

*Cover: Corinthian columns in the Great Library,  
Osgoode Hall.*

*Interior Photographs: The centre block and wings  
of Osgoode Hall, constructed between 1829 and 1860  
as the home of The Law Society of Upper Canada,  
and details of the iron fence and gates designed in  
1866 to protect the grounds. Both building and  
fence combine craftsmanship and utility in  
Canada's finest expression of Victorian elegance.*

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*The Law Society of Upper Canada...*

was formed in Newark, now Niagara-on-the-Lake, in 1797 when 10 practitioners met and called themselves and five others to the Bar. Six Benchers were appointed, one of whom, Attorney General John White, became Treasurer, as the head of The Society is called, following the tradition of the English Inns of Court.

In 1822 The Society was incorporated and given power to hold lands and in 1828 it purchased 6.4 acres of land on what is now Queen Street at the head of York Street and built the nucleus of Osgoode Hall which has been extended many times over the years.

The first meeting of the Benchers took place in The Society's new premises on February 6, 1832. Osgoode Hall has been home to The Society ever since.

In 1846, The Society entered into an agreement with the Provincial Government to provide accommodation at Osgoode Hall for the Superior Courts of Law and Equity and the Provincial Government remained a tenant of The Law Society until 1874. In that year, The Society sold to the government the areas of Osgoode Hall which now house the Supreme Court of Ontario.

**THE LAW SOCIETY OF UPPER CANADA...**

is the governing body of Ontario's lawyers and is responsible for their education, licencing, supervision and discipline. The Society's affairs are conducted by 44 elected and appointed Benchers, 40 of whom are chosen by their colleagues during elections held every four years, four who are appointed by the Lieutenant Governor-in-Council and a small number of ex-officio Benchers.

## *Treasurer's Message*

This annual report, the first of its kind in this format, contains information on the activities of the Law Society's Committees as of June 30, 1986. In addition, you will find complete financial statements, a short overview of the role of the Society in Ontario's justice system and a listing of the Society's senior staff. A similar report will be issued at the end of each succeeding fiscal year to maintain communication with our members and the many other individuals and groups concerned with the administration of justice in this province.

None of the progress achieved during the past year would have been possible without the volunteer time of the forty elected and four lay Benchers. In terms of both hours and value received, they made an immense contribution by devoting their time to the affairs of Convocation, the Standing Committees, Special Committees and Discipline. The profession is often quick to criticize the Benchers for a lack of concern. I would like to assure each and every one of you that nothing could be further from the truth.

Unfortunately, during the year we lost the services of Mrs. Judith Oyen to the Bench. However, Mrs. Oyen has been replaced by Patricia J. Peters. Also, the term of Mrs. Roseanne Sutherland, one of our lay Benchers, came to an end. We will miss her friendship and advice. Elizabeth Poulin of North Bay has been appointed in her place.

The lawyers of this province owe a great deal to the staff of the Society which now numbers 239. Almost without exception, they are hardworking, devoted and interested in our affairs. This is particularly so in the case of the senior staff and, at the risk of not mentioning everybody who deserves credit, I would like to say that your Treasurer could not survive without the assistance of Rendall Dick, Kenneth Jarvis, Richard Tinsley, Victor Smith, Alan Marshall and Stephen Sherriff.

The reports that follow chronicle our achievements and failures over the past year. However, at the time of writing, we are more than halfway through the 1987 fiscal year. As always, we are faced with innumerable problems and matters which must be resolved in the not too distant future. I would merely like to mention a few.

1. The matter of prepaid insurance remains unresolved. Negotiations have taken place with the administrators of the CAW Plan. Although they have been discontinued by the Plan, we are hopeful that litigation may still be avoided. If not, the matter will come on for trial during the fall.
2. As noted by Mr. Ruby in his report, unsupervised paralegals are a growing problem (especially in the case of disbarred and suspended lawyers). In the absence of legislation, there is only one alternative and that is to increase our prosecutorial efforts. I would like to assure the profession that this will be done and staff is being added in order to assure that the public is protected.
3. The Research and Planning Committee has been revived under the Chairmanship of Mr. Alan Rock. It is the objective of this Committee to identify problems which will face the profession in the years to come and to anticipate them with appropriate solutions. Obviously, this is an immense task and we are fortunate in having the benefit of outside assistance including Dr. Harry Arthurs, Professor David Stager, Professor Garry Watson and Barry Reiter.



The Committee is looking at the funding of legal research, the demographic and statistical collection of data with respect to the profession, the profile of discipline offenders and a variety of more current topics. I am personally pleased with this Committee's resurrection and feel confident that much will be achieved by its efforts.

4. The Federation of Law Societies has taken the lead over the past two years in proposing the establishment of a national insurance programme. Expert assistance has been obtained both by the Federation and by the Law Society in order to examine the feasibility and cost of such a programme. The matter is extremely complex and Messrs. Furlong, Dick and Smith have spent considerable time in reviewing the alternatives. Although it may be several years away, many of us are convinced that in due course, a national compulsory programme will exist and, with some luck, there may be an excess coverage programme as well.
5. Numerous complaints have been received over the past decade about the need for different classes of membership to accommodate those who may not have adopted full-time practice as a career. Although the matter has been examined on several occasions, there has never been a detailed study and this is now being rectified. Under the chairmanship of Mr. Kenneth Howie, a full-scale review is in process and a report is expected during calendar 1987.
6. There are a number of more routine but no less important matters which continue to occupy the Bench. These include the proper direction of the Bar Admission Course, continuing legal education, and the appropriate funding of the library system. In each and every case, I am confident that the issues are being dealt with in a timely and appropriate way and correct solutions will be reached.

Finally, may I say that it has been an honour to serve the members of this profession since 1979 in various capacities as Bencher, Acting Treasurer and now Treasurer. It has been stimulating and enjoyable. However, the greatest benefit has been the pleasure of working with so many exceptional colleagues at the Bar.



Arthur R. A. Scace, Q.C.  
Treasurer



ADMISSIONS COMMITTEE

Chairman: Judith M. Oyen, Q.C.

During the fiscal year, 51 applications to transfer to practice in Ontario from other Canadian provinces were received as follows:

Alberta	21
British Columbia	4
Manitoba	4
New Brunswick	2
Newfoundland	1
Nova Scotia	3
Quebec	12
Saskatchewan	4

Under Regulation 4, which governs the transfer to practice in Ontario of members of other Canadian provinces, 26 applicants were called to the Bar and admitted as solicitors.

Under Regulation 5, which governs the admission of law teachers, 5 professors were called to the Bar and admitted as solicitors.

Under Regulation 6, which governs Occasional Court Appearances, 19 applicants were called to the Bar and admitted as solicitors.

REINSTATEMENT AFTER SUSPENSION

The Admissions Committee and the Legal Education Committee formed a Joint Sub-Committee to consider what, if anything, should be required to ensure reasonable competence in persons returning to practice after a period of suspension for non-payment of fees.

The law is changing so quickly that after even a relatively short suspension persons being reinstated should meet some reasonable test of competence.

As a result of its deliberations, the Committee concluded that:

1. The necessary Rule or Rules should be passed by Convocation to require those whose rights and privileges have been suspended for failure to pay a fee or levy—and remained suspended for 5 consecutive years or more—to complete successfully the examinations of the teaching term of the Bar Admission Course and if unsuccessful that they be permitted to attend the Bar Admission Course and successfully complete the teaching term including the examinations before being permitted to resume practising.
2. The new Rule or Rules should become effective on April 1, 1987, to apply to all applications for reinstatement after suspension for failure to pay a fee or levy filed on or after that date; it is further recommended that the date on which the then existing suspension began be the date from which time is calculated under the Rule to determine the period for which the suspension has continued.

The Committee made no recommendation respecting the payment of outstanding fees. That matter, the Committee decided, was outside its terms of reference, but it assumed that the present policy would continue and that outstanding amounts would be payable.

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## COMPENSATION FUND COMMITTEE

*Chairman: Hugh Guthrie, q.c.*

The Compensation Fund levy was reduced from \$275 to \$250 this year due to a significant improvement in the financial state of the Fund because of a drop in new claims received. For example, the value of claims received during fiscal 1982 was \$12 million. Claims received in the fiscal year ending June 30, 1986 however, were \$5.5 million. The balance in the Fund at June 30th, 1986 was \$13.9 million, about \$3 million more than at June 30, 1985, and about \$10 million more than was in the Fund in 1982.

A high proportion of claims continues to originate as a result of clients lending their lawyer money for investment and from joint ventures between lawyers and their clients. Additions to a brochure produced by the Public Information Committee will provide information to alert clients to problems associated with these practices.

The significant drop in claims during the fiscal year is a positive sign but does not mean that the high claim figures of earlier years will not return. Experience has shown that claims are closely tied to general economic conditions. So long as lawyers continue to engage in the investment business, instead of sticking to the practice of law, it can be expected that if interest rates rise substantially again, more claims are likely to be generated.

