MINUTES OF SPECIAL CONVOCATION

Thursday, 23rd February, 1995
3:30 p.m.

PRESENT:

The Treasurer (Paul S. A. Lamek), Blue, Brennan, Campbell, Carey, Elliott, Goudge, Graham, Kiteley, Lamont, Lax, Moliner, S. O'Connor, Peters, Scott, Weaver and Yachetti.

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The reporter was sworn.

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IN PUBLIC

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ADMISSIONS AND MEMBERSHIP COMMITTEE

APPLICATION FOR READMISSION

Re: Asgareli Mohamed MANEK - Stoney Creek

The Secretary placed the matter before Convocation.

Messrs. Blue, Yachetti, Brennan and Goudge did not participate.

Mr. Michael Brown appeared on behalf of the Society and Mr. Brian Greenspan appeared on behalf of the applicant. The applicant was present.

It was moved by Mr. Campbell, seconded by Mr. Carey that the majority Report be adopted, that is, that the applicant be readmitted.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF section 46 of the *Law Society Act*.

AND IN THE MATTER OF the readmission of Asgareli Mohamed Manek, of the Town of Stoney Creek.

REASONS FOR DECISION

The application of Asgareli Mohamed Manek for readmission to the Law Society was heard on May 13, 1994 by a panel consisting of Paul D. Copeland, Chair, Maurice C. Cullity, Q.C. and Vern Krishna, Q.C.

Background

Mr. Manek was disbarred by an order of Convocation made on January 29, 1987. Convocation accepted the recommendation of a Discipline Committee consisting of J. James Wardlaw, Q.C., Chair, B. Clive Bynoe, Q.C. and Noel Ogilvie which had found the following particulars of Complaint D81/84 to have been established:

(Para. 2: Professional Misconduct)

> (a) He breached certain Orders of the Honourable Mr. Justice Holland dated the 20th day of July and the 22nd day of July, 1981, respectively, by paying out to a client, Maple Leaf of Greensville, the proceeds of a Victoria and Grey Trust Company Guaranteed Investment Certificate purchased in the name of James Dunham, in trust, for Maple Leaf of Greensville, without first obtaining leave of a Judge of The Supreme Court of Ontario.
>
> (c) He advised clients to pay him money which he advised would in turn be applied for corrupt purposes to obtain advantages for the said clients examples of which include:
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> a. the payment of $5,800.00, more or less, by his clients Sandra and Evarist Correa;
>
> b. the payment of $500.00, more or less, by his clients, Douglas James Grieve and Katherine Grieve;
>
> c. the payment of $300.00, more or less, by his clients, Stanley Savickas and Sophie Savickas.

(Para. 3: Conduct Unbecoming)

> (a) That he, on or about the 15th day of March, 1983, in the Court of General Sessions of the Peace, Judicial District of Hamilton-Wentworth, before His Honour Judge M. Boulan, pleaded guilty to and was convicted of a charge that within four months prior to the 11th day of May, 1981, at the City of Hamilton, in the Judicial District of Hamilton-Wentworth did by deceit, falsehood or other fraudulent means, attempt to defraud Sandra and Evarist Correa of $5,800.00, contrary to the provisions of Section 338(1)(a) and 421(b) of the Criminal Code of Canada.

It is clear from the report of the Discipline Committee that the particulars that led to their recommendation of disbarment were those in paragraph 2(c) above. The complaint of Conduct Unbecoming arose out of the same facts particularized in paragraph 2(c)(i) of the Complaint.

The facts that gave rise to the particulars in paragraph 2(c) of Complaint D81/84 are set out in the report of the Discipline Committee that is attached to the Dissenting Reasons delivered by the Chair in this application. In general terms, the offenses committed by Mr. Manek consisted of obtaining, or attempting to obtain money, from his clients on the fraudulent pretext that this was required to make payments to other individuals for the purpose of settling claims

by or against the clients. In the first two cases, the payments were alleged to be necessary to pay bribes to insurance adjusters and policemen; in the third case, the payment was said to be necessary to obtain the cooperation of a lawyer representing the other side. In each case the payments were to be made in cash.

At the hearing before the Discipline Committee Mr. Manek, who was not represented, was found not to be a credible witness and professional misconduct was held to have been established beyond a reasonable doubt. The Committee concluded that the offenses were of a repeated type for which disbarment was the only appropriate penalty.

Mr. Manek ceased to practise at the beginning of 1982 after a Complaint was sworn based on one of the three particulars for which he was subsequently disbarred. On December 11, 1992 he received a pardon under the *Criminal Records Act* (Canada) in respect of his conviction for attempted fraud.

The Principles Governing Readmission

It is clear that there is a heavy onus on a disbarred lawyer who seeks readmission to the Society. This was stated explicitly by Convocation in *Goldman* and it is also recognized in the cases of *Moynihan* and *Hiss* to which this Committee was referred by counsel for the Law Society.

> In *Goldman* Convocation accepted:
>
> . . . as an overriding principle that restoration should be permitted only where the Applicant has shown by a long course of conduct that he is a person to be trusted and is in every way fit to be a member of the Society and that the Society must be entirely satisfied on these grounds before restoring an Applicant to the Rolls.

Subject to that overriding principle, the conditions to be satisfied by an Applicant for readmission were described by Convocation in *Goldman* in the following passage:

> Convocation is mindful of the fact that unless the Applicant makes out a case of very special circumstances, and has shown that he has entirely purged his guilt and has in all other respects fulfilled the requirements for reinstatement the Law Society should be slow to permit restoration to the Rolls. Convocation accepts that substantial and satisfactory evidence is needed to show that there is no probability of the Applicant offending in the future. The Society must consider whether a sufficient period has elapsed before the Applicant applies for restoration. The Applicant must establish that his conduct and character are unimpeached and are unimpeachable and this can only be established by the evidence of trustworthy persons especially members of the profession and persons with whom the Applicant has been associated since his disbarment.

