. Of this sum, some \$2,500 is for further exploration and development of the Dial Law Program.

The Dial Law Program, and all the programs set out in the attached outline, were described in some detail in the Report of the Special Committee on Public Information approved by Convocation in September. Due to the projected total cost of the Dial Law Program of approximately \$65,000 – \$90,000, it is proposed that the Public Information Committee undertake the preparation of a detailed and comprehensive program plan and budget together with alternatives for cost sharing with other organizations which will be submitted to Convocation for its approval at a later date. The amount of \$2,500 will be required to finance the compiling of the necessary information.

The following is a summary of the attachment referred to above:

#### SUMMARY OF OUTLINE OF PROGRAM PROPOSALS

<i>Program Name</i>	<i>Brief Description</i>	<i>Budget*</i>	
		<i>Bal. this Year (estimated)</i>	<i>Next Fiscal Year (estimated)</i>
Dial-Law	Free, taped legal information for public	\$2,500	\$65,900 – \$90,000*
Pamphlets	Re-printing and distribution of 5 Law Society pamphlets	\$ 500	\$27,000 – \$30,000*
Convocation Luncheons	<i>Deleted</i>	\$ nil	\$ nil
TV–Radio Appearances	Appearances on Radio and TV shows	\$ nil	\$ nil
Newspaper Feature Articles	Placing feature articles on various subjects in newspapers	\$ nil	\$ nil
School Program	Information on law and lawyers to teachers and students	\$ nil	\$ ? ?

Lawyer Referral	Making Information about the LRS available – news articles, pamphlets, PSA's	\$ 500	\$	? – \$12,000
Public Service Announcements (Radio–CBA)	Distribution of tapes on legal matters	\$ nil		? ?
Liaison with County & District Law Associations	Distribution of quarterly summary of Society's activities	\$ nil		
TOTALS		\$3,500	\$93,000–\$134,000*	

\* Does not include provision for cost-sharing.

It was moved in Convocation, seconded and *carried* that the proposed program respecting Convocation Luncheons be deleted from the outline of programs.

#### THE REPORT AS AMENDED WAS ADOPTED

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#### UNAUTHORIZED PRACTICE COMMITTEE—Mr. Chilcott

Mr. W. D. Chilcott, Chairman, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. Chilcott (Chairman), Bragagnolo (Vice-Chairman), Furlong, Shaffer, Strauss and White.

#### ADMINISTRATION

1. Two accounts were approved.
2. A number of items of correspondence were before the Committee. Several letters dealt with the activities of two incorporation agencies and the Committee decided to defer consideration of them until its next meeting and to invite counsel to attend that meeting for a discussion of them. The remainder of the correspondence covered matters of a routine

nature and appropriate instructions were given to the Secretary.

### THE REPORT WAS ADOPTED

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### CONVOCATION ADJOURNED FOR LUNCHEON AT 12:55 P.M.

.....

The Treasurer and Benchers had as their guests for luncheon The Honourable Mr. Justice J.B.S. Southey of The High Court of Justice of the Supreme Court of Ontario, Mr. Michael G. Hickey, Q.C., of Kingston, Mr. J. Kenneth Alexander, Barrister and Solicitor, of Timmins, and Mr. Harold D. Pringle, C.A., of Hamilton.

At luncheon, on Mr. Pepper's motion which was unanimously carried, Convocation recorded its congratulations to Mr. J.J. Robinette, Q.C., on his seventy-fifth birthday.

Mr. Robinette was present and received the congratulations of his fellow Benchers.

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### CONVOCATION RESUMED AT 2:45 P.M.

.....

### PRESENT:

The Treasurer and Messrs. Bragagnolo, Brulé, Bynoe, Carter, Carthy, Cass, Chadwick, Chilcott, Doran, Farquharson, Ferrier, Furlong, Ground, Humphrey, Lamont, Mrs. Legge, Messrs. Lohead, McWilliams, O'Brien, Ogilvie, Pepper, Ruby, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, Tobias, Wardlaw, White, Willoughby and Yachetti.

.....

## **MOTION TO AMEND RULE 21(1)**

Convocation directed that the motion which was tabled at the Regular October Convocation stand to the Special December Convocation.

.....

### **LEGAL AID COMMITTEE—Mr. Chadwick**

Mr. J. B. Chadwick, Chairman, presented the Report of the Legal Aid Committee of its meeting on Wednesday, 11th November, 1981.

The following members were present: James B. Chadwick, Chairman, Messrs. Barnes, Barr, Bragagnolo, DeLorey, Ellis, Ferrier, Mrs. Fleming, Mr. Guthrie, Mrs. Jarman, Messrs. Lamb, Linden, Noble, Ogilvie, Russell, Mrs. Smyth, Mrs. Tait and Mr. Tebbutt.

The following observer members were also present: Robert Holden, solicitor, and Paul Copeland, solicitor, for The Criminal Lawyers Association; Victor Paisley, solicitor, for The Advocates' Society.

## **POLICY**

### **REPORT OF THE SUB-COMMITTEE RE COMPUTERIZATION**

In April, 1980, Convocation approved the appointment of a Sub-Committee under the chairmanship of Robert E. Barnes, to investigate and make recommendations as to the possibilities of computerizing the payment of solicitors' accounts under the Legal Aid Tariff and also to explore the possibility of having a standardized Statement of Account Form.

In October, 1980, Convocation approved:

That authorization be given to the Subcommittee to prepare a tender for an outside systems analyst not employed in equipment sales to study the Plan's present system of accounts examination and payment on the existing tariff with a view to recommending methods of decreasing cost and increasing efficiency, and the calling for such tenders, with the proviso that the lowest or any tender may

not necessarily be accepted and that the acceptance of any tender is subject to the approval of the Legal Aid Committee.

Convocation approved the retention of Mrs. Teri Pristupa, systems analyst, to assist the Sub-Committee in the preparation of the said tender.

In September, 1981, the said Sub-Committee presented its Report to the Legal Aid Committee. The Sub-Committee concluded that the Legal Accounts Department does not operate in administrative and financial independence. It does not operate in isolation. Every phase of the operation of the legal accounts staff is in some way interrelated to the administrative procedures carried on in other administrative and financial departments. The Sub-Committee concluded that a study of the Legal Accounts Department without studying all the other administrative departments with which it does or should co-ordinate would be meaningless. It was the view of the Sub-Committee that the introduction of computer, data and word processing techniques must await a thorough reorganization of the administrative structures within the Legal Aid Office of which the Legal Accounts Department is an integral part but a part only.

After a thorough review the Legal Aid Committee approved the Computerization Sub-Committee's Report in its entirety, including the following recommendations:

1. The retention of a qualified systems analyst with a proven record of successful and up-to-date performance in office organization.
2. The retention of a similarly qualified computer program writer thoroughly conversant with the availability and characteristics of current equipment available in the local market.
3. The retention of a highly qualified person with a proven track record of high performance in the commercial or industrial administrative field at the executive level from an office working environment that is highly automated in its data and word processing techniques with the mandate and authority to co-ordinate the efforts of the systems analyst and computer program writer and to carry their recommendations into effect in the reorganization of the administrative and accounts staff and the techniques and forms utilized. Such a person retained



on a temporary basis only would report to some kind of management committee.

4. The creation of a management committee committed to the carrying out of reforms and reorganization with the object of enlisting the co-operation and understanding of the present administrative staff in making changes that are designed to make fuller use of their individual and collective experience and talent.

The Legal Aid Committee is of the view that the said Sub-Committee Report should be implemented by the Management Committee (Implementation Committee) recommended by the Ad Hoc Committee to consider and make recommendations with reference to the implementation of the Peat Marwick Report on the Efficiency and Effectiveness of the Organization and Administration of the Ontario Legal Aid Plan. Convocation approved the Ad Hoc Committee Report in July, 1981.

Convocation had before it the Report of the Sub-Committee re Computerization which included Mrs. Pristupa's report.

#### **PROPOSED AMENDMENTS TO REGULATIONS AND FORMS**

In May, 1981, Convocation approved all the housekeeping amendments to the Regulations and also the proposed major amendments to Regulations 20, 25, 60, 84 and 86. The Sub-Committee reviewing the proposed amendments is under the chairmanship of Robert E. Barnes.

In July, Convocation approved all amendments to the Legal Aid Forms with the exception of Form 2 (the Application Form) and the proposed amendment to Regulation 30.

In October, Convocation approved the proposed amendments to Regulations 42 and 53.

The Legal Aid Committee recommended that the proposed amendments to former Section 57, new *Section 58* and former Section 67, new *Section 66* which were before Convocation be approved.

## SUB-COMMITTEE RE SALARIED DUTY COUNSEL

In 1976 a Sub-Committee was appointed to consider the entire function of duty counsel in York County's Toronto and suburban courts. The said Sub-Committee, under the chairmanship of Robert J. Carter, over the years monitored and made recommendations with respect to the function of salaried duty counsel in the County of York.

The Sub-Committee met in October and dealt with items unrelated to the function of York County salaried duty counsel. After thorough review the Legal Aid Committee adopted the Report of the Sub-Committee dated October 15, 1981, which was before Convocation.

## JOINT COMMITTEE SOCIAL WORKER PROJECT

*Convocation considered this item separately; see p. 494-5.*

## INFORMATION

### REPORT OF THE DEPUTY DIRECTOR

#### Finance

The Director's report, pursuant to Section 95(2), for the six month period ended September 30, 1981, shows that payments from the Legal Aid Fund exceeded budget by \$745,000 as follows:

<i>Over budget</i>	\$	\$
Criminal certificate accounts	357,000	
Civil certificate accounts	573,000	
Legal Advice accounts	1,000	
Area Office costs	86,000	
Provincial Office costs	<u>133,000</u>	<u>1,150,000</u>
<i>Under budget</i>		
Duty Counsel payments	33,000	
Salaried Duty Counsel Programme	53,000	
Community Clinic funding	120,000	
Research Facility	119,000	
Special Projects	<u>80,000</u>	<u>405,000</u>
		<u>745,000</u>

Income from sources other than the Province of Ontario exceeded budget by \$1,340,000 as follows:

Law Foundation	800,000	
Client contributions	328,000	
Costs recovered	88,000	
Miscellaneous	<u>124,000</u>	<u>1,340,000</u>

## Statistics

The following table compares reported activity for the first six months of this fiscal year with the activity for the same period in the previous fiscal year:

	<i>6 Months ended</i>		<i>% Change</i>
	<i>Sept. 30/81</i>	<i>Sept. 30/80</i>	<i>from last year</i>
Summary Legal Advice	22,251	21,384	+ 4.1
Referrals to other agencies	33,522	34,345	- 2.4
Applications for certificates	54,547	56,512	- 3.5
Refusals	17,256	20,852	- 17.2
As a percentage of applications	31.6	36.9	
Certificates issued	39,551	39,564	-
Persons assisted by Duty Counsel :			
Fee for service	83,719	79,208	
Salaried Duty Counsel	<u>23,695</u>	<u>26,516</u>	
Total	<u>107,414</u>	<u>105,724</u>	+ 1.6

## LEGAL ACCOUNTS

### (a) REPORT OF THE LEGAL ACCOUNTS OFFICER

#### Reviews

	<i>September 1981</i>	<i>6 Months to Sept. 30/81</i>	<i>6 Months to Sept. 30/80</i>
Reviews on hand	821		
Reviews received	<u>210</u>	814	905
	<u>1031</u>		
Settlements reviewed in	89	688	896
Settlements awaiting review	<u>942</u>		
	<u>1031</u>		

## Appeals

	July	August	September
Appeals to Taxing Officer received during	1	—	—
Appeals heard by Taxing Officer	1	1	4
Appeals settled	—	—	2
Appeals pending at the end of the month	12	11	5

## Activity

	1981/82 Fiscal Year		1980/81 Fiscal Year	
	Month of Sept. 1981	6 Months to Sept. 1981	Month of Sept. 1980	6 Months to Sept. 1980
Accounts on hand at beginning	8406	12524	15230	12454
Accounts received	<u>5158</u>	<u>32517</u>	<u>5210</u>	<u>33110</u>
Total Accounts to be processed	13564	45041	20440	45564
Less: Files Cancelled	46	225	33	200
Accounts processed	<u>6291</u>	<u>37589</u>	<u>6301</u>	<u>31258</u>
Balance	<u>7227*</u>	<u>7227</u>	<u>14106</u>	<u>14106</u>
In addition to the number of accounts for services completed there were:				
Interim Accounts	481	2593	315	2228
Supplementary Accounts	<u>359</u>	<u>2051</u>	<u>210</u>	<u>1733</u>
Total	<u>840</u>	<u>4644</u>	<u>525</u>	<u>3961</u>

\* Of this number 600 Accounts have been examined, letters have been sent to solicitors and further information is awaited.