The statistics for the Fund are now on computer and this has increased the efficiency with which the staff process the claims.

A Sub-Committee is studying possible changes to the guidelines as a result of growth in the number of interprovincial law firms. If approved, the changes would preclude a grant being made where the funds were advanced to the solicitor outside Ontario.

The Committee is continuing to investigate the possibility of replacing the Compensation Fund by insurance with fixed limits.

## COUNTY AND DISTRICT LIAISON COMMITTEE

*Chairman: James B. Chadwick, q.c.*

The County and District Liaison Committee was established as a Standing Committee of Convocation in 1985 to improve communications between the Society and the County and District Law Associations. The Committee is composed of Benchers and the Executive of the Association of Presidents of the County and District Law Associations and the President of the County of York Law Association.

The Committee, as its name implies, acts as a channel to keep the Society and the County Law Associations aware of the issues and problems under consideration. It also provides a mechanism by which the Society can consult quickly with a broad base of the profession on specific issues such as prepaid legal services, advertising and fees and tariffs.

## DISCIPLINE COMMITTEE

*Chairman: A. Burke Doran, q.c.*

During the 1985-86 fiscal year, 111 complaints were issued by the Society against members alleging professional misconduct or conduct unbecoming a barrister and solicitor. A total of 108 days of discipline hearings were held.

In addition to the matters disposed of in Committee, 32 discipline matters were dealt with by Convocation at seven special Convocations resulting in the following dispositions:

Disbarments	11
Permitted to Resign	6
Suspended	6
Reprimanded in Convocation	9
TOTAL	32

The number of matters completed in the year was slightly lower than in previous years.

The intensive investigation into what has become known as “The Trust Companies Affair” continued during the fiscal year. It involves a number of lawyers and will take several years to complete. The first discipline proceedings arising out of this investigation began during the year.

A major issue considered during the year related to media and public access to discipline proceedings. It was concluded that hearings must, *prima facie*, be held in public pursuant to Section 9(l) of The Statutory Powers Procedure Act, but each discipline panel may consider whether the matter before it should proceed *in camera* and whether a non-publication order is appropriate in the case of a public hearing.

The right of the Society to proceed with a discipline hearing while criminal charges are pending was confirmed by The Supreme Court of Ontario (Divisional Court).

### COMPLAINTS

The Society receives about 3,000 complaints a year, most by mail but many by personal attendance or telephone. They range from those that can be answered immediately to ones that trigger lengthy and involved investigations by staff investigators, auditors and lawyers.

It is extremely important that these complaints be handled promptly and that so far as possible the complainant is satisfied that the matter has been dealt with in a way that leaves them with a good impression of the legal profession and the Society even though they may have a valid complaint against an individual member.

New procedures have been developed to ensure the timely and appropriate disposition of every complaint and a program is being designed to monitor complaints handling by computer. This technique will not only produce significant statistical records but will provide quick access to all information respecting the nature and progress of each complaint.

Many of those who complain to The Law Society also approach the Office of the Ombudsman and the Ministry of the Attorney General. A liaison was established during the fiscal year to permit, when appropriate, the exchange of pertinent information with these bodies to facilitate the handling of complaints without duplication of effort or ignorance in one quarter that a complaint is being pursued in another.

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## COMPLAINTS REVIEW COMMITTEE

*Chairman: Robert Tebbutt, Esq.*

The Society's Complaints Review Committee, chaired by one of the Society's four lay Benchers, met twice during the fiscal year and reviewed 22 cases in which the complainant was not satisfied with the disposition of their complaint by staff lawyers.

In October, 1986, Convocation changed the Complaints Review Committee procedure so that the review function is carried out solely by lay Benchers who are known as Complaints Commissioners. Each Commissioner sits alone to review and consider the complainant's position and each dissatisfied complainant can meet with the Commissioner with no lawyer present. If a legal problem arises that the lay Commissioner cannot resolve unaided, lawyers who are not Benchers are retained to give the needed advice.

### VIDEO PROGRAM

The video program, which was prepared and first presented in 1985 to Bar Admission Course students, was shown throughout the fiscal year. The program consists of interviews with four former members of the Society who were disbarred, suspended or permitted to resign as a result of discipline proceedings.

The program has been very well received by a number of organizations and was presented at the annual meeting of the National Bar Organization of Bar Counsel, a sub-section of the American Bar Association, in Detroit in 1985. Since then, at least one American jurisdiction has prepared a similar program.

### AUDIT DEPARTMENT

A total of 777 audits or examinations of members' books and records were begun in the fiscal year. Of these, 396 were picked on a random basis and 381 due to a complaint or other information which had been received that indicated possible difficulties.

The Form 2/3's are an important source of information respecting members' accounting records and some surprising statistics emerge from them: in the fiscal year the Form 2/3's indicated that 126 members had borrowed from clients and that 926 had done something wrong in the handling of trust funds, though, in fact, most of those were minor technical errors. No mistakes, however, can be tolerated in the handling of client funds.

Over 4,000 practising members failed to complete the Form 2/3 fully before filing it. The incomplete forms were returned to be properly filled in and re-submitted. Late filing fees totalled almost \$80,000 and 36 members faced suspension for failure to pay the late filing fee.

### STAFF TRUSTEES

The Law Society's staff includes two lawyers who act as trustees of practices either as a result of formal court orders, voluntary written undertakings to wind-down, or the administration of a practice pending the resolution of discipline proceedings.

The two trustees were involved in 65 trusteeships during the year, 49 of which were still active at year end. In addition, the trustees handled over 100 general enquiries from members concerning the disposition of their practices.

The staff trustees also monitor the practices of members in bankruptcy. The statistics concerning the latter are clearly indicative of the change that has taken place in Ontario's economy. In 1982, 41 members were in bankruptcy. The next year that rose to 45, but it fell to 40 in 1984 and to 21 in 1985. For the first half of the calendar year (to June 30, 1986), the number stood at 7.

## FINANCE COMMITTEE

*Chairman: John D. Ground, Q.C.*

### GENERAL FUND

The Financial Statements for the year ended June 30, 1986, show an operating surplus of \$433,408 compared to \$772, 123 in 1985. This results in an accumulated surplus of \$1,546,636 at the year end. It is not the intention of The Law Society to continue to build ever-increasing accumulated surpluses. However, the Society follows a prudent financial policy of basing its budget on a small annual surplus. In addition to this, there is also provision each year for major capital expenditures. Under a policy established in 1985, \$500,000 is reserved each year and the total reserve for major capital expenditures at June 30, 1986, is \$1,444,200. As a result of these policies, any unexpected economic events and capital expenditure requirements can be faced without financial difficulty or additional burden to the membership.

The Society's budget for the 1986-87 fiscal year provides for a surplus of \$321,413. The budget process involves a careful examination of the requirements of each of the Society's departments. Based on a careful examination of these requirements, the Finance Committee makes recommendations to Convocation which in turn determines the total budget and sets the amount of the Annual Fee.

For 1986-87, the Annual Fee has been set at \$935 per member and includes \$32.50 for County Libraries, the Compensation Fund Levy of \$250 and an amount of \$175 to enable the Society to meet its financial obligation in respect of Legal Aid. Last year, the County Library Levy was \$25 per member. This special levy was introduced in 1984-85 and provides funds for special grants to County law libraries.

The Compensation Fund Levy has been reduced from \$275 to \$250 so that the total of the Annual Fee for general purposes and the Compensation Fund Levy remain unchanged for 1986-87. The following schedule outlines the amounts paid by each member for Annual Fee, Library Grants, Compensation Fund and Legal Aid compared to the last three years:

	1983-84	1984-85	1985-86	1986-87
Annual Fee	\$418.00	\$448.00	\$460.00	\$477.50
Libraries	—	\$ 15.00	\$ 25.00	\$ 32.50
Compensation Fund	\$275.00	\$275.00	\$275.00	\$250.00
TOTAL	\$693.00	\$738.00	\$760.00	\$760.00
Legal Aid	—	—	—	\$175.00
TOTAL	\$693.00	\$738.00	\$760.00	\$935.00

In 1985-86, there were 17,009 paid-up members compared to 16,324 in 1984-85. The Society's budget for 1986-87 is based on an anticipated paid-up membership of 17,800. There were 1,119 members suspended as of June 30, 1986 compared to 989 at June 30, 1985.

### ERRORS AND OMISSIONS INSURANCE FUND

The Errors and Omissions Insurance Fund shows an excess of revenue over expenses for the year of \$3,423,052 compared to \$3,876,483 in 1985. The balance in the Fund at the end of June, 1986, was \$36,417,262. The Statements for the Errors and Omissions Insurance Fund are prepared on a cash basis so that reserves for claims in hand are not reflected on the Statements. Note 5 refers to the fact that the possible liability of the Fund at June 30, 1986, is \$26,484,000. This means that the Society has reserves in excess of potential liabilities in the order of \$10 million.