With the possible exception of Convocation's reference to "special circumstances" to which we will refer below, similar, though slightly more specific, principles were affirmed in *Moynihan* and *Hiss*. In *Moynihan*, the Supreme Court of Washington recognized the following eight criteria as applicable for the purpose of determining whether to reinstate a disbarred attorney:

> (a) the Applicant's character, standing, and professional reputation in the community in which he resided and practised prior to disbarment; (b) the ethical standards which he observed in the practice of law; (c) the nature and character of the charge for which he was disbarred; (d) the sufficiency of the punishment undergone in connection therewith, and of the making or failure to make restitution where required; (e) his attitude, conduct, and reformation subsequent to disbarment; (f) the time that has elapsed since disbarment; (g) his current proficiency in the law; and (h) the sincerity, frankness, and truthfulness of the Applicant in presenting and discussing the factors relating to his disbarment and reinstatement.

In *Hiss* the Supreme Judicial Court of Massachusetts stated that the relevant considerations were:

> (1) the nature of the original offense for which the partitioner was disbarred; (2) the partitioner's character, maturity, and experience at the time of his disbarment; (3) the partitioner's occupations and conduct in the time since his disbarment; (4) the time elapsed since the disbarment; and (5) the partitioner's present competence in legal skills.

In both *Moynihan* and *Hiss* the courts refused to accept that there may be particular types of offenses that will preclude reinstatement in any circumstances. In *Moynihan* the Court stated:

> . . . the long-standing policy of this Court has been that the gravity of the misconduct in itself should not preclude reinstatement if the attorney can establish he has rehabilitated himself.

In *Hiss*, the Court retreated from the position it had taken in previous cases that there may be:

> . . . offenses so serious that the attorney committing them can never again satisfy the Court that he has become trustworthy . . . we cannot now say that there are any offenses so grave that a disbarred attorney is automatically precluded from attempting to demonstrate through ample and adequate proofs, drawn from conduct and social interactions, that he has achieved a "present fitness" to serve as an attorney and has led a sufficiently exemplary life to inspire public confidence once again, in spite of his previous actions.

Although denying that the nature or gravity of an offence, could, by itself, forever prevent readmission, the courts in *Moynihan* and *Hiss* recognized that the nature of the offence is a relevant consideration and we do not believe this is inconsistent with the reasons of Convocation in *Goldman*. In particular, where as here, the offenses involved deceit, dishonesty and breach of the relationship of trust that the client is entitled to rely upon, we believe that Mr. Manek has a particularly heavy onus to demonstrate complete rehabilitation, complete trustworthiness and present good character so that the Society can conclude that there is no probability of future misconduct.

The one doubt that we have with respect to the governing principles is the significance to be given to Convocation's statement in *Goldman* that the Applicant must make out a case of "special circumstances". Our uncertainty is whether this is to be understood as requiring something more than complete rehabilitation, trustworthiness and present good character or whether it refers only to the weight of the onus placed upon an Applicant to satisfy these requirements. If the former interpretation is correct, it is difficult to see how special circumstances could ever be demonstrated unless the offenses were committed at a time when the solicitor was suffering from some psychiatric, emotional or other disorder or influence which was found to have a causal connection with the offence, but not to excuse it. In such a case, as in *Goldman*, evidence that the condition no longer existed at the time of the application might be regarded as a relevant special circumstance. However, in our view, a requirement that there can be no readmission without the establishment of special circumstances of such kinds would be tantamount to a conclusion that applications for readmission should almost always be refused irrespective of the weight of the evidence with respect to rehabilitation, present trustworthiness and good character. We prefer the approach in *Hiss*:

> Such a harsh, unforgiving position is foreign to our system of reasonable, merciful justice. It denies any potentiality for reform of character. A fundamental precept of our system . . . is that men can be rehabilitated. "Rehabilitation . . . is a "state of mind" and the law looks with favour upon rewarding with the opportunity to serve, one who has achieved, reformation and regeneration"." Time and experience may mend the flaws of character which allow the immature man to err. The chastening effect of a severe sanction such as disbarment may redirect the energies and reform the values of even the mature miscreant. There is always the potentiality for reform, and fundamental fairness demands that the disbarred attorney have opportunity to induce proof"

We believe that the approach in *Hiss* is consistent with the submissions of counsel for the Law Society at the hearing of this application to the effect that the only logical meaning that can be given to the requirement of "special circumstances" in *Goldman* is that an applicant must show that he has purged his guilt and has been rehabilitated to an extent that the Society and the public can be satisfied that there is no probability of the applicant offending in the future.

There is one other troublesome issue of principle that arises in this case and, we believe, will inevitably arise on other applications for readmission. Although, in the proceedings before the Discipline Committee, Mr. Manek admitted attempting to deceive his clients in the first of the three cases referred to in the particulars under paragraph 2(c) of the Complaint, he denied the similar allegations involved in the other two cases. The Discipline Committee did not find his evidence with respect to those allegations to be credible because of the "combined evidence of similar facts from three separate clients involving three separate matters coupled with a plea of guilty to a criminal charge. . .".

Mr. Manek has made no admission that his evidence in the discipline proceedings with respect to the second and third particulars was untrue. Is it necessary for him to do this and, in effect, to increase the seriousness of his misconduct before he can be said to have been rehabilitated and to be now of good character?

Clearly, this Committee must accept that he committed the offenses in each of the three cases. Does it follow that we must conclude that he gave perjured evidence to the Discipline Committee and cannot now be considered to be rehabilitated or of good character because he will not admit to his perjury?

We do not think that such a conclusion should be drawn. Quite independently of the fact that we do not have a transcript of the evidence that was given at the Discipline Hearing, a finding that a witness' evidence was not credible is not tantamount to a finding of perjury. Far less where, as here, the issue relates to the applicants' good character at the present time, does his refusal to admit to perjury in the discipline proceedings held some eight years ago give rise to a reliable inference that he continues to affirm testimony that he now knows or believes to be perjured. We believe it would be dangerous, and unfair, to an applicant to draw an inference of perjury from the Discipline Committee's findings of credibility and then further inferences as to his present character from his failure to accept that he committed perjury in the discipline proceedings. In this context we adopt again the reasoning of the Supreme Judicial Court of Massachusetts in *Hiss*:

> "Simple fairness and fundamental justice demand that the person who believes he is innocent though convicted should not be required to confess guilt to a criminal *act* he honestly believes he did not commit. For him, a rule requiring admission of guilt and repentance creates a cruel quandary: he may stand mute and lose his opportunity; or he may cast aside his hard-retained scruples and, paradoxically, commit what he regards as perjury to prove his worthiness to practice law . . . Honest men would suffer permanent disbarment under such a rule. Others, less sure of their moral positions would be tempted to commit perjury by admitting to a non existent offence (or to an offence they believe is non existent) to secure reinstatement. So regarded, this rule, intended to maintain the integrity of the bar would encourage corruption in these latter petitioners for reinstatement and, again paradoxically, might permit reinstatement of those least fit to serve . . . Accordingly, we refuse to disqualify a petitioner for reinstatement *solely* because he continues to protest his innocence of the crime of which he was convicted. Repentance or lack of repentance is evidence, like any other, to be considered in the evaluation of a petitioners character and of the likely repercussions of his requested reinstatement.

