

25th November, 1994

MINUTES OF CONVOCATION

Friday, 25th November, 1994
9:30 a.m.

PRESENT:

The Treasurer (Paul S. A. Lamek), Arnup, Bastedo, Blue, Bellamy, Brennan Campbell, Carey, R. Cass, Copeland, Curtis, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Goudge, Hickey, Jarvis, Kiteley, Krishna, Lawrence, Lax, McKinnon, Moliner, Murphy, O'Brien, D. O'Connor, Palmer, Pepper, Richardson, Ruby, Scace, Scott, Sealy, Somerville, Strosberg, Thom, Topp and Weaver.

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The reporter was sworn.

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IN PUBLIC

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MOTION - ELECTION OF BENCHER

It was moved by Mr. Topp, seconded by Ms. Weaver THAT Tom Carey be elected a Bencher to fill the vacancy in Convocation occasioned by the resignation of Fatima Mohideen.

Carried

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IN CAMERA

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IN CAMERA Content Has Been Removed

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer reported on the Competition Bureau Complaint.

SUBCOMMITTEE ON THE SELECTION OF THE SOCIETY'S AUDITORS

Meeting of November 23, 1994

Mr. Bastedo presented the Report of the Subcommittee on the Selection of the Society's Auditors recommending that the firm of Coopers & Lybrand be appointed as the Society's auditors.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SUBCOMMITTEE ON THE SELECTION OF THE SOCIETY'S AUDITORS begs leave to report:

Your Committee met on Thursday, the 23rd of November, 1994 at 8:30 a.m. and adjourned at 4:30 p.m. The following members were present: T.G. Bastedo (Chair), R.W. Cass, E.S. Elliott, A. Feinstein, R.W. Murray, P.B.C. Pepper J.J. Wardlaw and M.P. Weaver. Staff in attendance were D.A. Crosbie and D.E. Crack.

B.

ADMINISTRATION

The Chair invited the above benchers to form a subcommittee for the selection of the Society's external auditors.

All firms were made aware that this selection process of auditors will henceforth be undertaken every five to seven years using a formal request for proposal system as has been done this time.

Firms Invited to Bid

After some extensive inquiry, the Chair, acting as the Chair of the subcommittee, selected five public accounting firms to submit proposals to the Society for the position of the Society's auditor. Those firms were selected from small, medium and large size firms on the basis of their profile in the profession, and that they truly reflect all members currently in the profession. The firms invited to bid are:

KPMG Peat Marwick Thorne
BDO Dunwoody Ward Mallette
Coopers & Lybrand
Soberman Isenbaum & Colomby
Price Waterhouse

Price Waterhouse has indicated that it will not be submitting a proposal.

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The Interview Process

Tom Bastedo, Chair, and David Crack, Director of Finance and Administration, met with the senior partner in each firm for a preliminary interview. The firms were provided with the Law Society's annual report for 1994, a copy of the Society's budget as approved for the 1994/95 fiscal year, copies of the Insurance Task Force report and the report of David Ross as consultant to the Task Force, and the Society's recently approved Role Statement. A memorandum from the Director of Finance describing the structure of the Law Society and the role and function of the Accounting and Information Systems departments was also included.

Each firm was invited to attend the Law Society offices and met with the Under Treasurer, the Director of Finance and Administration, the Deputy Director of Finance and the Manager of Information Systems. In each case, the firms brought senior members of their audit, technical services, and management consulting branches to be briefed in a more detailed way on the organizational structure of the Law Society and to apprise them of the issues which are facing Society's management at this time.

Receipt of Proposals

Firms were invited to submit their proposals by noon on Monday November 21 and were provided with a set of criteria which their proposal should address.

Interviews with the Subcommittee

Each firm was invited to attend, with their selected team, individual meetings with the audit subcommittee on Thursday, November 23. Each group made an approximately 30 minute presentation followed by a question and answer period.

Conclusion and Recommendations

After the meetings the committee met to consider the four proposals and were of the unanimous view that Coopers & Lybrand be appointed as the Society's auditors.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

T. Bastedo
Chair

It was moved by Mr. Bastedo, seconded by Ms. Weaver that the firm of Coopers & Lybrand be appointed as the Society's auditors.

Carried

THE REPORT WAS ADOPTED

MOTIONS - COMMITTEE APPOINTMENTS

It was moved by Mr. Topp, seconded by Ms. Weaver THAT Gordon Wolfe be appointed as a member of the Clinic Funding Committee replacing Jim Frumau.

Carried

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It was moved by Mr. Topp, seconded by Ms. Weaver THAT Joan Lax be appointed as a member of the Women in the Legal Profession Committee replacing Ronald Manes.

Carried

It was moved by Mr. Topp, seconded by Ms. Weaver THAT Ross Murray be appointed as a member of the Research and Planning Committee.

Carried

AGENDA - Committee Reports to be taken as read (except those Items requiring separate debate and approval by Convocation)

It was moved by Mr. Topp, seconded by Ms. Weaver THAT the Reports listed in paragraph 4 of the Agenda (Reports to be taken as read) be adopted, except for Item A.-A.1 in the November 10th, 1994 Legal Education Committee Report re: Articled Students' Right to Appear Before Courts and Tribunals.

Carried

Admissions and Membership (2 Reports)
Clinic Funding
Communications
Discipline Policy
Equity in Legal Education and Practice
Finance and Administration
Investment
Legal Aid
Legal Education (Nov 10/94 Report)
Legislation and Rules
October Draft Minutes
Professional Conduct
Professional Standards
Research and Planning
Specialist Certification Board
Unauthorized Practice
Women in the Legal Profession

COMMITTEE REPORTS

ADMISSIONS AND MEMBERSHIP COMMITTEE

Meetings of November 10 and 24, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS AND MEMBERSHIP COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994 the following members being present:

C. Campbell (Chair), M. Moliner, M. Weaver, D. Lamont, D. Murphy and G. Farquharson.

Also present: M. Angevine, A. Treleaven, C. Shaw.

B.
ADMINISTRATION

B.1. DIRECT TRANSFER - COMMON LAW PROVINCE - 4(1)

- B.1.1. The following candidates have met all the requirements to proceed with transfer under section 4(1) of Regulation 708 made under the Law Society Act:

Hervé Robert Depow
Juan Carlos Martinez

New Brunswick
Saskatchewan

Approved

B.2. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.2.1. Bar Admission Course

The following candidates, having successfully completed the 35th Bar Admission Course, have now filed the necessary documents and paid the required fee and apply to be called to the Bar and granted a Certificate of Fitness at Regular Convocation on November 25, 1994:

Patrick Herman Clement
Sharon Brenda Small

Approved

The following candidates expect to have successfully completed the 35th Bar Admission Course by mid-November 1994 and ask to be called to the Bar and granted a Certificate of Fitness at Regular Convocation on November 25, 1994:

Evelina Ho
Bih Ru Tan

These applications are approved conditional upon the candidates successfully completing the course, filing the necessary documents and paying the required fee prior to November 25, 1994.

B.2.2. Transfer from another Province

The following candidates, having successfully completed the Transfer Examination, filed the necessary documents and paid the required fee, now apply for Call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday November 25, 1994:

Fulvio Daniele Fracassi
Sonia J. Struthers
Lawrence David Wilde

Province of Quebec
Province of Quebec
Province of Alberta

Approved

25th November, 1994

B.3. MEMBERSHIP UNDER RULE 50

B.3.1. (a) Retired Members

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

Georgia Marianne Riddell Bentley	Toronto
Mary Celina Adams Cardwell	Islington
Morley Raymond Gorsky	Toronto
David Hepburn Jack	Fergus
Roy Vincent Jackson	Wilmington, DE., USA
Murray Edward Hartley Jones	Strathroy
James Karfilis	Etobicoke
Allan Keith Lishman	Hamilton
James Arthur Wynn	Brantford
Jacob Salo Ziegel	Toronto

Approved

B.3.2. (b)(i) Incapacitated Members

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

Margaret Juliana MacMaster Atkinson	Toronto
Glenn William Cameron	Burlington
James William Irwin	Sharbot Lake
Donald Foster Nelson	Thunder Bay
David Samuel Solomon	Toronto
Robert James Venier	Kanata

Approved

B.3.3. (b)(ii)

Gary Lisle Greatrex of Kitchener was called to the Bar on March 26, 1965. For health reasons he was forced to discontinue his practice in June 1993.

Ms. Greatrex, under power of attorney for her husband, makes application that he be granted retired status, without payment of annual fees.

Approved

B.4.4. (c) Termination of Rule 50 - Incapacitated

The following member retired under the incapacitated section of Rule 50 on May 27, 1994. She now submits an application for the termination of her retirement and submits medical evidence attesting to her ability to practise law.

Taivi Lobu	Toronto
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Approved

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B.5. RESIGNATION - REGULATION 12

- B.5.1. The following members have applied for permission to resign their membership in the Society and have submitted Declarations/Affidavits in support. These members have requested that they be relieved of publication in the Ontario Reports.

Vivian Kingfon Chan	San Francisco
Dennis Carl Walz	Vancouver
Denyse Evelyne Bertrand	Ottawa
Jerry Harold Woron	Lindsay
Peter Donald Wendling	Toronto
Glen Floyd Gallinger	Colorado Springs
Richard Frederick Chaloner	Guelph
Melissa Francine Hecker-Greenberg	North York
Deborah Ann Kuehner	North York
Karin Hildegard Conradi	Mayerthorpe, Alberta
Timothy Patrick Gallagher	Victoria
Natverlal Popatlal Radia	Winnipeg
Adam Sanford Knight	Toronto
Brian Roy Neynoe MacLeod	Toronto
David Philip Baskin	Toronto
Deborah Lyn Scime	Toronto

Approved

C.
INFORMATION

C.1. EXAMINATION RESULTS - TRANSFER EXAMINATION

- C.1.1. The following candidate was successful in the September 1994 sitting of the Transfer Examination:

Fulvio Daniele Fracassi

Noted

C.2. CHANGES OF NAME

C.2.1. From

To

Kareen Jane Colbert Walker

Kareen Jane Colbert
(Birth Certificate)

Janet Patricia Anderson

Janet Patricia Carter
(Marriage Certificate)

Anna Kunegunda Kinastowski Bates

Anna Kunegunda Kinastowski
(Birth Certificate)

Antonetta Romano

Antonetta Simrod
(Change of Name Certificate)

Anita Dilys Steel

Anita Dilys Phillips
(Marriage Certificate)

Rebecca Suzanne Stamp

Rebecca Suzanne Kendall
(Change of Name Certificate)

Noted

C.3. ROLLS AND RECORDS

C.3.1. (a) Deaths

The following members have died:

Samuel Berger	Called May 19, 1927
Montréal, PQ	Died July 1, 1992
Thomas Sproule	Called April 13, 1962
Toronto	Died February 19, 1994
Howard John Riggs	Called March 28, 1977
Windsor	Died September 23, 1994
Robert Spiro Karfell	Called April 10, 1964
North York	Died October 16, 1994
John Gerald O'Grady	Called June 22, 1960
London	Died October 19, 1994
John Stuart Laird	Called April 19, 1963
Windsor	Died October 20, 1994
Cecil Allan Fraser	Called April 19, 1963
Ottawa	Died October 21, 1994
Frederick Clair Hayes	Called June 25, 1953
Toronto	Died October 24, 1994

Noted

C.3.2. (b) 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:

Roger Patrick Peter Cooney	Called April 10, 1964
Scarborough	Disbarred - Convocation
	October 26, 1994
George Flak	Called March 24, 1972
Toronto	Disbarred - Convocation
	October 26, 1994
Norman Edward Joseph Roy	Called April 7, 1982
Oakville	Disbarred - Convocation
	October 26, 1994

Noted

C.3.3. (c) Membership in Abeyance

Upon his appointment to the office shown below, the membership of the following member has been placed in abeyance under Section 31 of The Law Society Act:

John David Wake	Called March 22, 1974
Brampton	Appointed to Ontario Court
	(Provincial Division)
	August 8, 1994

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Charles Roland Harris
Barrie

Called March 21, 1975
Appointed to Ontario Court
(Provincial Court)
August 8, 1994

Noted

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

C. Campbell
Chair

Meeting of November 24, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 24th of November, 1994 the following benchers being present:

C. Campbell (Chair), J. Wardlaw, M. Weaver, R. Topp, R. Murray, N. Graham.

Also present: M. Angevine

B.
ADMINISTRATION

B.1. PETITION FOR EXTENSION OF TEMPORARY MEMBERSHIP

- B.1.1. Peter W. Hogg was granted permission to be called to the Bar as a temporary member pursuant to sec. 6(1)(b) of Regulation 708 which provided that a person qualified to practise law in any province of Canada may be admitted to membership in the Society and called to the bar and admitted as a solicitor for the purpose of acting as a Crown Attorney for a specific time. Mr. Hogg's membership expires March 24, 1995.
- B.1.2. Mr. Hogg also applied under sec. 4(1) of the Regulation and was granted permission to proceed with transfer to the practice of law in Ontario. He is scheduled to write the January 1995 transfer examinations.
- B.1.3. In his letter of November 17, 1994 Mr. Hogg states that he has an opportunity to conduct a criminal prosecution in Manitoba in January 1995 and therefore requests that his temporary membership be extended to allow him to write the transfer examination in May 1995.

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B.1.4. Mr. Hogg's letter of November 17, 1994 was before the Committee for consideration.

Approved

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

C. Campbell
Chair

THE REPORTS WERE ADOPTED

CLINIC FUNDING COMMITTEE

Meetings of October 5 and 26 and November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CLINIC FUNDING COMMITTEE begs leave to report:

Your Committee met on October 5 and October 26, 1994. Present were: Joan Lax, Chair, Ian Blue, Q.C. Vice-Chair, Pamela Giffin, Mark Leach. Also present: Joana Kuras, Clinic Funding Manager. The Committee met again on November 10, 1994. Present were: Joan Lax, Chair, Pamela Giffin, Mark Leach. Also present: Joana Kuras, Clinic Funding Manager.

A.
POLICY

A.1 Operational Review

The Committee is in the process of considering the recommendations of the Operational Review Report. The Review focused on policies, procedures and structures in the clinic system and examined decision-making responsibility and accountability. The Committee endorsed the recommendation of the Clinic Review Advisory Group to create a consultation structure and to initiate strategic planning as soon as possible.

B.
ADMINISTRATION

B.1. Applications to the Clinic Funding Committee

(B.1.1) Supplementary legal disbursements

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

Sudbury Community Legal Clinic - in an amount up to \$7,000

B.2 Statement of Income and Expenditure to October 31, 1994

The statement of expenditures for the period ended October 31, 1994 is attached as Schedule A.

C.
INFORMATION

C.1. Appointment of New Clinic Funding Committee Member

The Clinic Funding Committee is a statutory committee composed of three members appointed by the Law Society of Upper Canada and two members appointed by the Attorney General. Mr. Jim Frumau, a Law Society appointment, completed his term this summer. Following a search both within and outside the clinic system, the Clinic Funding Committee is pleased to recommend the appointment of Mr. Gordon Wolfe for a three year term. Attached as Schedule B is a copy of Mr. Wolfe's resume.

The Committee wishes to express its sincere appreciation to Mr. Jim Frumau.

C.2 African Canadian Legal Clinic

The African Canadian Legal Clinic officially opened on Friday, October 28, 1994. The Honourable Marion Boyd, Attorney General spoke at the official opening and at the reception following. Also in attendance were the Deputy Attorney General - Larry Taman, Chief Justice McMurtry, Clinic Funding Committee members Joan Lax and Mark Leach and Joana Kuras, Clinic Funding Manager. Joan Lax brought greetings on behalf of the Clinic Funding Committee and the Law Society.

The clinic is located at 330 Bay Street, Suite 306, Toronto. The staff consists of an Executive Director, staff lawyer, office manager and secretary/receptionist. It becomes the 72nd community legal clinic in Ontario and will engage in test case litigation and issues of systemic racism, education and outreach and referrals to clinics and other community groups.