Accounts distributed for examination on October 1, 1981 were received on the following dates:

Criminal New Tariff	Sept. 23, 1981	Civil New Tariff	Sept. 3, 1981
		Civil Old Tariff	Aug. 26, 1981

## (b) CONTINUING EDUCATION PROGRAMME

The Legal Accounts Officer will chair for the Continuing Education Department a programme entitled "Legal Aid and Legal Practice". A copy of the Agenda to be presented on November 28, 1981, was before Convocation.

## CLINIC FUNDING COMMITTEE

Ms. Mary Cornish, solicitor, a Law Society representative on the five-member Clinic Funding Committee, due to commitments in private practice has tendered her resignation as a Clinic Funding Committee member. In correspondence to the Treasurer Ms. Cornish expressed her appreciation to the Law Society for her appointment and for the Law Society's continued support of clinical delivery of legal services.

The Legal Aid Committee unanimously requested that the November Legal Aid Report to Convocation express the Legal Aid Plan's sincere appreciation to Ms. Cornish for her dedication as a Clinic Funding Committee member particularly noting the great contribution she has made to the clinical delivery programme.

## AREA DIRECTORS – MANUALS

During the month of October an updated draft Legal Aid Manual and an Area Committee Manual were forwarded to all Area Directors and Deputies in the Province. Copies of the correspondence setting out the purpose of the said Manuals was before Convocation, and copies of the Manuals will be made available to the Benchers of the Law Society if desired.

## AREA COMMITTEES

### (a) APPOINTMENTS

#### Counties of Stormont, Dundas & Glengarry

Harry Follon, solicitor

#### Algoma District

Jack Falkins, solicitor

#### Counties of Victoria & Haliburton

E. Brian Ward, solicitor

#### County of Halton

David Angus  
Richard T. Howitt, Q.C.

### (b) RESIGNATIONS

#### Counties of Stormont, Dundas & Glengarry

Paul Rouleau, solicitor

#### Algoma District

Frank S. Sarlo, solicitor

#### County of Halton

John Belleghem, Q.C.  
Mrs. Rose Harrison

#### County of Simcoe

Kenneth C. McLeod



WITH THE EXCEPTION OF the Item respecting the Report of the *Joint Committee on the Social Worker Project*

## THE REPORT WAS ADOPTED

.....

### REPORT OF THE JOINT COMMITTEE ON THE SOCIAL WORKER PROJECT

Convocation then considered this item which on motion carried in Convocation on Friday, 23rd October, 1981, had been referred to the November Convocation, and which was set out in the Legal Aid Committee's Report of 7th October, 1981, under the heading POLICY as follows:

#### JOINT COMMITTEE SOCIAL WORKER PROJECT

In December, 1978, the Treasurer of the Law Society, the Chairman of the Legal Aid Committee and several other members of the Legal Aid Committee met with the Attorney General. As a result of that meeting, a Joint Committee, composed of members of the Legal Aid Committee and representatives of the Ministry of the Attorney General, was appointed to implement the matters discussed. Among the items discussed was the implementation of a social worker staff to assist lawyers acting under legal aid certificates.

The Special Projects Co-ordinator hired to implement the recommendations of the Joint Committee as approved by Convocation reported on methods of implementing the proposal for social workers. Among other things it is proposed that staff social workers will assist defence counsel by identifying particular social problems and handicaps of the client and by preparing from the outset of the criminal proceedings a specific dispositional plan for presentation to the court based on the social worker's assessment of the client and on knowledge of existing community agencies and all of the available alternatives to incarceration.

The Legal Aid Committee after careful review approved the project. Before Convocation was a Report setting out the

history of the Social Worker Project, the principles upon which it is based and the manner in which it is intended to operate during the two year period of the pilot project in Ottawa, together with the budget for the current fiscal year and the next fiscal year and a Report from the Special Projects Co-ordinator on the Social Worker Project dated December 31, 1980.

The following are the recommendations contained in the Report of the Joint Committee:

The Joint Committee is therefore of the view that the Social Worker Project be established in Ottawa as a pilot project for a period of two years, with interim reports to the Legal Aid Committee from time to time. The Joint Committee recommends that steps be taken to hire a Chief Social Worker and commence developing the Project with a view to its being in operation by March 1st, 1982, having by then hired and trained initial staff and apprising the Bar as to the most effective use of social workers.

### THE ITEM WAS ADOPTED

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### LEGAL EDUCATION COMMITTEE—Mr. Carthy

Mr. J.J. Carthy, Chairman, presented the Report of the Legal Education Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Mr. J. J. Carthy, Chairman, Messrs. Doran, Ferrier, Lamont, Lerner, Noble, Scace and Mrs. Tait.

### POLICY

#### BAR ADMISSION COURSE ARTICLING EVALUATION

At its meetings on May 7th, 1981 and September 10th, 1981 the Committee considered a draft evaluation for completion by students in the 1981-82 teaching term, with respect to their articling experience in the articling year 1980-81. At each meeting the Committee was concerned with the question as to whether or not the student should be asked to identify himself

and the principal in the evaluation form and the Committee referred the matter back to the Sub-Committee reviewing the Bar Admission Course for further consideration and report on this issue. A report of the Sub-Committee recommending that for the current year the evaluations be collected from the students on an anonymous basis using the form of student evaluation submitted by the Sub-Committee was before the Committee.

The Committee recommended that in the year 1981-82 evaluations of the articling experience in 1980-81 be collected from the students in the teaching term on an anonymous basis using the form of student evaluation approved by the Committee. The Committee further recommended that the report as amended be adopted.

The relevant portion of the said report is as follows:

This report concerns particularly the articling term of the Bar Admission Course, and will propose that articling evaluation forms be filled out by students upon completion of their service under articles. A copy of the proposed form is submitted.

The MacKinnon Committee recommended in 1972 that articling be discontinued in favour of an enhanced teaching term which would include clinical training. This recommendation was rejected by the Benchers and by the profession generally and the Society was urged not only to retain the articling experience, for which it was said there could be no substitute, but to improve it. Since then a number of measures have been taken to improve the standard of training under articles, such as by providing booklets indicating the areas of law and the details of practical experience that should usually be included in the student's supervised activity. The student also receives a letter from the Director setting forth the student's duties and responsibilities flowing from the contract of articleship and from the nature of the profession. The Chairman of the Legal Education Committee writes a counterpart of that letter for the guidance of the principals. In addition, the students receive material on professional responsibility and undergo a written examination on the subject. The questions are distributed and must be completed and discussed with the student's principal, who signs a certificate that the student recognizes the issues raised by the questions and understands their significance in relation to professional responsibility. At the end of the articling term, the principal must certify that the student has served diligently, and is a fit and proper person to be called and admitted.

Most medium sized and large firms train a number of students and use a rotation system within the office to ensure that each one receives a balanced training covering all the branches of law that the firm handles. In some smaller offices that carry on a general practice such a rotation system is neither practical nor necessary. Some students, however, have found that they have been engaged in work which did not materially improve their skill and knowledge, and have not been involved in the handling of matters in the office in a way which prepared them to assume responsibility themselves for such matters. This has less to do with the breadth of the principal's practice than with the nature and degree of the student's involvement with the principal's day to day exercise of his professional skills. Consequently, some students enter the teaching term without the proper practical grounding and may enter practice without having had their deficiencies made good. The teaching term cannot be a full substitute for training and experience in a law office in the carrying on of a practice.

This Committee is of the view that wherever possible improvements should be made in the articling experience, and recommends that the students in the present teaching term be asked to fill out, anonymously, the form submitted herewith. It was debated whether anonymity is necessary or desirable. It was pointed out that students are accustomed to anonymous evaluation forms in their law schools and that the responses might be more frank and useful than if the name of the student or principal were disclosed. (Disclosure of one name would lead to the other through the articling agreement filed with the Society.) The purpose of the forms would be to gather information about the adequacy of the articling experience and to identify circumstances which require correction. If serious deficiencies were revealed to any significant degree, the form might be altered for future use to reveal the names of both the student and the principal. The information could then be used in a variety of ways to improve the principal's performance or in an extreme case to preclude a principal from accepting students without first agreeing to change the way in which his students' services are employed.

## THE PREFERRED AREAS OF PRACTICE PLAN

*Directed by Convocation to stand to the Special December Convocation.*



## **CONTINUING LEGAL EDUCATION REPORT OF THE SUB-COMMITTEE ON CONTINUING LEGAL EDUCATION**

The Sub-Committee on Continuing Legal Education reported and made several recommendations, all as set out in its report which was before the Committee.

*Stand* for consideration at a special meeting of the Committee to be called by the Chairman.

### **ADMINISTRATION**

#### **CONTINUING LEGAL EDUCATION BUDGET ESTIMATES 1981/82**

The Director received a report from the Director of Finance showing the effect of increased registration fees on projected revenues for 1981/82. This report was before the Committee on October 15th, 1981 but was allowed to stand until the November meeting.

The Committee recommended that this item be referred to the Co-Chairman, Continuing Education, and the Director for their action.

#### **FACULTY APPOINTMENTS**

Toronto, Ottawa and London as indicated

It was recommended that the following appointments be made for the teaching term which commenced September 2, 1981:

##### **(a) Income Tax Section**

To continue as Head of Section, A.R.A. Scace, Q.C.

Group Instructors (Osgoode Hall): T.B. Aiken, D.R. Allgood, Jack Bernstein, F.E. Cappell, B.R. Carr, L.G. Dollinger, G.J.R. Dyer, R.G. Fitzsimmons, G.R. Hiseler, G.L. Jacobs, I.S. MacGregor, R.B. Miner, M.A. Mogan, B.H. Naiberg, E.G. Nazzer, J.M. Parks, Michael Quigley, M.J. Rochweg, S.S. Ruby, Kenneth Russell, L.H. Saltman, P.L. Schnier, R.B. Thomas, J.G. Vesely, J.M. Woods, Alan Zener.

Stand-by Instructors: Jane Avery, Maxwell Gotlieb, B.B. Green, S.I.R. Hanson, S.C. Kerr, E.M. Krasa, J.L. Lewy, D.C. Poynton.



To continue as Senior Instructor, Ottawa, D.C. Gavsie, Esq.

Group Instructors: Bruck Easton, Sidney Goldstein, Wilfrid Lefebvre, G.J. Rip, Charles Rottenberg, Andrew Trotta.

Stand-by Instructors: Penny Bonner, Bernadette Eischen, Scott Eaton.

To continue as Senior Instructor, London, S.N. Adams, Esq.

Group Instructors: R.H.L. Innes, C.A., J.M. Kierans, M.M. Pellarin, A.E. Wheable, Gerald Slemko, C.A.

Stand-by Instructors: D.L. McLennan, Ross Batson, C.A.

## **(b) Corporate and Commercial Law Section**

To continue as Head of Section, G.A. Wilson, Q.C.