In this case, we should add, there is ample evidence in the letters that have been filed from the lawyers who have kept in contact with Mr. Manek since his disbarment that he suffers from feelings of extreme remorse for the conduct that he has admitted was attempted to deceive his clients.

Application of the Principles to the Facts

On the basis of the above principles we believe that Mr. Manek should be considered to have discharged the heavy onus that lies upon him.

Mr. Manek was born in Uganda, studied law in Bombay, India and commenced practice in Uganda in 1969 at a time when the country was in a state of turmoil under the regime of President Idi Amin. It was not disputed that, during that period he was heavily, selflessly and courageously involved in assisting people to escape from Uganda until his own departure and his arrival in Canada in 1972.

Evidence was given to the Discipline Committee and to the court in the criminal proceedings, and was confirmed in a letter from M. N. Kassam dated May 4, 1994 that was filed with the Committee in this application, that as well as providing free legal services to needy members of the community,

> . . . when anarchy, chaos, lootings and the killings started in Uganda as a result of the deadline for Asians to leave the country due to the decree of ex-president Idi Amin, Mr. Manek risked his life by trying to get the Asians necessary affidavits and immigration papers and by getting them to the Entebbe Airport.
>
> With the assistance of sympathetic prison officials he knew, he spent long hours in the night to advise people of different ways to escape from the terror of the out-of-control army. I know this because my family and I were also the recipients of his selfless work. He hid us in his home for two days before getting us to the airport. He risked not only his life, but that of his wife and one-month old son.

After arriving in Canada, Mr. Manek was called to the bar in Ontario in 1976 and subsequently joined a firm in Hamilton. The offenses were committed shortly thereafter during the period of three years that commenced in 1978.

Mr. Manek's choice of a firm in which to practice in Canada was unfortunate in that his senior partner was then, or shortly afterwards, engaged in significant defalcations of clients' property for which he was subsequently incarcerated and disbarred. Notwithstanding the problems in the firm, Mr. Manek quickly established a good reputation among other practitioners of whom 41 have written in support of his application for readmission. His problems with the Law Society and his conviction for the criminal offence received widespread publicity in Hamilton and the great majority of the lawyers whose letters have been filed have referred to their surprise and shock when they heard of the proceedings. Virtually all of them testify to his qualities of good character including honesty, cooperativeness, sensitivity and courtesy as well as his professional competence. No members of the profession have responded negatively to the notice of his intention to apply for readmission that was published in the Ontario Reports.

We have read and accept the warning given by the Master of the Rolls in *Bolton* that glowing testimonials from other lawyers must not be allowed to obscure or outweigh the public interest in ensuring that clients will have a well founded confidence that their solicitors will be persons of unquestionable integrity, probity and trustworthiness. At the same time we note that those comments were made in the context of an appeal from a suspension and not on an application for readmission. We note also that Convocation in *Goldman* placed great emphasis on the necessity to have evidence of good character from "trustworthy persons especially members of the profession and persons with whom the applicant has been associated since his disbarment".

At the time of the discipline proceedings Mr. Manek's general reputation among members of the community -- and particularly among his compatriots and co-religionists -- was of the highest. The evidence before the Committee established that he continues to be held in the highest regard by the people with whom he associates, the employees of the small business he has been operating since his disbarment and the members of the public with whom he deals on a daily basis. None of this has been disputed by the Law Society.

The difficulty of this case is that it is clearly not one where special circumstances of the kind that existed in *Goldman* can be shown. Counsel for Mr. Manek admitted that he could not point to any mental or physical disorder that contributed to the commission of the offence but which had since disappeared. He did not attempt to excuse or to explain the misconduct of Mr. Manek except to say that it was a "human failing" and "sad and tragic behaviour" in what was promising to be a successful and productive professional life.

If, however, we are correct in the interpretation we have placed on the requirement of "special circumstances" above, the only question is whether Mr. Manek has discharged the heavy onus of showing that he has purged his guilt and is now rehabilitated, trustworthy and of good character so that there is no probability that he will offend again.

Although the onus is heavy, we believe it has been discharged. On the basis of the evidence presented to us, including the testimony of Mr. Manek before he broke down at the hearing:

(a) we are satisfied that the offenses committed by Mr. Manek reflected a failure to appreciate that the standards of honesty, probity and integrity that the Society expects of its members in their relationships with clients are certainly not lower than those that might be expected of individuals of good character in their private relationships and their relationships with members of the community at large. We believe that the failure to appreciate this elementary requirement for membership in the Society explains the extraordinary discrepancy between Mr. Manek's general reputation among his colleagues at the bar and others at the time that the offenses were committed and the nature of the offenses themselves. In this regard, it was unfortunate that, upon his call to the bar in Ontario, he did not find a place in a firm in which there was a greater commitment to the ethical standards required of the profession.

(b) we are satisfied that Mr. Manek is now well aware of the standards that are required by the Society, he has suffered a great deal in his personal life and his self-respect and he should be considered to have purged his guilt during the period of 12 years since he ceased to practice. Some of the lawyers who have supported his application for readmission have not had any significant contact with him since his disbarment and it is notable that, despite that fact and the considerable publicity that his conviction and disbarment for attempted fraud received in Hamilton, they have expressed no reservations. Their support is obviously based on their knowledge of him while he was in practice and their belief that his conduct was aberrant and unlikely to be repeated. Those of his former colleagues who have had contact with him since his disbarment have testified to his evident remorse and of their belief in his complete rehabilitation. These include Mr. John L. Agro, Q.C., L.S.M., Mr. David W. Walking, Mr. George J. Parker, Mr. R. Srini Vasan, His Honour Deputy Judge Jan van der Woerd, Mr. K. K. Channan, Mr. Francis de Santis, Mr. Anthony Woellenreiter, Mr. W. Patric Mackesy and Mr. Phillip D. Kennedy.