C.3 Regional Meetings

The Clinic Funding Committee met with Executive Directors and Chairs of Boards of Directors of clinics in September and October at meetings of the Southwest Regional Council in Kitchener, and the Eastern Legal Clinics

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Association in Kingston and the staff of northern clinics attending regional training in Sudbury. These meetings provided an opportunity to meet members of the Clinic Funding Committee and to discuss issues of common concern.

ALL OF WHICH is respectfully submitted

DATED this 16th day of November, 1994

J. Lax
Chair

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

Item B.2 - Statement of expenditures for the period ended October 31, 1994. (Schedule A)

Item C.-C.1. - Resume of Mr. Gordon Wolfe. (Schedule B)

THE REPORT WAS ADOPTED

COMMUNICATIONS COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your committee met on Thursday, the 10th of November, 1994, the following members being present: Denise Bellamy, Hope Sealy, Lloyd Brennan, Ross Murray, Julaine Palmer, Stuart Thom, Allan Lawrence, Carole Curtis, Christopher DuVernet. The following staff were also present: Nancy Bath, Gemma Zecchini.

A.
POLICY

1. Law Society Gazette

Christopher DuVernet presented his preliminary report on the review of the Law Society Gazette. The committee has asked that further consultation take place with the profession prior to developing recommendations for Convocation's decision.

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B.
INFORMATION

1. Dial-a-Law

The Society's Dial-a-Law program has experienced a sharp drop in usage rates over the last twelve months. This is due largely to the severe decrease in funding for the 1993/94 year which required that advertising be suspended, wats lines be removed and service hours be restricted. The cumulative effect of these measures is that program users frustrated by service reductions that restricted or eliminated their access to the program have abandoned the service despite a recent boost in the budget of some \$120,000. Without undertaking a fairly intensive advertising campaign to publicize the recent service improvements made possible by the extra funding in 1994/95, it is likely that Dial-a-Law usage will continue to hover at about 600 calls/day vs. 850 calls/day last year. In peak usage years such as 1990/91, Dial-a-Law was receiving over 1,200 calls per day. The chart below summarizes changes to the operations and promotion of the service over the past several years:

Year	Operational Budget	Advertising Budget*	#wats/local lines	#calls day
1994/95	\$235,500	\$5,000	4 wats/10 local	599
1993/94	\$115,000	\$5,000	2 wats/10 local	833
1990/91	\$300,000	\$300,000	9 wats/10 local	1,247

*Advertising: since 1993 advertising has been restricted to small one-inch advertisements in the yellow pages. In the late 1980's and early 1990's intensive radio advertising campaigns were conducted to promote the service in addition to print marketing campaigns which consisted of wide distribution of Dial-a-Law pamphlets to schools, supermarkets and community information centres. These activities have been discontinued due to cost.

2. Public Program Statistics

The Lawyer Referral Service referred 12,578 individuals to lawyers in October 1994. The Dial-a-Law service received 17,720 calls.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

D. Bellamy
Chair

THE REPORT WAS ADOPTED

DISCIPLINE POLICY COMMITTEE

Meeting of November 9, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE DISCIPLINE POLICY COMMITTEE begs leave to report:

Your Committee met on Wednesday, the 9th of November, 1994 at 3:00 in the afternoon, the following members being present:

D. Scott (Chair), D. Bellamy (Vice-Chair), L. Legge, S. Lerner, M. Martin, M. McPhadden, C. Ruby, S. Thom were present.

M. Brown, J. Yakimovich, S. Kerr, S. Jenkins and J. Brooks also attended.

A.
POLICY

No items.

B.
ADMINISTRATION

- B.1. Rule 20 Application by J.H. Marler to employ J.W. McIsaac
- B.1.1. Your Committee considered the application of Jonathan H. Marler to employ John W. McIsaac pursuant to Rule 20.
- B.1.2. John W. McIsaac was called to the Bar in 1977. He has been administratively suspended since February 1979.
- B.1.3. Following his call to the Bar in 1977, Mr. McIsaac practised in Ontario for under two months as an employed solicitor. He then left the province and moved to Alberta. He was administratively suspended by the Society in February 1979. He was then called to the Bar in Alberta in 1979 and practised in Alberta. In August 1993, Mr. McIsaac returned to Ontario to seek employment. Mr. McIsaac advised that he is now preparing to write the requalification exams. Mr. McIsaac and Mr. Marler contemplate the proposed employment pursuant Rule 20 will be similar to service under articles.
- B.1.4. J. Stanley Jenkins addressed the Committee with respect to this application and indicated that staff did not oppose the application.
- B.1.5. Your Committee considered information from staff and the applicant and as well as a proposed plan of supervision.
- B.1.6. Your Committee recommends that Convocation approve the Rule 20 application by J. H. Marler to employ J. W. McIsaac.
- B.2. Application by J.L.Z. Gora to be relieved of undertaking

- B.2.1. Your Committee considered the application of John L.Z. Gora to be relieved of item (e) of his undertaking to the Society which was imposed by Convocation on September 17, 1987. Item (e) of the undertaking required Mr. Gora to
- "maintain the present arrangement with Joseph Solomon to share space and deposit all trust money into the trust account of Joseph Solomon and not to change this arrangement without approval of the said Society".
- B.2.2. Mr. Gora was called to the Bar in June 25, 1957.
- B.2.3. In September 1987, Mr. Gora was found guilty of professional misconduct in relation, primarily, to his "investment of client's funds in two separate ventures, one involving the renovation of a residence. ... In both cases Mr. Gora failed to protect his clients' interests, failed to properly report and account, and misled his clients with assurances as to the security of their investment after it was or must have been apparent to him that the investments were in considerable difficulty". The Discipline Committee "did not find that Mr. Gora acted dishonestly or, with the exception of the preference to his wife, that he acted for personal gain at the expense of his clients."
- B.2.4. Convocation ordered that Mr. Gora be reprimanded in Convocation upon giving to the Society an Undertaking of nine provisions. The order of Convocation is Attachment "A".
- B.2.5. With the approval of the Society, Mr. Gora had changed the arrangement to make use of the trust account of a Solicitor other than Mr. Solomon.
- B.2.6. At the time of the 1987 discipline proceedings, Mr. Gora had a prior discipline history dating back to 1964 which involved *inter alia* improperly drawing trust funds. As a result of those proceedings, the Solicitor was reprimanded in Convocation and gave an undertaking to practise only with another lawyer who would be responsible for receiving and disbursing all trust funds.
- B.2.7. In June 1993 and again in June 1994, Mr. Gora asked that he be relieved of item (e) of the undertaking since he had encountered difficulties in closing real estate transactions resulting from delays in obtaining the clearance of cheques. Mr. Gora stated that "carrying on practice in these circumstances has become virtually impossible. It is for this reason that I am now appealing to be relieved of my June 1987 undertaking... As I indicated to Ms. McCaffrey, I refer work of any complexity to experienced counsel, limiting my practice to matters of a more routine nature; but, even with such a practice there is a necessity to handle trust funds from time to time".
- B.2.8. Your Committee considered:
- Letter of June 4, 1993 from Mr. Gora requesting relief from the trust arrangement aspect of the undertaking;
 - Letter of June 8, 1994 from Mr. Gora requesting relief from the trust arrangement aspect of the undertaking;
 - Recommendation of the Discipline Committee re penalty dated May 28, 1987;
 - Report and Decision of the Discipline Committee dated May 13, 1987;

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- Order of Convocation dated September 17, 1987 (ATTACHMENT "A"); and
- Report of Sue McCaffrey, Professional Standards Department, dated September 15, 1992, which indicated, *inter alia*, that at that time Mr. Gora's practice was "marginal".

B.2.9. Your Committee recommends that Convocation relieve Mr. Gora from item (e) of his undertaking, as ordered by Convocation on September 17, 1987, and thereby permit him to maintain a trust account.

C.
INFORMATION

C.1. Appointment of Stephen Foster to the Ontario Court (Provincial Division)

C.1.1. Stephen Foster, former Discipline Counsel, has been appointed to the Ontario Court (Provincial Division) and will sit in Newmarket. His contribution and commitment to the Discipline Department over the past two years is acknowledged and greatly appreciated. Stephen's last day with the Society was Friday, November 4th, 1994. The Committee congratulates him on his appointment.

C.2. Authorization of Discipline Charges

C.2.1. Once a month, the Chair and the Vice-Chairs of your Committee meet with staff to consider requests for formal disciplinary action against members.

C.2.2. The following table provides a summary of Complaints authorized to date in 1994.

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Total number of charges authorized to date in 1994	
January	20
February	56
March	51
April	24
May	67
June	23
July/August	61
September	40
October	61
TOTAL	403

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

D. Scott
Chair

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

Item B.-B.2.4. - Order of Convocation re: John Leonard Zigmund Gora.
(Attachment A)

THE REPORT WAS ADOPTED

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994, the following persons being present: Marie Moliner (Chair), Colin McKinnon, Dennis O'Connor, Shirley O'Connor, Nora Angeles-Richardson (also a member of the Women in the Legal Profession Committee), André Chamberlain, Susan Charandoff, Audrea Golding, Patricia Hennessy (also a member of the Women in the Legal Profession Committee), Marilyn Pilkington, Ramneek Pooni, Donald Crosbie, Alexis Singer.

C.
INFORMATION

- C.1 A Review of Rule 28 Strategies.
- C.1.1 The Chair reviewed the various approaches to delivering an educational program under Rule 28 which had been discussed in a meeting of the Sub-Committee on November 3rd, 1994. The Committee agreed on a combined approach based on a business case that recognizes minimum standards and best practices and that will assist the profession in meeting its statutory and professional obligations.
- C.1.2 The Committee agreed with the Sub-Committee's recommendation that an educational program be produced consisting of (a) a question and answer pamphlet, and (b) model policies to assist the members of the profession in identifying their obligations - both statutory and professional - which flow from the Rule and to assist them in meeting those obligations.
- C.1.3 The Committee agreed that a consultant will be necessary to assist in the development of a question and answer pamphlet. In addition to consultants, two or three Committee members will be asked to oversee the development of the question and answer pamphlet. Some of the responses to the draft Rule 28 which the Committee received in 1993 will be used as a basis to develop the questions and answers which seem to be troubling the profession at this time.
- C.1.4 The Committee discussed the issue of enforcement of the Rule. The Committee agreed that enforcement of Rule 28 should follow no different course of enforcement than any other rule of professional conduct. Thus, there would be prosecutorial discretion and any complaint which went to the Chair and Vice-Chairs of the Discipline Committee would have to be reviewed and authorized in order for such a complaint to proceed to discipline.
- However, because the Rule relates so closely to human rights issues and law, it was suggested that the Chair and the Vice Chairs of Discipline be provided with human rights expertise. As an interim measure the Chair of the Equity Committee would, upon request, advise the Chair and Vice Chairs of Discipline on Rule 28 and would discuss ways of following Rule 28 complaints through the discipline process.
- C.1.5 The Committee agreed that there will be times when it is appropriate to resolve complaints by means of mediation and alternative dispute resolution. Further an "invitation to attend" could be used to make members aware that they are in breach of the Rule and to give them an opportunity to remedy the situation before it becomes necessary to proceed with discipline charges.
- C.1.6 It was agreed that the Chair of the Equity in Legal Education in Practice Committee will provide frequent progress reports to Convocation with respect to the strategies for the delivery of the educational program and the progress of the development of the program itself.

C.2 Meeting with the National Council of Canadian Filipino Associations

C.2.1 The Chair reported on a meeting held with members of the National Council of Canadian Filipino Associations on November 7, 1994. The members of the National Council plan to provide six 90-minute informational sessions on two Saturdays, November 12, 1994 and November 17th, 1994 to assist foreign trained lawyers who are having difficulty qualifying to practise law in Ontario. The focus of these sessions will be legal research and writing skills development in the substantive areas in which the Joint Committee on Accreditation usually examines. At present, the Law Society is assisting by providing the space for these sessions. The Equity in Legal Education and Practice Committee will maintain a link with the National Council of Canadian Filipino Associations and receive progress reports from the National Council. The Equity in Legal Education and Practice Committee will continue to assist the members developing this program as appropriate.

C.3 Equity Students Seeking Articles

C.3.1 The Chair reported on the outcome of the four motions relating to unplaced articling students which were put before the Annual General Meeting on November 9th, 1994. It was suggested that a review of the quality of articling for these students would be more fruitful than considering abolishing articling.

C.3.2 The Committee agreed that it should be represented on the Articling Sub-Committee of the Legal Education Committee. The Chair agreed to be the link with that Committee until a permanent representative can be appointed.

C.3.3 The Committee agreed to debate motion one, three and four, which passed at the Annual General Meeting to develop a position for presentation to Convocation when Convocation debates these motions.

C.4 Review of Composition of Equity Committee

C.4.1 The Committee discussed the constitution of the Equity Committee and agreed that it should have representatives of racial minorities, women, and people with disabilities. The issue of having representatives from all of the sub-groups was discussed. One option is that the Equity Committee could develop a network to some of the sub-groups to ensure that organizations which represent those sub-groups receive Minutes of Equity Committee Meetings so they can provide input to the Committee. Another option is that, in addition to the monthly working meetings of the Equity Committee, once or twice yearly a larger meeting could be held inviting representation from as many of the various sub-groups as possible to receive input and obtain agenda items.

C.4.2 The Chair suggested that a representative of people with disabilities and of the gay/lesbian community should be invited to join the Committee.

C.5 Outstanding Items From Previous Agendas

- C.5.1 Application of Inderpaul Singh Chandoke: Mr. Chandoke is a justice of the peace seeking admission to the Bar without having to do Phase Three of the Bar Admission Course. He has been refused admission by the Admissions Committee and has asked the Equity Committee to ask the Admissions Committee to reconsider its decision. He has also asked that the Equity Committee seek amendment of the rules and regulations which currently prohibit justices of the peace from being called in the same manner that law professors are called.

The Committee agreed to review his material again in the context of determining whether this is an equity issue or an educational issue. The Committee members were asked to report back to the Chair by telephone as soon as possible.

C.6 Response to Proposal on Diversion

- C.6.1 The Committee considered whether, as a committee of the Law Society, it should respond to the current government proposal to divert black youth between the ages of 18 and 25. It agreed that this issue should be examined in the context of the role statement of the Law Society to determine whether or not it comes under governance issues before proceeding further.

C.7 Next meeting

- C.7.1 The Committee agreed to meet on December 8th, 1994 at 10:00 a.m. to discuss progress on the education program for Rule 28.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

M. Moliner
Chair

THE REPORT WAS ADOPTED

INVESTMENT COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994 at nine-thirty in the morning, the following members being present: Mr. Wardlaw (Chair) and Ms. Kiteley. Staff members present were David Crack and David Carey.

25th November, 1994

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee the investment report summaries for the various Law Society Funds together with supporting documentation for the month ended October 31st, 1994 (Schedule A).

Approved

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

J. Wardlaw
Chair

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

Item B.-1. - Investment report summaries for the month ended October 31st, 1994. (Schedule A)

THE REPORT WAS ADOPTED

LEGAL AID COMMITTEE

Meeting of October 14, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of October, 1994, the following members being present: Stephen Goudge, Chair, B. Ally, L. Brennan, M. Buist, J. Campbell, P. Copeland, C. Curtis, D. Fox, D. Fudge, M. Fuerst, R. Lalande, P. Peters, A. Rady, M. Stanowski and B. Sullivan.

The following senior members of staff were present: Bob Holden (Provincial Director), George Biggar (Deputy Director - Legal), Bob Rowe (Deputy Director - Finance) and Ruth Lawson (Deputy Director - Appeals).

A.
POLICY

A.1 STRATEGIC PLANNING SUB-COMMITTEE

A.1.1 The Strategic Planning Sub-Committee which was struck to discuss the Plan's priorities and strategic planning for the next year continues to meet on a regular basis. Discussions to date have centred mainly

on establishing priorities. The input of the Legal Aid Committee was sought at the meeting and these discussions are continuing. The Chair will update the Committee on the work of the Strategic Planning Sub-Committee each time the Legal Aid Committee meets.