Group Instructors (Osgoode Hall): M.L. Ainsley, B.R. Bawden, L.L. Bertoldi, J.P. Boyer, D.B. Buchanan, R.E. Clark, D.W. Drinkwater, J.M. Fraser, Maxwell Gotlieb, P.D. Hower, G.W. Kinasz, S.M. Lax, D.N. Corbett, E.M.E. McCallum, R.B. Mathews, K.C. Morlock, W.T. Pashby, J.M. Potwin, W.F. Prueter, H.S. Simmons, R.S. Sutin, E.M. Waight, J.H. Whiteside, A.H. Whittaker, H.J. Wilton-Siegal, J.D. Wright.

Stand-by Instructors: A.K. Crossley, C.S. Goldfarb, Alice-Anne Morlock, A.D. Wolfe.

To continue as Senior Instructor, Ottawa, K.L.W. Boland, Esq.

Group Instructors: R.C.K. Cheng, M.E. Panet, W.C.V. Johnson, T.W. Peterman, L.J. Soloway.

Stand-by Instructors: P.T. Taggart, Andrew Trotta, R.W. Groulx.

To continue as Senior Instructor, London, G.F. Plaxton, Q.C.

Group Instructors: R.G. Hatt, R.N. Waterous, D.R. Ross, Gordon Carmichael, W.G. Chizmar.

Stand-by Instructors: D.S. Bryant, Peter Schwartz.

*Approved*

## **SPECIAL PETITIONS**

The Committee had before it four petitions. They were of a routine nature and all four were allowed.

## INFORMATION

### BAR ADMISSION COURSE AND CONTINUING EDUCATION

The Committee considered the financial statements for the Bar Admission Course and Continuing Education for the period from 1st July, 1981 to 31st October, 1981, and reviewed a statement setting out the Continuing Education programmes held in October 1981.

It was moved, seconded but *withdrawn*, that the item respecting The Preferred Areas of Practice Plan be circulated to the County and District Law Associations so that it can be discussed at the December meeting with the Presidents of the County and District Law Associations.

**WITH THE EXCEPTION OF** the item respecting *The Preferred Areas of Practice*

### THE REPORT WAS ADOPTED

.....

### PROFESSIONAL CONDUCT COMMITTEE—Mr. Ground

Mr. J. D. Ground, Chairman, presented the Report of the Professional Conduct Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. Wardlaw (Acting Chairman), Bynoe (Vice-Chairman), Lerner, McWilliams, Strauss and Mrs. Sutherland.

### POLICY

#### INTEREST ON TRUST MONEY WHICH IS PAYABLE TO THE LAWYER

At its October meeting the Committee discussed the propriety of a practice whereby a member holds money in trust for a client other than in his regular mixed trust account and obtains the consent of the client that the interest earned will be payable to him. The Committee noted Section 57, subsection (5) of The Law Society Act acknowledges the legitimacy of an arrangement between a lawyer and a client respecting the dis-

position of interest earned on trust money held by the lawyer in an account other than his regular mixed trust account. If the arrangement is in writing and if the client is *sui juris* and enters into the arrangement of his own free will and after having been properly advised by the lawyer in accordance with paragraph 8 of the Commentary under Rule 10 of the Rules of Professional Conduct, there would appear to be no objection to the practice.

At the October Convocation this item was referred back to the Committee for further consideration.

The Committee discussed the question as to whether the obligations required by paragraph 8 of the Commentary under Rule 10 were sufficient or whether the client needed to receive independent legal advice. The Committee concluded that independent legal advice was not needed and reaffirmed its earlier position that there was nothing wrong with this practice provided the arrangement is in writing, the client is *sui juris* and enters into the arrangement of his own free will and is properly advised by the lawyer in accordance with Rule 10.

It was moved in Convocation, seconded and *carried* that with respect to this item, the Report be amended to decide that the proposed course of conduct would not be proper.

#### THE REPORT AS AMENDED WAS ADOPTED

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#### LIBRARIES AND REPORTING COMMITTEE—

Mr. Farquharson

Mrs. R. M. Tait presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. Farquharson (Chairman), Shaffer (Vice-Chairman), Willoughby (Vice-Chairman), Bragagnolo, Lerner and Mrs. Tait. Mr. G. Howell, Chief Librarian, was also present.

## ADMINISTRATION

### APPLICATION TO THE LAW FOUNDATION OF ONTARIO

The Secretary presented a schedule showing the calculation of the amount of the Law Society's application to The Law Foundation of Ontario for a grant of \$546,400. The Committee recommended that the application of the Law Society to the Law Foundation for a grant of \$546,400 for 1982 be approved.

### CANADIAN LAW INFORMATION COUNCIL

The Secretary reported that a letter was received from Norman Rogers, Q.C., the Society's representative on the Board of C.L.I.C. Mr. Rogers and Anne Foster made submissions to the Committee concerning the request of Canada Law Book Limited to include the Ontario Reports in the Q.L. Systems Ltd., database.

*Referred back to the Committee, see motion p.504.*

### COUNTY LAW ASSOCIATION GRANTS

#### (a) County of York Law Association

The Committee also heard a submission on behalf of the County of York Law Association by Mrs. Alicia Forgie, Q.C., President, and Mr. Robert Lee in respect of the decision to exclude York County from participating in the division of funds received from The Law Foundation of Ontario for library purposes, particularly from the basic payment of \$7,500. The Committee recommended that the decision to exclude York County not be altered but that the situation be again reviewed before the application is made to the Law Foundation for 1983 funds.

#### (b) Formula for Distribution

The Committee also recommended the adoption of the following formula for distribution of Law Foundation funds among the County Law Associations commencing in the year 1982:



- (a) each county and district law association except York, to receive a basic payment of \$7,500 plus a per capita payment of \$40 for each practising lawyer to a maximum grant of \$25,500, such grant to be paid quarterly in advance.
- (b) the Central Administrative Program to be abolished.
- (c) each law association to be required to abide by minimum standards established by the Law Society in respect of the purchase of books and the employment of staff.
- (d) if funds received from the Law Foundation in any year are less than \$546,400, the basic payment shall be maintained at \$7,500 and the per capita payment reduced proportionately.

## **REPORTING – ONTARIO REPORTS EDITORIAL POLICY**

The suggestion of Butterworths was discussed concerning a change in the format of the headnotes in the Ontario Reports in order to state the facts and issues put to the Court, to state the Court's decision and to state the Court's reasons for its decision. Examples of this type of headnote were submitted. The Committee recommended that the suggestion of Butterworths to change the format of the headnotes be approved.

## **REPORTING – ONTARIO REPORTS PUBLISHING CONTRACT**

The Secretary reported that the item respecting the Contract to Publish Ontario Reports was referred back to the Committee by Convocation on October 23rd, 1981 for consideration as to what would be a correct term of the next contract for publication of the Ontario Reports. The Committee again considered the term of the contract to publish the Ontario Reports and recommended that the term of six months be retained.

## **REPORTING – CANADA LAW BOOK LIMITED BUTTERWORTHS – DATABASE**

The Secretary reported that a letter was received from Woods Gordon outlining the major questions to be answered by the Society concerning the consent of the Society to placing the



Ontario Reports in the database of each of the above companies. The Committee recommended that this matter be left to the Chairman to decide.

*Referred back to the Committee, see motion below.*

## INFORMATION

### BOOK LIST

A list of 40 new acquisitions by the Great Library was approved.

### VISITS TO COUNTY LAW ASSOCIATIONS

The Committee received the Chief Librarian's report on his visits to Waterloo County and Carleton County.

It was moved, seconded and *carried* that the items with respect to (a) *Canadian Law Information Council* and (b) *Reporting — Canada Law Book Limited — Butterworths — Database* be referred back to the Committee for further consideration and report.

## THE REPORT AS AMENDED WAS ADOPTED

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### PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé

Mr. A. B. Doran presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 12th November, 1981.

The following members were present: Messrs. Barr (Vice-Chairman in the Chair), Doran, Farquharson, Noble, Ogilvie, Tebbutt and Wardlaw. Messrs. Hargraft and Marshall and Joan Morham were also present at the Chairman's request.

## ADMINISTRATION

### ERRORS & OMISSIONS INSURANCE LEVY FOR THE PERIOD JANUARY — JUNE 1982

Marsh & McLennan Ltd. are the Society's brokers in

connection with its Errors & Omissions Insurance Plan. Early in October they were asked to use their statistical capacity to work with the Society's Claims Manager and accounting and investment personnel to make the necessary analysis and to recommend what levy should be charged for coverage under the Society's plan during the six-month period beginning 1st January 1982 and ending 1st July 1982.

On 5th November 1981, the following met to discuss Marsh & McLennan's recommendation: the Chairman of this Committee, the Chairman of the Finance Committee, Messrs. H. Morland and J. McDonald of Marsh & McLennan, Mr. Jarvis, Secretary of the Law Society, Mr. G. Hargraft, the Society's Claims Manager, Mr. D. V. Burnett, the Society's Finance Director, and Mr. B. Chamandy, the Society's Assistant Finance Director.

After a very full discussion, the consensus was that the Committee should recommend to Convocation that the levy for the six-month period be \$490 and the Experience Rating Allowance be \$25. If that recommendation is adopted, the Errors & Omissions Insurance Levy amounts to be paid would be as follows:

- |   |  |
|---|--|
| 1. for members not entitled to Experience Rating Allowance  | — \$490  |
| 2. for members entitled to Experience Rating Allowance  | — \$465  |
| 3. for members in practice on 1st January 1982 and for members starting to practise in January, February or March 1982                            | — full levy<br>(i.e. \$490 or \$465<br>as in 1 or 2 above) |
| 4. for members starting to practise in April, May or June 1982, including graduates of the Bar Admission Course being called in April or May 1982 | — half levy<br>(i.e. \$232)                                |

*Approved*

## CHANGES IN POLICY

Marsh & McLennan Ltd., the Society's brokers, have been able to arrange two changes in the policy as from 1st January 1982 as follows:

1. Coverage for innocent partners will be provided in cases of fraud of one partner.

2. The Law Society can give notice of claim in cases where the lawyer refuses to give notice or cannot.

Mr. Morland's letter was before the Committee.

*Approved*

## PRACTICE ADVISORY SERVICE

The Director's report for October 1981 was noted by the Committee.

## INFORMATION

### COUNSEL FEES

A list of fees paid in October 1981 was noted by the Committee. The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	2,727.65	
1978	6,910.67	
1979	11,230.71	
1980	14,795.39	
1981	<u>14,117.18</u>	<u>\$49,781.60</u>

### ADJUSTERS' FEES

A list of fees paid in October 1981 was noted by the Committee. The totals are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
Old Fund	9,150.79	
1977	939.70	
1978	7,427.10	
1979	5,233.68	
1980	18,753.22	
1981	<u>33,389.37</u>	<u>\$74,893.86</u>

The total figure is lower than usual due to the fact that the billing clerk was on holiday for part of October.

### MONTHLY REPORT

Mr. Hargraft's monthly report for October 1981 was noted by the Committee.

Totals of claims (including defence costs paid in October 1981) are as follows:

<i>Fund Year</i>	<i>Amount Paid</i>	
1977	8,693.86	
1978	7,797.59	
1979	(11,662.19)	
1980	75,902.76	
1981	<u>—</u>	<u>\$80,732.02</u>

### THE REPORT WAS ADOPTED

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### CONVOCATION ROSE AT 4:50 P.M.

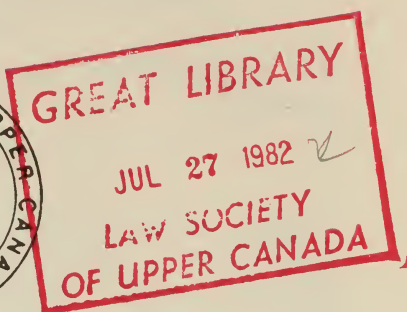
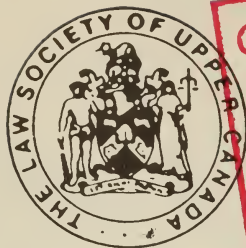
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Confirmed in Convocation 22nd January, 1982.