(c) we are satisfied that Mr. Manek's conduct since his disbarment as a businessman operating a small video store and as a participant in community affairs has been exemplary. He has been actively involved as a committee member, counsellor and community leader in the affairs of the Hamilton-Brantford Ithna-Asheri Jamaat and the Toronto Ithna-Asheri Jamaat. The President of the latter has described Mr. Manek as a "religious and charitable person". A number of business people, as well as the President of his church and other compatriots, have indicated that they will seek his professional services if he is readmitted. All of these people enthusiastically support his readmission:

> We pray to the Almighty and plead to the Law Society to grant Mr. Manek's application as soon as possible as this can benefit us all. We have utmost confidence in Mr. Manek today as we have had in the past in spite of the problems that befell him in 1981. We need Mr. Manek's legal services because, he is compassionate man and caring and he understands our unique problems arising from our cultural background.
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> (Letter from Amir Sunderji of Shia-Ithna Asheri Union dated April 13, 1993.)
>
> There is a real need for lawyers for our community, and Mr. Manek will be a real asset to the needs of the followers of our faith.
>
> (Letter from the Islamic Shia-Ithna Asheri Jamaat of Toronto dated April 28, 1993.)

In a letter dated April 23, 1993 a former employee of Mr. Manek, Ms. Linda Simones, speaks of Mr. Manek in words of the highest praise. She describes him as a

> kind, understanding and compassionate [person] who would always take time out of his very busy day to sit down and listen to his staff and sometimes give suggestions and advice when asked about personal problems.

She speaks of his great concern for the welfare of his employees and of:

> "countless donations to schools and charities for their fund-raising events. There is a file full of letters of appreciation for these gifts as it became a standing rule in the store never to turn these people away empty-handed. Likewise the schools received free movies for educational purposes and many children have gone home with free movie rentals as Asger could not bear to see a child disappointed. This is the kind of person he is, there should be more people around like him, I feel he would be a very fine lawyer.

(d) we are satisfied from his brief oral statement to the Committee and from observing his demeanour throughout the hearing that, Mr. Manek obviously suffered greatly from his disbarment. We believe he has learned his lesson and deserves another chance.

(e) if, contrary to the interpretation we have placed on the reasons delivered in *Goldman*, special circumstances are required in this case, we believe they must be found in our conclusion that, as so many of his former colleagues in the profession have testified, the offenses were an aberration and quite inconsistent with his general character. Whether the reasons for this aberrant behaviour are to be found in his experiences on commencing practice in Uganda at a time of political, legal and social

disorder, or whether there is some other explanation, we are satisfied that his remorse and repentance are genuine and that the confidence of so many of his former colleagues that he would not offend again is not misplaced. On the basis of his conduct since his disbarment, his evident remorse and the evidence of the high regard in which he continues to be held by members of the profession and by the community at large, we believe he is completely rehabilitated and of good character. We are satisfied that the public interest will not be injured by the readmission of Mr. Manek to membership in the Law Society. On the contrary, we believe that the public interest will be served by his readmission.

Vern Krishna Maurice C. Cullity

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF s.46 of the *Law Society Act*.

AND IN THE MATTER OF the readmission of Asgareli Mohemed Manek, of the Town of Stoney Creek, to the Law Society of Upper Canada.

DISSENTING REASONS FOR DECISION

Panel: Paul D. Copeland, Chair
Maurice Cullity, Bencher
Vern Krishna, Bencher

Appearances: Michael Brown and Janet Brooks,
for the Law Society
Brian Greenspan,
for the Applicant

Hearing Date: May 13, 1994

Date of Reasons: June 23, 1994

Nature of Application

Asgareli Mohemed Manek ("Mr. Manek") seeks readmission to the Law Society of Upper Canada (the "Society") pursuant to s.46 of the *Law Society Act*.

Disbarment

By order of Convocation dated the 29th day of January, 1987, Mr. Manek was disbarred as a barrister, his name was struck off the rolls of solicitors and his membership in the Society was cancelled. The disbarment followed the recommendation made on the 18th day of November, 1986 by a Discipline Committee consisting of James Wardlaw, Chair, Clive Bynoe and Noel Ogilvie. The Report and Decision of the Discipline Committee is attached to these reasons. The Committee found the following particulars of the complaint against Mr. Manek established:

Professional Misconduct

(a) He breached certain Orders of the Honourable Mr. Justice Holland, dated the 20th day of July and the 22nd day of July, 1981, respectively, by paying out to a client, Maple Leaf of Greensville, the proceeds of a Victoria and Grey Trust Company Guaranteed Investment Certificate purchased in the name of James Dunham, in trust, for Maple Leaf of Greensville, without first obtaining leave of a Judge of The Supreme Court of Ontario.

(c) He advised clients to pay him money which he advised would in turn be applied for corrupt purposes to obtain advantages for the said clients examples of which include:

(i) the payment of $5,800.00, more or less by his client Sandra and Evarist Correa;

(ii) the payment of $500.00, more or less, by his clients; Douglas James Grieve and Katherine Grieve;

(iii) the payment of $300.00, more or less, by his clients, Stanley Savickas and Sophie Savickas.

Conduct Unbecoming

(a) That he, on or about the 15th day of March, 1983, in the Court of General Sessions of the Peace, Judicial District of Hamilton-Wentworth, before His Honour M. Bolan, pleaded guilty to and was convicted of a charge that within four months prior to the 11th day of May, 1981, at the City of Hamilton, in the Judicial District of Hamilton Wentworth did by deceit, falsehood or other fraudulent means, attempt to defraud Sandra and Evarist Correa of $5,800.00, contrary to the provisions of Section 338(1)(a) and 421(b) of the Criminal Code of Canada.

Mr. Manek had been called to the Bar and admitted as a solicitor of the Supreme Court of Ontario on the 9th day of April, 1976.