A.2 CHARGE SCREENING

- A.2.1 The Legal Aid Committee discussed this report in great detail and recommends the adoption of the Report on Charge Screening which is attached hereto and marked as SCHEDULE A.

A.3 CHANGE OF SOLICITOR POLICY

- A.3.1 The Legal Aid Committee recommends the adoption of the Legal Aid Plan's Change of Solicitor Policy which is attached hereto and marked as SCHEDULE B.

B.
ADMINISTRATION

B.1. REPORT OF THE PROVINCIAL AUDITOR ON THE LEGAL AID FUND FOR THE YEAR ENDED MARCH 31, 1994

- B.1.1 The Report of the Provincial Auditor on the Legal Aid Fund for the Year ended March 31, 1994 is attached hereto and marked as SCHEDULE C.

B.2 ONTARIO LEGAL AID PLAN - STATEMENT OF INCOME AND EXPENDITURE FOR THE SIX MONTHS ENDED SEPTEMBER 30, 1994

- B.2.1 The Statement of Income and Expenditure for the Six Months Ended September 30, 1994 is attached hereto as SCHEDULE D.

B.3 REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTH OF OCTOBER, 1994

- B.3.1 The Reports on the Payment of Solicitors Accounts for the Month of October, 1994 is attached as SCHEDULE E.

B.4 REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR THE MONTH OF OCTOBER, 1994

- B.4.1 The Report on the Status of Reviews in the Legal Accounts Department for the Month of October, 1994 is attached as SCHEDULE F.

B.5 AREA COMMITTEES - APPOINTMENTS

Essex

Reno Bertoia, retired teacher
Laurie Ann Tuttle, solicitor
Lisa Canelos, solicitor

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Niagara North

Gary H. MacLean, retired trust officer
J. Ronald Charlesbois, solicitor
Michael J. Shea, solicitor

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

S. Goudge
Chair

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

- Item A.-A.2 - Copy of the Report on Charge Screening. (Schedule A)
- Item A.-A.3.1 - Copy of the Change of Solicitor Policy. (Schedule B)
- Item B.-B.1 - Copy of the Report of the Provincial Auditor on the Legal Aid Fund for the Year ended March 31, 1994. (Schedule C)
- Item B.-B.2 - Copy of the Statement of Income and Expenditure for the Six Months Ended September 30, 1994. (Schedule D)
- Item B.-B.3 - Copy of the Reports on the Payment of Solicitors Accounts for the Month of October, 1994. (Schedule E)
- Item B.-B.4 - Copy of the Report on the Status of Reviews in the Legal Accounts Department for the Month of October, 1994. (Schedule F)

THE REPORT WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994, at 11:30 a.m., the following members being present: M. Cullity (Chair), S. Lerner.

Also present: A. Brockett, M. Devlin, E. Spears, H. Werry.

R. Carter attended to make a quorum

A.
POLICY

No items to report.

B.
ADMINISTRATION

B.1. REGULATION 708 MADE UNDER THE LAW SOCIETY ACT: SECTION 4:
ADMISSION BY TRANSFER FROM OTHER CANADIAN JURISDICTIONS: AMENDMENT

B.1.1. Recommendation

B.1.1.1. That section 4 of Regulation 708 made under the *Law Society Act* be revoked and replaced by the following new section 4:

"4. (1) Upon the recommendation of the Committee, an applicant who is qualified to practise law in any province or territory of Canada outside Ontario may be called to the bar and admitted as a solicitor provided the applicant,

- (a) (i) is a graduate of a law course, approved by Convocation, in a university in Canada, or
- (ii) has a certificate of qualification issued by the Joint Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Canadian Law Deans;
- (b) for a period or periods totalling at least seventeen months within the three year period immediately preceding the application, has been engaged in,
 - (i) the active practice of law as a member of a law society or equivalent body which is a member society of the Federation of Law Societies of Canada,
 - (ii) the pre-call education program of a member society of the Federation of Law Societies of Canada, or
 - (iii) a combination of the activities referred to in subclauses (i) and (ii);
- (c) files a certificate of good standing issued by a member society of the Federation of Law Societies of Canada; and
- (d) passes the transfer examination as prescribed from time to time by Convocation.

(2) For the purposes of this section, an applicant shall be deemed to have been engaged in the pre-call education program of a member society of the Federation of Law Societies of Canada when,

- (a) enrolled and participating in a teaching or education program prescribed by that society and distinct from a university law course; or
- (b) serving under articles of clerkship to a member of that society in accordance with the rules or regulations of that society.

(3) A person who has not engaged in the activities referred to in clause (1)(b) for a total of seventeen months as required by that clause may satisfy its requirements by serving under articles of clerkship in Ontario for the length of time required to bring the total to seventeen months.

(4) On each occasion when a candidate for call and admission under subsection (1) sits the transfer examinations referred to in clause (1)(d) the candidate must present evidence that the candidate,

- (a) has been engaged in the activities set out in subclauses (i), (ii) or (iii) of clause (1)(b) for a period or periods totalling at least seventeen months within the three year period immediately preceding the examination; and
- (b) is a member in good standing of a member society of the Federation of Law Societies of Canada."

B.1.1.2. That Convocation request the Attorney General to arrange for a similar amendment to be made to the French text of Regulation 708.

B.1.2. Explanation

B.1.2.1. At present, section 4 of Regulation 708 provides for admission to the Society by transfer from other Canadian jurisdictions. Subsection (1) deals with applicants from common law jurisdictions. Subsections (2) and (3) deal with applicants from Quebec. The section currently reads:

4. (1) Upon the recommendation of the Committee, an applicant may be called to the bar and admitted as a solicitor who,

- (a) has been engaged in the active practice of law in one or more common law provinces or territories of Canada for a period or periods totalling at least three years within the five year period immediately preceding the application;
- (b) files a certificate of good standing;
- (c) passes the prescribed examinations on the statutes of Ontario and procedure in Ontario; and
- (d) presents evidence of the time or times during which and the place or places where he or she has been engaged in the active practice of law.

(2) Upon the recommendation of the Committee, an applicant may be called to the bar and admitted as a solicitor who,

- (a) has been engaged in the active practice of law in the Province of Quebec for a period or periods totalling at least three years within the five year period immediately preceding his or her application;

- (b) files a certificate of good standing;
 - (c) presents evidence of the time or times during which and the place or places where he or she has been engaged in the active practice of law;
 - (d) passes a comprehensive examination on the common law of Ontario; and
 - (e) passes the prescribed examinations on the statutes of Ontario and procedure in Ontario.
- (3) Upon the recommendation of the Committee, an applicant who has been engaged in the active practice of law in the Province of Quebec,
- (a) may be admitted to the Society as a student member in the Bar Admission Course upon,
 - (i) filing a certificate of good standing, and
 - (ii) successfully completing a one year conversion course in common law; and
 - (b) may be called to the bar and admitted as a solicitor upon successfully completing the Bar Admission Course.

B.1.2.2. On October 27, 1994, Convocation adopted a recommendation from the Admissions and Membership Committee that section 4 of Regulation 708 be amended to establish a uniform set of provisions for applicants for admission by transfer from any Canadian jurisdiction. Included in the Committee's report to Convocation on October 27, 1994 was draft wording for a proposed new section 4 of Regulation 708. This was referred to the Legislation and Rules Committee for final drafting.

B.2. REGULATION 708 MADE UNDER THE LAW SOCIETY ACT: SECTION 15.2: MEMBER'S OBLIGATION TO COMPLETE FORMS 4 AND 5: AMENDMENT

B.2.1. Recommendation

B.2.1.1. That section 15.2 of Regulation 708 made under the *Law Society Act* be revoked and replaced by the following new section 15.2:

"15.2 (1) In this section,

"lender" means a person who is making a loan secured, or to be secured, by a mortgage or other charge on real property, including those mortgages or other charges on real property to be held in trust either directly or indirectly through a related person or corporation.

(2) Every member who acts for, or receives money from, one or more lenders shall maintain records in addition to the requirements of sections 14, 15 and 15.1, and shall maintain a file for each mortgage or other charge which shall include,

- (a) a completed form prescribed by the rules, signed by each lender before the first advance of any money to or on behalf of the borrower;

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- (b) a copy of a completed report in a form prescribed by the rules, or alternatively a reporting letter which includes responses to all clauses in the form prescribed by the rules, an original of which shall be delivered to each lender forthwith following the first advance of any money to or on behalf of the borrower;
 - (c) a declaration of trust where the mortgage or other charge is held other than in the name of all the lenders, a copy of which shall be delivered to each lender forthwith following the first advance of any money to or on behalf of the borrower;
 - (d) a copy of the registered mortgage or other charge; and
 - (e) any supporting documents supplied by a lender.
- (3) When the member, or any other member of the same firm of members, subsequently,
- (a) makes any change in the priority or rank on title of the lender's or lenders' mortgage or other charge, which results in a reduction in the amount of security available to the lender's or lenders' mortgage or other charge;
 - (b) makes any change to a mortgage or other charge higher in priority than the lender's or lenders' mortgage or other charge, which results in a reduction in the amount of residual security available to the lender's or lenders' mortgage or other charge;
 - (c) substitutes in place of the lender's or lenders' mortgage or other charge another security, or a financial instrument which is an acknowledgement of indebtedness;
 - (d) releases collateral or other security held for the loan; or
 - (e) releases any person liable pursuant to any covenant with respect to any obligation under the loan;

the member shall add to the file required to be maintained by subsection (2) the form required by clause (2)(a), completed anew, and a copy of the form, or the reporting letter, required by clause (2)(b), completed anew.

(4) For the purposes of subsection (3), the completed form required by clause (2)(a) shall be signed by each lender before the change described in clause (3)(a) or clause (3)(b), the substitution described in clause (3)(c), or the release described in clause (3)(d) or clause (3)(e) is made.

(5) An original of the form or reporting letter required by clause (2)(b), when completed anew pursuant to subsection (3), shall be delivered forthwith to each lender.

(6) Clauses (2)(a) and (b) do not apply with respect to a lender if,

- (a) that lender,
 - (i) is a chartered bank, registered trust corporation or insurance corporation, or a subsidiary of any of them, or a loan corporation or pension fund, or any other entity that lends money in the ordinary course of its business,
 - (ii) has entered into an agreement with a borrower for the lending of the money, which agreement is evidenced by a written commitment, signed by the lender, particularizing the terms of the prospective mortgage or other charge, and
 - (iii) has provided to the member, as evidence of the terms of the prospective loan agreement, a copy of the written commitment described in subclause (ii), before the advance of any money to or on behalf of the borrower;
- (b) that lender is lending the money to a borrower who is not at arm's length from the lender;
- (c) that lender is lending the money to a borrower who is an employee,
 - (i) of the lender, or
 - (ii) of a corporate entity related to the lender;
- (d) that lender,
 - (i) has executed Form 1 prepared pursuant to Regulation 798 of the Revised Regulations of Ontario, 1990 made pursuant to the *Mortgage Brokers Act*, and
 - (ii) has instructed the member, in writing, for each loan transaction, to accept the executed Form 1 as evidence of the terms of the prospective loan agreement;
- (e) that lender advances a total amount that is not greater than \$6,000 in respect of the loan transaction; or
- (f) that lender takes a mortgage from a mortgagor as partial consideration on the purchase and sale of property.
- (7) Subsection (3) does not apply with respect to a lender if, with respect to that lender in the original loan transaction, the member was exempt pursuant to clause (6)(a), (6)(b), (6)(c), (6)(e) or (6)(f) from the requirements contained in clauses (2)(a) and (b)."

B.2.1.2. That Convocation request the Attorney General to arrange for a similar amendment to be made to the French text of Regulation 708.

B.2.2. Explanation

B.2.2.1. Section 15.2 of Regulation 708 made under the *Law Society Act* stipulates a member's obligation to complete Forms 4 and 5 when arranging mortgages for clients. At present, the section reads:

15.2 (1) Every member who receives money from a client or other person for investment by way of a loan secured, or to be secured, by a mortgage or other charge on real property, including those to be held in trust either directly or indirectly through a related person or corporation, shall maintain records in addition to the requirements of sections 14 and 15, and as a minimum additional requirement shall maintain a file for each mortgage or other charge which shall include,

- (a) an investment authority in a form prescribed by the rules, signed by each person from whom money has been received for investment before the advance of that money to or on behalf of the borrower;
 - (b) a copy of a report on investment in a form prescribed by the rules, the original of which shall be delivered forthwith to each person for whom money has been invested;
 - (c) a copy of a declaration of trust where the mortgage or other charge is held in the name of a person other than the investor, an original of which shall be delivered forthwith to each person for whom money has been invested; and
 - (d) a copy of the registered mortgage or other charge.
- (2) For the purposes of subsection (1),
- (a) a member shall be deemed to have received money from a client or other person by way of a loan to be secured by a mortgage or other charge on real property where the member directs the client or other person to pay the money to be invested or loaned to an account, other than a trust account in the name of the member; and
 - (b) any change to a mortgage or other charge, any change in the rank on title of the mortgage or other charge, or any exchange or substitution of the mortgage or charge for another security shall be deemed to be a new investment by way of a loan to be secured by a mortgage or other charge.
- (3) Clauses (1)(a) and (b) do not apply if,
- (a) the client or person from whom money is received is a chartered bank, registered trust company or similar financial institution or a subsidiary of any of them; or
 - (b) the client or person from whom money is received is lending the money to a person who is not at arm's length from the lender.

B.2.2.2. On November 26, 1993, Convocation adopted a recommendation from the Lawyers Fund for Client Compensation Committee that section 15.2 of Regulation 708 made under the *Law Society Act* be amended. Included in the Committee's report to Convocation on November 26, 1993 was draft wording for section 15.2. This was referred to the Legislation and Rules Committee for final drafting.

B.2.2.3. At its meeting on May 12, 1994, the Legislation and Rules Committee considered the draft wording. The Committee decided to send the proposed amendments to outside counsel for comment.

B.2.2.4. Mr. Walter Traub was retained to give his opinion. In August 1994, comments on the proposed new section 15.2 of Regulation 708 were received from Mr. Traub. They were passed to the Lawyers Fund for Client Compensation Committee for its consideration.

- B.2.2.5. On October 27, 1994, Convocation adopted a recommendation from the Lawyers Fund for Client Compensation Committee that further amendments (implementing Mr. Traub's comments) be made to section 15.2 of Regulation 708. Included in the Committee's report to Convocation on October 27, 1994 was draft wording for section 15.2. This was referred to the Legislation and Rules Committee for final drafting.

B.3. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 10: NOMINATION PROCEDURES FOR BENCHER ELECTIONS: AMENDMENTS

B.3.1. Recommendation

- B.3.1.1. That clause (d) of subrule 10(2) made under subsection 62(1) of the *Law Society Act* be amended by,

1. after the word "white", deleting the words "passport sized"; and
2. after the word "nominee", deleting the words "printed on glossy paper, or a negative thereof" and adding a comma followed by the words "minimum passport size and maximum 8 inches by 10 inches";

so that clause (d) of subrule 10(2) will read:

"may include a head and shoulders, black and white ~~passport sized~~ photograph of the nominee, ~~printed on glossy paper, or a negative thereof~~ minimum passport size and maximum 8 inches by 10 inches, which may be reproduced in a booklet with biographical information to assist members in voting at the election;"

(New text shaded; deleted text struck through)

- B.3.1.2. That the French Language Services Committee be asked to arrange for a French translation of the amended Rule 10.

B.3.2. Explanation

- B.3.2.1. Subrule 10(2) of the Rules made under subsection 62(1) of the *Law Society Act* prescribes the nomination paper required of candidates for election as benchers. It currently reads, in part:

10. (2) The nomination paper:

* * * *

- (d) may include a head and shoulders, black and white passport sized photograph of the nominee printed on glossy paper, or a negative thereof, which may be reproduced in a booklet with biographical information to assist members in voting at the election;

* * * *

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- B.3.2.2. Clause (d) of subrule 10(2) currently requires a candidate submitting a photograph to submit one printed on glossy paper. Alternatively, the candidate may submit a negative of the photograph. The Director of Communications reports that if negatives are received, the Law Society must incur the cost of printing the negative, since the Society's computer imaging equipment, used in producing the candidate election booklet, can only work with photographs. The Director of Communications has also advised that there is no need to specify that the photograph submitted be printed on glossy paper.