J. D. BOWLBY  
Treasurer







THE LAW SOCIETY OF UPPER CANADA

# Minutes of Convocation

Volume 6      Number 10



Second class mailing privileges applied for and pending.

**MINUTES OF SPECIAL CONVOCATION  
(ABRIDGED)**

Thursday, 10th December, 1981  
9:30 a.m.

**PRESENT:**

The Treasurer (Mr. J. D. Bowlby) and Messrs. Affleck, Arthurs, Barr, Bragagnolo, Brulé, Carter, Cass, Chilcott, Crane, Ferrier, Furlong, Genest, Ground, Guthrie, Humphrey, Lamont, Mrs. Legge, Messrs. Lerner, McWilliams, Noble, O'Brien, Ogilvie, Pepper, Scace, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, Wardlaw and Yachetti.

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**DISCIPLINE COMMITTEE—Mr. Genest**

**Re: PATRICK LUCIANI, Q.C., Welland**

Mr. R. D. Yachetti, Vice-Chairman, placed the matter before Convocation.

The reporter was sworn.

Messrs. Barr, Carter, Cass, Chilcott, Crane, Genest, Guthrie and Noble withdrew from Convocation, took no part in the discussions and did not vote.

Ms. Harriet I. Lewis represented the Society. The solicitor did not attend and he was not represented by counsel.

Convocation had before it the Report of the Discipline Committee, dated 20th November, 1981, together with an Affidavit of Service, dated 23rd November, 1981, by Brian Ross Fraser, that service had been effected on the solicitor by registered mail on 23rd November, 1981.

Copies of the Report of the Discipline Committee having been distributed to the Benchers prior to Convocation, the reading of the Report was waived.

The Report found that the solicitor was guilty of professional misconduct. He had failed to maintain sufficient balances in his trust account to meet his trust obligations,

solicited investments by clients in a corporation in which he had a substantial interest without advising them to obtain independent legal advice, and failed to fulfil a personal undertaking.

It was moved, seconded and *carried* that the Report of the Discipline Committee, dated 20th November, 1981, be adopted.

Convocation was advised that the Recommendation as to Penalty of the Discipline Committee was disbarment and that the solicitor had submitted a letter, dated 30th November, 1981, consenting to an order of disbarment being made against him.

It was moved, seconded and *carried* that Convocation by Order disbar the solicitor and that his name be struck off the Roll of Solicitors and that his membership in the Society be cancelled.

Counsel and the reporter retired.

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#### **SUB-COMMITTEE ON DISCIPLINE PROCEDURES (SPECIAL COMMITTEE ON CONVOCAION)**

Mr. J. R. Barr, Chairman of the Sub-Committee on Discipline Procedures, presented a further revision of the Sub-Committee's Report dated November, 1981, which had been tabled at the November Convocation and deferred for consideration until this Special Convocation. The members of the Sub-Committee under Mr. Barr's chairmanship were Messrs. Doran and Furlong.

The Report of the Sub-Committee was thorough and comprehensive. It placed before Convocation four options for discipline procedures, each option being accompanied by a schedule setting out the nature of the amendments to The Law Society Act and Regulation that would be necessary if that option were selected. The four options are summarized as follows:

##### **OPTION ONE**

- Discipline Committee decides misconduct issue and penalty; appeal lies directly to the Divisional Court

- OPTION TWO – Discipline Committee decides misconduct issue and recommends penalty; Discipline Tribunal would replace Convocation; appeal from Discipline Tribunal would lie to the Divisional Court
- OPTION THREE – Discipline Committee decides misconduct issue and recommends penalty; Convocation would impose appropriate penalty; appeal lies to the Divisional Court
- OPTION FOUR – Improved procedures within the existing framework, i.e., Discipline Committee reports and recommends penalty to Convocation which would review and reject or alter findings of fact and misconduct and impose the recommended penalty or a different one; appeal lies to the Divisional Court with respect to findings of fact, finding of misconduct and penalty.

The Sub-Committee recommended that Option One be selected. Option One is as follows:

#### OPTION ONE

#### COMMITTEE DECIDES MISCONDUCT ISSUE AND PENALTY – APPEAL DIRECTLY TO THE DIVISIONAL COURT

The Discipline Committee would render a decision upon the issue of misconduct and penalty after hearing all the evidence. Convocation would not be involved in specific cases but instead an appeal would lie directly to the Divisional Court. Convocation would continue to exercise responsibility for matters of general discipline policy and would have the benefit of recommendations of the Policy Section of the Discipline Committee.

(The nature of the Statutory and Regulatory Amendments required if Option One is selected is set out in *Schedule A* to this Report, see p.522.)

It was moved in Convocation, seconded and *carried* that Option One be adopted.

Also before Convocation with the Sub-Committee's Report was a summary of its recommendations for immediate action respecting Discipline Procedures in Convocation not



requiring amendment to the statute or regulation (*see p. 518-20*). It was noted in this summary that as soon as a decision has been made as to the nature of future discipline procedures, amendments should be sought to the Regulation as such amendments will be of immediate assistance and can take effect well before statutory amendment is accomplished. A memorandum setting out suggested amendments to the Regulation accompanied the Report (*see p. 522-25*).

The Sub-Committee's Report was then given careful consideration by Convocation and a number of motions were placed before Convocation. After full discussion and disposition of the motions, the following is the Report of the Sub-Committee as amended in Convocation:

### REPORT OF THE SUB-COMMITTEE ON DISCIPLINE PROCEDURES (As amended)

In the opinion of this Sub-Committee, it will be impossible for the Law Society to continue much longer using the present discipline procedures. Some current statistics are:

1. 51 matters pending, in which complaints have been issued. These divide as follows:
  - (a) 9 in which the Committee has reported but which are awaiting hearing by Convocation.
  - (b) 8 in which hearings are continuing.
  - (c) 34 in which hearings have not yet begun.
2. 48 specific cases where complaints are to be issued but have not yet been issued (one going back as far as 1977 and five as far as 1978, some of which have been held in abeyance pending the result of criminal trials).
3. New hearings are being required at the rate of 3 per week. Hearings average 1.5 days or 4.5 Benchers days.
4. Of 43 eligible Benchers, only 28 are active on discipline panels. It will take them each two sitting days a month to keep up with the inflow without attacking the backlog.
5. The number of complaints is rising. The figures are:
  - (a) 1978 – new complaints issued – 45.

- (b) 1st July 1979 to 30th June 1980 — new complaints issued — 65.
- (c) 1st July 1980 to 30th June 1981 — new complaints issued — 95.

At this rate of increase Convocation would be hearing discipline cases at the rate of 60 per month by 1990.

A number of factors now existing indicate that the number of discipline cases will continue to increase. These include:

- (a) increasing number of practitioners.
- (b) continuing squeeze between decreasing revenues and increasing costs.
- (c) improved policing.
- (d) new standards (for example — discipline for lack of competence).

## PROBLEMS IN PRESENT PROCEDURES

These fall into three categories:

1. After complaint to the Society and prior to Committee hearing;
2. At the Committee hearing stage;
3. At Convocation.

In 1980, a sub-committee made a number of recommendations with reference to the handling of discipline matters within the offices of the Secretary. A number of these have been implemented. Some were contingent upon the appointment of Discipline Counsel to the Society's staff. Some have been delayed by shortage of staff caused by death and illness among the Assistant Secretaries.

This Sub-Committee is not satisfied with the present situation as reflected by the large number of cases (48) now awaiting the issue of formal complaints. Nor was it content that all recommendations of the Sub-Committee have either been implemented or tried and found to be impracticable. However, the members of the secretariat have been working under difficult and unsettled conditions and the Sub-Committee feels that the staff should be afforded further opportunity to work things out with particular attention to the following objectives:

- (a) Pinpointing suspected cases of improper conduct with reference to money or property and moving swiftly with reference to these;
- (b) Satisfying members of the public who have filed complaints that any necessary investigation is being made with reasonable promptness;
- (c) Cleaning up the backlog.

The Sub-Committee therefore will not at this time make any further comments with reference to problems at this stage of the discipline process.

### DISCIPLINE COMMITTEE HEARINGS

These constitute a bottleneck which, regardless of any other improvements, will strangle the discipline process unless there is immediate change.

By statute, only elected Benchers, lay Benchers and past Treasurers under the age of 75 can vote in discipline matters. There are 44 elected and appointed Benchers in addition to the Treasurer. Several Benchers carry heavy Committee responsibilities, and regrettably some Benchers are simply not carrying their share of the load. The Sub-Committee was advised by staff that there are only approximately 28 Benchers active on discipline panels.

There are 34 complaints awaiting discipline panels and these panels are being filled only by prolonged telephoning and, unfortunately, by imposing on some Benchers who are already doing more than their share. This last feature is particularly true of the appointed Benchers of whom the Sub-Committee was advised "without lay Benchers we couldn't make it."

Apparently in the past it has been accepted that some elected Benchers are so busy, or of such stature that they could not reasonably be expected to serve on discipline panels. This Committee feels that this can no longer be accepted and that any Bencher who is unable to carry his share of the work should be expected to resign and make room for someone else.

### IMMEDIATE ACTION

(not requiring amendment of Statute or Regulations)

The Sub-Committee recommended that immediate action

be taken as follows:

1. The Treasurer write to each elected Bencher and each lay Bencher other than the Chairmen of Discipline, Legal Aid, Legal Education and Finance and such other members of Convocation who, in the opinion of the Treasurer, are so heavily committed with Law Society business that it is unreasonable to expect them to sit on Discipline Committees. By such letter the Treasurer should request that each Bencher notify the Secretary of two days a month hereafter to and including the end of June 1982, or an equivalent total number of days (and thereafter as required by further notice of the Treasurer) which he or she will devote to discipline hearings.
2. That a Bencher who subsequently finds himself unable to serve on a day which he had named, be required to "trade" with another Bencher, the necessary arrangements being made through the office of Senior Counsel, Discipline.
3. That Senior Counsel be instructed that, except where the solicitor is unrepresented or where his counsel declines, there must be a pre-trial conference of counsel before the hearing by the Discipline Committee commences.
4. The Assistant Secretary charged with the responsibility for any Discipline Committee hearing should routinely advise the solicitor or his counsel that if character evidence is to be called or tendered with an admission of guilt, it should be available when the matter is heard.

## **RECOMMENDED ACTION RE DISCIPLINE HEARINGS**

**(requiring amendment of Statute)**

The Sub-Committee recommended that amendment to The Law Society Act be sought to provide that members of the Society other than elected or appointed Benchers may, on the recommendation of the Treasurer, be appointed or re-appointed by Convocation for a term of one year to sit as members of the Discipline Committee for the hearing of complaints, provided that each sitting Discipline Committee shall have at least one member who is an elected Bencher, and who shall be the Chairman.



## RECOMMENDED ACTION RE DISCIPLINE HEARINGS (requiring amendment of Regulation)

It is recommended that an amendment be sought to the Regulations permitting the Secretary, Chairman of Discipline, or Vice-Chairman of Discipline, to authorize an Assistant Secretary to adjourn a Discipline Committee hearing without the necessity of requiring the attendance of a Benchers. This requires amendment to Regulation 13(4).

NOTE: On June 7th, 1977, certain other proposed amendments to regulation 13 were submitted to the Attorney General. These should be reviewed if the recommendations of this report are accepted by Convocation.

## DISCIPLINE MATTERS IN CONVOCATION

### RECOMMENDATIONS RE ROLE OF CONVOCATION IN DISCIPLINE

*The Sub-Committee recommended that Convocation retain control of discipline policy but that the Discipline Committee be given full responsibility to hear and dispose of all specific discipline cases including the imposition of penalty, subject to an appeal directly to the Divisional Court as to findings of fact, the finding of guilt, and the penalty. (Option One).*

### RATIONALE SUPPORTING OPTION ONE

Under the heading of "Benchers" The Law Society Act provides as follows:

10. The benchers shall govern the affairs of the Society, including the call of persons to practice at the bar of the courts of Ontario and their admission and enrolment to practise as solicitors in Ontario.