Admissions Committee Hearing

The Admissions Committee, composed of Paul Copeland, Chair, Maurice Cullity and Vern Krishna, met on the 13th day of March, 1992 to hear evidence and submissions on the application for readmission. The hearing lasted slightly in excess of one-half day. Counsel for the Society opposed the readmission of Mr. Manek. The following material was filed with the Committee:

A. Document Book:

1. complaint D81/84 in the Matter of Asgareli Mohemed Manek (Exhibit 1);

2. Certificate of Conviction dated January 22, 1985 (Exhibit 2);

3. transcript of Guilty Plea on March 15, 1983 (Exhibit 3);

4. Reasons for Sentence dated May 13, 1983;

5. Transcript of Tape Recording (Exhibit 19);

6. Portion of Transcript of Discipline Proceedings on February 19, 1985 (Exhibit 32A);

7. Portion of Transcript of Discipline Proceedings on February 20, 1985 (Exhibit 32B);

8. Transcript of Findings of Discipline Committee dated July 9, 1986;

9. Report and Decision of the Discipline Committee dated November, 1986;

10. Order of Convocation dated January 29, 1987.

B. Book entitled "Materials Filed in Support of the Application

1. Application for Readmission dated February 11, 1993;

2. Statutory Declaration of Mr. Manek sworn February 10, 1993;

3. Pardon dated December 11, 1993;

4. 49 letters of reference, 41 of which were from members of the Bar or judges, and eight of which were from members of the community.

Mr. Greenspan made submissions on behalf of Mr. Manek. Mr. Manek started to make brief submissions to the Committee. In the middle of his submissions he was overcome by emotion and his submissions were completed by Mr. Greenspan. Mr. Brown made submissions to the Committee.

As appears from the reasons of the Discipline Committee (p.5) the breach of court orders was not a serious factor in the recommendation for disbarment.

Viva voce evidence had been called at the disciplinary hearing by the Society, and Mr. Manek testified on his own behalf. Mr. Manek was not represented at the discipline hearing. The conviction which led to the finding of conduct unbecoming was based on the same facts that support the finding of professional misconduct under particular c(i). The reasons of the discipline committee are attached in order that Convocation will have a complete understanding of the actions of Mr. Manek that led to his disbarment. Mr. Manek had used his position as a barrister and solicitor to extort and extract money from his clients, in 1978, 1979 and 1981. I regard those actions of Mr. Manek as highly exploitive of his clients and more corrupt than misappropriation of funds. His actions, particularly in relation to the Correa's, were planned, deliberate and sophisticated. Mr. Manek fabricated a taped telephone conversation to play to his clients, the Correas in order to persuade them that a police officer, Sgt. Ryan, was corrupt and was demanding a pay off from the Correa's.

The letters of reference filed on behalf of Mr. Manek are quite impressive and cover a broad range of the Hamilton Bar. It is unfortunate however that the letter sent out by W. Patric Macesy, to others lawyers requesting letters in support of Mr. Manek did not spell out in detail the findings of the Discipline Committee as they related to Mr. Manek. Several of the letters of reference indicated that they were not aware of the particulars of Mr. Manek's misconduct. In this regard I refer to page 25 of the minority decision in the case of Bryan Thomas Davies dated April 14, 1994 which was approved by Convocation on June 23, 1994:

> Second, the character letters were obtained and put before the Committee in a very fair and open manner. Mr. Davies' counsel wrote to about 100 individuals inviting each to comment on "... [Mr. Davies'] good character, his abilities as a lawyer, his record of community service and the unique personality which makes Bryan and exceptional person who ought to be allowed to continue to practice." Enclosed with the letter was a copy of the Discipline Counsel's brief which in all material respects is identical

to the Agreed Statement of Facts. Everyone who responded therefore had the opportunity to be fully informed of the misconduct. Both the brief and the form of letter sent by Mr. Seiler to the 100 referees were before the Committee. As well, every letter which was received by Mr. Seiler was also before the Committee and the Committee therefore had all letters which were received.

Many of the letters of reference describe the good character of Mr. Manek while he was a practicing lawyer. It greatly concerns me that Mr. Manek's reputation of good character now is the same as it was during 1978-1979 and 1981 when he engaged in the professional misconduct that led to his disbarment. What reassurance does the public have that Mr. Manek will not engage in some form of similar behaviour?

Mr. Manek is now 51 years of age. He studied as a law student in Bombay and received his law degree in 1967. He was called to the Bar in Bombay in 1968 and to the Bar in Uganda in 1969. We are advised that Mr. Manek assisted people in leaving Uganda during the reign of Idi Amin and that he provided that assistance at risk to his own life. Virtually all people of East Indian extraction were forced out of Uganda during the brutal Amin regime. Mr. Manek attended the University of Saskatchewan in Saskatoon for one year. He articled for six months in Melville, Saskatchewan but was not called to the Bar in that province. He came to Hamilton in 1974 and recommenced his articles with Dunham and Kennedy. He was called to the Bar on April 9, 1976. He became an associate and later a partner in the firm of Dunham and Cassel. That firm closed in February of 1982 and Mr. Manek undertook not to practice law after that time.

The sentence imposed on Mr. Manek in the criminal proceedings against him was a $2,000.00 fine, probation and 200 hours of community service. On the 11th day of December, 1992 Mr. Manek received a pardon under the *Criminal Records Act* from the National Parole Board. The pardon, under the signature of Fred E. Gibson, Chairman, reads as follows:

> AND this pardon is evidence of the fact that the Board, after making proper inquiries, was satisfied that the said Asgar Mohamed MANEK has remained free of any conviction since completing the sentence and was of good conduct and that the conviction should no longer reflect adversely on his character and, unless it ceases to exist or is subsequent revoked, this pardon vacates the conviction in respect of which it is granted and, without restricting the generality of the foregoing, removes any disqualification to which Asgar Mohamed MANEK is, by reason of the conviction, subject by virtue of any Act of Parliament or a regulation made thereunder.

At the re-admission hearing, I engaged in some discussions with Mr. Greenspan concerning the meaning and effect of the pardon. His position was that the pardon applies to federal legislation and that the spirit of a pardon is to do what the words of the pardon convey, i.e. vacates the conviction and removes any disqualification to which Mr. Manek is subject by reason of his conviction. Mr. Greenspan indicated that the word "vacates" in the pardon has not been subject to statutory interpretation. My knowledge of the granting and revoking of pardons is based on information I have gained over the years in criminal practice. While the RCMP does the background checks for pardon applications, I am not greatly convinced about the thoroughness of the investigations which lead to the granting of a pardon.