The Errors and Omissions Insurance Levy has been set at between \$940 and \$3,750 for 1986-87 as compared to a range of \$750 to \$3,000 for 1985-86. This is because of the large increase that the Society has had to accept in its stop-loss agreement—from \$12.25 million to \$20 million; i.e., the Society is responsible for the first \$20 million of claims paid in the 1986-87 Fund year, with the indication that there may be further increases over the next several years.

#### COMPENSATION FUND

The excess of revenue over expenses for the year ended June 30, 1986 was \$3,383,276 compared to \$3,313,746 last year. This leaves a surplus in the Fund as of June 30, 1986, of \$13,851,605. As in the Errors and Omissions Insurance Fund Statement, this is a cash position with no reserves shown for potential claim liabilities. Grant applications received to June 30, 1986, however, total \$18,612,450. The Compensation Fund Committee has expedited the handling of Compensation Fund claims so that the outstanding balance of grant applications was reduced from \$25,958,000 at June 30, 1985, to \$18,612,450 at June 30, 1986. The Committee can apply discretionary limits against these applications and a strict application of those limits would result in a reserve in the fund in the range of \$7 million. However, as is the case in the Errors and Omissions Insurance Fund and the General Fund, the Society prefers a conservative financial approach since claims experience in the Fund cannot be projected accurately. An analysis of the cash-flow projections for the next few years in the Compensation Fund permitted the Committee to reduce the levy from \$275 in 1985-86 to \$250 in 1986-87 and the Committee will continue to monitor the experience of the Fund over the next fiscal year.

#### LEGAL AID COMMITTEE

*Chairman: Lee K. Ferrier, Q.C.*

#### GENERAL

The number of people helped by Ontario's Legal Aid Plan to the end of its fiscal year (March 31, 1986) rose above the half-million mark for the second time in its nineteen year history.

In 1985-86, a total of 537,071 people received summary legal advice, were referred to another more appropriate agency, made a formal application for legal aid or were represented in court by Duty Counsel.

Applications for legal aid certificates declined by 5.6% to 115,000 during the fiscal year, and 90,734 certificates were issued, up 3.7%.

The total number of applicants refused legal aid declined by 9.1% from 36,142 to 32,836.

A total of 281,821 people were assisted by Duty Counsel in the Province's Civil and Criminal courts.

#### TARIFF

The question of the inadequate legal aid tariff occupied the Committee's attention during much of the fiscal year. The report of the independent Fact Finder concluded that the tariff should be increased by the elimination of the statutory 25% reduction on all legal aid accounts and by three staged increases to the tariff beginning in January, 1986.

In August, 1985, the Attorney General made a public statement on legal aid in which he proposed a profession-wide levy to help finance increases to the tariff. After considerable debate, Convocation concluded at its October 9 meeting that a profession-wide levy was unacceptable.

In November, 1985, Convocation considered a proposal from the Attorney General to increase the tariff by 20% effective December 1, as an interim measure while discussions continued. The increase was approved.

Subsequently, agreement was reached between the Society and the Ministry of the Attorney General. The 25% statutory reduction on legal aid accounts was to be eliminated effective July 1, 1986. The move would increase the tariff by one-third.

In return, the Society agreed to meet half of the administrative costs of the Plan amounting to about \$12 million a year. This is to be met by an increase in the fees paid by each member to the Society of about \$175 and by a statutory reduction of 5% in fees paid to members by the Plan for services performed pursuant to a Legal Aid certificate.

The Attorney General undertook to work towards implementation of the final two stages of the Fact Finder's Report and, in a letter to the then Acting Treasurer, he commented that The Law Society's initiative "...confirms my view that The Law Society's administration of legal aid advances the public interest."

#### CLINIC FUNDING COMMITTEE

*Chairman: Thomas G. Bastedo, q.c.*

The role of independent community legal clinics within the Ontario Legal Aid Plan continued to develop during the last fiscal year.

The Clinic Funding Committee has responsibility under the Regulation for the administration and policy affecting community clinics. In accordance with the Regulation, and the clinic certificate signed on behalf of the Plan and by each clinic, community clinics are also administered by Boards of Directors elected by, and representative of, the communities served by the clinics. The Boards must establish financial eligibility guidelines and case priorities for the work of the clinic, and are financially accountable to the Clinic Funding Committee. The members of clinic Boards of Directors have continued in 1985-86 to provide many hours of volunteer time to clinic work, thereby contributing much to the successful operation of community legal clinics.

The funds allocated for clinic funding increased from \$9.8 million in 1984-85 to \$11.4 million in 1985-86.

Since 1976 when 13 existing clinics were first funded by the Ontario Legal Aid Plan, the number of clinics has increased to 52 across the entire province. In 1985-86, the Clinic Funding Committee approved funds to establish four new clinics. The new clinics funded were: Downsview Community Legal Services and Etobicoke Community Legal Services, in Metro Toronto; Hamilton Mountain Legal and Community Services, and Neighbourhood Legal Services of London and Middlesex. Nipissing Community Legal Services, in North Bay, funding for which was approved by the Committee in March, 1985, also commenced services in 1985-86.

The Committee also approved the allocation of 12 additional staff positions to existing clinics to assist them in better serving their communities.

Clinic legal services continued to be provided by both lawyers and community legal workers. A number of clinics provide a wide range of general legal assistance and representation in such administrative law areas as Workers' Compensation, unemployment insurance, welfare, pensions, immigration, and employment rights; clinics also assist with landlord-tenant disputes, debtor-creditor problems and family matters, such as youth and child welfare problems.

The Clinic Funding Committee has also continued funding clinics which offer specialized legal services, including such matters as parole and sentencing (Queen's Correctional Law Project), environmental law (the Canadian Environmental Law Association), law for the handicapped (the Advocacy Resource Centre for the Handicapped), children's law (Justice for Children), senior's law (Advocacy Centre for the Elderly), Workers' Compensation (Injured Workers' Consultants and Industrial Accident Victims Group of Ontario), landlord-tenant problems (Metro Tenants Legal Services, Landlord's Self Help Centre, and Tenant Hotline), and public legal education (Community Legal Education Ontario). As well, a number of clinics provide services to special communities, including the Spanish-speaking community in Toronto, and native communities in Kenora, Sioux Lookout, Thunder Bay District, Moosonee-Moose Factory and the James Bay coast.

In addition to case related services, clinics have continued in 1985-86 to fulfill their special mandate under the Regulation "to encourage access" to legal services and to provide services "designed to promote the legal welfare" of their communities.

Many clinics initiated community legal education and preventive law activities during the fiscal year, assisted with significant law reform proposals, and engaged in widespread efforts to create better access to the legal system and legal services. The Committee also allocated special funds to 12 clinics for particular legal education and outreach projects, many designed to improve access to legal services by the disabled.

Significant progress was made in 1985-86 towards the goal of ensuring that all community legal clinics are located in premises accessible to the handicapped. The Committee received a special grant of \$125,000 from the Ministry of the Attorney General to help meet the cost of ramp construction and renovations to create or improve accessibility.

#### COMMUNITY LEGAL CLINICS-1985 STATISTICS

Files opened	24,755	
Summary Advice	98,219	
Referrals:		
To Legal Aid Plan	8,320	
To private bar/Lawyer Referral Service	9,788	18,108
To agencies	3,981	
To other	17,616	21,597
		39,705
Public Legal Education Sessions	1,148	
Legal Education Publications	244	
Briefs/submissions to public bodies	377	

The Committee continued to fund the Ontario Association of Legal Clinics in 1985-86, to provide specific services to clinics, including Board training and development, information-sharing and the production of a Newsletter. The Association's consultative role in policy development was enhanced during the year, and the Committee expects this function to expand in the future. Funds were also provided to the Association to conduct training sessions for Board members on the Rights of the Disabled and Outreach Skills.

The policy continued of direct consultation between the Committee and clinics throughout the year.

The Committee approved funding in 1985-86 to continue the acquisition of word processing-computer equipment in clinics. The equipment, now installed in the majority of clinics, allows clinics to increase productivity and supports case management, client statistics and Board information systems.

The Clinic Funding Regulation recognizes the complementary aspects of clinic services in relation to the traditional fee-for-service program of the Ontario Legal Aid Plan. The two branches of the Plan continue to work together to try to ensure that necessary legal services are readily available to low-income citizens of the province.

## LEGAL EDUCATION COMMITTEE

*Chairman: Roger Yachetti, Q.C.*

### BAR ADMISSION COURSE

The teaching term of the 27th Bar Admission Course ended on February 28, 1986. A total of 1,061 students (including 13 transfer candidates) participated in the Course. Of that number, 1,055 students completed the Course successfully (25 students wrote a total of 63 supplemental examinations). Eight students have yet to complete the articling requirements. A total of 1,027 candidates were called to the Bar at the Special Convocations held in April, 1986.