The discipline of members is only one of the many responsibilities embraced in the statutory obligation to govern the profession. There are a number of pressing and important problems which must be taken care of if the Benchers are to govern the affairs of the Society. These include:

- (a) the "numbers problem"
- (b) Advertising — particularly price advertising



- (c) The Professional Organizations Committee report
- (d) A multimillion dollar Errors and Omissions Insurance programme
- (e) A multimillion dollar Legal Aid Programme
- (f) A multimillion dollar Compensation Fund
- (g) Legal Education
- (h) Preferred Areas of Practice

These problems are being attacked by hard working Committees which report to Convocation for approval and direction. All too often there is insufficient time to consider these reports or to consider them properly.

There are over 15,000 lawyers in Ontario of whom a fraction of 1% will be involved in discipline matters before Convocation. It is the opinion of this Sub-Committee that Convocation could better discharge its function of governing the affairs of the Society if more time were spent on major matters of policy.

It is of the utmost importance that a solicitor be afforded a full and fair hearing on a disciplinary matter but it is submitted that the present disproportionate amount of time afforded to the solicitor is not necessary and is not desirable in light of the other demands upon Convocation's time. If a solicitor is charged with murder, he is entitled to a trial by twelve jurors who are not his peers (as lawyers are disqualified from jury duty), he has a limited right of appeal to the Court of Appeal and only in exceptional circumstances has he a further right of appeal. In contrast, the Society's present practice gives the solicitor a hearing before three of his peers after which he is entitled to appear before Convocation and contest everything including the findings of fact, credibility, conclusions of law and penalty. It is only the fact that hearings before Convocation seldom involve anything more than the question of appropriate penalty that has prevented the system from utterly breaking down. After Convocation, the solicitor has a right of appeal to the Court of Appeal.

It is debatable whether the solicitor fares better by these elaborate procedures than he would if the decision of the Discipline Committee were final. In most instances, Convocation accepts the recommendation of the Discipline

Committee. In instances where Convocation had departed from the finding of guilt or the recommended penalty, there can be no certainty that Convocation was right and that the Committee who saw the solicitor giving evidence, and heard the various witnesses, was wrong.

Consideration has been given to the idea of adopting the English system of an independent Discipline Tribunal, operating outside the Law Society, but with the majority of its members being members of the Society. It was felt that every effort should be made, however, to continue to administer discipline by members of the Bench, at least unless and until the case load is simply more than can be managed.

For these reasons the Sub-Committee recommended that Option One be selected.

## IMMEDIATE ACTION

(not requiring amendment of Statute)

Whether Convocation decides in favour of the above proposal or not, there is need for an immediate speeding up of the discipline process in Convocation.

In this connection, it is useful to consider first the limitations on the Society's procedures which are imposed by the existing statute and regulation. These are few in number.

*By statute* only voting Benchers may sit on Discipline Committees or vote in Convocation, 15 Benchers constitute a quorum, and the disciplinary action of Convocation is limited to disbarment, suspension for a period to be named, reprimand, or "such other disposition as it considers proper."

*By regulation* the Discipline Committee has a quorum of three, although one is a quorum for an uncontested adjournment. If the Committee finds the complaint established, the Committee must report in writing to Convocation setting forth a summary of the evidence at the hearing, its findings of fact and conclusions of law and its recommendations as to the action to be taken by Convocation on the Complaint.

However, some practices have grown up which are not required by statute or by regulation, including the following:

- (a) Withholding publication to the Bench of the recommended penalty until after the portion of the report

relating to the complaint has been adopted by Convocation.

- (b) The granting of adjournments as of right when there is a motion for heavier penalty.
- (c) Permitting members of Convocation to cross-examine counsel.
- (d) Having the solicitor, counsel and reporter withdraw prior to taking a vote on the adoption of the portion of the report relating to complaint, even where the solicitor is not challenging this portion of the report.
- (e) Hearing character evidence or other evidence as to penalty.

While arguments can be presented in favour of each of these practices, it is the opinion of this Sub-Committee that the benefits do not outweigh the cost in time. If Convocation is to continue to deal with discipline matters, it can only do so, if at all, by reducing drastically the amount of time taken up with matters that do not go directly to the issue before Convocation. In most cases, this issue is a question of penalty.

The Sub-Committee accordingly recommended:

- (a) That the practice of not circulating to the bench the recommendation as to penalty be discontinued.
- (b) Except in extraordinary circumstances, where a notice under Regulation 13 (7) has not been given by or on behalf of the solicitor, no submissions disputing any statement of fact or finding of fact contained in the report will be entertained and no debate on such matters will be permitted in Convocation.
- (c) Except in extraordinary circumstances, Convocation will decline to hear evidence. If, in the discretion of Convocation, it is decided to permit psychiatric evidence, character evidence, or other evidence as to penalty, Convocation will refer the matter back to the Discipline Committee upon such terms as Convocation feels reasonable for the protection of the public until the matter can be finally determined by Convocation.
- (d) In no circumstances will cross-examination of counsel be permitted. Questions reasonably necessary for the

clarification of points raised in argument may be put, but only through the Treasurer, and the Treasurer will disallow any question which in his opinion is not reasonably necessary to make clear submissions which have been made to Convocation.

- (e) Except in extraordinary circumstances, the solicitor, reporter and counsel will not be required to withdraw until all submissions have been made both as to the alleged offence and as to penalty. Convocation will then decide whether the report is to be accepted, rejected, amended or referred back.
- (f) Where a higher penalty is moved than that recommended by the Discipline Committee, the mover should give reasons.

When a discipline report is before Convocation, the following are the possible issues:

- (a) Whether or not there has been a denial of natural justice at the hearing.
- (b) Whether findings of fact and statements of fact are supported by admissible evidence.
- (c) Whether the facts so found constitute professional misconduct or conduct unbecoming.
- (d) The penalty.

The issue of natural justice is of great importance, but in practice seldom arises.

Statements of fact and findings of fact are not open for consideration unless a statement under Regulation 13 (7) has been filed.

The issue as to whether the facts so found constitute the complaint arises only occasionally.

In most instances, the only matter for discussion by Convocation will be the matter of penalty. This issue should be addressed as quickly and directly as possible with a minimum of time wasted on formalities.



## DESIRABLE STATUTORY AMENDMENTS RELATING TO THE DISCIPLINARY PROCESS GENERALLY

The Sub-Committee recommended that consideration be given to asking for the following statutory amendments which would assist the discipline process generally:

- (a) To add to the present penalties provided by Section 34, the power to suspend for an indefinite period, the power to require the solicitor to undergo further professional training while under suspension, or as a condition of continuing to practise, and the power to require a solicitor to limit his practice to one or more fields of professional activity; the power to require a solicitor to practise as an employee or as an associate or partner of another solicitor; the power to require a solicitor to undertake psychiatric treatment or treatment for drug or alcohol abuse and to furnish proof of such treatment to the Society; and also the power to levy a fine to be paid into the Compensation Fund in addition to or in substitution for any other penalty.
- (b) Regulation 22 which requires a solicitor to produce for inspection all evidence, vouchers, records, books and papers and authorizes a person designated by the Chairman or Vice-Chairman of the Discipline Committee to investigate the books and accounts of any member should be supplemented by a provision authorizing such investigator to require the production to him of clients' files, title searches, and records of title searches, tickler systems required for the recording of limitation times and all such other documents as in the opinion of the Chairman or Vice-Chairman of Discipline are reasonably necessary for the carrying on of the type of practice engaged in by the solicitor.

## SUMMARY OF RECOMMENDATIONS

1. Instead of reporting to Convocation, the Discipline Committee should render a decision which would be final subject only to the right of appeal to the Divisional Court.



2. That immediate changes be made as recommended in discipline procedure at Convocation regardless of Convocation's decision with respect to the four options as the recommended procedures are within the existing legislation and, in the opinion of the Sub-Committee, should be implemented without delay.

#### ATTACHMENTS (2):

##### (1) SCHEDULE A – OPTION ONE

In the event option 1 is selected, statutory amendments should be obtained to achieve the following purposes:

- (a) All references to Convocation handling specific discipline cases in any manner would be deleted from the Statute.
- (b) All references to Convocation imposing or modifying any type of penalty would be similarly deleted from the Statute.
- (c) Provisions would be enacted empowering the Discipline Committee to render a decision and then to impose penalty.
- (d) Existing appeal procedures would be repealed and replaced with provisions providing for an appeal directly to the Divisional Court from the decision of the Committee as to findings of fact, the finding of guilt, and penalty imposed by the Committee. These appeal procedures would likely be similar to the existing procedures.

Regulatory amendments should likewise be obtained to reflect the following:

- (a) To make it clear that the Committee would no longer report to Convocation but instead render a decision which would not go to Convocation at all and would be final with respect to findings and penalty (subject only to statutory powers of appeal to the Divisional Court).
- (b) The Notice to the solicitor would be amended to conform with the new framework.
- (c) Convocation would not be involved in any issue involving resignation of an individual member in relation to discipline which issue would be dealt with by the Committee.
- (d) Convocation would not be involved in instituting investigations or in requiring the filing of supplementary reports in connection with investigations as these functions would be performed by the Discipline Committee.
- (e) The report of the Discipline Committee would be referred to as a Decision, and Notices of Time and Place of Convocation and Notices of Objection to fact would be eliminated.

##### (2) MEMORANDUM

#### PROPOSED DISCIPLINE PROCEDURES IN CONVOCAION (requiring amendment to Regulation)

1. Where the solicitor against whom the complaint has been made or his counsel,

and counsel for the Law Society, consent to an adjournment of any discipline matter pending before Convocation, the Secretary shall have authority to adjourn the hearing either unconditionally or upon such terms as have been agreed upon.

2. Where the solicitor against whom the complaint has been made, or counsel for the Law Society, wishes an adjournment of the hearing of Convocation with reference to the complaint he shall notify the Secretary or Assistant Secretary and the opposing party or counsel not later than the day before the day fixed for Convocation, of his intention to apply for such an adjournment.
3. All such applications for adjournment shall be heard by a Committee of Benchers appointed by the Treasurer from time to time which Committee shall sit not later than one-half hour before the time fixed for the commencement of Convocation. The Committee may refuse such adjournment or grant it either unconditionally or upon such terms as the said Committee feels are reasonable.
4. Where no application for adjournment has been made to the said Committee or where an application has been made and refused, Convocation will not entertain an application for adjournment in other than exceptional circumstances.
5. The report of the Discipline Committee with reference to any complaint shall comprise the following:
  - (a) Its findings of fact;
  - (b) Its conclusions as to whether the solicitor should be found guilty of any act of professional misconduct or conduct unbecoming a solicitor;
  - (c) Its reasons therefor, if any; and
  - (d) Its recommendation as to penalty, including any order relating to the conduct of the solicitor or conditions relating thereto.
6. Such report shall be served upon the solicitor together with at least fifteen days' notice of the date, time and place at which the Committee's report will be dealt with by Convocation. The solicitor shall be given notice, at the same time, of the regulations relating to appeals.
7. The solicitor may file a Notice of Objection to the said report upon the following grounds only:
  - (a) The Committee failed to accord the solicitor a fair hearing;
  - (b) The findings of fact contained in the Committee's report do not support its conclusions as to professional misconduct or conduct unbecoming a solicitor;
  - (c) The recommendation as to penalty, or any other order recommended by the Committee or condition relating thereto, is wrong in principle or is grossly unreasonable.
8. A Notice of Objection shall:
  - (a) Be filed within ten days from the service upon the solicitor of the Committee's decision;