C.
INFORMATION

No items to report.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

M. Cullity
Chair

THE REPORT WAS ADOPTED

OCTOBER DRAFT MINUTES - October 26, 27 and 28, 1994

(see Draft Minutes in Convocation file)

THE DRAFT MINUTES WERE ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, at 3:00 p.m., the following members being present: C. McKinnon (Chair), R. Carter, R. Cass, N. Graham, L. Legge, D. Murphy, M. Weaver.

Also Present: N. Amico, D. Dymont, S. Kerr, M. Pujolas, P. Rogerson and A. Treleaven.

B.
ADMINISTRATION

- B.1. REQUEST FOR RECONSIDERATION OF AUTHORIZATION FOR PARTICIPATION IN PRACTICE REVIEW - SOLICITOR # 229
- B.1.1. This issue was originally considered by the Committee at its September meeting. The member requested an opportunity to make further submissions at the November meeting.
- B.1.2. The solicitor was called to the Bar in 1976 and has accumulated 21 complaints since 1987, and 7 LPIC claims, although no claim has been paid on his behalf. Eight of the complaints have been received in the last two years. The solicitor was authorized to participate in the Practice Review Programme in May, 1994.
- B.1.3. At its September meeting your Committee reviewed the member's submissions and the issues of the complaints and decided that an attendance by the Director of the Professional Standards Department should be suggested to the member in order to investigate whether further participation in the Programme is warranted.
- B.1.4. The member believed consideration at the September meeting would be limited to the issue of complaints received in 1994. His further submissions addressed the complaints received in 1992 and 1993.
- B.1.5. Your Committee has agreed that a further letter should be sent to the solicitor, acknowledging the member's concerns, but once again proposing an attendance by the Director of the Professional Standards Department, in order to investigate further whether participation in the Programme is warranted.
- B.2. FILE CLOSURES - PRACTICE REVIEW PROGRAMME
- B.2.1. Three Practice Review files were closed based on the members' successful completion of the Practice Review Programme. In two instances, the members each had sufficient staff attendances, in addition to a reviewer's initial attendance. The solicitors were amenable to the recommendations made in the course of the Programme and have implemented them. In one instance, the member, a recovering alcoholic, had two staff attendances. The member's practice problems arose prior to his receiving treatment for his disease. The member continues to attend various support groups and has an informal support network among members of the profession. The member's continued participation in the Programme is no longer warranted.
- B.2.2. One Practice Review file was closed based on the fact that the Programme cannot offer any further assistance to the member. The member has been in the Programme since August, 1990. Staff attended on four occasions and a review panel was held. The solicitor implemented many of the recommendations made to him in the course of the Programme, despite which the member continues to receive complaints and claims. The steady flow of complaints and claims appear to result from: 1) too much work; 2) excess delegation to others in the firm, and too little supervision of their work; and 3) practising in too many different areas of law. The solicitor has agreed to restrict his practice and not practise in the particular area of law that accounts for almost half of the complaints and claims received.

C.
INFORMATION

C.1. THE IMPACT OF ADMISSION POLICIES ON THE STANDARDS OF THE PROFESSION

- C.1.1. In 1981, the Special Committee on Numbers of Lawyers was formed, chaired by Roger Yachetti, Q.C. The mandate of the Special Committee was "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 to the public."
- C.1.2. At its meeting October meeting your Committee discussed informally concerns about the quality of service being provided to the public, the impact of current admissions policies, and the implications of the numbers of recently called lawyers participating in the Practice Review Programme.
- C.1.3. At its November meeting your Committee continued its discussion of this issue. Of the 136 members currently authorized for participation, 11 were called to the Bar since (and including) 1989, one of whom was called in 1994 and admitted on condition that he participate in the Programme. The Committee expressed concern that these members were able to accumulate in such a brief span of their career a history with the Law Society that warranted their referral to the Programme. The Committee also noted the numbers of young lawyers who, because of the economy, have no choice but to establish themselves as sole practitioners, without the guidance or assistance of senior lawyers in their practices.
- C.1.4. Statistics from the Practice Advisory Service indicate that, in the past year, 118 student members and members in their first two years of practice have attended the Start-Up Workshop, apparently with the view to establishing their own practices. Law Society membership statistics indicate that, in 1982, there were 15,742 lawyers in the province, 11,174 of whom were in private practice; in 1994, by comparison, there are 26,351 members, 16,534 of whom are in private practice.
- C.1.5. Some members expressed the view that there are too many lawyers in Ontario. The Committee discussed the perception that law schools may not be teaching enough substantive law to enable the Bar Admission Course to admit, as practitioners, only those with the requisite knowledge and ability that will ensure that the competence and quality of service demanded by the public and the profession is achieved.
- C.1.6. Challenge examinations constitute a subject which the Committee viewed as being within its mandate for discussion. Accordingly, and following lengthy discussion, the Committee concluded that there is sufficient anecdotal evidence to establish that the educational experience of students entering the Bar Admission Course appears sufficiently uneven to suggest the wisdom of establishing challenge examinations for law school graduates seeking admission to the Bar Admission Course.

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C.1.7. Your Committee shall be undertaking further research to determine whether the number of lawyers called within the last ten years is occasioning an inordinately high number of complaints and/or Errors and Omissions claims. This research will be conducted in co-operation with the Legal Education Committee and staff at LPIC. The Committee will report further once the research has been collected and analyzed.

C.2. PRACTICE REVIEW PROGRAMME - FILE CLOSURE

C.2.1. The solicitor was authorized for participation in the Programme in October, 1992. On October 16, 1994 the solicitor died. The file has therefore been closed.

C.3. PRACTICE ADVISORY SERVICE - STATUS REPORT

C.3.1. There were 618 calls received by the service during September. This represents a decrease since last September when 629 calls were received by the service. 240 calls were from sole practitioners, 263 were from other members and 115 were from non-lawyers. Of the 419 lawyers who telephoned, 43% were called in the nineties, and 16% were called before 1975. 7 members attended personally at the service for assistance.

C.3.2. The majority of the calls dealt with in September related to the transfer of files between solicitors, the G.S.T, and the Rules of Conduct in general and conflicts, advertising and confidentiality in particular.

C.4. PROFESSIONAL STANDARDS - DEPARTMENTAL REPORT

C.4.1. Effective October 31, 1994, Areather Nicholas has joined the Professional Standards Department on a permanent basis, as a full time secretary to the Director. We are pleased to welcome Ms. Nicholas to the Department.

C.4.2. In October, six lawyers were authorized to participate in the Programme. Five files were closed, four based on the members' successful completion of the Programme. A review panel was held in October, where 4 lawyers met with Benchers, Marie Moliner and Donald Lamont, Q.C. to benefit from their experience in and perspective on the practice of law.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

C. McKinnon
Chair

THE REPORT WAS ADOPTED

25th November, 1994

SPECIALIST CERTIFICATION BOARD

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIALIST CERTIFICATION BOARD begs leave to report:

Your Board met on Thursday, the 10th of November, 1994 at nine-thirty in the morning, the following members being present: R. Manes (Vice-Chair), J. Callwood, A. Cooper, C.D. McKinnon, M.L. Pilkington and G.P. Sadvari. C. Giffin, of the Law Society, was also present.

Since the last report, Specialty Committees have met as follows:

The Criminal Law Specialty Committee met (conference call) on Friday, the 28th of October, 1994 at one o'clock in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 8th of November, 1994 at eight-thirty in the morning.

A.

POLICY

A.1. DUAL SPECIALTY CERTIFICATION

A.1.1. Your Board drafted and approved the following wording for inclusion in Standards for Certification to clarify the requirements for certification in a second Specialty area:

- 3.ii.(b) For those lawyers seeking certification in a second Specialty area who fall slightly below the 50% averaging requirement, the principle of "substantial involvement" will be applied. Substantial involvement may be measured by several standards such as the extent of legal work within the area of Specialty, the number or type of matters handled within a certain period of time, teaching the law of a Specialty field, or demonstrable skills in the second Specialty area, including evidence that the first Specialty area enhances skills in the second Specialty area.

A.2. APPLICATIONS FOR CERTIFICATION -- COMPLAINTS RECORD

A.2.1. Your Board approved the following policy when an applicant for Certification shows a pattern of complaints as well as having "Open" complaints in their internal member record, yet is not considered a candidate for the Practice Review Programme:

The application will be placed on hold until the open complaints are resolved and closed. The Specialist Certification Administrator will communicate with the Complaints Department for further information on these open complaints.

25th November, 1994

B.
ADMINISTRATION

No items.

C.
INFORMATION

C.1. CERTIFICATION OF SPECIALISTS

C.1.1. Your Board is pleased to report the certification of the following lawyers as Criminal Law Specialists:

John R. Collins (of Toronto)

C.2. RECERTIFICATION OF SPECIALISTS

C.2.1. Your Board is pleased to report the recertification for an additional five years of the following lawyers as Civil Litigation Specialists:

Joyce Harris (of Toronto)
Frank J.C. Newbould (of Toronto)

C.2.2. Your Board is pleased to report the recertification for an additional five years of the following lawyer as a Criminal Law Specialist:

William M. Trudell (of Toronto)

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

R. Yachetti
Chair

THE REPORT WAS ADOPTED

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of November 10, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994 at 9:30 a.m., the following members being present: P. Peters (Chair), N. Graham, M. Hickey and S. Lerner. Staff in attendance was: A. John (Secretary).

25th November, 1994

B.
ADMINISTRATION

1. SECTION 50 PROSECUTIONS

Your Committee provided a Report to Convocation in September 1994 which contained a lengthy memorandum on s. 50 prosecutions by the Law Society of Upper Canada. The following two Recommendations were contained in the memorandum:

1. That the Law Society continue to maintain the current level of s. 50 prosecutions until June 1995, after which prosecutions by the Law Society will cease.
2. That the Law Society invite the Attorney General of Ontario to consider legislation which establishes the training, licensing and regulation of paralegals. In particular, the Law Society should:
 - a) Implement Convocation's Recommendation to establish a tri-partite committee.
 - b) Establish an information sharing network among the Law Society, the courts and various government agencies [e.g., Ontario Court (General Division), Ontario Court (Provincial Division), the Ministry of the Attorney General, the Department of Employment and Immigration, the local provincial and federal Police Forces] to notify interested parties of all complaints against paralegals in the province.

A full debate of this issue is scheduled for the meeting of Convocation on January 27, 1995.

ALL OF WHICH is respectfully submitted

DATED the 25th day of November, 1994

P. Peters
Chair

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

A list of prosecutions.

(page 2)

THE REPORT WAS ADOPTED

CALL TO THE BAR

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

Patrick Herman Clement	35th Bar Admission Course
Evelina Ho	35th Bar Admission Course
Sharon Brenda Small	35th Bar Admission Course
Bih Ru Tan	35th Bar Admission Course
Fulvio Daniele Fracassi	Special, Transfer, Quebec
Sonia Jaqueline Struthers	Special, Transfer, Quebec
Lawrence David Wilde	Special, Transfer, Alberta
Gabrielle Helene Marie St.-Hilaire	Professor, Faculty of Law, University of Ottawa
Jinyan Li	Professor, Faculty of Law, University of Western Ontario

AGENDA - Reports or Specific Items Requiring Convocation's Consideration and Approval

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of November 10, 1994

Mr. Bastedo presented Item A.-1. re: Proposed Amendments to Rule 33 for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994 at 10:30 a.m., the following members being present: T.G. Bastedo (Chair), R.W. Cass, C. Curtis, P.B.C. Pepper and M.P. Weaver. Staff in attendance were D.A. Crosbie, D.E. Crack, D.N. Carey, L. Johnstone and J.G. Irvine.

A.
POLICY

1. PROPOSED AMENDMENTS TO RULE 33

The Committee was asked to consider the following proposal for changes to Rule 33, the essence of the changes being to limit committees' authority to spend monies which have been approved in the budget by establishing a protocol for limiting transfers of funds between budget line items:

"1. Rule 33 is repealed and the following rules substituted therefor:

33(1) Every standing committee of Convocation shall not later than at its February meeting in each year or such other time as Convocation may determine consider and adopt estimates in respect of its operations for the next three ensuing financial years and submit such estimates forthwith thereafter to the Finance and Administration Committee.

(2) The estimates prepared under subrule (1) shall be divided into the following three areas of expenditure:

- a) salaries and benefits;
- b) common expenses; and
- c) unique program expenses,

in such form and containing such detail as may be determined by the Finance and Administration Committee.

- (3) Upon the approval of a budget by Convocation, either as submitted or amended, a standing committee may, subject to these rules and to any other direction of Convocation, make expenditures within such budget without further recourse to Convocation or the Finance and Administration Committee.
- (4) No funds budgeted for one of the three areas of expenditures set out in subrule (2) shall be used for expenditures in another such area of expenditure without the approval of the Finance and Administration Committee.
- (5) Notwithstanding subrule (4), where the amount of funds to be transferred from one area of expenditure set out in subrule (2) to another such area of expenditure will not create an expenditure commitment in any subsequent year,
 - a) and does not exceed \$25,000, the funds may be so transferred and used with the approval in writing of the Chair of the Finance and Administration Committee, or
 - b) does not exceed \$10,000, the funds may be so transferred and used with the approval in writing of the Under Treasurer.
- (6) Funds allocated to specific line items within an area of expenditure set out in subrule (2) may be transferred from one line item to another with the approval in writing of the Under Treasurer, provided however that where such transfer will increase the expenditure commitment in any subsequent financial year the approval in writing of the Chair of the Finance and Administration must be obtained.
- (7) Where the funds budgeted for a unique program are more than is required for the unique program, not more than \$5,000 of such surplus funds may be transferred to and used for another unique program where the expenditures on the other unique program are discretionary without the approval in writing of the Chair of the Finance and Administration Committee.
- (8) Any transfer of funds approved by the Chair of the Finance and Administration Committee under subrules (5), (6) or (7) or by the Under Treasurer under subrule (5b) shall be reported to the Finance and Administration Committee.
- (9) Any transfer of funds within the budget of a standing committee not provided for in subrules (5), (6) or (7) requires the approval of Convocation."

Approved

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director of Finance presented a highlights memorandum for the General Fund and the Lawyers Fund for Client Compensation for the three months ended September 30, 1994. (pgs 7 - 10)

Approved

2. REPORT OF SUBCOMMITTEES

(a) *Administration Subcommittee - Unbudgeted Expenditure For E & O Program*

An expenditure of \$23,000 for upgrades in telephone equipment required to meet the needs of LPIC and the E&O program is recommended. A memorandum from the Under Treasurer was before the meeting. (pg 11)

The Committee was asked to approve this expenditure.

Approved

(b) *Report of the Priorities and Planning Subcommittee - Budget Planning For 1995/96 Financial Year*

i) *Discussion of Procedures*

In essence, the budget process will be as in prior years in that any committees which seek increases in budgets, wish to initiate new programs, or hire new staff will meet with the Priorities and Planning Subcommittee for discussion. The Priorities and Planning Subcommittee will make recommendations with Convocation being the final arbiter.

The budget timetable is as follows:

October 1994	Subcommittee to meet with senior management
November 1994	Report to Finance and Administration Committee as to guideline for fee for 1995/96
December 1994	Budget package to all departments and committee heads (includes request for three year plan).
Jan. - Feb. 1995	Each committee to discuss their estimates
Feb. 1995	(after meeting day) All committees submit their preliminary drafts to Finance department.
Late February	Finance department to prepare preliminary consolidated budget based on submissions as soon after February 1995 meeting day as possible (Subcommittee to meet to discuss)
March 1995	Queries/Interviews with committees where needed
April 1995	Final Budget
April Convocation	Setting of Fee (If an extension is needed the fee may be set at May Convocation)

Sample forms and budget guidelines were before the subcommittee and it was agreed that this documentation would be sent to each program area in December as per the above timetable and that 1995/96 estimates would be discussed in committee in January and February in order that a preliminary budget be prepared and discussed by the Priorities and Planning Subcommittee in late February or early March.