There are 1,162 students enrolled in the 28th Bar Admission Course, with 1,126 entering the teaching term (800 at Toronto, 217 at Ottawa and 109 at London).

Over the past year there have been substantial personnel changes in the Education Department. A new Director of Education, George Thomson, was appointed in October, 1985. There is also a new Regional Director, Bill Riley, in Ottawa, and a new Assistant Director in London, Ted McGrath. Ellen Dooley has joined the Department as Registrar of the Bar Admission Course.

During the past few years a great deal of attention has been given to an examination of legal education for the practice of law and, in particular, to the question of whether students are receiving appropriate and adequate grounding in substantive law. That question was the subject of a full-scale conference at Osgoode Hall a few years ago and more recently at a nationwide conference held by the Federation of Law Societies in Winnipeg. A number of cogent and thoughtful papers were delivered including a suggestion that for those intending to practise, greater emphasis should be placed on training as distinct from academic education. In the result, a task force was formed to pursue the matters raised by the conference.

The Director of the Bar Admission Course is very much involved in these developments and over the past year a number of major changes have been made in the Bar Admission Course. To begin with, there has been an increased emphasis upon skills training which involves teaching students those generic skills that are common to the practice of law regardless of one's area of specialty. Students are now being taught the skills of interviewing and counselling, planning, legal writing, drafting, negotiation and advocacy. The teaching takes the form of hands-on training within a transactional format.

There also has been a continuing growth in the area of computer-assisted instruction. All students now take a computer-taught tax course and the course in accounting for lawyers is now taught and examined on the computer. Work is underway to develop a computer program for students taking basic evidence law.

In addition, work began during the fiscal year to put together a specialized, hands-on program on the use of computers in the practice of law.

Under the leadership of the Ottawa Regional Director, there has been a steady growth in the amount of instruction offered in the French language for those students who desire it.

New premises were opened in Ottawa in late 1985. This change has helped to improve the teaching of the Bar Admission Course and the Continuing Legal Education Program in that city.

#### CONTINUING LEGAL EDUCATION

During the fiscal year, The Law Society organized 44 Continuing Legal Education programs which were presented on a total of 178 occasions and which attracted 7,900 registrants.

The programs were available in Toronto, Chatham, Collingwood, Elliot Lake, Hamilton, Kenora, Kingston, Kitchener, London, North Bay, Orillia, Ottawa, Owen Sound, Peterborough, Sault Ste. Marie, Sudbury, Thunder Bay, Timmins and Welland.

During this period, The Law Society administered two jointly-sponsored programs with the Canadian Bar Association—Ontario on “The New Family Law Act—For Solicitors” and “Doing Business in Canada and the U.S.” The Family Law Act program was offered on 20 occasions throughout Ontario while the Canada-U.S. program was presented twice. These presentations were attended by 2,393 registrants.

Three other programs were administered by the Canadian Bar Association—Ontario and were presented jointly with The Law Society. These were “Amendments to the Criminal Code”, “The New Divorce Act” and “The Advocacy Symposium”. A total of 3,897 persons registered for these programs.

The Subject of the 1986 Law Society Special Lecture Series was “Income Tax for the General Practitioner.”

#### LEGISLATION AND RULES COMMITTEE

*Chairman: J. James Wardlaw, Q.C.*

The Legislation and Rules Committee is responsible for drafting and where possible effecting amendments to the Law Society Act, Regulation and Rules, and for reporting to Convocation upon legislation and related matters.

During the fiscal year, the Committee drafted an amendment to Rule 19.2 dealing with election of the Treasurer, considered the Report of the Special Committee on Incorporation of Law Practices and prepared changes for submission to the Attorney General, translated proposals to expand the Society’s jurisdiction with respect to mortgage portfolios, investments and estates administered by members into draft legislation amendments, prepared amendments to the Regulation to permit members to accept payment of accounts by credit card, and amendments to section 9 of the Regulation dealing with the quorum requirements of Convocation when dealing with Discipline matters and brought forward a number of other amendments to the Rules dealing with housekeeping matters.

## LIBRARIES AND REPORTING COMMITTEE

*Chairman: Samuel Lerner, Q.C.*

During the last two years, the Libraries and Reporting Committee has carried on extensive consultations with the County Law Associations regarding funding for their libraries and with law book publishers and computer companies regarding the reporting of the decisions of Ontario courts. The Committee has also approved two major projects to upgrade the Great Library by expanding its book collection and by revamping the cataloguing and classification system of organizing the books. The latter is a joint project with the County law libraries thanks to financial support from The Law Foundation of Ontario.

Regarding the County law libraries, the Committee began by convening two meetings with lawyers from the 47 County Law Associations to set standards for the basic textbooks and subscriptions to be held by all libraries. In order to fund the purchase of previously-published basic books, many of which were missing from most County libraries, The Law Society introduced a special levy on all members—\$15 in the 1984-85 practice year and \$25 in the 1985-86 practice year. Special upgrading grants were forwarded, the County of York and Carleton Law Associations generously foregoing their shares of the first pool of revenue. The grants have resulted in substantial improvements in the textbook holdings of the County libraries.

In November, 1985, The Law Society convened a third meeting of a representative group of County Law Association officials (Presidents, Treasurers, Library Committee Chairmen and Librarians), who recommended that the Society adopt a new policy towards County library funding, part of which was the continuation of the library levy as a permanent feature of the Society's annual Practice Fee. The recommendation was unanimously adopted by the County and District Presidents Association and ultimately by the Libraries and Reporting Committee and Convocation. The Society is waiting for confirmation from The Law Foundation of Ontario that it will continue to provide financial support for the County law libraries, support which has been substantial and much appreciated over the past decade.

The Committee has also continued regular discussions with the law book publishers and other companies and institutions involved in the dissemination of the decisions of Ontario courts to the legal profession and the judiciary. The Ontario Reports continue to be accessible by the weekly paper parts, by weekly updates to The Law Society's Ontario Reports Database on the Quic/Law (QL) retrieval system and by the annual supplement to the Ontario Reports Index. The Committee is pleased to inform the profession that the Ontario Reports Database is now augmented by the inclusion of all decisions of the Supreme Court of Ontario (High Court, Divisional Court and Court of Appeal), whether subsequently reported or not in the Ontario Reports. The Society's service bureau, Search-Law, continues to provide convenient access to the benefits of computer searching for many Ontario lawyers.

## MUNIMENTS AND MEMORABILIA COMMITTEE

*Chairman: Reginae M. Tait*

The Committee's Record's and Archives Program made progress on a number of matters during the year including printing the Index to the Minutes of Convocation 1797-1968. The Index totals five volumes with over 25,000 entries. This historically-important Index will be updated to include the Minutes since 1968 and will then be kept current.

The Society's Museum Project was also renewed, with designs developed and materials assembled for a series of permanent exhibits on the history of the Society and the legal profession from the 18th century to the present. The Museum Room is being repainted and recovered and the installation of exhibits, to be featured in an historic format, will begin in early 1987.

Work on the first series of stained glass windows to be installed in Convocation Hall was completed during the year. The first window, representing the Education of Law in Canada, was unveiled in November, 1986. The artist, Christopher Wallis, is completing the 9 remaining windows which will be finished in 1989. The project's cost, \$300,000, is being financed entirely through donations from five individual lawyers, three law firms, the Advocates' Society and the County of York Law Association.

The Society's Archivist received 70 external requests for historical information during the year and, early in 1987, the Society received an appraisal of its manuscripts, prints and maps. The collection is valued at \$215,125.

## PRACTICE AND INSURANCE COMMITTEE

*Chairman: Patrick G. Furlong, Q.C.*

Notices of potential and actual claims against members are reported directly to the Society's Errors and Omissions Insurance Department. Through members having direct access to the Department's staff, many matters which previously had been reported as "claims made", and reflected in the member's personal Errors and Omissions Insurance levy, were resolved without expense to the fund or jeopardy to the public. As a result, the claims ratio per number of members in practice has been reduced.

Analysis of the negligence claims made during the period from January 1, 1977 to the end of June, 1986, shows that real estate and mortgages account for 55% of claims with civil litigation and automobile negligence (except commercial law) accounting for 23%. Commercial law was third with 12%. Family law accounted for 3%, and wills, estates and trusts another 3%, leaving 4% for all other areas of law. The total amount paid and reserved in that almost 9-year period was about \$120 million. As some individuals within the insurance industry have observed, the most effective way of reducing the cost of liability insurance is to reduce the number of claims. It is the Society's hope that its increasing emphasis on Loss Prevention will not only help it to keep insurance available but also to hold down the cost of such insurance.

A program of Loss Prevention, which is to be fully developed over the next two to three years, began during the fiscal year with the production of a series of video vignettes depicting circumstances that members regularly face in their daily practice but which, unless handled properly, are the most frequent causes of errors and omissions claims. The videos are available on loan, free of charge, to Bar Associations and other legal groups. Those interested should call the Practice Advisory Service (416-947-3369) for more details.