- (b) Set forth the grounds upon which the objection is taken, including a brief statement of the material facts relied upon in respect thereto; and
  - (c) Indicate the extent and nature of the relief sought.
9. Following the expiry of the time limited for filing Notice of Objection, the report of the Committee shall be placed before Convocation. Convocation shall not debate the report, but must vote to accept or reject it, unless:
- (a) The solicitor has filed a timely Notice of Objection, whereupon Convocation shall hear and dispose of the objection in accordance with these regulations; or
  - (b) The Committee recommends that the decision be debated by Convocation on the ground that it raises an issue of policy; or
  - (c) The Chairman or a Vice-Chairman of the Discipline Committee or the Treasurer gives five days' notice to the solicitor and to the Bench that the decision will be placed before Convocation for debate, on the ground that it appears to involve a substantial wrong or miscarriage of justice; or
  - (d) There has been a dissent in the Committee Report.
10. Where Notice of Objection has been given in accordance with these regulations, or the matter has been placed before Convocation for debate on the grounds aforesaid, the solicitor may appear before Convocation personally or by counsel, may be heard in accordance with these regulations, or may in writing waive his right to attend or be heard.
11. Where the solicitor fails to appear before Convocation in person or by counsel at the appointed date and time, Convocation, upon motion of the Chairman or acting Chairman of Discipline, may adopt the report and impose the recommended penalty unless the matter is before Convocation pursuant to Subsections (b) or (c) of paragraph 9 hereof.
12. The solicitor may consent in writing to the adoption of the report and the imposition of the penalty recommended by the Committee. If the Chairman or acting Chairman of Discipline agrees he shall so advise Convocation moving the adoption of the report, in which case no debate will be permitted.
13. When the matter is debated in Convocation, if Convocation finds the objection or objections well-founded, or if it ascertains that questions of policy are presented, or that the Committee's decision would result in a substantial wrong or miscarriage of justice, Convocation may:
- (a) Remit the matter to the Committee for further findings of fact, or for reconsideration, and report to Convocation, in which event the Committee will sit as originally constituted or with such additions or substitutions as may be expedient;
  - (b) Affirm the decision of the Committee;
  - (c) Substitute for any finding, penalty, order or condition recommended by the Committee any other finding, penalty, order or condition, or
  - (d) Make such other order as it may deem just.
14. Where the matter is to be debated by Convocation, no evidence may be called

or facts placed upon the record, other than those contained in the Committee's report except:

- (a) Material facts which could not, with the exercise of reasonable diligence, have been placed before the Committee, or
- (b) Facts which are relied upon to shown that the solicitor has been denied a fair hearing.

15. A motion for an increased penalty will not be grounds for an adjournment of the matter by Convocation unless Convocation is satisfied that, in the particular circumstances of the case, it would be unreasonable to refuse an application for adjournment. Convocation is not bound by the recommendation of the Discipline Committee and may impose a different penalty than that recommended by the Committee. Solicitors appearing before Convocation and their counsel must be prepared to argue on the basis of the penalty recommended by the Committee or any other penalty within the power of Convocation.

### THE REPORT AS AMENDED WAS ADOPTED

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### CONVOCATION ADJOURNED FOR LUNCHEON AT 1:00 P.M.

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The Treasurer and Benchers had as their guests for luncheon Mrs. C. Alicia Forgie, President of the County of York Law Association, and Mr. George A. Johnston, Q.C., the Society's Archivist.

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### CONVOCATION RESUMED AT 2:45 P.M.

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### PRESENT:

The Treasurer and Messrs. Barr, Bragagnolo, Brulé, Cass, Chilcott, Crane, Doran, Ferrier, Furlong, Genest, Ground, Guthrie, Lamont, Mrs. Legge, Messrs. Lerner, McWilliams, Noble, O'Brien, Pepper, Ruby, Scace, Shaffer, Mesdames Sutherland and Tait, Messrs. Thom, Wardlaw and Yachetti.

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**SPECIAL COMMITTEE TO CONSIDER  
THE RECENT AMENDMENTS TO THE  
INCOME TAX ACT RESPECTING  
“WORK IN PROGRESS” IN  
LAWYERS’ OFFICES**

Mr. A. R. A. Scace, Chairman of the Special Committee to consider the recent amendments to the Income Tax Act respecting “Work in Progress” in Lawyers’ Offices, presented the Special Committee’s Report dated 10th December, 1981.

The Notice of Ways and Means motion which was tabled in the House of Commons on November 12, 1981 contained the following resolution:

That in computing the income for fiscal periods ending after 1971 from a professional business, the work in progress relating to the business at the end of the period be included at the lesser of its cost and net realizable value.

As a result a special committee consisting of Messrs. Brulé, Ground and Scace was appointed to consider the matter.

The matter was discussed by this Committee and in addition, conversations were held with the Department of Finance and other interested bodies. It appears that the legislation, if enacted, will not be as severe as originally contemplated. In particular, the Department of Finance has indicated that the cost of work in progress at the end of a fiscal period will be defined so as to refer only to direct costs associated with the work in progress and will not include indirect costs such as secretarial and clerical salaries, rents and other overhead. Direct costs will include disbursements on behalf of clients and salaries of employed lawyers, articling students and law clerks but there will be no requirement that sole practitioners or partners arrive at a “cost” for their time spent on a file. Consequently, a substantial number of practitioners will not be affected by the proposal. Many of the people who have written to the Society will fall into this category.

Notwithstanding the above, there are a number of problems which remain. They are as follows.

1. No provision is made for a phasing-in period. To some extent this was done at the time of tax reform with 1971 receivables and one would think the same should apply here.



Many practitioners would be appeased if a three to five year period was permitted. As matters stand, the increase in income for 1982 could be substantial.

2. The proposal applies to all fiscal periods ending after 1981. As many lawyers and firms have year ends in January, February and March, the proposal will apply to a fiscal period which is substantially completed.

3. Many firms do not have sufficiently accurate records to enable them to calculate their work in progress. While it may be desirable for them to have such records, this is clearly impossible with respect to the 1982 fiscal period.

4. The provision can apparently be avoided with ease. One method would be to make all employed lawyers partners. Obviously this might be undesirable from a business standpoint and is certainly artificial. It would not be appropriate for students and law clerks. Also, some major accounting firms are suggesting that it may be possible to reduce work in progress to nil by utilizing certain generally accepted accounting principles.

5. It has been drawn to our attention that there may be additional problems with respect to Legal Aid. It does not pay an account until some time after completion of the file. In other words, there is no mechanism for interim billing which would match the work done and the cash flow. This could well have an effect on the plan's ability to attract qualified participants.

Both the Canadian Bar Association and the Canadian Institute of Chartered Accountants met or will meet with the Minister of Finance. With the exception of the argument involving the Legal Aid Plan, all of the above points will have been made. Therefore, the Committee did not suggest that a special meeting be arranged for the Law Society. Rather, it proposed that a letter be written by the Treasurer to the Minister of Finance and a suggested form was submitted to Convocation.

#### THE REPORT WAS RECEIVED

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## PRACTICE AND INSURANCE COMMITTEE—Mr. Brulé

Mr. J. A. Brulé, Chairman, presented a Statement respecting the Errors & Omissions Insurance Programme, dated 10th December, 1981.

### ERRORS & OMISSIONS INSURANCE PROGRAMME

Compulsory insurance started in 1971 with the Guardian Insurance Company. The years 1972 to 1976 were insured at Lloyds of London. 1977 to July 1, 1982 insured by a group of insurers managed by GESTAS INC.

The policy is a liability policy to protect the members of the Society against their liability arising out of professional errors or omissions as a LAWYER. (Mortgage broking, investment counselling, etc. are NOT COVERED)

The current policy covers claims presented or discovered during the policy period, regardless of the date the error or omission was made or alleged.

#### LIMITS OF LIABILITY per claim (per person or partnership)

1977 – 1979 \$100,000.00

1980 – 1982 \$250,000.00

#### GROUP DEDUCTIBLE

The Insurer is funded by L.S.U.C. per claim (Claim & Defence)

1977 – 1980 \$ 35,000.00

1981 – 1982 \$100,000.00

#### INDIVIDUAL DEDUCTIBLE

The member is responsible for reimbursement to L.S.U.C. of \$5,000.00 of the above. This deductible applies to defence as well as claim.

#### STOP LOSS

In addition to the insurance per claim, the Insurer also provides, by the stop loss agreement, unlimited insurance of the L.S.U.C. The maximum the Society's fund can pay on account

of claims reported in each year is:

1977	\$2,000,000.00	
1978	\$2,025,900.00	
1979	\$2,114,325.00	
1980	\$3,005,700.00	
1981	\$5,553,000.00	(Will increase to \$500.00 x number lawyers paying levy)
1982	\$3,600,000.00	for 6 months

Once this limit is reached, the Insurer pays all losses over \$5,000.00.

**BROKER** presently Marsh & McLennan Limited

Negotiates renewal terms and conditions on the Society's behalf

Reviews the Society's experience to determine correct:

Premium level

Size of Group Deductible

Assists L.S.U.C. in establishing amount of Levy

Monitors insurance markets for alternate insurers

Answers numerous inquiries from members re cover, conditions, limits, etc.

**ADJUSTER** presently F.C. Maltman & Co. Ltd.

Receives first report of possible claim from members

Analyzes report and either

(a) Records in "John Doe" system (to protect member's reporting requirement) — or —

(b) Opens a claim file and reports to L.S.U.C.

Investigates allegations, facts, problem and solutions

Determines whether or not coverage applies

Appoints counsel for advice, assistance (to adjuster or member) or defence as required

Negotiates settlement (through or with Counsel)

Obtains member's consent

Recommends settlement to Insurers

Requests deductible from member

Reviews Counsel's account(s) and recommends payment

Bills L.S.U.C. for adjuster's time. (1st bill 3 months after first report to Insurers, then every 5 months until closed)

## L.S.U.C. Claims Department

- Receives Index card of new claim and opens file
- Receives and reviews reports and settlement recommendations from adjuster
- Jointly with Gestas approves ALL claim and defence payments. (Gestas is interested, because of possible involvement over the Stop Loss Limit)
- Passes the Society's proportion to Gestas along with cheque requisition
- Passes Gestas cheque to Maltman for distribution
- Collects deductible or passes to Finance or Discipline
- Receives, reviews and requests cheque in payment of Counsel's accounts
- Receives, reviews and requests cheque in payment of Maltman's accounts

INSURER presently Gestas Inc. as managers for a group of Insurance Companies

Reviews reports from adjusters

In consultation with L.S.U.C. approves and pays ALL Claim and Defence payments.