(ii) *Establishing Target Fee*

Concern was expressed that two factors would influence the setting of the fee for next year:

- ① That there may be no growth or even a drop in the number of fee paying members as a result of the levy being recommended by the Insurance Task force.
- ② That there will continue to be increased demand in programs such as Discipline, Professional Standards and for upgrading the Society's computer systems.

Therefore it was recommended that the fee be kept at the 1994/95 level ie. \$1,132.

Approved

(c) *Report of the Facilities Subcommittee*

The report of the Facilities Subcommittee was received and is to be dealt with at the January meeting.

3. DEFERRAL OR WAIVER OF ERRORS AND OMISSIONS INSURANCE LEVY

The following recommendation was made in the Insurance Task Force report on page 83, paragraph 264:

"The Task Force and Insurance Committee accept that the Society should, as a matter of policy, defer, subsidize or even on occasion waive the cost of insurance, including tail premiums for some members or former members in appropriate circumstances such as unemployment, sickness and maternity or paternity leave, to list but a few examples. But the cost of this generosity should be borne by all members of the Society, not just those who pay the E & O levy. Consequently, the Task Force and Insurance Committee recommend that the funding of deferrals, waivers or subsidies of the insurance levy or any surcharge in appropriate circumstances be dealt with by the Finance Committee after establishing appropriate guidelines. But these costs should be a general Society cost and not be a cost charged to the E & O program."

The Committee was asked to consider this recommendation.

The recommendation of the Insurance Task Force was approved in principle and Mary Weaver was asked to work with staff to draft guidelines for implementation.

4. APPOINTMENT OF THE AUDITOR FOR THE FINANCIAL YEAR 1994/95

Pursuant to subrule 34(5) and Rule 6 of the Rules made under subsection 62(1) of the Law Society Act, the Committee is asked to recommend to Convocation the appointment of an accounting firm as the Society's public accountant to examine and certify the accounts and transactions of the Society.

Tom Bastedo, acting as Chair of the subcommittee, requested Ronald Cass, Susan Elliott, Neil Finkelstein, Marie Moliner, Ross Murray, Barry Pepper, Jim Wardlaw and Mary Weaver to serve on the Audit Subcommittee which will report to November Convocation directly.

5. SUSPENSION OF MEMBERS - LATE FILING FEE

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

In all cases all or part of the late filing fee has been outstanding for four months or more.

The Committee was asked to recommend that the rights and privileges of these members be suspended on November 25, 1994 if the late filing fee remains unpaid on that date.

Approved

Note: Item deleted

6. SUSPENSION OF MEMBERS - ERRORS AND OMISSIONS INSURANCE LEVY

There are members who have neither paid the Errors and Omissions Insurance levy nor filed a claim for exemption for the period July 1 to December 31, 1994. Two notices have been sent.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on November 25, 1994 effective December 1, 1994 if the members have not complied with the requirements of the Errors and Omissions Insurance Plan on that date.

Approved

Note: Motion, see page 71

7. SUSPENSION OF MEMBERS WHO HAD BEEN GRANTED A DEFERRAL

There are members who have not paid Annual Fees for which they had been granted a deferral until December 1, 1994.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on November 25, 1994 effective December 1, 1994 if the fees remain unpaid on that date.

Note: Motion, see page 72

8. SUSPENSION OF MEMBERS - N.S.F. CHEQUE

There are members who paid their Annual Fees with cheques which were subsequently dishonoured by the bank.

The Committee is asked to recommend that the rights and privileges of these members be suspended by Convocation on November 25, 1994 effective December 1, 1994 if the fees remain unpaid on that date.

Approved

Note: Motion, see page 72

C.
INFORMATION

1. LEGAL MEETINGS AND ENTERTAINMENT

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

25th November, 1994

November 4, 1994

Phi Delta Dinner
Convocation Hall

November 17, 1994

Legal Aid Dinner
Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994.

T. Bastedo
Chair

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

- Item B.-1. - Memorandum to the Chair and Members of the Finance and Administration Committee from Mr. David Crack dated November 8, 1994 re: Financial Highlights for September 1994.
(pages 7 - 10)
- Item B.-2. - Memorandum to Mr. Abe Feinstein from Mr. Donald A. Crosbie dated November 8, 1994 re: Unbudgeted Expenditure for E & O Program.
(page 11)

It was moved by Mr. Bastedo, seconded by Ms. Weaver that Item A.-1. be adopted.

Carried

Mr. Bastedo presented Item B.-5., 6., 7. and 8 re: Suspensions for Convocation's approval.

Item B.-5. was deleted.

It was moved by Mr. Bastedo, seconded by Ms. Weaver that Item B.-6., 7. and 8 be adopted.

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

MOTION TO SUSPEND - FAILURE TO PAY ERRORS AND OMISSIONS INSURANCE LEVY

It was moved by Mr. Bastedo, seconded by Ms. Weaver THAT the rights and privileges of each member who has neither paid the Errors and Omissions Insurance levy which was due on July 1, 1994 nor filed an approved application for exemption from coverage and whose name appears on the attached list, be suspended from December 1, 1994 and until an application for exemption has been approved or the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

MOTION TO SUSPEND - N.S.F. CHEQUES

It was moved by Mr. Bastedo, seconded by Ms. Weaver THAT the rights and privileges of each member who paid the Annual Fees or the Errors and Omissions Insurance Levy with cheques which were subsequently dishonoured by the bank and whose name appears on the attached list be suspended from December 1, 1994 and until the necessary fee or levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

MOTION TO SUSPEND - MEMBERS WHO HAD BEEN GRANTED A DEFERRAL

It was moved by Mr. Bastedo, seconded by Ms. Weaver THAT the rights and privileges of each member who has not paid all of their annual fees suspended from December 1, 1994 and until their fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

LEGAL EDUCATION COMMITTEE

Meeting of November 17, 1994 (Supplementary Report)

Mr. Epstein presented Item A.-A.4 re: Unremunerated Articling Positions for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE LEGAL EDUCATION COMMITTEE seeks leave to report:

The Committee met again on Thursday, the 17th of November, 1994, at 5:30 p.m.

The following members were in attendance: Philip Epstein (Chair), Lloyd Brennan (by telephone), Maurice Cullity, Laura Legge, Mohan Prabhu (non-Bencher member) and Marc Rosenberg (non-Bencher member). Alan Treleaven also attended.

A.
POLICY

A.4 UNREMUNERATED ARTICLING POSITIONS

A.4.1 The Legal Education Committee considered whether the Law Society should initiate further immediate efforts to locate unplaced students in unremunerated and nominally remunerated articling positions with designated non profit organizations.

A.4.2 This matter was considered on an urgent basis, because it is unlikely that the numbers of unplaced students can otherwise be reduced meaningfully. This proposed initiative takes place against the background of the following motion having been passed at the

Annual General Meeting of the Law Society on November 9, 1994:

NOTICE OF MOTION #3

BE IT RESOLVED THAT as an expression of its commitment to discourage the practice of employing students-at-law without remuneration, that the Society cease to advertise on behalf of prospective articling principals offering work without pay.

- A.4.3 The Legal Education Committee and Convocation will be considering Motion #3 and other articling related Motions #1 and #4 in depth in early 1995. Although existing Law Society policy permits the Law Society to continue finding and advertising articling positions that offer nominal or no remuneration, the Committee wishes to obtain the approval of Convocation before taking new short term initiatives, initiatives limited to the current articling year. New articling positions developed pursuant to such initiatives would be approved only on the basis that the student is entitled to switch articles immediately if the student finds a remunerated position.
- A.4.4 In considering these matters, reference was made to a document entitled "Policy Statement on Unpaid Articling Positions", which was approved by Convocation on April 22, 1994. (page 1) The Policy was adopted in recognition that articling students should be compensated fairly for their work, but without excluding the possibility of exceptional cases in which there would be no remuneration or only remuneration at a nominal level.
- A.4.5 Advantages of these initiatives include the following:
1. Students would be allowed to begin articles while they search for a paid position, and thus hopefully would be called to the bar with minimal delay.
 2. Organizations that would offer a high-quality experience but have few financial resources could participate in the articling programme. They might find that the work performed by students is of such value that they would adjust their budgets to pay something to the student or create a remunerated position in the future.

3. Students who are interested in non-traditional legal work (such as advocacy on behalf of the poor, the environment, the disabled etc.) would be able to gain valuable experience that might otherwise not be available in a traditional articling programme.
4. While many unplaced students have strong grades and experience, they may not be presenting well in articling interviews. Enrolment in these high quality unpaid positions would give them valuable articling experience. It would provide an opportunity for students to prove themselves and perhaps gain a favourable reference from their articling principals to use in applying for a paid position.

A.4.6 Disadvantages include the following:

1. Employers with few financial resources might create fewer paid positions in future years, counting on being able to fill their articling needs through unpaid positions.
2. There might be adverse publicity due to an unfortunate perception that employers appear to be exploiting the students.

A.4.7 Recommendation: It is recommended that the Law Society continue to develop articling positions in designated non profit organizations, although the positions may be unremunerated or nominally remunerated, on the following basis:

1. That approval of this initiative be for the current articling year only,
2. That students who article for no or nominal remuneration continue to be entitled to transfer articles immediately on procuring a remunerated position,
3. That these positions may be advertised, and
4. That the Legal Education Committee and Convocation consider the entire matter of unremunerated articling positions in depth early in 1995.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

P. Epstein
Chair

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

Item A.-A.4.4 - Copy of the Policy Statement on Unpaid Articling Positions approved by Convocation on April 22, 1994.

(page 1)

Copy of Articling Student Placement 1994-1995 Articling Term as at November 22, 1994.

(distributed at Convocation)

It was moved by Mr. Epstein, seconded by Mr. Brennan that Item A.-A.4 be adopted.

Carried

THE REPORT WAS ADOPTED

Meeting of November 10, 1994

Mr. Bastedo presented Item A.-A.1 re: Articled Students' Right to Appear before Courts and Tribunals for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

REPORT TO CONVOCATION

THE LEGAL EDUCATION COMMITTEE seeks leave to report:

The Committee met on Thursday, the 10th of November, 1994, at 10:30 a.m.

The following members were in attendance: Philip Epstein (Chair), Susan Elliott (Vice-chair), Donald Lamont (Vice-chair), Colin McKinnon (Vice-chair), Ian Blue, Lloyd Brennan, Dean Donald Carter (Queen's University), Allan Lawrence, Joan Lax, Laura Legge, Dean Marilyn Pilkington (Osgoode Hall Law School), Mohan Prabhu (non-Bencher member), Marc Rosenberg (non-Bencher member) and Stuart Thom. The following staff were in attendance: Marilyn Bode, Brenda Duncan, Alexandra Rookes and Alan Treleaven.

A.
POLICY

A.1 ARTICLED STUDENTS' RIGHT TO APPEAR BEFORE COURTS AND TRIBUNALS

A.1.1 The Articling Subcommittee and the Legal Education Committee have considered the existing rights of appearance of articled students before courts and tribunals. The Articling Subcommittee sought and received the input of the Bar Admission Course Heads of Section for Family Law, Civil Litigation, Criminal Procedure, Estate Planning and Administration, and Public Law. Suggested changes have been included in the revised Articled Students' Right to Appear Before Courts and Tribunals (pages 1-2). Changes have been noted by bolding and underlining. Generally speaking, the rights of appearance have been modestly expanded.

A.1.2 Prior to approval by the Legal Education Committee, there was considerable discussion of B (viii). The Legal Education Committee settled on the following wording for B (viii): "Applications in the Ontario Court (Provincial Division). Students may appear on contested Crown Wardship Applications in exceptional cases only. Exceptional cases are limited to hard to serve areas of the province where no other representation is available."

A.1.3 Recommendation: The Legal Education Committee recommends approval of the document entitled "Articled Students' Right to Appear Before Courts and Tribunals" for referral to the Legislation and Rules Committee.

Note: Motion, see page 83

A.2 PROCEDURES GOVERNING THE RECRUITMENT OF ARTICLING STUDENTS FOR THE 1996-97 ARTICLING TERM

A.2.1 A draft document entitled "The Law Society of Upper Canada Procedures Governing the Recruitment of Articling Students for the 1996-97 Articling Term" is attached (pages 3-9). The draft document prescribes procedures identical to those that applied to the most recent articling recruitment process, and governs all students and members involved in the articling recruitment process for Ontario articling positions. The Procedures that were approved by the Legal Education Committee and Convocation for the most recent recruitment of articling students appeared to operate well, and the Director of Financial Aid and Placement, Mimi Hart, who administers the process, recommends adoption of the same procedures for the upcoming round of articling recruitment.

A.2.2 Recommendation: It is recommended that the document entitled "The Law Society of Upper Canada Procedures Governing the Recruitment of Articling Students for the 1996-97 Articling Term" be approved.

A.3 PROCEDURES GOVERNING RECRUITMENT OF SUMMER STUDENTS FOR THE SUMMER OF 1995

A.3.1 A draft document entitled "Procedures Governing the Recruitment of Summer Students for the Summer of 1995" is attached (page 10). Donald Lamont and Bar Admission Course staff have surveyed a number of summer students and firms, and a survey report is attached (pages 11-12).

A.3.2 Based on general satisfaction by firms and students with the summer student recruitment process that was in place for the summer of 1994, adoption of the same procedures for the summer of 1995 is recommended, subject to changes that have been made to the applicable dates. Note that the procedures are intended only to govern the recruitment of summer students for positions in Metropolitan Toronto.

A.3.3 Recommendation: It is recommended that the document entitled "Procedures Governing the Recruitment of Summer Students for the Summer of 1995" be approved.

B.
ADMINISTRATION

There is no regular business and administration to report this month.

C.
INFORMATION

C.1 ANNUAL GENERAL MEETING

C.1.1 The Annual General Meeting of the Law Society took place on Wednesday, November 8. Four articling related motions were presented at the meeting. A copy of the motions is attached (pages 13-14). Motions 1,3 and 4 were approved by the Annual General Meeting. Motion 2 was defeated. The Legal Education Committee will now consider these matters and make recommendations to Convocation.

C.2 MANDATORY CONTINUING LEGAL EDUCATION REPORT

C.2.1 The M.C.L.E. Subcommittee had its first meeting on October 27 at 8:00 a.m. Susan Elliott (Chair), Ian Blue, Lloyd Brennan, Colin Campbell, Netty Graham, Mohan Prahbu and Stuart Thom attended. The staff members who attended were Sophia Sperdakos and Alan Treleaven.

C.2.2 The Subcommittee's objectives are:

- a) To determine whether there is a cost-effective and timely method of delivering mandatory continuing legal education province-wide.
- b) Subject to (a), to recommend whether the Law Society of Upper Canada should introduce an M.C.L.E. requirement.
- c) If it is determined that M.C.L.E. should be recommended, then to recommend how and when it should be implemented.

C.2.3 The Subcommittee confirmed that it would divide into 4 working groups, each chaired by a member of the Subcommittee. The four working groups are divided as follows:

- a) Empirical Evidence/Competency Research (Thomas Bastedo - Chair)

This group will consider the rationale for introducing M.C.L.E., with particular emphasis on competency and loss prevention issues. In particular the group will study statistical information and other evidence relating to loss prevention.

- b) Content Requirement (Ian Blue - Chair)

Based on information related to competency and loss prevention this group will consider the appropriate content requirement for an Ontario M.C.L.E. program and whether there would be different requirements for different groups of lawyers, such as newly called members and those seeking certification.

- c) Providers/Accreditation/Administrative Model (Philip Epstein - Chair)

This group will consider the design of a cost efficient and administratively simple M.C.L.E. model. This inquiry will include examining the administrative structure of a reporting system, the way in which course providers would be approved, and the means by which course quality would be monitored.

- d) Delivery Systems/Technology (Susan Elliott - Chair)

This group will study efficient delivery of M.C.L.E. to all regions of Ontario, with emphasis on available and cost efficient technology for distance learning.