In my opinion, the mere fact that a solicitor disbarred for criminal activity has now obtained a pardon should not be a determinative factor on the Solicitor's application for readmission to the Law Society.

From February 1982 until October 1983 Mr. Manek was unemployed. He survived with assistance from friends. In 1983 he opened a National Video franchise and has been working at that since that time. The business is open 10 a.m. to 9 p.m. seven days per week. Mr. Manek has six part-time employees and earns a modest living from that business. We were advised that Mr. Manek is active in his community particularly his religious and cultural community. Mr. Manek is active in the Shia Ithna Asheri Union in Hamilton and in the Islamic Shia Ithna Asheri Jamaat of Toronto. Strong letters of support were received from both of those organizations. Mr. Manek has two children, a son aged 21, who is in his third year at McMaster, and a daughter aged 16, who is in grade 11.

Mr. Manek in his submissions to us indicated that he had made a mistake and that he had paid for it. He is particularly sorry for what he had put his family through. He sought reinstatement as a solicitor in order that he could have a stature that his children could look up to and in order that he could make a contribution to his community.

There is a particularly moving letter of support for Mr. Manek from a former employee named Linda Simones. She recounts Mr. Manek's extreme generosity, understanding and compassion.

The Law

Against that background, I propose to review the law concerning readmissions. The Committee was provided with the reasons of Convocation in the *Goldman* case, American decisions in *Moynihan* and *Hiss*, and a British decision, *Bolton v. Law Society*.

In regard to the *Goldman* decision, I believe it is important that the background of that decision be available to the profession and to Benchers. I sat in Convocation when Mr. Goldman was readmitted in May of 1987. At that point I had been a Bencher for several months. In the 1983 elections I had run 27th and it had taken until 1987 for me to move up in ranks to become a Bencher.

The background facts in the *Goldman* case in the Report of the Admissions Committee are as follows:

> Gordon Goldman was disbarred on May 14, 1981. The Discipline Committee found Mr. Goldman guilty of conduct unbecoming of a barrister and solicitor, in that on April 1, 1981, he was convicted of conspiring to possess counterfeit money contrary to Section 423(1)(d) and Section 408(b) of the Criminal Code. Mr. Goldman did not contest his disbarment. The offence occurred in May 1976. At that time, Mr. Goldman was a compulsive gambler and as a result was severely indebted to loan sharks. Mr. Goldman had been approached by a Mr. Luigi Cremascoli, who said he knew of a way Mr. Goldman could repay his gambling debts, involving counterfeit money. Subsequently, a Mr. Dwyer, who had agreed to co-operate with the authorities after his arrest for passing counterfeit currency, attended at Mr. Goldman's office with a concealed 'body-pack' recording device. At that meeting, Mr. Dwyer and Mr. Goldman discussed the possibility of purchasing counterfeit currency and Goldman agreed to tell Cremascoli of Dwyer's wish to acquire counterfeit money. Mr. Goldman was charged in August 1976 and was initially acquitted owing to the exclusion of the body-pack evidence. However, the Crown successfully appealed. Shortly after the commencement of the new trial, Mr. Goldman pleaded guilty and the conviction was entered. He was sentenced to 15 months incarceration, with a recommendation for immediate Temporary Absence. The conviction arose out of the one isolated meeting with Dwyer and Mr. Goldman realized immediately after that incident that he wanted nothing further to do with Dwyer and so advised him. Between 1976 and 1981, Mr. Goldman continued to practice law.

The Admissions Committee composed of Mr. Pepper, Chair, Mr. Ground and Mr. Spence recommended Mr. Goldman's readmission.

The hearing before Convocation in 1987 was not Mr. Goldman's first. I was not a Bencher at the time of his first hearing but prior to his second hearing I had received the following information.

At the first hearing before Convocation I am advised that after all the submissions had been made in the case Convocation retired to deliberate in camera. At that time a number of criminal Benchers expressed serious concerns about Mr. Goldman's mode of practice and strongly urged that he not be readmitted to the Law Society. Apparently this view was accepted by the members of Convocation present on that day and Mr. Goldman's readmission was refused. Apparently word of the nature of the in camera discussions reached the ear of Mr. Goldman or his counsel and they brought an application for judicial review to overturn the decision of Convocation. Given that Mr. Goldman had not had an opportunity to respond to the views expressed about his mode of practice, the Law Society consented to allowing Mr. Goldman to have a second hearing on his application for readmission.

As indicated above I arrived at that hearing for readmission as a neophyte Bencher. I was not provided with any background briefing or orientation in regard to my responsibilities as a Bencher. I did not know what factors I should apply when considering Mr. Goldman's application for readmission. The following were matters that could impact on my decision in the case:

1. I knew Mr. Goldman from sitting behind him in Latin class in high school.

2. I played inter-faculty football with Mr. Goldman for several years at the University of Toronto.

3. I had frequently had an opportunity of observing Mr. Goldman's practice at the Bar and had some views on that.

4. Shortly prior to the readmission hearing I had been lobbied by a member of the Bar to reinstate Mr. Goldman. I had been assured that Mr. Goldman was cured of his gambling addiction.

5. Was I to rely on my personal knowledge of Mr. Goldman or should I rely on the evidence that was presented before Convocation?

6. At Convocation Mr. Lockwood for the Society in cross-examining Mr. Goldman suggested that he was still associating with what might loosely be described as the criminal element and low lifes. Mr. Goldman denied those associations and the Society called no evidence to substantiate the suggestions made in cross-examination. No evidence was called to show that there was even a basis for putting the questions to Mr. Goldman.

7. An impressive collection of letters of support was presented to Convocation on behalf of Mr. Goldman.

8. Earl Levy and Edward Greenspan gave *viva voce* testimony on behalf of Mr. Goldman. I questioned Mr. Greenspan as to Mr. Goldman's quality of work as a lawyer. I pointed out to Mr. Greenspan that, of the 27 (I'm not sure of this number) letters in support of Mr. Goldman, not one made any comment on the quality of his practice. Mr. Greenspan testified that Mr. Goldman was a good lawyer.

Even today, after almost four years as a Bencher, I am not certain which of these matters I would give weight to in deciding another readmission case.

In the discussions at Convocation a powerful and impassioned statement was made by a lay Bencher against the readmission of Mr. Goldman. That lay Bencher's view was that persons who had been disbarred as a result of convictions for serious criminal behaviour should never be readmitted by the Law Society.