*Pertinent Facts Re: Errors & Omissions  
To November 30/81*

	1981	1980
1. Number of Claims opened		
this month	109	143
this year	1154	1199
last 12 months	1345	1374
2. Total Number of Reserved Claims (from 1/1/77)	1960	1640
3. Total Number of Unreserved (Open) Claims	176	257
4. Total Number of Closed Claims	3009	1903
5. Total Reserves for Claim & Defence	\$22,835,298.20	\$17,825,489.07
6. Total Paid & Reserved for Claim & Defence	\$32,805,477.97	\$24,220,089.10
7. Average total payments per Closed Claim WITH Payments		
Claim & Defence	\$ 11,278.05	\$ 12,122.91

	1981	1980
Adjusting	\$ 1,010.18	\$ 993.07
Counsel Fees	\$ 709.66	\$ 765.24
8. REPAIRS (Closed Claims)		
Number this month	16	21
this year	221	197
since (1/1/77)	797	549
Total costs to L.S.U.C.	\$ 666,864.52	\$ 418,254.21
Maximum Reserves set	\$ 4,977,349.40	\$ 3,583,498.20
9. Accumulative Total Claim & Defence Payments		
By L.S.U.C.	\$ 6,069,948.40	\$ 3,940,960.77
Members	\$ 2,405,974.91	\$ 1,352,376.38
Gestas	<u>\$ 1,494,266.46</u>	<u>\$ 1,101,262.88</u>
Total	\$ 9,970,189.77	\$ 6,394,600.03
10. L.S.U.C. Payments to Counsel		
this month	\$ 35,691.98	\$ 48,160.04
this year	\$ 587,513.82	\$ 585,353.66
11. L.S.U.C. Payments to Adjusters		
this month	\$ 86,415.64	\$ 84,917.51
this year	\$ 826,179.86	\$ 807,718.30
12. L.S.U.C. Costs since 1/1/77		
Claim & Defence	\$ 6,069,948.40	\$ 3,940,960.77
Adjusting	\$ 2,769,828.71	\$ 1,853,215.88
Counsel	<u>\$ 1,654,548.81</u>	<u>\$ 1,092,138.44</u>
Total	\$10,494,325.92	\$ 6,886,315.09
13. L.S.U.C. Reserve for Claim & Defence	\$11,015,576.19	\$ 8,331,464.20
Reserve for Adjusting & Counsel	<u>\$ 1,738,600.00</u>	<u>\$ 1,215,150.00</u>
14. Total L.S.U.C. Paid & Reserved	\$23,248,502.11	\$16,432,929.29
15. L.S.U.C. Fund Position		
Receipts	\$30,122,677.60	\$19,939,093.09
Disbursements	<u>\$17,557,628.55</u>	<u>\$12,049,848.70</u>
Cash Position	\$12,565,049.05	\$ 7,889,244.39
Deductibles Receivable	<u>\$ 587,101.43</u>	<u>\$ 522,218.76</u>
	\$13,152,150.48	\$ 8,411,463.15



	1981	1980
Reserves		
Adjusting & Claims	\$12,754,176.19	\$ 9,546,614.20
Estimate for unreserved & unreported	\$ 2,700,000.00	\$ 1,400,000.00
less stop-loss recovery	<u>\$ 3,451,837.14</u>	<u>\$ 3,347,295.19</u>
Projected Net Surplus	\$ 1,149,811.43	\$ 812,144.14

**THE REPORT WAS RECEIVED**

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**MOTION: ERRORS AND OMISSIONS INSURANCE  
PROGRAMME – APPOINTMENT OF  
INSURANCE EXECUTIVE**

It was moved, seconded and *carried* that the Society engage an insurance executive on the Society's staff to manage the Errors and Omissions Insurance Plan.

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**LEGAL EDUCATION COMMITTEE – Mr. Ferrier**

Mr. L. K. Ferrier, Co-Chairman, Continuing Education, presented the Report of the Legal Education Committee, dated 10th December, 1981, respecting The Preferred Areas of Practice Plan.

**POLICY**

**THE PREFERRED AREAS OF PRACTICE PLAN**

The following report of the Legal Education Committee was before Convocation on Friday, October 23rd, 1981 and again on Friday, November 20th, 1981. At the Convocation on October 23rd, 1981 the report was debated and consideration thereof was deferred for one month and Convocation directed that a special committee be appointed to consider the question of advertising the nature of a practice. At its meeting on Thursday, November 12th, 1981 the Legal Education Committee was advised of the recommendations which would be made to Convocation by the said special committee on ad-

vertising the nature of a practice, in consequence whereof the Legal Education Committee amended recommendation number 1 in the following report. At the meeting of Convocation on Friday, November 20th, 1981 consideration of this matter was directed to stand over to Convocation in December, 1981 at which time the report of the special committee on advertising the nature of a practice and the following report as amended on the preferred areas of practice plan would be considered.

The said report of the Legal Education Committee and the said amendment thereto are as follows:

### REPORT

The Committee debated the question of the future of this plan at its meeting in September and again in October and has concluded and recommends to Convocation as follows:

1. That the credit system established under the plan be terminated;
2. That Commentary 14(a) and 14(b) under Rule 13 of the Rules of Professional Conduct be restudied by an appropriate committee with a proper mandate to consider the implications of advertising, specialization and competence.

At the outset of its deliberations, the Committee had before it a report from the Sub-Committee dealing with this plan and a second report from the Director dealing with the experience with Continuing Legal Education registrations and revenues before and during the operation of the plan. In essence, the latter report showed that in the eighteen months following January 1, 1980, revenues rose to \$1,200,000.00 from \$420,000.00 in the previous 18 months, and that the number of registrants rose to 15,000 from 5,000. At the same time, there was a greater number of programmes available in the second period and the average attendance per programme was less in the second period.

The "plan" is composed of two elements.

Commentary 14(a) and 14(b) to Rule 13 of the Rules of Professional Conduct expanded the right to advertise from announcing that a member's practice is restricted to a particular

area to the entitlement of announcing that the individual has up to three preferred areas of practice "provided that he complies with the requirements respecting those areas approved from time to time by Convocation".

The second element is the credit system approved by Convocation and to be implemented on January 1, 1982.

Strenuous, and sometimes vehement, debate before the Committee indicated that there are several facets of the problem and widely divergent views on most. The consensus appeared to be that the plan was ill-conceived, that the problems identified by the Sub-Committee's report justified its discontinuance, and that the financial implications of doing so should not be a relevant consideration. There was considerable debate as to the implications of abandoning the credit system without replacing it with some other means of monitoring competence. That particular discussion led to a motion which would have continued the plan for a further year while a study was conducted concerning competence, specialization and advertising. In the meantime the credits would not be counted. That motion was lost as a result of a tie-breaking vote cast by the Chairman.

In anticipation that the Committee would recommend terminating the credit system there was further debate as to where that left the Society in terms of permission to advertise the preferred areas of practice. Clearly, if the Committee did no more than remove any requirements, the rights to advertise in Commentary 14(a) and 14(b) would remain outstanding. There was a division of opinion as to whether those rights should remain outstanding but ultimately the consensus was that it was not the mandate of the Legal Education Committee to make that determination.

In that fashion, the two recommendations set out at the beginning of this report were passed by almost unanimous votes.

#### AMENDMENT TO REPORT

If the anticipated report of the Special Committee on Advertising is adopted, then the Committee amended recommendation number 1 above to the effect that in January, 1982 members will be required to furnish certificates either under the existing credit system of the preferred areas of practice plan or alterna-

tively certificates as required under the report of the said Special Committee, and thereafter the credit system will be terminated.

## THE REPORT WAS ADOPTED

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### SPECIAL COMMITTEE ON ADVERTISING THE NATURE OF A PRACTICE

Mr. Brendan O'Brien, Chairman, presented the Report of the Special Committee on Advertising the Nature of a Practice, dated 10th December, 1981.

On 23rd October, 1981, the Legal Education Committee recommended to Convocation that the Preferred Areas of Practice Programme be terminated. During the discussion it was pointed out that if Convocation were to adopt that recommendation forthwith, it would render the Society's rules respecting advertising preferred areas of practice obsolete without providing new rules applicable to the altered circumstances. A motion was then passed that the question of the termination of the preferred areas of practice be deferred one month and that a Special Committee be appointed to consider the question of advertising the nature of a practice.

The Treasurer appointed Messrs. Doran, Ground and O'Brien, who met at noon on Tuesday, 10th November, 1981. Mr. Brendan O'Brien was elected Chairman.

The Committee reviewed the developments which had led to the preferred areas of practice programme, noting that the introduction of true specialization was rejected by both Convocation and by the profession as a whole at a time when pressures were developing outside and also, to some extent, within the profession to permit lawyers to advertise to the extent necessary to permit a person requiring a lawyer to make an informed choice as to the different areas of practice. Concurrently, the whole question of competence and the quality of legal services was increasingly being recognized as a broad area of concern to the legal profession with implications affecting the future development of continuing education, specialization



and, indirectly, professional advertising. From all the strong but often irreconcilable views which were expressed on those subjects, three main elements emerged and led to the connection between advertising and continuing legal education which is a feature of the preferred areas of practice programme. First, it was agreed that a prospective client should have some information to assist in finding a lawyer who practises in the field of law in which the client's problem lies; second, that there should be some control over the type of advertising lawyers are permitted to use for this purpose; and third, that the governing body has some responsibility to ensure within reasonable limits that those who advertise a preferred area of practice are at the least competent to practise in that area. It was this latter consideration that produced the point system which is one of the disputed elements of the present programme.

It is no part of this Special Committee's duty to assess the value of the programme. That question is already before Convocation with the recommendations of the Committee responsible for the carrying out of the programme.

The main weaknesses of the programme stem from a proliferation of areas of practice coupled with the difficulty of providing continuing education programmes in a sufficient variety of subjects or to distribute them geographically to meet the need. This has contributed to the difficulty of enforcing the point system. Another Committee has in preparation a report outlining a plan for greatly increased availability of continuing legal education. The details are not known to this Committee, but the fact of that development is significant.

It is against this background that this Special Committee has been asked to make recommendations respecting the question of advertising the nature of a practice.

It is this Committee's opinion that sudden drastic changes in the rules governing advertising a practice are neither desirable nor necessary at this time, and that the worst features of the present programme can be removed without seriously damaging the good ones.

It must be kept in mind that when the permission to advertise preferred areas of practice was given, no prior qualification by point system or otherwise was required. The Law Society was prepared to assume that lawyers would not choose as pre-



ferred areas of practice, areas in which they did not have at least some special qualification. It was contemplated in the Advertising Committee at that time that the permitted advertising would always include the words "preferred area" so that a prospective client would not be misled into believing that such advertising would indicate specialization in the true sense of that word. Unfortunately, many lawyers have dropped the words "preferred area" from their advertising, which omission could, to some extent, mislead a client. The language presently contained in Professional Conduct Rule 13, Paragraph 14(a), does not clearly state that the words "preferred area" must appear in the advertisement, and this omission should be remedied.

As to the subject of advertising generally, including in particular the recommendation contained in the Report of the Professional Organizations Committee, and the matters dealt with in the *Jabour* case (which is still pending), it was the opinion of this Committee that no substantial changes be made at this time, but that the existing rules be revised and clarified to the following extent:

1. false, misleading or promotional advertising should continue to be prohibited;
2. members should be permitted to continue to show up to three areas of practice on signs and letterheads and elsewhere as at present, but that the words "preferred area (or areas) of practice" be required to be included whenever the name of an area of practice appears;
3. no names of preferred areas of practice should be permitted except those which have first been approved by the Society;
4. those who advertise one or more preferred areas of practice should be required to file with the Society every two years a certificate to the effect that during the preceding two years no less than 20% of their practice time was spent on each preferred area listed or that they had obtained the requisite points under the Preferred Areas of Practice programme. Those newly called to the Bar would be permitted to advertise up to three preferred areas of practice and would need to file a certificate at the end of their first two years of practice;

5. members should again be permitted to show that they restrict their practice to a named area or areas of practice if that is the fact;
6. that the present rules respecting advertising the location and hours of practice, languages spoken, initial consultation fee, etc., not be disturbed.

### THE REPORT WAS ADOPTED

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### SPECIAL COMMITTEE ON NUMBERS ENTERING THE PROFESSION

Mr. R.D. Yachetti, Chairman, presented an Interim Report of the Special Committee on Numbers entering the Profession prepared for presentation to this Special Convocation. The members of the Special Committee under Mr. Yachetti's chairmanship were Messrs. Arthurs, Bynoe, Carthy, Genest, Ground, Mrs. Legge, Mr. Scace, Mrs. Sutherland, Messrs. Thom, Tobias and Wardlaw.

### FUNCTION OF THE COMMITTEE

To date, the Committee has met on four occasions. In addition, a substantial number of members attended a conference on the question of numbers in London on November 12 and 13, 1981.

At the initial Committee meeting, each member was asked to submit, in writing, his or her views of the functions of this Committee. Essentially, they were seen as follows:

1. To thoroughly investigate the widespread belief among the practising Bar that there are too many lawyers being called to the Bar and entering the practice of law, annually;
2. If it is determined upon some sound factual basis that there are too many lawyers entering the practice of law, annually, to identify the ill effects which result;
3. To recommend to Convocation what steps, if any, should be taken to resolve the problem.

This report is intended as an interim report only for the purpose of informing Convocation of the progress of this Committee to date.

### RECENT HISTORY

Although the Committee has determined that the issue of numbers in the profession is not a new one but rather one whose periodic emergence coincides generally with slumps in the economy, there is a recent and traceable history which the Bench will undoubtedly recognize and which may be summarized in the following paragraphs.