- C.2.4 The Subcommittee is currently completing the process of recruiting additional members to sit on the main Subcommittee and the working groups. To date the Subcommittee has invited participation from the Canadian Bar Association - Ontario, the County and Districts Law Presidents' Association, the County of York Law Association, and the Criminal Lawyers' Association, and will consult with a variety of practitioners, educators and continuing legal education experts on specific topics of relevance to the Subcommittee's mandate.
- C.2.5 The Subcommittee intends to produce a detailed report to Convocation in April of 1995.
- C.2.6 The Chairs of the working groups met on November 3, 1994 at 8:30 a.m. The full Subcommittee's next meeting is November 24, 1994 at 8:00 a.m.
- C.3 CONTINUING LEGAL EDUCATION REPORT
- C.3.1 The Report, prepared by the Director of Continuing Legal Education, Brenda Duncan, is attached (pages 15-18).
- C.4 ARTICLING SUBCOMMITTEE
- C.4.1 The Subcommittee met at 8:00 a.m. on October 28. In attendance were Marc Rosenberg (Chair), Ian Blue, Janne Burton, Susan So and Kathy Nedelkopoulous. Staff members attending were Marilyn Bode, Lynn Silkauskas and Alan Treleaven.
- C.4.2 The Subcommittee gave conditional approval to a further application from a member to serve as an articling principal for the 1993-94 articling year. To October, approximately 1377 members have applied to serve as principals for the 1993-94 articling year. Of those, 1367 applications have been approved. One application was denied as the member was found to be dishonest by a referee of the Lawyers' Fund for Client Compensation. The remaining applications have been deferred as an audit investigation, discipline investigation or Lawyers' Fund For Client Compensation hearing on the member is pending.
- C.4.3 The Subcommittee gave conditional approval to a further 40 applications from prospective articling principals for the 1994-95 articling term. To October, approximately 1499 members have been approved to serve as principals for the 1994-95 articling term.
- C.4.4 The Subcommittee also gave conditional approval to 336 applications from prospective articling principals for the 1995-96 articling term. To October, approximately 356 members have been approved to serve as principals for the 1995-96 articling term.
- C.4.5 The Subcommittee gave special consideration to the applications of six members applying for the 1994-95 articling term. Five of the six applications were approved without condition, and one application was approved on condition that the member file a copy of the firm's policy on the handling of sexual harassment complaints by articling students and other staff. The member had allegedly sexually harassed an articling student in the 1992-93 articling term, although the member and the member's firm flatly denied any improper conduct. The matter was brought to the attention of the Articling Subcommittee and resulted in the establishment of the Joint Subcommittee on the Sexual Harassment of Articling Students. That Subcommittee's report was approved by Convocation in April 1993.

- C.4.6 The Subcommittee also specially considered the application of a member called to the bar in 1994. The member wishes to serve as an articling principal for the month of January 1995 only, in order that a student with one month remaining can complete her articling requirement. The member has relevant work experience, which the Subcommittee considered in making an exception to the usual three year practice requirement for articling principals. The member's application was approved for the one month position only.
- C.4.7 The Subcommittee considered five policy items. The first was a consideration of articling placement issues. The Chair provided an update on the 1994-95 articling placement statistics. The Placement Director is publishing a revised Notice to the Profession reminding members that a number of students are still seeking 1994-95 articles, and that it is not too late for the students to commence articling. A report on the updated placement statistics will be distributed to Convocation.
- C.4.8 Another placement issue the Subcommittee considered was a proposal for the establishment of a support network for unplaced articling students. The proposal was advanced by one of the current unplaced Bar Admission Course students. If approved, the proposal would be implemented for any students seeking employment in the fall of 1995. Although the details of how the support network would be structured have yet to be developed, it is anticipated that it would be run by students who were unplaced for the 1994-95 articling term, to the extent that they are willing to volunteer. The proposal is intended to supplement, rather than replace, existing Law Society programs, such as the mentor program. There was much discussion surrounding the proposal. The Articling Director will bring the matter back before the Subcommittee for further consideration in November. Any impact of the proposal on Law Society resources will also be considered.
- C.4.9 The second policy item was a research script for an articling videotape. The Subcommittee discussed the matter briefly and deferred a fuller discussion of this item to a subsequent meeting.
- C.4.10 The third policy item was the possibility of students articling in Hull, Quebec in completion of their 52-week Ontario articling requirement. The Articling Director received a letter from a member of the Quebec and Ontario bars who heads the legal department of a large corporation in Quebec. The member asked the Articling Subcommittee to consider permitting Ontario students to article with the member's office in full satisfaction of the Ontario articling requirement. The Articling Subcommittee directed the Articling Director to respond to the member advising that the Subcommittee believes that articling is territorial; however, it may consider the matter further in the future.
- C.4.11 The fourth policy item was articulated students' rights of appearance. This matter was considered and approved by the Articling Subcommittee. The Subcommittee recommended its approval to the Legal Education Committee (see Policy Item A.1).

- C.4.12 The fifth policy item was the policy on articulated students' outside employment. A student, with the concurrence of his articling principal, undertook a modest amount of paralegal work during his articling term, which was unsupervised by the principal or another lawyer. He collected a fee for the services rendered. The Articling Subcommittee instructed the Articling Director to write to the student reminding him that paralegal activities must be suspended while he is a student member of the Law Society. The Subcommittee will consider the current policy on outside employment during Phase Three at its November meeting.
- C.4.13 The first information item was the Notices of Motion received by the Secretary's Office of the Law Society for the Law Society's Annual Meeting on November 9, 1994.
- C.4.14 The second information item was a response from a member to the Notice to the Profession regarding Joint Committee on Accreditation ("J.C.A.") students and articling. The member is a former J.C.A. student. The Notice had been provided by way of information in the agenda materials for the September Legal Education Committee meeting. The member has offered to assist the Subcommittee in reviewing the employment prospects of J.C.A. students. The member will be invited to attend the November meeting of the Subcommittee.
- C.4.15 The third information item related to corporations employing articling students. The Articling Director has had discussions with Dorothy Quann, Senior Corporate Counsel with Xerox Corporation, regarding creating additional articling positions within corporations. Ms. Quann believes there is a market for positions with corporations and wishes to explore the possibility with the Law Society and members of the Corporate Counsel Association, of which she is a member. Ms. Quann was one of the mentors for the current unplaced students. Ms. Quann declined to consider the request of the Articling Director to create additional positions for the students still seeking 1994-95 articling positions. She wishes to take a long term planning approach. The Chair of the Articling Subcommittee and the Articling Director are meeting in November with Ms. Quann and other members of the Corporate Counsel Association to discuss the matter.
- C.4.16 The fourth information item was Education Agreements and Education Plans. The Articling Director advised the Subcommittee that staff were hearing from some students who had not discussed or reviewed their Education Plans with their principals. This was surprising news as in every case the students have filed an Education Agreement with the Law Society that includes a certification by the principal and student that they have discussed the Education Plan approved by the Law Society and agree it will form the basis of their educational experience. Although the Articling Director believes the incidents are few, the situation will be monitored over the next year.
- C.4.17 The next meeting of the Subcommittee is at 8:00 a.m. on Thursday, November 24, 1994.
- C.5 JOINT COMMITTEE ON ACCREDITATION
- C.5.1 The role and process of the Joint Committee on Accreditation ("J.C.A.") are being studied by the Legal Education Committee. The discussion began at the October 13, 1994 meeting of the Legal Education Committee. Vern Krishna, the Executive Director of the J.C.A., is co-ordinating the discussion.

C.5.2 Persons wishing to be admitted to the practice of law in Ontario must do so by one of the following means:

- a) Obtain a Certificate of Qualification from the J.C.A. and then complete the Bar Admission Course successfully,
- b) Obtain a Canadian LL.B. degree and complete the Bar Admission Course successfully,
- c) After having practised law for the required period of time in another Canadian jurisdiction, successfully write the Ontario transfer examinations (with some special restrictive provisions relating to some Alberta and Quebec lawyers), or
- d) As an Ontario law school Dean or full-time member of faculty, meet the academic call requirements.

C.5.3 Persons who proceed by the Certificate of Qualification route must apply to the J.C.A., which evaluates the legal training and professional experience of persons with foreign or Quebec non-common law legal credentials. The J.C.A., after evaluating the legal training and professional experience, requires persons either to attend at a Canadian common law faculty to complete a specified number of courses or to write specified J.C.A. administered challenge examinations.

C.5.4 The Committee is continuing discussion of J.C.A. related issues at its January meeting.

C.6 STUDENT REQUEST FOR EXCEPTION TO ATTENDANCE REQUIREMENT

C.6.1 A Bar Admission Course student is currently articling, and is scheduled to begin Phase Three in September of 1995. The student asks for an exception to the mandatory attendance requirement, based on personal circumstances that make it onerous to meet the mandatory attendance requirement.

C.6.2 The current attendance requirements are prescribed in sections 5, 7 and 17 of the Requirements for Standing, approved by Convocation on May 27, 1994.

C.6.3 Students who have in the past been permitted to be absent for the maximum time (up to three full courses) under section 5(3) are typically those required to be absent for pregnancy leave. (Another student, due to severe physical disability, is being permitted to extend Phase Three over more than one year.)

- C.6.4 The Director of Education recommended against granting an exception to the mandatory attendance policy in this case, as there are many other students who have similar concerns. It would be difficult to continue the mandatory attendance policy if significant numbers of students become eligible for a substantial exemption. The rationale for the Bar Admission Course, including the mandatory attendance policy, is to prepare students to provide effective client service, a rationale that ought to receive a high priority when considering personal student circumstances. The hands-on skills oriented approach in the Bar Admission Course does not lend itself to substitution by private study.
- C.6.5 The Legal Education Committee decided not to grant the student's request for an exception to the Requirements for Standing, based on the public interest in ensuring that lawyers are effectively trained to provide client service through the Bar Admission Course, and based on a commitment by the Director of Education to work with the Bar Admission Course staff to facilitate as much as reasonably possible the student's participation in Phase Three.
- C.6.6 The broader issues and policies related to mandatory attendance in the Bar Admission Course are being considered by the Bar Admission Course Subcommittee in its review of the current program, and in that process the Subcommittee is sensitive to the goals that underlie Professional Conduct Handbook Rule 28, including facilitating access to the profession.
- C.7 BEQUEST OF THE HONOURABLE WILLIAM HOWLAND ESTATE
- C.7.1 The Law Society Foundation is named as a beneficiary in the Will of the late Honourable William Howland. (Note: The Law Society Foundation is not the "Law Foundation".) The Foundation is to receive a bequest described in the Will as follows: "...to be used for the purposes of furthering legal education".
- C.7.2 The Trustees of the Law Society Foundation are asking for a recommendation as to the appropriate disposition of the bequest by the Law Society Foundation.
- C.7.3 The Legal Education Committee has struck a special subcommittee to consider the issues and report back to the Committee. The members of the subcommittee are Joan Lax (Chair), Ian Blue, Lloyd Brennan and Susan Elliott. The special subcommittee and Alan Treleaven met on October 28.
- C.7.4 The special subcommittee prefers to have the Foundation invest the capital and make use of interest earned on the investment for the purposes of furthering legal education.
- C.7.5 The special subcommittee decided for the moment to leave open the possibility of a bursary fund to assist needy Bar Admission Course students or needy lawyers wishing to attend Law Society continuing legal education programs.

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- C.7.6 The special subcommittee would like to explore the potential for development of special educational programs or projects at the continuing legal education and bar admission levels. In the area of continuing legal education, the special subcommittee continues to consider a number of possibilities, including an advocacy education initiative, videos and other technology based education. In developing any special legal education programs or projects, essential features would include ready access at a reasonable cost throughout the province. The special subcommittee members are of the view that implementation of a mandatory continuing legal education scheme by Convocation could give rise to the need for educational initiatives that could be met through a legal education research and development project.
- C.7.7 The special subcommittee plans to continue its deliberations, after receiving direction from the Legal Education Committee. The Legal Education Committee will first review the objects and charter of the Law Society Foundation.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

P. Epstein
Chair

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

- Item A.-A.1.1 - Revised Articled Students' Right to Appear Before Courts and Tribunals. (pages 1 - 2)
- Item A.-A.2.1 - Draft copy of the Law Society's Procedures Governing the Recruitment of Articling Students for the 1996-97 Articling Term. (pages 3 - 9)
- Item A.-A.3.1 - Draft copy of the Procedures Governing the Recruitment of Summer Students for the Summer of 1995. (page 10)
- Item A.-A.3.1 - Memorandum from Mr. Donald H. L. Lamont, Q.C. to Mr. Philip M. Epstein, Q.C. and Legal Education Committee dated November 2, 1994 re: Summer Student Employment 1994. (pages 11 - 12)
- Item C.-C.1.1 - Copy of Motions before Annual General Meeting on November 8, 1994. (pages 13 - 14)
- Item C.-C.3.1 - Continuing Legal Education Report prepared by Brenda Duncan. (pages 15 - 18)

It was moved by Ms. Curtis, seconded by Ms. Elliott that B.(viii) under the revised Articled Students' Rights to Appear Before Courts and Tribunals, be amended to read:

(Applications in the Ontario Court (Provincial Division). Students may not appear on contested Crown Wardship Applications.

Carried

25th November, 1994

It was moved by Mr. Epstein, seconded by Mr. Brennan that the balance of the Report as amended be adopted.

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented Item A.-4. re: The Martin v. Gray Case in the S.C.C. for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994 at three o'clock in the afternoon, the following members being present: M. Somerville (Chair), F. Kiteley (Vice-Chair), I. Blue, K. Braid, C. Campbell, M. Cullity and M. Hickey. The following staff members were present: M. Devlin, D. Godden and S. Traviss. Mr. Tom Carey was also present.

A.
POLICY

1. THE NEED TO AMEND RULE 13 TO REFLECT
THE PASSAGE OF RULE 28 ON DISCRIMINATION

In September 1994 Convocation adopted Rule 28 on Discrimination.

It is therefore necessary to delete paragraph 5 of the Commentary to Rule 13 which reads:

The lawyer shall not discriminate on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, creed, sex, sexual orientation, age, marital status, family status, or handicap in the employment of other lawyers or articulated students, or in dealings with other members of the profession or any other persons.

A copy of Rule 28 as adopted by Convocation is attached (Appendix A).

The Committee recommends to Convocation that the appropriate deletion be made.

2. BANK ASKING LAW FIRM IF THEY WOULD DO
WILLS AND POWERS OF ATTORNEY FOR MORTGAGE
CUSTOMERS OF THE BANK - REQUEST FOR ADVICE

The Chair absented himself and the Vice-Chair presided when this issue was discussed.

25th November, 1994

Two Ottawa law firms have been approached by a bank that would refer its mortgage customers for wills and powers of attorney to one of the two law firms. The bank would pay the legal cost of the firm for doing this work. Set out below is the proposal from one of the Firms:

We have been approached by one of the major banks (the "Bank") and asked to provide legal services to their clients. We would like the Law Society to review the proposed initiative to ensure compliance with the Rules of Professional Conduct.

The Bank would like to offer its present and prospective customers a free estates package, to be prepared by our firm and perhaps one or two others, comprised of the following:

1. Will;
2. Financial Power of Attorney;
3. Personal Care Power of Attorney; and
4. Living Will/Consent to Treatment.

This will be made available to any customer who either renews their mortgage with the Bank or takes out a new mortgage with the Bank. The actual mortgage work would be done by law firms (not necessarily ours) chosen by the client and approved by the Bank.

The Bank would pay our basic rate for providing this estates package.

This is a significant undertaking by the Bank to provide estate services to the public and we wish to ensure that we are onside with respect to the Rules of Professional Conduct. Please advise if this initiative would be acceptable to the Law Society.

The Committee's Secretary wrote to Mr. Cullity and asked for his thoughts:

I enclose a letter from an Ottawa law firm (the "Firm"). It has been approached by a bank to handle an estate package, which package will be paid for by the bank and not the client. It is conditional upon a person's refinancing their mortgage with the bank or taking out a mortgage with the bank for the first time. The Firm will not do the mortgage work. The fees that will be charged by the Firm will be minimal. I discussed this with the lawyer at the Firm this morning. I asked him what the position of the bank was were the mortgagor to have his or her own lawyer. Would the bank pay for that lawyer's fees to the limit placed on the Firm by the bank?