Accrued savings through management of the Errors and Omissions Fund enabled the Society to reduce members' Errors and Omissions Insurance Levies by about 10% for the policy year July 1, 1985 to June 30, 1986.

Notwithstanding the current "insurance crisis" faced by many Law Societies and Bar Associations in Canada and around the world, the Law Society's Mandatory Insurance Program will be renewed again with its current insurers—American Home.

## PRACTICE ADVISORY SERVICE

The Service responded to requests for guidance or assistance from about 3,800 members during the fiscal year. This total includes almost 300 visits with lawyers either in their offices or at the Advisory Service office to discuss at length various law office management concerns, about 2,200 telephone calls regarding specific office management procedures and almost 1,300 calls for guidance in dealing with specific client matters.

Recently, the Service has been responding to the needs of the profession at the rate of about 380 members or firms per month. The Service's staff consists of three lawyers with extensive private practice experience, a systems assistant knowledgeable in the mechanics of law office management systems and two experienced legal secretaries.

The Service publishes and distributes to the profession a bulletin entitled "The Adviser" which outlines office procedures that help avoid mistakes and which alerts members to legal developments that might increase negligence risks.

Significant contributions were made during the fiscal year to Bar Admission Courses on Risk Management and Starting a Law Practice, to the Canadian Society for the Advancement of Legal Technology (CSALT), the Law Society's Professional Standards Review Committee and other bodies that will benefit the legal profession as a whole. A Loss Prevention program is being presented by the Advisory Service through the County and District Law Associations using discussion groups centred around video tapes prepared by the Errors and Omissions Department on various legal topics.

## PROFESSIONAL CONDUCT COMMITTEE

*Chairman: W. Dan Chilcott, Q.C.*

During the fiscal year, the Committee dealt with a number of important matters, the most significant of which are outlined below.

### RULE 21

Rule 21, entitled, "Lawyers in their Public Appearances and Public Statements", was adopted. It is broad in scope and will assist lawyers in understanding their rights and duties in dealing with the media.

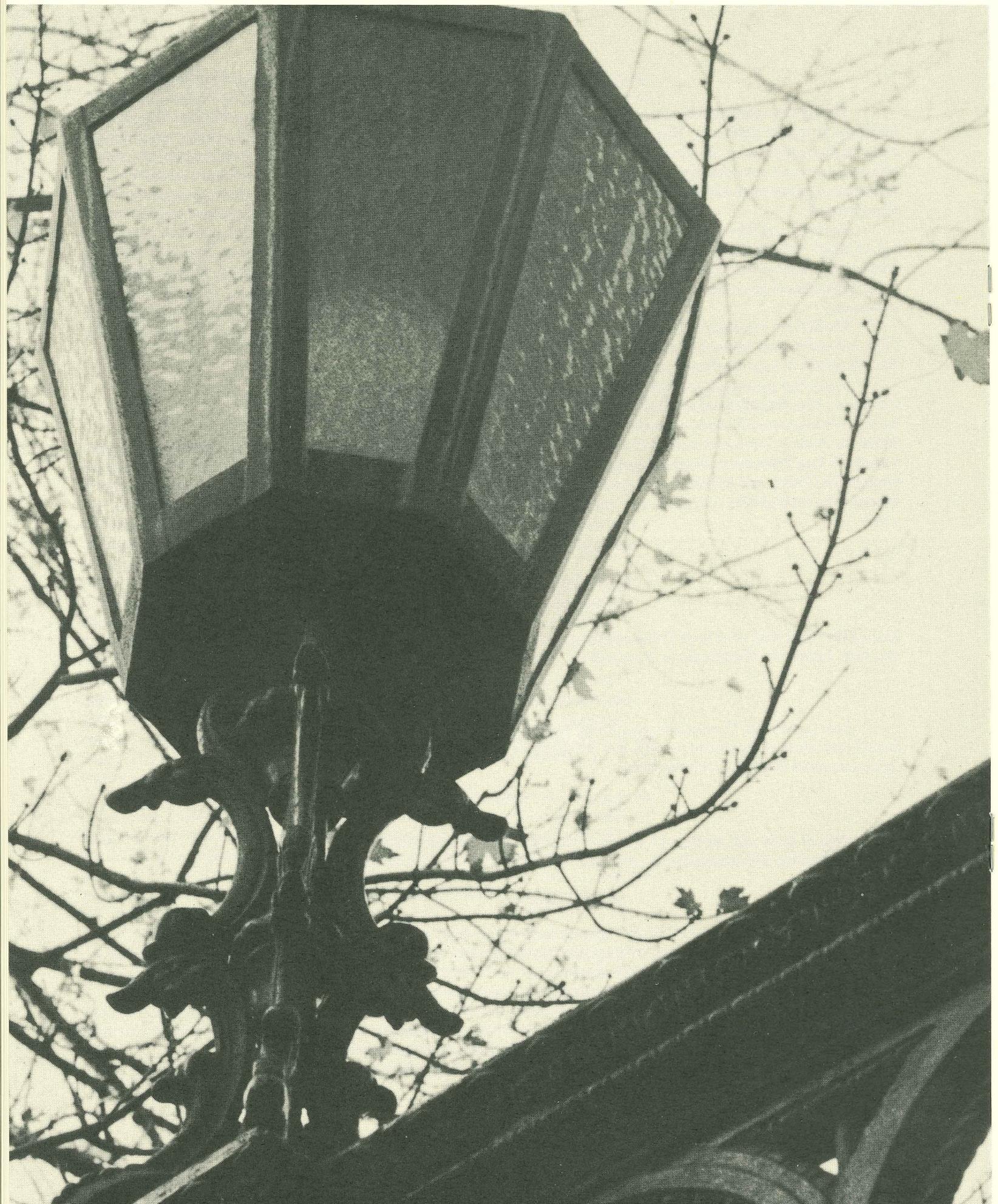
### RULE 22

Rule 22 deals with the issue of interprovincial law firms and was produced by a Special Committee of Convocation. It is the most liberal Rule on this issue in Canada.

## ADVERTISING

The changes to the Society's Rules that may have the greatest impact on the public and the profession are those governing individual lawyer advertising.

At the end of September, 1986, Convocation approved a Report that will result in sweeping changes to the Rules and allow lawyers to advertise their services in any medium provided the advertising is not false or misleading, that factual information given can be verified and provided the advertising is in good taste and not such as to bring the profession or the administration of justice into disrepute. Advertisements that compare other lawyers performance unfavourably with that of the advertiser's will not be allowed.



Advertisement of fees for consultations or specific services will be permitted by the new Rules but must contain an accurate statement of the services to be provided and of the circumstances in which higher fees may be charged. If disbursements are to be additional to the advertised fee, that fact too must be made clear in the advertisement. Expressions such as “X dollars and up” or “starting at” or the like, will not be allowed nor will an indication that an advertised price is a discount or special rate. Advertised fees must be available to all clients for at least 30 days after the last publication.

The necessary amendments to the Rules of Professional Conduct are being drafted to implement Convocation’s decision and they will be sent to all members. The new Rules become effective January 1, 1987.

#### RULE 10

After two and one-half years deliberations (including canvassing the profession), a Sub-Committee of the Professional Conduct Committee brought forward a new Rule to cover both fees and disbursements. Convocation approved the new Rule in February, 1986. The significance of the new Rule (Rule 10) is that it clarifies costs which are legitimate disbursement charges to clients. One important disbursement recognized in the new Rule is a user charge for automated legal research.

The subject of lawyers involvement in family law mediation has received intense scrutiny by a Sub-Committee that will report to the Professional Conduct Committee soon. It is expected that the Sub-Committee will recommend that a new Rule be passed to recognize the important role lawyers can play in the mediation process.

The Society’s staff continued during the fiscal year to receive an increasing number of enquiries both from members of the public and the profession concerning contingent fee arrangements. A Sub-Committee has been appointed to consider the issue and its Report is expected in early 1987.

The Committee continued its work on an editorial revision of the Rules of Professional Conduct – aided by Mark Orkin, Q.C. – and expects that this task will be completed in early 1987.

### PROFESSIONAL STANDARDS COMMITTEE

Chairman: James M. Spence, Q.C.

Incompetence, or a failure to meet acceptable standards of practice has long been recognized as a species of professional misconduct and properly the subject of discipline proceedings. What distinguishes it however is that such misconduct does not involve dishonesty or a lack of integrity. Rather than malfeasance it is misfeasance either through ignorance of law or a simple inability to provide legal services in an efficient and effective way. Formal discipline measures are not well suited to the problem. A new and different system is needed to identify and then deal with such cases in a non-adversarial way with a view to re-training rather than punishing.