I voted for Mr. Goldman's reinstatement. One of the factors was what I regarded as the unfairness of the behaviour of the Law Society counsel at the reinstatement hearing (see paragraph 6 above). I am not sure I would vote the same way today if Mr. Goldman were coming before Convocation for readmission. His mode of practice appears unchanged from before he was disbarred.

There are factors unique to Mr. Goldman's situation. His criminal behaviour appears to have been a single occurrence when he was under great pressure to repay loan sharks for debts that arose from his addiction to gambling. Psychiatric evidence was called to support Mr. Goldman's control of his gambling addiction.

I do not view the *Goldman* decision as being one that supports the proposition that a lawyer disbarred for serious professional misconduct or conduct unbecoming should, as a matter of course, be readmitted to our profession after a period of good behaviour has passed.

In *Goldman* Convocation said an Applicant must make out a case of *very special circumstances*. I view that phrase as referring in part to special circumstances relating to the conduct or the offence which led to the disbarment.

It seems to me that Convocation paid little attention to this issue when it readmitted Raymond Arthur Neijadlik as a solicitor based on the Admissions Committee decision written by Mr. Ruby on the 17th of March, 1994.

In *Moynihan* (1989) 778 P 2d. 521, the Supreme Court of Washington ordered Mr. Moynihan readmitted to the Bar. The court held:

> The major consideration in reinstatement proceedings is whether the disbarred attorney has overcome those weaknesses which produced the earlier misconduct. A petitioner for reinstatement to the Bar must show by clear and convincing evidence that he is rehabilitated, fit to practice, competent and has complied with all the applicable principles and orders. This Court utilizes eight criteria to assess whether to reinstate a disbarred attorney.
>
> (a) The applicant's character, standing and professional reputation in the community in which he resided and practiced prior to disbarment.
>
> (b) The ethical standards which he observed in the practice of law.
>
> (c) The nature and character of the charge for which he was disbarred.
>
> (d) The sufficiency of the punishment undergone in connection therewith and the making or failure to make restitution where required.
>
> (e) His attitude, conduct, and reformation subsequent to disbarment.
>
> (f) The time that has elapsed since disbarment.
>
> (g) His current proficiency in the law.
>
> (h) The sincerity, frankness, and truthfulness of the applicant in presenting and discussing the factors relating to his disbarment and reinstatement.

The Court noted from an earlier case that an applicant for reinstatement is required to show:

> That his or her reinstatement will not be detrimental to the integrity and standing of the judicial system or to the administration of justice, or be contrary to the public interest.

Mr. Moynihan had been disbarred as a result of misappropriations in the amount of $5,100.00 from his client's trust account. At the time of the misappropriation Mr. Moynihan was suffering from a long term problem of alcoholism. Seven years after his disbarment when he applied for reinstatement he had been alcohol free and attending AA for a lengthy period of time.

The reinstatement of Alger Hiss in Massachesuetts in my view is a most unique case. *Re Hiss* (1975) Mass. 333 N.E. 2d 429. It is hard to separate the decision in that case from the political background connected to it. The court in the case went to great lengths to stress that they were not concerned with a review of the criminal case in which Mr. Hiss was tried, convicted and sentenced.

It is reported in the decision at p.431 as follows:

> On January 25, 1950, Alger Hiss was convicted of two counts of perjury in his testimony before a Federal grand jury. A previous trial had resulted in a jury disagreement, and a mistrial had been declared. In particular, Hiss was found to have testified falsely (1) that he had never, nor had his wife in his presence, turned over documents or copies of documents of the United States Department of State or of any other organization of the Federal Government to one Whittaker Chambers or to any other unauthorized person and (2) that he thought he could say definitely that he had not seen Chambers after January 1, 1937. Chambers was the principal witness against Hiss and had been his principal accuser during hearings held prior to the Grand Jury investigation by the committee on Un-American Activities of the House of Representatives (HUAC).

Alger Hiss had been a senior government official in the Roosevelt administration. It is not without significance to me that Richard M. Nixon was one of the representatives pursuing Mr. Hiss before HUAC. Mr. Nixon established his early political reputation in those HUAC hearings. It is my personal belief that Alger Hiss was innocent of the charges on which he was convicted.

Twenty-three years had passed since the disbarment of Mr. Hiss. Again it is not without significance, to me at least, that Mr. Hiss was readmitted to the Bar of Massachusetts approximately one year after the resignation of President Nixon in the face of his imminent impeachment over his involvement in the Watergate coverup. It is interesting to me that no steps were ever taken to disbar Mr. Nixon.

In *Hiss* , the seven member Supreme Judicial Court of Massachusetts was dealing with a report from the Board of Bar Overseers. The Court held at p.432:

> Three fundamental questions are presented for our determination.
>
> 1. Were the crimes of which Hiss was convicted and for which he was disbarred so serious in nature that he is forever precluded from seeking reinstatement?
>
> 2. Are statements of repentance and recognition of guilt necessary prerequisites to reinstatement?
>
> 3. Has Hiss demonstrated his fitness to practice law in the Commonwealth?

At p.434 the Court said:

Disbarment is not a permanent punishment imposed on a delinquent attorney as a supplement to the sanctions of the criminal law - "though it may have that practical effect. Its purpose is to exclude from the office of an attorney in the courts, for the preservation of the purity of the courts, and the protection of the public, one who has demonstrated that he is not a proper person to hold such office".

In response to the Bar counsel's position that certain disbarred attorneys can never be readmitted to the Bar the Court ruled:

Such a harsh, unforgiving position is foreign to our system of reasonable, merciful justice. It denies any potentiality for reform of character. A fundamental precept of our system (particularly our correctional system) is that man can be rehabilitated. "Rehabilitation ... 'is a state of mind' and the law looks with favour upon rewarding with the opportunity to serve, one who has achieved 'reformation and regeneration'". Time and experience may mend flaws of character which allowed the immature man to err. The chastening effect of a severe sanction such as disbarment may redirect the energies and reform the values of even the mature miscreant. There is always the potentiality for reform, and fundamental fairness demands that disbarred attorneys have opportunity to adduce proof.