The Committee's Secretary subsequently learned that:

The bank will allow the mortgagor to have his/her own lawyer prepare the will and power of attorney but will only pay that lawyer's fees at the same rate as the Firm is paid.

Mr. Cullity sent the following response:

Although I would like to give this matter further consideration, I am not aware that the proposal by the bank and the Firm would breach any of the Rules of Professional Conduct. I am, however, very concerned about lawyers providing draft documents of the kinds concerned. There is surely a risk that the client would be told by the bank or would assume that all that is required for the documents to be signed without legal assistance.

Although there is obviously nothing to prevent clients from doing that sort of thing, I seriously doubt whether the profession should be assisting them. It is clearly unethical for a lawyer to draft a will for a client without meeting the client, testing for capacity and either seeing that the will is properly executed or giving detailed instructions with respect to its execution. A lawyer who simply provides a package without advising that clients are taking a serious risk if they do not obtain legal assistance is, in my view, doing no service to the public.

If I am correct in my view that there is nothing *per se* inconsistent with the Rules of Professional Conduct, I still doubt whether we should say or do anything which might be regarded as giving the Law Society's stamp of approval. On the contrary, my personal view is that the Firm should be told that the Law Society does not believe that the provision of documents of this kind as a package is in the public interest.

The lawyer at the Firm has told the Committee's Secretary that the lawyers will review with the mortgagors all draft wills and powers of attorney before they are executed.

The matter was discussed at the October meeting of the Committee but a decision was deferred because of two issues:

- (1) It was unclear whether the bank would be giving the package to the customer or whether this would be done by the Firm.
- (2) If the package was given to the customer of the bank what assurance would there be that the services of a lawyer were retained.

The Committee's Secretary was asked to make further inquiries. He reported in November that the bank would give out informational brochures prepared by the participating lawyers about the sort of factual information the client should be thinking about in advance of going to a lawyer. No sample will or power of attorney forms with instructions would be given out by the bank.

The Committee concluded that there was nothing in the proposal that would contravene the Rules of Professional Conduct.

The Committee asks Convocation to adopt this position.

3. CONCERNS EXPRESSED BY SOME MEMBERS
OF THE JUDICIARY AND ADMINISTRATIVE
TRIBUNALS - REQUEST FOR ADVICE

(a) A member of the Ontario Court of Justice (General Division) has sent a letter to the Treasurer indicating some concerns about the conduct of some members of the profession. It reads in part:

I telephoned you and you requested that I put our concerns in writing since they involve the professional conduct of members of the profession. The instances that I am describing to you are not isolated and are subject to increasing concern among the justices.

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The first instance involves the client appearing at the commencement of trial without counsel. There is no order in the Court file permitting counsel to withdraw and nothing in the file to indicate that counsel will not be appearing. Often the client is not only a party to the litigation himself or herself but is the principal of a limited company also a party. After some investigation, the justice is able to ascertain that the basic issue between the client and counsel is money and not a lack of confidence or refusal to follow directions.

The second instance involves the client who fires counsel mid-trial because he/she cannot afford counsel's fees.

The third instance is the "opt-in" "opt-out" scenario whereby the individual client appears by himself or herself on some motions but not on others; it always being both counsel/client's intention that counsel will appear on the more important motions and at trial. Sometimes the client is also seeking leave on these motions to represent the limited company of which he/she is principal. Again the reason is money.

Where the matter is simple and uncomplicated, a one issue case, this may not be as important, but where, as in most cases in the General Division, the matters are complicated and multiple, then everyone is inconvenienced, the justice and all other counsel involved. It is my personal view that the administration of justice itself is brought into disrepute through counsel's actions.

The Committee concluded that as a policy making committee it was not in a position to respond to the individual scenarios set out by the judge in her letter. The judge should be advised of her right to make a complaint to the Law Society in individual cases. There are circumstances where a judge does have the right to refuse to let counsel withdraw.

- (b) The Chair of an administrative tribunal has made a complaint to the Treasurer about the following matters: lateness; lack of preparation; non-attendance; and double booking by lawyers.

The Committee noted that most administrative tribunals lacked the extensive powers courts had (such as the power to make findings of contempt). It would be helpful if the profession could be reminded in a future issue of the Adviser of their duty of courtesy to tribunals and that breaches of this duty could result in disciplinary action. This item could be expanded to include the same duty owed by lawyers to the courts.

The Committee will instruct its Secretary to prepare a short item for a future Adviser.

The Committee asks Convocation to adopt this process.

4. FEDERATION OF LAW SOCIETIES DRAFT
RULE TO ADDRESS PROBLEMS CREATED
BY THE MIGRATING LAWYER (THE MARTIN
V. GRAY CASE IN THE S.C.C.)

This matter was discussed briefly at the September and October meetings and stood over.

The Federation of Law Societies has asked the various law societies in Canada to consider the draft rule prepared by its Committee that studied the issue.

The Committee has to answer two principal questions:

1. Is the draft rule satisfactory? If not, how should it be changed?
2. Should our Law Society create an advisory mechanism which would give rulings on point subject, of course, to whatever a court or administrative tribunal would do with the ruling? A sub-committee composed of Messrs. Finkelstein and Campbell is presently considering this.

The decision on the second question is one that can be deferred until the Finkelstein sub-committee makes a report.

The matter was put over to the November meeting because of concern with the use of the words in paragraph (4) of the draft Rule "when the transferring member actually possesses relevant information respecting the former client which is confidential." Does the draft Rule therefore only address actual knowledge as opposed to imputed knowledge?

Mr. Campbell reported that the Federation's Committee intended the rule to deal with actual knowledge (not with imputed knowledge). As well discussions are ongoing between the Federal and Ontario government with respect to the applicability of this rule to lawyers in their respective employ. Accordingly, the rule will not apply to them for the time being.

The policy issues raised by this proposed rule are as follows:

- (1) To make it clear that the test for disqualification should be actual knowledge and not imputed knowledge.
- (2) To raise the importance of both the timing and effectiveness of screening procedures.

In reaching its conclusion the Committee considered the following paragraphs from Mr. Justice Sopinka's judgment in the *Martin v. Gray* case.

The answer is less clear with respect to the partners or associates in the firm. Some courts have applied the concept of imputed knowledge. This assumes that the knowledge of one member of the firm is the knowledge of all. If one lawyer cannot act, no member of the firm can act. This is a rule that has been applied by some law firms as their particular brand of ethics. While this is commendable and is to be encouraged, it is, in my opinion, an assumption which is unrealistic in the era of the mega-firm. Furthermore, if the presumption that the knowledge of one is the knowledge of all is to be applied, it must be applied with respect to both the former firm and the firm which the moving lawyer joins. Thus there is a conflict with respect to every matter handled by the old firm that has a substantial relationship with any matter handled by the new firm irrespective of whether the moving lawyer had any involvement with it. This is the "overkill" which has drawn so much criticism in the United States to which I have referred above.

25th November, 1994

Moreover, I am not convinced that a reasonable member of the public would necessarily conclude that confidences are likely to be disclosed in every case despite institutional efforts to prevent it. There is, however, a strong inference that lawyers who work together share confidences. In answering this question, the court should therefore draw the inference, unless satisfied on the basis of clear and convincing evidence, that all reasonable measures have been taken to ensure that no disclosure will occur by the "tainted" lawyer to the member or members of the firm who are engaged against the former client. Such reasonable measures would include institutional mechanisms such as Chinese walls and cones of silence. These concepts are not familiar to Canadian courts and indeed do not seem to have been adopted by the governing bodies of the legal profession. It can be expected that the Canadian Bar Association, which took the lead in adopting a Code of Professional Conduct in 1974, will again take the lead to determine whether institutional devices are effective and develop standards for the use of institutional devices which will be uniform throughout Canada. Although I am not prepared to say that a court should never accept these devices as sufficient evidence of effective screening until the governing bodies have approved of them and adopted rules with respect to their operation, I would not foresee a court doing so except in exceptional circumstances. Thus, in the vast majority of cases, the courts are unlikely to accept the effectiveness of these devices until the profession, through its governing body, has studied the matter and determined whether there are institutional guarantees that will satisfy the need to maintain confidence in the integrity of the profession. In this regard, it must be borne in mind that the legal profession is a self-governing profession. The legislature has entrusted to it and not to the court the responsibility of developing standards. The court's role is merely supervisory, and its jurisdiction extends to this aspect of ethics only in connection with legal proceedings. The governing bodies, however, are concerned with the application of conflict of interest standards not only in respect of litigation but in other fields which constitute the greater part of the practice of law. It would be wrong, therefore, to shut out the governing body of a self-regulating profession from the whole of the practice by the imposition of an inflexible and immutable standard in the exercise of a supervisory jurisdiction over part of it.

(1991) 77 D.L.R. (4th) 249 at p. 268

Once Convocation adopts the draft rule (Appendix B) it will be sent to the Special Committee to Review the Rules of Professional Conduct to put it in the form that has been decided upon as the model for all future rule drafting.

The Committee asks Convocation to adopt the draft rule and the procedures for making it one of our Rules of Professional Conduct.

C.
INFORMATION

1. JOINT MEETING OF THE PROFESSIONAL CONDUCT
COMMITTEE AND THE INSURANCE COMMITTEE TO
DISCUSS THE WARDLAW MOTION

In June 1994 Convocation decided that a joint meeting of the Professional Conduct Committee and the Insurance Committee should be held to discuss the Wardlaw motion made by James Wardlaw respecting representation of more than one client in certain real estate transactions.

A joint meeting was held in October. The Professional Conduct Committee will be discussing what further action should be taken on this matter at its January meeting. Mr. Wardlaw will be invited to this meeting.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

M. Somerville
Chair

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

- Item A.-1. - Copy of Rule 28 adopted by Convocation. (Appendix A)
- Item B.-4. - Federation of Law Societies Draft Rule to address Problems
created by the Migrating Lawyer.
(Appendix B - B10)

It was moved by Mr. Somerville, seconded by Ms. Kiteley that Item A.-4. be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

Mr. Strosberg announced Mr. Malcolm Heins as the new President of LPIC.

Convocation took a brief recess at 11:05 a.m. and resumed at 11:20 a.m.

AGENDA - Additional Matters Requiring Debate and Decision by Convocation

Ms. Kiteley and Mr. O'Connor presented their Motions to Convocation.

A debate followed.

CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.

The Treasurer and Benchers had as their guests for luncheon Mr. Justice Allen Martin Linden and Mr. Walter Harold Howell, Q.C.

CONVOCATION RECONVENED AT 2:00 P.M.

PRESENT:

The Treasurer, Arnup, Bastedo, Blue, Bellamy, Brennan, Campbell, Carey, R. Cass, Copeland, Curtis, Elliott, Epstein, Feinstein, Finkelstein, Goudge, Hickey, Kiteley, Krishna, Lawrence, Lax, McKinnon, Moliner, Murphy, D. O'Connor, Palmer, Pepper, Ruby, Scott, Sealy, Somerville, Strosberg, Thom, Topp and Weaver.

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AGENDA - Additional Matters Requiring Debate and Decision by Convocation

KITELEY/O'CONNOR MOTIONS (cont'd)

The debate on the Motions continued.

MOTION #1

It was moved by Ms. Kiteley, seconded by Dennis O'Connor THAT the Law Society Act be amended to provide that a Benchers who has been elected and served two full consecutive terms be required to sit out a term before being nominated for election for a third term.

Lost

ROLL-CALL VOTE

Arnup	Against
Bastedo	Against
Bellamy	Against
Blue	Against
Brennan	Against
Carey	For
Campbell	Against
Copeland	Against
Curtis	For
Elliott	For
Epstein	Against
Feinstein	Against
Finkelstein	Against
Goudge	Against
Hickey	Against
Kiteley	For
Krishna	Against
Lax	For
McKinnon	Against
Moliner	For
Murphy	Against
D. O'Connor	For
Palmer	For
Ruby	Against
Scott	For
Sealy	Against
Somerville	Against
Strosberg	Against
Thom	Against
Topp	Against
Weaver	Against

MOTION #2

It was moved by Ms. Kiteley, seconded by Mr. O'Connor THAT the Law Society Act be amended to provide that the office of life Benchers arising from continuous service as an elected Benchers be eliminated. This would not apply to incumbent life Benchers.

Carried

ROLL-CALL VOTE

Arnup	Against
Bastedo	Against
Bellamy	For
Blue	For
Brennan	Against
Campbell	Against
Carey	For
Copeland	For
Curtis	For
Elliott	For
Epstein	For
Feinstein	Against
Finkelstein	For
Goudge	For
Hickey	Against
Kiteley	For
Krishna	Against
Lax	For
McKinnon	For
Moliner	For
Murphy	Against
D. O'Connor	For
Palmer	For
Ruby	Against
Scott	For
Sealy	For
Somerville	For
Strosberg	Against
Thom	Against
Topp	Against
Weaver	Against

MOTION #3

It was moved by Mr. O'Connor, seconded by Mr. Goudge THAT Motion #2 will not apply to incumbent elected Benchers who would be eligible to become life Benchers at the end of the current term in 1995.

Carried

ROLL-CALL VOTE

Arnup	For
Bastedo	For
Bellamy	Against
Blue	For
Brennan	For
Campbell	For
Carey	Against
Copeland	Against
Curtis	Against
Elliott	Against
Epstein	Against
Feinstein	For
Finkelstein	Against
Goudge	For
Hickey	For
Kiteley	Against
Krishna	For
Lax	Against
McKinnon	Against
Moliner	For
Murphy	For
D. O'Connor	For
Palmer	For
Ruby	For
Scott	For
Sealy	For
Somerville	Against
Strosberg	For
Thom	For
Topp	For
Weaver	For

(Background Paper for Motions in Convocation file)

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IN CAMERA

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IN CAMERA Content Has Been Removed

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IN PUBLIC

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AGENDA - Reports or Specific Items Requiring Convocation's Consideration and Approval

RESEARCH AND PLANNING COMMITTEE

Meeting of November 10, 1994

Mr. Brennan present Item A.-A.1. re: Possible Review of Law Society Management Structure, for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of November, 1994, at 8:00 a.m., the following members being present: L. Brennan (Chair), F. Carnerie, A. Feinstein, The Hon. A. Lawrence, R. Manes, J. Palmer, H. Sealy, M. Somers, M. Somerville.

Also present: R. Murray.

Staff: A. Brockett, E. Spears, L. Talbot.

A.
POLICY

A.1. POSSIBLE REVIEW OF LAW SOCIETY MANAGEMENT STRUCTURE

A.1.1. The October 1994 report of the Insurance Task Force and the Insurance Committee identified the management structure of the Lawyers' Professional Indemnity Company as one of the causes of the problems that had arisen in the insurance program.

A.1.2. Your Committee is of the view that the need to change the management structure of LPIC suggests a need to undertake a major review of the management structure of the Law Society as a whole.

A.1.3. The Committee envisages a review of all aspects of the Law Society's activities, undertaken by consultants who would be retained to make recommendations concerning, *inter alia*,

- the way in which benchers can best fulfil their legislative, executive and quasi-judicial functions;
- the day-to-day operation of the Law Society, including its management structure;
- the accountability of benchers and staff.