Certain recurring characteristics help to identify members who should have the opportunity to proceed under the new system; often there has been a series of complaints about a solicitor’s competence extending over a period of time and in some instances there have been appearances before the Discipline Committee based on similar complaints. Very often the same members have failed to comply with filing requirements or to reply promptly to enquiries by clients or by the Society. Reprimands, or even suspensions have failed to bring about improvement. An examination of cases in the Society’s records indicates that a common basic cause of complaint stemmed

from an attitude that the practice of law is a business rather than a profession and from a failure properly to staff and organize to provide prompt and efficient service particularly in a high volume practice.

The Society has no power at present to conduct random inspections of members' practices or to order intensive peer review sessions for those requiring it. It can, however, use the record of recurrent complaints from members of the public, judges and other lawyers, and the incidence of multiple errors and omissions claims as well as more impressionistic information gathered by audit staff during the course of random inspections of members' books and records. The new Committee will establish criteria and procedures by which these sources of information can be used and will develop ways to secure a member's cooperation in a comprehensive assessment of abilities and practices and then devise a broad range of remedial steps intended to overcome the deficiencies that have led to incompetence in practice. Those who refuse such cooperation would be referred to the normal discipline process along with those who might breach undertakings given to the Professional Standards Committee. The Committee's work will lead to the creation of specific courses for law schools, the Bar Admission Course or Continuing Legal Education designed to provide remedies in areas that require it. In time the proposed program will lead to the formulation and publication of minimum standards of practice in appropriate branches of the profession.

The Professional Standards Committee will solicit the voluntary participation of members of the Society throughout the province to serve as mentors in the remedial process to work under the direction of the Society's Practice Advisory Service. The cooperation of local law associations, the Advocates' Society, and the Canadian Bar Association-Ontario, will be sought to help find the volunteers who would like to make a contribution in this program.

## PUBLIC INFORMATION COMMITTEE

Chairman: James J. Carthy, Q.C.

### DIAL-A-LAW

The Dial-A-Law program now consists of about 125 pre-recorded tapes containing general legal information on a wide variety of legal topics.

The tapes cover such topics as Criminal and Family Law, Immigration, Small Claims Court, Employment Law, Consumer Law, Wills and Estates and Real Estate.

The program is widely promoted and is free to the public. It is financed by the members of the Bar through the Society, with funding assistance from The Law Foundation of Ontario. The program's 18 telephone lines (10 Toronto and area, 8 INWATS), are manned by two operators.

During 1984, the program handled 69,827 calls and that number increased by almost 40% to 96,971 in 1985 once the program was made province-wide. During the first eight months of 1986, the program has helped 72,390 callers. Based on that figure, the program will handle about 110,000 calls during calendar 1986.

Dial-A-Law also continues to generate a substantial number of calls to the Society's Lawyer Referral Service.

### LAWYER REFERRAL SERVICE

With four operators and 9 lines (6 Toronto and area, 3 INWATS) the Service handles an increasing number of calls (1983—48,355; 1984—55,264; 1985—72,544). In the first seven months of 1986, the Service handled 44,623 calls and is expected to handle about 75,000 during the whole year.

Many aspects of the program are being computerized to increase the staff's ability to help callers.

### SHOWS & EXHIBITIONS

The Society, in co-operation with the Ontario Legal Aid Plan, continued its presence at several home shows and general exhibitions held throughout the province. Typically, the Society's portable booth is on display and volunteer lawyers attend to answer general questions from members of the public. This program has proved highly successful in showing the public, at no charge, that the profession is accessible to them.

In addition, the over 25,000 people who visit the booths each year are able to pick up copies of the Law Society pamphlet series and other legal information.

### PAMPHLETS & YELLOW PAGES

The Society's pamphlet program (Legal Aid, The Lawyer, Buying a Home, Accidents, Partnerships, Lawyer Referral, Wills, Dial-A-Law) continued last year with about 500,000 being distributed.

The distribution points included supermarkets, lawyers' offices, legal aid offices and clinics, social service agencies, MPP and MP offices, libraries, schools, other outlets and direct mail. Each pamphlet, in addition to dealing with a particular topic, also promotes the use of the Dial-A-Law and Lawyer Referral Service programs.

A revised "The Lawyer" pamphlet will be produced soon to include information about the Society's Compensation Fund, its guidelines and limitations.

The Society places general advertisements in each of Ontario's 115 Yellow Pages directories. Each provides general information on Legal Aid, the Lawyer Referral Service and Legal Fees. Beginning this year, the section on Legal Fees will refer callers to a new tape in the Dial-A-Law program which outlines how best to resolve billing disputes.

The Society's separate Dial-A-Law advertisement in the Yellow Pages will soon include, in the Metro Toronto area to start, the tape numbers and names of the program's most popular tapes. This change will be more informative for the public and will speed the handling of calls by the program's operators.

### MEDIA ENQUIRIES & NEWSUPDATE

To help Benchers and senior staff of the Society and the Ontario Legal Aid Plan keep informed of media stories and comment, the Information Department prepares and distributes a monthly "NewsUpdate" and also alerts appropriate individuals to upcoming news stories about the Society, its members and Legal Aid.

The Information Department continues to maintain liaison with the media to provide basic information about the Society and Legal Aid and, when appropriate, issues news releases and arranges for news conferences.

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**SPECIAL COMMITTEE – SLATER REPORT – INSURANCE**  
*Kenneth Howie, Q.C.*

In May, 1986, the Treasurer appointed a Special Committee to consider the Slater Report of the Ontario Task Force on Insurance which recommended drastic changes to the tort system.

The Task Force proposes a three stage plan; in the short term, accident compensation at least for car accident injury, implemented through the private insurance industry; in the medium term, government, working with the private insurance industry, would design a universal accident compensation plan to cover all accidental injuries; long term, federal and provincial governments would co-ordinate and rationalize all first-party no-tort compensation schemes into a universal disability compensation program.

The Task Force's terms of reference come from the Minister of Consumer and Commercial Relations and are to seek out "solutions for cost and capacity problems in the property and casualty insurance industry in Ontario." They are seen by the Task Force as justifying governmental interest in the availability, reliability and affordability of insurance, and in the operations of the insurance market place. The Task Force, apparently, regards its terms of reference as broad enough to warrant recommendations respecting a universal program of disability compensation for all in Canada.

The recommendation that the Government of Ontario consider "elimination of resort to (the) tort-litigation system with respect to personal injury compensation from automobile accidents" may affect profoundly the services lawyers are able to provide to members of the public and the constraints within which they would have to work.

The Special Committee reported to Convocation in June. It adopted the Committee's recommendations and made the following submission to the Minister:

"The Minister of Consumer and Commercial Affairs has asked for comments and submissions on the report of the Ontario Task Force on Insurance and particularly on those portions of the report dealing with the reformation of the tort system. The Society is aware that several groups, both legal and non-legal will make submissions to the Minister concerning the report and its recommendations. The Society does not propose to make any detailed response. However, because of its obligation to serve and protect the public's interest, it expresses concerns about the recommendations to abolish the tort personal injury compensation system.

Tort personal injury compensation has been an integral part of our legal system for hundreds of years and its abolition would have profound and far reaching effects not only on individual members of the public but also on society as a whole. The Society is of the view that the present tort reparation system in the Province of Ontario has worked well in providing fair and adequate compensation for accident victims. The legal system has demonstrated its ability to be flexible in varying circumstances and in meeting the needs of a changing society.

While the present tort reparation system may very well be improved to better protect the public's interest the Society is not satisfied that the recommendations made by the Task Force Report in regard to the proposed elimination of tort personal injury compensation have been sufficiently studied or researched. Should the government decide to consider such radical steps, it should take action only after very careful consideration. The Society recommends therefore that the Government, before taking any further action on the recommendations of the Task Force:

- (a) commission a study of the advantages and disadvantages of existing no-fault systems within the province particularly the Worker's Compensation Board, the Criminal Injuries Compensation Board, and existing motor vehicle no-fault systems in Ontario; and
- (b) undertake a thorough review of no-fault systems in other jurisdictions.

The Society further recommends that the above studies be done by the Ontario Law Reform Commission or be conducted under the aegis of a Royal Commission."

## UNAUTHORIZED PRACTICE COMMITTEE

*Chairman: Clayton Ruby, Esq.*

### REPORT ON UNSUPERVISED PERSONS (PARALEGALS)

During the fiscal year, the Committee examined the potential and actual harm to the public occasioned by the rapid growth in the number of unsupervised persons providing legal services to the public. The Committee's Report was presented to Convocation in the Fall of 1986 and was also presented to the Attorney General. The release of the Committee's Report received considerable media coverage and comment.

The Society's main concern is that the non-lawyers who are selling their services to the public in 13 areas of law have met no educational standard, have no insurance or compensation fund and have no licensing body to control their conduct so that the public is at risk without effective recourse.

The Report concludes that unsupervised persons cannot provide service of adequate quality in such areas as family law, estates, corporate, immigration or criminal law nor in serious highway traffic matters where a jail term may result.