In July of 1979, Earl Berger Limited conducted a national demographic survey for the Canadian Bar Association which was concerned about the apparent lack of employment opportunities for young lawyers.

In Ontario, the Berger Survey received 5,905 responses from a profession which then numbered 12,303, a 48% return. The survey made some significant findings with respect to the profession in Ontario:

1. In 1979, 45% of the lawyers in Ontario were between the ages of 25 and 35 and 25% were between the ages of 35 and 44, i.e., 70% of all lawyers in the province were under the age of 44 years;
2. In 1979, Ontario had the highest percentage (16%) of lawyers with less than five years experience, practising as sole practitioners.

This report reached the following important conclusion:

In general, however, it seems to us — and this is set out as a suggestion rather than a conclusion — that the data indicate there is a significant under employment among lawyers in some parts of the country. In support of this suggestion we note the substantial proportions of inexperienced and experienced lawyers in some provinces spending a significant amount of their time on Legal Aid. We also note the substantial proportion of inexperienced lawyers in some provinces who are in sole practices as well as the proportion of experienced lawyers who are associates rather than partners or in sole practice.

The report suggests that the under employment referred to may have been due, in part, to a poor geographic distribution of graduates or the failure of the general practitioner to adapt to

changing conditions.

The Marie P. Huxter Report submitted to a Joint Committee of Ontario Law Deans and The Law Society of Upper Canada in December, 1980 resulted from a survey of employment opportunities for law school graduates in 1978 and 1979 and graduates of the Bar Admission Course for 1977, 1978 and 1979. Although it dealt substantially with the question of discrimination on the basis of sex, it contains some interesting findings with respect to both articling positions and permanent legal employment. With respect to articling positions, the report makes the following findings:

1. There is a perception on the part of law students that it is becoming increasingly more difficult to find articling positions;
2. Students are less successful now than they were five years ago in obtaining articling positions with the kind (or size) of firm preferred.

With respect to permanent legal employment the report comes to the following conclusions:

1. A substantial number of people are looking for positions even after they have qualified to practise.

The unemployment rate on completion of the Bar Admission Course for the 1975, 1976 and 1977 law school graduates was approximately 41%. That is, 41% of the respondents did not have positions when they completed the Bar Admission Course. Thirty days after the Bar Admission Course, 24% of the 1975 graduates, 26% of the 1976 graduates and 29% of the 1977 graduates did not have positions. Six months after the Bar Admission Course 9.3% of the 1975 graduates and 7.9% of the 1976 graduates did not have positions. This unemployment rate could not be calculated for the 1977 graduates since they could not have completed the Bar Admission Course before March 1979 and had not had six months to search for positions by the time of the survey.

Four percent of the 1975, 1976 and 1977 law school graduates were still not employed in the legal field at the time of the survey – and half of these had no jobs at all.

The success rate in obtaining positions with the kind (or size) of firm preferred has risen – from 67% for 1975 and 1976 graduates to 74% for the 1977 graduates. The respondents were more successful in finding employment in the geographical location preferred – overall success rate was 92%. Seventy-four percent of the respondents found employment in their preferred area of practice. The percentage of 1977 graduates who said they wanted to practise alone has doubled when compared to the 1975 graduates – 9% and 4% respectively.

Please note that this survey was conducted in 1979, and there were still 4% of the 1975, 1976 and 1977 law school graduates – approximately 130 lawyers – who were as yet not employed in the legal field.



In the fall of 1980 the Treasurer visited almost every County and District Law Association in the province to try to determine the status of the profession in each locale. Thereafter, the Treasurer reported to Convocation that the single most worrisome matter reported was that of the annual influx of Bar Admission graduates. The Treasurer concluded that the increases in numbers were unwarranted by any upsurge in the demand for legal services and that the local Bars were of a view that the standards of professional service were being threatened as a result.

At about the same time, the Treasurer asked the Benchers to list their priorities in terms of the problems facing the profession. The Benchers themselves gave top billing to the problem of numbers in the profession.

There then followed a questionnaire sent to all members of the profession in Ontario with a view to obtaining the profession's views on such matters as the numbers entering the profession, advertising, legal education, professional income, overhead expenses and employment opportunities. Although the questionnaire was not prepared by a professional polster and for that reason may be subject to some criticism, it did elicit 7,673 responses from 13,296 recipients, a 58% response rate. There were then 10,483 members of the profession engaged in private practice and the Society received responses from 6,402 of them. Once again, responses to the questions dealing with numbers in the profession demonstrated an almost overwhelming concern. With respect to the numbers entering the profession, 72% of the respondents were of the belief that controls on the numbers entering the profession would be beneficial to the *public* and 85% of the respondents felt that controls would also be beneficial to the *profession*. On the question of who should impose the controls, 73% of the respondents felt that it should be the Society rather than the universities.

The results were analyzed to determine whether the view amongst the profession as to controls on entry varied according to date of call to the Bar. There was not a significant difference in the views of the profession on controls to entry amongst the senior and junior members of the profession. Both groups felt controls would benefit the public and the profession. Generally, the majority for all call years felt the Society should impose the



controls on entry although the most recently called members (1979–1980) were not as strong in their support of this proposition as the older members.

As already indicated, this Committee was formed in April of 1981.

In June of 1981 at the meeting of the Presidents of the County and District Law Associations with the Benchers there was, once again, a clear message from the practising Bar: the stability of the profession is being threatened by too many lawyers servicing too few clients. There is another meeting with the Presidents scheduled for December 11.

### WHAT ARE THE NUMBERS?

The Committee determined from the records of the Law Society that over the past thirty years, the increases in numbers have been as follows:

1951 – 1961	3,932 – 5,316
1961 – 1971	5,316 – 7,610
1971 – 1981	7,610 – 15,294

Of the 7,610 lawyers in the province in 1971 approximately 6,602 (86%) were engaged in private practice. Of the 15,294 lawyers in the province in 1981, 10,803 (72%) were engaged in private practice.

On the local level, the ratio of lawyers in private practice to the population has increased in almost every county or district of the province in the three years from 1977 to 1980. In some cases the increases are rather substantial. For example, in February, 1977, using a 1975 population figure of 310,342 for Essex County, there were 221 lawyers, a ratio of 1 lawyer for every 1,404 persons. In July of 1980, using a 1978 population figure of 316,363, there were 292 lawyers, a ratio of 1 lawyer for every 1,083 people.

In February of 1977, using a 1975 population figure of 304,824 persons for Middlesex County, there were 315 lawyers in private practice, a ratio of 1 lawyer for every 968 persons. In July, 1980, using a 1978 population figure of 317,365 for the same county, there were 428 lawyers, a ratio of 1 lawyer for every 742 souls.

In February of 1977, using a 1975 population figure of 286,281 persons for The Regional Municipality of Waterloo, there were 237 lawyers in private practice, a ratio of 1 lawyer for every 1,208 persons. In July of 1980, using a 1978 population figure of 303,492 persons for the same region, there were 313 lawyers in private practice, a ratio of 1 lawyer for every 970 persons.

In Metropolitan Toronto, the ratio has risen from 1 lawyer for every 518 persons to 1 lawyer for every 408 persons.

Of the 47 Counties and Districts reviewed, there were only three in which the ratio had actually decreased (Dufferin County, Kenora District and Parry Sound District) and then only to a modest extent.

## ECONOMICS

At the outset, this Committee recognized the need for empirical data if it was to deal intelligently with the issue. For that reason, it retained the services of Professor David Stager of the Department of Political Economy at the University of Toronto. Professor Stager is a well-known and respected researcher, particularly in the field of professional labour markets. Professor Stager gave an oral presentation at a Committee meeting and subsequently was commissioned to prepare a report for the Committee. His terms of reference were given as follows:

### 1. *Definition of the Problem*

Is there a "surplus" of law graduates?

Is there an "optimum" number of lawyers?

What are the objectives or premises in analyzing the problem, from the perspective of lawyers, potential graduates and the public?

### 2. *A Review and Synthesis of Existing Data and Published Analyses of the Lawyers' Labour Market*

What research findings are there to date in Canada, the United States and the United Kingdom on the behaviour of the lawyers' labour market, particularly in terms of relative earnings and rates of return to legal education? The emphasis here should be on long-run cyclical movements. Further, the current experience should then be reviewed in the context of the historical patterns, leading to a prognosis for the next decade.

### 3. *Discussion of Data and Analysis Required for Further Work*

#### 4. *Consideration of the "Quality" Problem*

This final section of the report should offer a conceptual analysis of the "quality" problem that is said to arise with the sharp increase in numbers in the profession.

What is meant by quality?

Is it necessarily a function of numbers, and if so, why?

How can the definitions be made operational so that objective data can be collected and analyzed?

Professor Stager presented his report to the Committee in October, 1981. Generally, the conclusion of the report was that any current imbalance between the supply of practising lawyers and the demand for legal services is a temporary one which will be corrected toward the end of this decade as the demand for legal services increases more quickly than the supply of practising lawyers.

The Committee has had an opportunity to study the Stager report and, as will be appreciated, there is a considerable divergence of opinion as to the accuracy of its conclusions. Professor Stager was hampered, to some extent, by the lack of available data and has indicated the need for further study. For example, the overall conclusion of the report is based upon the assumption that the Gross National Product will increase at the rate of 1% to 2% annually over the next decade. Based upon an American study, Professor Stager concluded that the demand for legal services should therefore increase by at least 2% to 4% per annum. Recently, the Committee observed that, based upon the results of the last quarter, a 1% decrease in the Gross National Product had been forecast. If that forecast is correct, are we then about to experience a decline of 2% in the demand for legal services? And, if so, what will be the effect upon the practising Bar?

Further, the figures for lawyers' earnings were available to Professor Stager to the year 1975 only although the figures should soon be available to the year 1980.

Similarly, the "quality" aspect of the issue requires further investigation.

For these reasons, and others, the Committee decided to ask Professor Stager to update and amplify his report, particularly in those areas mentioned above. It was expected that this further work will not be completed for several months.

### **LONDON CONFERENCE**

The Chairman of this Committee was one of the speakers at the conference sponsored by the Faculty of Law at the University of Western Ontario on November 12 and 13, 1981. The Committee, through the Chairman, was consulted at the very outset of the planning for this conference and, in fact, provided some input with respect to speakers and content.

The Committee was pleased to report that the conference was well presented and very helpful to it. In addition to the views of the practising Bar, the views of academics, politicians, American counterparts and consumer advocates were presented. In addition, the Treasurer delivered a closing statement.

All of the papers presented will be published in the next edition of the Canada — U.S. Law Journal. Further, the conference was to be aired on the program "Sunday Sunday" on December 13, 1981.

### **FURTHER STATISTICS**

The Committee is currently actively engaged in compiling statistics from the Law Society's records with respect to Errors and Omissions claims, Compensation Fund claims, Discipline proceedings and bankruptcies. All of these statistics will be made available to Professor Stager for his consideration in the updating of his report.

### **WHERE DO WE GO FROM HERE?**

The Committee was of the view that considering the importance of the issue, the current inadequacy of empirical data and the need for further work, it will require an additional period of at least six months before a final report can be made. In addition to the updating of the Stager Report, the Committee intends to prepare a white paper for presentation to the profession and the solicitation of written and, perhaps, oral submissions. Further, it is contemplated that the Committee will attempt to update the Huxter Report for 1980 and 1981 graduates.

The Committee also determined that it should begin immediately to discuss its work to date and its findings, from time to time, with the Ministry of the Attorney General and the Ministry of Colleges and Universities.

Needless to say, any input from other members of the Bench would be greatly appreciated.

**THE REPORT WAS RECEIVED**

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**MOTION TO AMEND RULE 21(1)**

Convocation directed that this motion which was tabled at the Regular October Convocation stand.

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**CONVOCAATION ROSE AT 5:15 P.M.**

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Confirmed in Convocation 22nd January, 1982.

J. D. BOWLBY

Treasurer

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