- A.1.4. The following points need to be borne in mind:
- A.1.4.1. The Law Society is not a business corporation. It has statutory responsibilities of governance and regulation. The consultants would have to be aware of the implications of the regulatory and quasi-judicial functions of the Society.
- A.1.4.2. There have been previous reports touching on issues of management structure, including,
- the (Arthurs) Special Committee on Convocation (1980-1981);
 - the Peat, Marwick Review of the Secretariat (March 1981);
 - the Benchers' Ad Hoc Committee on the Peat, Marwick Report (May 1981);
 - the report of the Benchers' Responsibilities Subcommittee (May 1991).
- A.1.4.3. There exist other Special Committees and Subcommittees which are currently examining related matters, including,
- the Special Committee on the Office of the Treasurer;
 - the Subcommittee on Reports and Policies (a subcommittee of the Research and Planning Committee).
- A.1.4.4. It is understood that the Finance and Administration Committee has retained consultants to advise on limited aspects of the Society's operations.
- A.1.5. A review of the nature contemplated would be a significant undertaking. Your Committee has given the matter only preliminary consideration and intends to make it the major matter on its January 1995 agenda.
- A.1.6. Recommendation:
- A.1.6.1. At this stage your Committee has only one recommendation to make to Convocation, namely:
- That the Special Committee on the Office of the Treasurer be made a subcommittee of the Research and Planning Committee.
- A.1.6.2. The recommendation is based on the principle that all aspects of the review of the governing and managerial structures of the Society should be co-ordinated by one committee.

B.
ADMINISTRATION

Nothing to report.

C.
INFORMATION

C.1. IMPLEMENTATION OF RESOLUTIONS OF CONVOCATION CONCERNING THE ROLE STATEMENT

C.1.1. Your Committee reviewed the steps that have been taken to implement the resolutions adopted by Convocation in October 1994, when the Role Statement was adopted. It was noted that the Role Statement had appeared in the 1994 Annual Report of the Law Society and in the October 1994 *Benchers Bulletin*.

C.1.2. The Chair of the Research and Planning Committee will be bringing to the attention of each Standing Committee, Convocation's direction that all committees should review their current and proposed activities, programs and proposals in light of the Role Statement, the Commentary and the Report of the Subcommittee.

C.1.3. Committees will be asked not only to review existing programs but also to consider initiatives for new programs and activities that may be suggested by the Role Statement.

C.1.4. It is understood that the Priorities and Planning Subcommittee, with the assistance of the Communications Director, will be preparing a questionnaire to be sent to all committees to assist them in reviewing their programs and activities in light of the Role Statement.

C.2. STRATEGIC PLANNING EXERCISE

C.2.1. Your Committee suggests that the adoption of the Role Statement makes it possible to undertake a strategic planning exercise in which Convocation would establish priorities and objectives for the entire organization.

C.2.2. The review of programs on a committee-by-committee basis (as proposed in item C.1.) can be seen as the first step in this process.

C.2.3. Your Committee is of the view that it is a proper function of the Research and Planning Committee to explore the possibility of pursuing a strategic planning exercise.

C.2.4. It has been suggested that a strategic planning exercise would involve, among other things,

- examining all programs at the Law Society to determine whether they fall within its mandate as defined in the Role Statement;
- assessing the effectiveness of all programs as currently administered;
- defining long-term goals in each program area;
- determining the steps necessary to achieve those goals, taking into account the availability of resources.

C.2.5. It has also been suggested that a suitable culmination of the exercise would be a conference at which Convocation would adopt a strategic plan.

C.2.6. A strategic planning exercise of this nature would need the assistance of expert consultants. It would also require a budget.

C.2.7. Your Committee will consider the matter further and report to Convocation.

C.3. POSSIBLE LIAISON COMMITTEE

C.3.1. Your Committee has considered the possibility of establishing a Liaison Committee (on which major organizations in the legal profession would be represented) to discuss respective roles in light of the Society's Role Statement.

C.3.2. Your Committee is establishing a subcommittee to consider this matter further. Among other matters, the subcommittee will consider,

- whether such a Liaison Committee should be permanently established or given a time-limited mandate;
- which organizations in the legal profession should be represented on the Liaison Committee.

C.4. QUESTIONNAIRE TO BENCHERS CONCERNING POLICY GOVERNING LAWYER-MEMBERS (i.e. NON-BENCHERS) ON COMMITTEES

C.4.1. The term of office of the fourteen lawyer-members appointed to committees under the policy adopted in 1993 will expire at the end of August, 1995.

C.4.2. Before setting in motion the process for inviting applications from members to serve on committees for the term commencing September, 1995, the Research and Planning Committee intends to review the current policy.

C.4.3. As a first step, a questionnaire will be sent to benchers, seeking their views on the operation of the existing policy. A draft questionnaire was considered by the Committee.

C.5. MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

C.5.1. The Treasurer has suggested that the Research and Planning Committee may wish to examine a proposal by the Ontario Information and Privacy Commissioner to extend the *Municipal Freedom of Information and Protection of Privacy Act* to self-regulated professions.

C.5.2. Your Committee intends to explore this matter further.

C.6. ALTERNATIVE DISPUTE RESOLUTION IMPLEMENTATION SUBCOMMITTEE

C.6.1. The Alternative Dispute Resolution Implementation Subcommittee has received thirty-one responses to its Draft Rules of Professional Conduct governing Mediators.

C.6.2. When the Subcommittee has reviewed these responses, it intends to consider the possibility of drafting Rules of Professional Conduct to govern lawyers who act as arbitrators.

25th November, 1994

- C.6.3. Two members of the Subcommittee (Lloyd Brennan and the Hon. Allan Lawrence) will attend the Canadian Forum for Dispute Resolution in February 1994 on behalf of the Law Society.
- C.7. SUBCOMMITTEE ON PROFESSIONALISM AND THE CHALLENGE OF COMMERCIALISM
- C.7.1. The Subcommittee on Professionalism and the Challenge of Commercialism continues its discussions with the object of defining terms of reference for a study of issues raised by the 1992 Strategic Planning Conference.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

L. Brennan
Chair

It was moved by Mr. Brennan, seconded by Mr. Feinstein that Item A.-A.1. be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

SPECIAL COMMITTEE ON THE INSURANCE TASK FORCE: COMMUNICATIONS WITH THE PROFESSION

Ms. Kiteley reviewed the steps being taken for the distribution of the Report of the Task Force to the profession. A memo dated November 23, 1994 was distributed to the Benchers.

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Meeting of November 10, 1994

Mr. Copeland presented Item A.-A.1 re: Proposal that Elected Benchers be Paid for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 10th of November, 1994 at 11:00 a.m., the following members being present: P. Copeland (Chair), N. Angeles-Richardson, S. O'Connor, P. Hennessy, B. Humphrey and B. Luke.

Also present: A. Singer, L. Talbot

A.
POLICY

A.1 PROPOSAL THAT ELECTED BENCHERS BE PAID

A.1.1 The Committee had a preliminary discussion concerning a proposal that elected benchers be paid. It is the Committee's opinion that the financial loss occasioned by serving on Convocation deters many women and others in the profession from seeking election as benchers.

A.1.2 In its discussion, the Committee recognized the changing demographics of the profession and the need to ensure a wider representation by members who have not served on Convocation in the past. The Committee reviewed policies of remuneration by twelve other self-governing professions in Ontario and believes a policy ensuring some measure of remuneration will promote greater equity with respect to bencher participation. (*Attachment A*)

A.1.3 The Committee reviewed the report of the *Special Committee on Bencher Elections (Ferguson Committee Report)* dated November 23, 1990. The Special Committee made the following report to Convocation:

A.1.3.1 The Special Committee reviewed various methods of remunerating benchers, but was unable to reach a consensus. It was agreed that if any system of remuneration is introduced, it must not be one which encourages members to run for election in the hope of monetary reward. Under one scheme considered by the Special Committee, a bencher would have been entitled to remuneration at the Legal Aid rate for attendance at Convocation, but only if the bencher:

A.1.3.1.1 had been elected at the beginning of the quadrennial term;

A.1.3.1.2 had been called to the bar for a period of less than eight years at the time of election; and

A.1.3.1.3 practised under conditions in which there were fewer than seven other members of the Society in association or partnership with the bencher, or fewer than seven other members of the Society working for the bencher's employer.

A.1.3.2 The Ferguson Committee recommended further study of ways to overcome the financial obstacles which deter members from running for election.

A.1.4 The Women in the Legal Profession Committee has developed the following preliminary proposal:

A.1.4.1 Benchers should be entitled to be paid for work performed on behalf of the Law Society at Legal Aid rates. Those rates are as follows:

- \$ 67.00 less 5% for 0 - 4 years experience;
- \$ 67.00 plus 12.5% less 5% for 4 - 10 years experience;
- \$ 67.00 plus 25% less 5% for 10 years or more experience.

A.1.4.2 Benchers would only be paid if they so requested.

- A.1.4.3 Such a proposed payment scheme would not take effect until after Bencher Elections in 1995.
- A.1.5 The Committee also considers it important that the proposal be discussed with the County and District Law Presidents.
- A.1.6 *At this stage, the Committee seeks the advice and direction of Convocation as to whether it should continue its study of this issue or whether a Special Committee should be appointed by Convocation to study the matter.*

B.
ADMINISTRATION

- B.1 REQUEST FOR FINANCIAL ASSISTANCE BY NEWFOUNDLAND CAUCUS OF THE NATIONAL ASSOCIATION OF WOMEN AND THE LAW
- B.1.1 The Committee reviewed a request dated August 5, 1994 from the Newfoundland Caucus of the National Association of Women and the Law for financial assistance in hosting a national conference entitled "*Redefining Family Law: The Challenge of Diversity*".
- B.1.2 The Committee declined to offer assistance.

C.
INFORMATION

- C.1 JOINT ACTION COMMITTEE ON GENDER EQUALITY
- C.1.1 Since the inception of the *Joint Action Committee on Gender Equality*, Susan Elliott has served on that committee as a representative of the Law Society. The current Chair of the Committee, Paul Copeland, will take her place as the Law Society's representative.
- C.1.2 Following an invitation by the Joint Action Committee on Gender Equality to send a representative to their conference on January 27, 1995 entitled "*Making It Work: Managing and Practising in Law Firms amidst the Diversity of the 1990's*", the Committee has decided to send Brigid Luke to attend.

25th November, 1994

C.2 RECOMMENDATIONS OF THE CBA GENDER EQUALITY TASK FORCE (WILSON REPORT) TO FEDERATION OF LAW SOCIETIES CONCERNING IMPLEMENTATION

- C.2.1 The Law Society has been asked to report to the Federation of Law Societies concerning its implementation of the (Wilson) Task Force Report. A draft response was presented at the meeting but the item was deferred because the Committee had not had adequate time to consider the response in advance.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1994

P. Copeland
Chair

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

- Item A.-A.1.2 - Memorandum to Members of the Women in the Legal Profession from Mr. Lance Carey Talbot dated November 15, 1994 re: Honoraria Paid by Various Self-Governing Professions.
(Attachment A - A3)

It was moved by Mr. Copeland, seconded by Ms. Curtis that Item A.-A.1 be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

ORDERS

The following Orders were filed in Convocation.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF John Calvin Bracewell, of the City of Sarnia, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 13th day of April, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th November, 1994

CONVOCATION HEREBY ORDERS that John Calvin Bracewell be reprimanded in Convocation.

DATED this 22nd day of September, 1994.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Ernest Arthur Dyck, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 4th day of August, 1994, in the presence of Counsel for the Society, and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Ernest Arthur Dyck be suspended for a two month period running from April 29, 1994 to June 20, 1994; and thereafter, until he provides a credible psychiatric opinion that he is able to be governed by the Society; and, that he be required to participate in and cooperate with the Practice Review Program of the Professional Standards Department and implement the recommendations made by that Department.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Gerald Nicholas Kuzak, of the City of Windsor, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 2nd day of August, 1994, in the presence of Counsel for the Society, and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Gerald Nicholas Kuzak be Reprimanded in Convocation and pay costs in the amount of \$1,500.00.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Wayne Douglas Berthin, of the Town of Midland, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 9th day of September, 1993, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th. November, 1994

CONVOCATION HEREBY ORDERS that Wayne Douglas Berthin be suspended for a period of two months, such suspension to commence on the 1st day of November, 1994 and that he pay costs in the amount of \$11,000.00.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Paul Douglas Squires, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 24th day of May, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Paul Douglas Squires be disbarred as Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Leon Stanley Wickham, of the City of North York, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the majority of the Discipline Committee dated the 14th day of June, 1994 and the Dissent dated the 24th day of May, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Leon Stanley Wickham be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Reginald Edwin Bradburn, of the City of Etobicoke, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 26th day of August, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th November, 1994

CONVOCATION HEREBY ORDERS that Reginald Edwin Bradburn be reprimanded in Convocation and pay costs in the amount of \$500.00.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF James Dennis McKeon, of the City of Hamilton, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 13th day of September, 1994, in the presence of Counsel for the Society, the Solicitor and counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard counsel aforesaid;

CONVOCATION HEREBY ORDERS that James Dennis McKeon be suspended for a period of eight months and pay costs in the amount of \$5,000.00.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Richard Paul Ranieri, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 30th day of August, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Richard Paul Ranieri be suspended until he can satisfy a Committee of Convocation that he is mentally fit to resume the practise of law.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Norman Edward Joseph Roy, of the City of Oakville, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 15th day of September, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th November, 1994

CONVOCATION HEREBY ORDERS that Norman Edward Joseph Roy be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Carol Anne Allison, of the Town of Orangeville, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 16th day of September, 1994, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Carol Anne Allison be suspended indefinitely until such time as she can satisfy Convocation through the Secretary that the matters raised in the Report of the Discipline Committee dated the 16th day of September 1994 are completed and that when the matter comes back to Convocation the issue of costs assessed in the amount of \$1,500.00 will be addressed.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF George Flak, of
the City of Toronto, a Barrister and
Solicitor (hereinafter referred to as
"the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Reports and Decisions of the Discipline Committee dated the 20th and 21st day of May, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that George Flak be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF James Douglas
Leith Ross, of the City of Toronto, a
Barrister and Solicitor (hereinafter
referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 4th day of August, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th November, 1994

CONVOCATION HEREBY ORDERS that James Douglas Leith Ross be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF James Douglas Leith Ross, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 4th day of August, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that James Douglas Leith Ross be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Michael Gordon Lear, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 19th day of June, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Michael Gordon Lear be suspended for a period of one month, such suspension to commence on the 1st day of November, 1994 and that:

- (1) the Solicitor, at his expense, attend two Continuing Legal Education programs a year, (programs involving full-day attendance). One of these programs each year to cover real estate;
- (2) the Solicitor to participate in the Practice Advisory program as required by the Law Society;
- (3) the Solicitor is not to practice as a sole practitioner;
- (4) the Solicitor is to be supervised by Mr. Goldberg or Mr. Cutler, one of the partners in the firm in which he works, or a Solicitor agreed to by the Society's Secretary or his designate, as long as required by the Law Society;
- (5) the Solicitor is to attend the ethics portion of the Bar Admission course. The Solicitor to bear the costs of that attendance as assessed by the Faculty of the Bar Admission Course; and
- (6) the Solicitor is to pay the Law Society's costs in the amount of \$1,500.00, this amount to be paid over the next five years.

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Michael Gordon Lear, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCACTION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 19th day of June, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCACTION HEREBY ORDERS that Michael Gordon Lear be suspended for a period of one month, such suspension to commence on the 1st day of November, 1994 and that:

- (1) the Solicitor, at his expense, attend two Continuing Legal Education programs a year, (programs involving full-day attendance). One of these programs each year to cover real estate;
- (2) the Solicitor to participate in the Practice Advisory program as required by the Law Society;
- (3) the Solicitor is not to practice as a sole practitioner;
- (4) the Solicitor is to be supervised by Mr. Goldberg or Mr. Cutler, one of the partners in the firm in which he works, or a Solicitor agreed to by the Society's Secretary or his designate, as long as required by the Law Society;
- (5) the Solicitor is to attend the ethics portion of the Bar Admission course. The Solicitor to bear the costs of that attendance as assessed by the Faculty of the Bar Admission Course; and

DATED this 22nd day of September, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

25th November, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Henry Desmond Morgan, of the City of London, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 15th day of September, 1994, in the presence of Counsel for the Society and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Henry Desmond Morgan be suspended for a period of three months.

DATED this 27th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Roger Peter Patrick Cooney, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 25th day of March, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th November, 1994

CONVOCATION HEREBY ORDERS that Roger Peter Patrick Cooney be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 26th day of October, 1994

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

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CONVOCATION ROSE AT 3:40 P.M.

Confirmed in Convocation this day of , 1995

Treasurer