It recommends however, that in minor provincial and municipal motor vehicle offences, including Highway Traffic Act matters not involving jail sentences or seizure of an automobile, Provincial Court (Civil Division), administrative tribunals except immigration and unemployment insurance tribunals and in federal and provincial labour relations, non-lawyers should be permitted to represent the public provided they are properly qualified and regulated by an appropriate mechanism.

Legislation to bring this about should provide for adequate protection of the public including training, continuing education, supervision and discipline of such non-lawyers and should also provide financial protection to their customers.

The Report recommends that if such legislation is passed it be enforced by a special branch of the Ministry of Consumer and Commercial Relations. Copies of the full Report are available from the Publications Division of the Society's Education Department.

### GENERAL

In addition to producing the above-noted special Report, the Committee received 297 written complaints of unauthorized practice during the fiscal year. Most were against non-lawyers acting in the areas of family law, real estate, corporate matters, wills and estates, landlord and tenant, Small Claims Court, summary conviction criminal matters, Highway Traffic Act offences and Immigration Act matters.

Three prosecutions were launched. One was successfully resolved and the charge withdrawn, the other two are to proceed to trial.

The Society's prosecution of Brian Lawrie and POINTTS Limited was unsuccessful at the trial level. The Society appealed that acquittal to the District Court and the appeal was dismissed. A second appeal was then launched in the Ontario Court of Appeal and was scheduled to be heard in late 1986.



*Financial Statements*

June 30, 1986

AUDITORS' REPORT

TO THE MEMBERS OF THE LAW SOCIETY OF UPPER CANADA:

We have examined the balance sheet of The Law Society of Upper Canada as at June 30, 1986 and the General Fund statement of revenue and expenses and surplus, the General Fund statement of changes in financial position and the Errors and Omissions Insurance Fund and Compensation Fund statements of revenue and expenses and balance of fund for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of the funds as at June 30, 1986 and the results of operations of the funds and the changes in financial position of the General Fund for the year then ended in accordance with accounting principles described in note 1 which were applied on a basis consistent with that of the preceding year.



Toronto, Canada,  
August 25, 1986.

Chartered Accountants

*Balance Sheet**Assets**June 30, 1986*

GENERAL FUND:	1986	1985
<i>Current—</i>		
Short-term investments, at lower of cost and market (approximate market value 1986—\$3,986,000; 1985—\$2,300,000)	\$ 3,976,380	\$ 2,286,618
Accounts receivable (note 2)	401,591	469,346
Inventory	123,620	112,064
Prepaid expenses	60,266	54,414
<b>TOTAL CURRENT ASSETS</b>	<b>4,561,857</b>	<b>2,922,442</b>
<i>Fixed, at cost—</i>		
Land, buildings, furnishings and major alterations (note 4)	7,409,514	7,409,514
	<b>11,971,371</b>	<b>10,331,956</b>
<b>ERRORS AND OMISSIONS INSURANCE FUND (NOTE 5):</b>		
Short-term investments, at lower of cost and market (approximate market value 1986—\$10,834,000; 1985—\$12,347,000)	10,771,345	12,238,168
Deductible portion of claims due from members	584,619	524,474
Interest and other receivables	844,161	775,943
Portfolio investments, at amortized cost (market 1986—\$26,987,000; 1985—\$22,300,000)	26,014,183	21,196,074
	<b>38,214,308</b>	<b>34,734,659</b>
<b>COMPENSATION FUND (NOTE 6):</b>		
Cash	108,084	
Short-term investments, at lower of cost and market (approximate market value 1986—\$2,296,000; 1985—\$10,538,000)	2,288,135	10,445,249
Interest and other receivables	413,496	89,404
Portfolio investments, at amortized cost (market 1986—\$11,081,000)	11,118,052	
	<b>13,927,767</b>	<b>10,534,653</b>
	<b>\$64,113,446</b>	<b>\$55,601,268</b>

*Approved by Convocation:  
September 26, 1986.*

*Arthur R. A. Scace  
Treasurer*

*John D. Ground  
Chairman of Finance Committee*

## *Liabilities and Balances of Funds*

GENERAL FUND:	1986	1985
<i>Current—</i>		
Bank indebtedness	\$ 209,675	\$ 17,122
Accounts payable and accrued liabilities	1,361,346	847,892
<b>TOTAL CURRENT LIABILITIES</b>	<b>1,571,021</b>	<b>865,014</b>
Balance of fund—		
Operating surplus	1,546,636	1,113,228
Reserve for major capital expenditures (note 4)	1,444,200	944,200
Equity in fixed assets	7,409,514	7,409,514
<b>TOTAL BALANCE OF FUND</b>	<b>10,400,350</b>	<b>9,466,942</b>
	<b>11,971,371</b>	<b>10,331,956</b>
<b>ERRORS AND OMISSIONS INSURANCE FUND:</b>		
Bank indebtedness	180,873	255,447
Accounts payable and accrued liabilities	630,682	680,192
Deferred revenue (note 5)	985,491	804,810
Balance of fund	36,417,262	32,994,210
	<b>38,214,308</b>	<b>34,734,659</b>
<b>COMPENSATION FUND:</b>		
Bank indebtedness		66,324
Accounts payable	76,162	
Balance of fund	13,851,605	10,468,329
	<b>13,927,767</b>	<b>10,534,653</b>
	<b>\$64,113,446</b>	<b>\$55,601,268</b>

(See accompanying notes to financial statements)

*General Fund**Statement of Revenue and Expenses and Surplus**for the year ended June 30, 1986*

REVENUE:	Total		General, administrative and professional	
	1986	1985	1986	1985
Annual fees	\$ 7,749,527	\$ 7,192,122	\$ 7,749,527	\$ 7,192,122
County library fee	418,225	239,175		
Call fees	226,094	219,888	226,094	219,888
Admission fees	122,558	114,358	122,558	114,358
Investment income	387,543	331,826	387,543	331,826
Ontario report royalty	25,011			
Library sundry	90,160	87,012		
Library search law	173,514	135,215		
Miscellaneous	151,319	71,328	151,319	71,328
Bar admission – fees	1,231,907	1,084,782		
– grants	1,298,265	1,307,157		
Continuing legal education	1,609,205	1,532,289		
TOTAL REVENUE	13,483,328	12,315,152	8,637,041	7,929,552
EXPENSES:				
Secretariat	1,322,010	1,082,128	1,322,010	1,081,128
Finance and administration	1,326,181	1,243,187	1,326,181	1,243,187
Discipline	879,792	898,525	879,792	898,525
Audit	988,987	960,633	988,987	960,633
Public information	560,375	469,946	560,375	469,946
Professional conduct	107,650	105,097	107,650	105,097
Admissions	5,548	7,222	5,548	7,222
Legislation and rules	219	2,687	219	2,687
Muniments and memorabilia	19,753	28,992	19,753	28,992
Unauthorized practice	35,614	16,636	35,614	16,636
Libraries and reporting	1,884,398	1,575,330		
Library search law	187,203	135,215		
Building and grounds	1,079,970	900,884	1,079,970	900,884
Bar admission course	2,530,172	2,391,939		
Continuing legal education	1,622,048	1,224,608		
TOTAL EXPENSES	12,549,920	11,043,029	6,326,099	5,715,937
Surplus (deficiency) before capital provision	933,408	1,272,123	2,310,942	2,213,585
Provision for major capital expenses	500,000	500,000	500,000	500,000
TOTAL SURPLUS (DEFICIT)	\$ 433,408	\$ 772,123	\$ 1,810,942	\$ 1,713,585



*General Fund**Statement of Changes in Financial Position**for the year ended June 30, 1986*

CASH AND SHORT-TERM INVESTMENTS WERE PROVIDED FROM (APPLIED TO):	1986	1985
<i>Operations—</i>		
Excess of revenue over expenses for the year	\$ 433,408	\$ 772,123
Add back charge not involving an outlay of funds:		
Provision for major capital expenditures	500,000	500,000
<b>TOTAL PROVIDED FROM OPERATIONS</b>	<b>933,408</b>	<b>1,272,123</b>
<i>Change in working capital items other than cash and short-term investments—</i>		
Accounts receivable	67,755	(116,036)
Inventory	(11,556)	(63,466)
Prepaid expenses	(5,852)	5,019
Accounts payable and accrued liabilities	513,454	307,101
	<b>563,801</b>	<b>132,618</b>
Net increase in cash and short-term investments during the year	1,497,209	1,404,741
Cash and short-term investments in hand, beginning of year	2,269,496	864,755
Cash and short-term investments in hand, end of year	<b>\$3,766,705</b>	<b>\$2,269,496</b>

*(See accompanying notes to financial statements)*

*Errors and Omissions  
Insurance Fund**Statements of Revenue and Expenses  
and Balance of Fund**for the year ended June 30, 1986*STATEMENT OF REVENUE AND EXPENSES