At p.437 the Court laid out five standards for reinstatement:

1. The nature of the original offence for which the petitioner was disbarred.

2. The petitioner's character, maturity and experience at the time of his disbarment.

3. The petitioner's occupation and conduct in the time since his disbarment.

4. The time elapsed since the disbarment.

5. The petitioner's present competence in legal skills.

... Whatever the offence for which a judgement of disbarment was entered, the person disbarred has a heavy burden on a subsequent petition for admission to the bar to overcome by evidence the weight of the facts adjudicated by such judgement and to establish affirmatively that since his disbarment he has become a person proper to be held out by the court to the public was trustworthy.

At p.438 the following appears from the Judgment:

While the courts are slow to disbar, they are justifiably slower to reinstate and to "put into the hands of an unworthy petitioner that almost unlimited opportunity to inflict wrongs upon society possessed by a practicing lawyer.

The Court held:

The testimony detailed above provides abundance support for the Board's conclusion that Hiss is presently of good character. Though Hiss, himself, in holding fast to his contention of innocence, admits no rehabilitation of character, we believe that the evidence amply warrants the Board's finding that he would not now commit the crime of which he is convicted. The considerable evidence of his present good character, his exemplary behaviour over a substantial time span, and the tributes paid

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him by the eminent practitioners who have known him well during the period convince us that, despite the gravity of the crime and his maturity at the time of its commission, "his resumption of the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest".

As I noted above I do not believe that the language in the *Hiss* decision can be separated from the political background of the case.

In *Bolton v. Law Society* [1994] 1 WLR 512 the Court of Appeal dealt with Mr. Bolton's appeal from the decision of the Divisional Court. Mr. Bolton, when a young solicitor, acting in a transaction for the sale of a house, received a sum advanced to the prospective purchaser by a building society. Instead of retaining the sum in his client's account, he disbursed the money in anticipation of completion. The sale was not completed and security documentation in the building society's favour was never executed. On investigation by the Solicitors Complaints Bureau, the shortage in the client's account was discovered and promptly made good by the solicitor. The purchaser in the case had been the Mr. Bolton's wife. The Solicitors Disciplinary Tribunal found the solicitor's conduct, while not deliberately dishonest, was naive and foolish. They ruled that although such conduct would normally be regarded as meriting being struck off the Role, a two year suspension was the appropriate penalty. The Divisional Court quashed the penalty of suspension and imposed a fine. The Law Society appealed. The Court of Appeal held that the Divisional Court should not have interfered with the suspension but in view of the passage of time dismissed the Law Society's appeal.

At p.518 the Court held:

It is important that there should be a full understanding of the reasons why the tribunal makes orders which might otherwise seem harsh. There is, in some of these orders, a punitive element: a penalty may be visited on a solicitor who has fallen below the standards of his profession in order to punish him for what he has done and to deter any other solicitor tempted to behave the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would be unjust, to punish him again. In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hoped that the experience of suspension will make the offender meticulous in his future compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession, it is often necessary that those guilty of serious lapses are not only expelled but denied readmission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending reinvestment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. The profession's most valuable asset is its collective reputation and the confidence which that inspires.

> Because orders made by the tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences imposed in criminal cases. It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of striking off or suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness. Thus it can never be an objection to an order of suspension in an appropriate case that the solicitor may be unable to re-establish his practice when the period of suspension is past. If that proves, or appears likely, to be so the consequence for the individual and his family may be deeply unfortunate and unintended. But it does not make suspension the wrong order if it is otherwise right. The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.

Mr. Manek's Application for Readmission

I am of the view that the application for readmission must fail. There are no special circumstances concerning the commission of the offence that in my view would warrant readmission. Mr. Greenspan pointed out that where someone has committed criminal offences for which there is no explanation of a psychiatric nature or relating to an addiction problem (drugs, alcohol, gambling), it is difficult to persuade a Readmission Committee that the behaviour will not reoccur. Should a former solicitor who has committed criminal wrongdoing and a serious professional misconduct be in a worse position when seeking readmission than a person who has committed the wrongdoing as a result of a psychiatric or addiction problem. In my view, absent some underlying problem that explains the misconduct, disbarment should be a permanent fate.

Mr. Greenspan says that lawyers should be supportive of the concepts of reformation and rehabilitation. I agree with that but in my view when looking at the question of reinstatement those concepts have little meaning. It is the public interest that we must seek to protect. The practice of law is not a right but a privilege. Once by your wrongdoing you have lost that privilege it should be an exception to regain it. Should one who, through his actions, has forfeited the privilege of practicing law, be entitled to a second opportunity? Unfortunately that second opportunity is not only an opportunity to practice law but an opportunity to repeat some form of wrongdoing.

I believe concerning readmission that it was hearing that Mr. Levy who asked rhetorically "how long is a person to be kept in the penalty box?" In my view not being allowed to practice law is not being kept in the penalty box. Mr. Manek is free to engage in all other endeavours in society; the only thing he is not free to do is to return, as I appreciate he so earnestly wants, to the privileges and responsibilities of being or practicing member of the Bar.

I do not reach this decision lightly. I very much appreciate and understand the desire of Mr. Manek, his family, and the Shia community, to see him restored to his position in the Society. Unfortunately I do not view that restoration as being in the public interest.

DATED at Toronto this 23rd day of June, 1994.

Paul D. Copeland, Chair

The Benchers were provided with the Record Book, Book of Authorities, Supplementary Book of Authorities and Factum submitted by the Society and the Applicant's Factum.

Mr. Brown made submissions rejecting the majority Report, that the applicant had not discharged the heavy onus of showing good character.

There were questions from the Bench.

Mr. Greenspan made submissions in support of the majority Report.

There were further questions from the Bench.

Mr. Brown made brief submissions in reply.

Counsel, the applicant, the Reporter and the public withdrew.

Convocation took a brief recess at 5:20 p.m. and resumed in camera at 5:30 p.m.

The majority Report was adopted.

Counsel, the applicant, the Reporter and the public were recalled and informed of Convocation's decision that the applicant be readmitted. Counsel were instructed to negotiate the conditions of the readmission and were advised if no agreement could be reached, the matter is to come back before Convocation. Counsel agreed that if it was necessary to bring the matter of the terms of requalification back before Convocation it need not be composed of members of the Bench who sat on the readmission matter.

CONVOCATION ROSE AT 6:00 P.M.

Confirmed in Convocation this day of 1995

Treasurer