REVENUE:	1986	1985
Members' levy (note 5)	\$10,973,336	\$11,463,583
Investment income	3,833,650	3,675,023
	<u>14,806,986</u>	<u>15,138,606</u>
EXPENSES:		
Claims paid, less recoveries	7,526,966	7,572,301
Provision for unrecoverable claims from members	169,228	410,480
Insurance premium	1,859,826	1,622,623
Adjusters' fees	397,031	330,286
Legal fees	148,621	309,497
Salaries	750,265	656,189
Administration	283,577	215,638
Brokerage fees	80,000	72,000
Rent	168,420	73,109
	<u>11,383,934</u>	<u>11,262,123</u>
Excess of revenue over expenses for the year	\$ 3,423,052	\$ 3,876,483

STATEMENT OF BALANCE OF FUND

Balance of fund, beginning of year	\$32,994,210	\$29,117,727
Excess of revenue over expenses for the year	3,423,052	3,876,483
Balance of fund held for future claims and expenses, end of year (note 5)	<u>\$36,417,262</u>	<u>\$32,994,210</u>

*(See accompanying notes to financial statements)*

*Compensation Fund*      *Statements of Revenue and Expenses and Balance of Fund*

*for the year ended June 30, 1986*

STATEMENT OF REVENUE AND EXPENSES

REVENUE:	1986	1985
Annual levy	\$ 4,631,530	\$ 4,414,085
Investment income	1,179,654	1,019,554
	<u>5,811,184</u>	<u>5,433,639</u>
EXPENSES:		
Grants paid, less recoveries	2,146,952	1,815,680
Counsel fees and referee fees	60,551	94,022
Salaries and benefits	202,241	193,774
Reporters and sundries	18,164	16,416
	<u>2,427,908</u>	<u>2,119,892</u>
Excess of revenue over expenses for the year	\$ 3,383,276	\$ 3,313,747

STATEMENT OF BALANCE OF FUND

Balance of fund, beginning of year	\$10,468,329	\$ 7,154,582
Excess of revenue over expenses for the year	3,383,276	3,313,747
Balance of fund, end of year (note 6)	<u>\$13,851,605</u>	<u>\$10,468,329</u>

*(See accompanying notes to financial statements)*

*Notes to Financial Statements**June 30, 1986*1. ACCOUNTING POLICIES

- (a) The Society uses fund accounting wherein the general fund is used to account for the various operations of the Society, the compensation fund is used to account for compensation grants and the errors and omissions insurance fund is used to account for insurance claims (partly self-insured) and costs of administration and adjusters.
- (b) The Society follows the accrual basis of accounting under which all revenue is allocated to the year to which it is deemed to be applicable. Operating expenses include amounts for goods or services which have been received or rendered within the fiscal year. Grants, claims and related expenses under the compensation fund and the errors and omissions insurance fund are recorded in the accounts when approved for payment.
- (c) Short-term investments are stated at the lower of cost and market value.
- (d) Portfolio investments for the compensation fund and errors and omissions insurance fund are recorded at cost and adjusted for amortization of premiums and discounts. Any premium or discount from the par value is amortized over the term to maturity.
- (e) Land, building, furnishings and major alterations are stated at cost. No depreciation is recorded in the accounts in respect of these assets. However, an annual provision for major capital expenditures is made. Minor capital expenditures are expensed in the year of acquisition.
- (f) Income earned on fund investments remains within the specific fund for which the investments are held.
- (g) Inventory of Continuing Education publications and printing materials is valued at the lower of cost and net realizable value.
- (h) Administration expenses include only those salary and other expenses not allocated directly to specific activities.

2. THE LAW FOUNDATION OF ONTARIO—  
Bar Admission Course Grant

During the year the Society obtained a grant from The Law Foundation of Ontario to cover the actual operating deficit of the Bar Admission Course up to a maximum of \$570,000 after taking into account the receipt of the annual grant from the Province of Ontario. The actual deficit and grant was \$535,265 of which \$380,520 was received during the year. The balance of \$154,745 was received after June 30, 1986 and is included in accounts receivable.

3. THE LAW FOUNDATION OF ONTARIO—  
County and District Library Grants

The Society also received \$500,000 from The Law Foundation of Ontario and on behalf of county and district libraries to be used towards the cost of administration and the purchase of books. At June 30, 1986, all of this grant had been disbursed.

4. RESERVE FOR MAJOR CAPITAL EXPENDITURES

The Society makes an annual provision for major capital expenditures. As expenditures are made, the accumulated provision is reduced and equity in fixed assets is increased by a corresponding amount. The building and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$45,000,000.

Details of the account are as follows:

	1986	1985
Reserve, beginning of year	\$ 944,200	\$444,200
Provision for major capital expenditures	500,000	500,000
Reserve, end of year	\$1,444,200	\$944,200

#### 5. ERRORS AND OMISSIONS INSURANCE FUND

- (a) The Society's current errors and omissions insurance plan insures members for claims against errors discovered from calendar 1977 onwards with losses being covered on the following basis:

		1983 through 1986	1981 and 1982	1980	1979 (and prior)
<i>Borne by—</i>					
Member	first	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000
Errors and omissions insurance fund	next	95,000	95,000	30,000	30,000
Insurer	next	400,000	150,000	215,000	65,000
Total coverage per occurrence		\$500,000	\$250,000	\$250,000	\$100,000

- (b) A separate fund is set up each year to provide for claims arising during the year. The maximum fund loss experience for any year is limited by a stop loss agreement with the insurer. The following table indicates the fund's maximum exposure based on reserves for outstanding claims as at June 30, 1986:

Fund term	Stop loss limit (000's)	The Society's portion of claims paid (000's)	Outstanding claims (000's)	Covered by stop loss agreement (000's)	1986 Possible liability of fund (000's)	1985 Possible liability of fund (000's)
<i>July 1—</i> June 30, 1986	\$12,250	\$ 796	\$11,282		\$11,282	
<i>July 1—</i> June 30, 1985	10,000	3,047	9,680	\$ 2,727	6,953	\$ 8,793
<i>July 1—</i> June 30, 1984	8,500	4,354	6,443	2,297	4,146	6,075
<i>July 1—</i> June 30, 1983	8,500	4,436	4,291	227	4,064	4,965
<i>Jan. 1—</i> June 30, 1982	3,600	3,656	3,006	3,062		1,665
Prior	14,702	13,892	4,057	4,018	39	1,543
				\$12,331	\$26,484	\$23,041

There is an additional potential liability resulting from the Society's setting a variable deductible amount which in some cases is less than that stipulated in the insurance policy. The fund is also responsible for further claims and future expenses

such as legal fees, adjusters' fees, provision for unrecoverable claims from members, and administration costs on claims arising since 1977.

- (c) Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1986 amount to \$126,388 (1985 – \$216,343).
- (d) Deferred revenue arises from a contingency provision in the E&O levy where favourable experience rebates will be applied against payment of future levies.

#### 6. COMPENSATION FUND

Convocation may make grants from the compensation fund in order to relieve or mitigate loss sustained by any person arising mainly from improper conduct on the part of the member of the Society. Annual levies for this fund vary from year to year to reflect the anticipated grants. At the year end claim applications of approximately \$18,612,000 (1985 – \$25,958,000) had been received. Grants will be based on discretionary limits approved by convocation. Strict application of the current limits indicate the maximum grants under the program would aggregate \$8,000,000.

#### 7. ENDOWMENT FUNDS

The Society administers endowment funds from which prizes, bursaries and gifts are made annually from the income earned. At the year end, there were cash, investments and interest receivable of \$358,053 of which \$236,240 was capital while the balance of \$121,813 was unexpended income. Prizes, bursaries and gifts of \$14,402 were paid during the year.

#### 8. PENSION PLAN

The annual pension expense for 1986 amounted to \$219,500 compared to \$215,000 in 1985. Based on an actuarial valuation at January 1, 1984, the plan does not have an unfunded liability.

#### 9. LEASE COMMITMENTS

The Society is committed to making monthly lease payments for property and computer facilities at various maturity dates up to July, 1992. The approximate commitments for the next five years and in total are as follows:

	1987	1988	1989	1990	1991	Total
<i>Bar Admission—</i>						
London	\$ 73,000	\$ 89,500	\$ 89,500	\$ 89,500	\$ 89,500	\$ 431,000
Ottawa	115,000	125,000	130,000	135,000	145,000	650,000
<i>204 Richmond Street West—</i>						
Toronto	148,500	148,500	148,500	136,125		581,625
Computer equipment	105,000	103,000	103,000	103,000	103,000	517,000
	\$441,500	\$466,000	\$471,000	\$463,625	\$337,500	\$2,179,625

#### 10. LEGAL AID FUND

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General on the accounts and financial transactions of the Fund which are subject to audit by the Provincial Auditor, and are not included in these financial statements.



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