

MINUTES OF CONVOCATION

Friday, 22nd November, 1991
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence), Arnup, Bellamy, Brennan, Carter, Cass, Copeland, Curtis, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Ground, Howland, Jarvis, Kiteley, Krishna, Lamek, Lamont, Lax, Legge, Levy, McKinnon, Manes, Murphy, O'Brien, D. O'Connor, S. O'Connor, Pepper, Peters, Rock, Ruby, Scott, Somerville, Strosberg, Thom, Topp, Wardlaw and Weaver.

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"IN CAMERA"

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IN CAMERA Content Has Been Removed

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"PUBLIC"

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DRAFT MINUTES

The Draft Minutes for September 26th and 27th and October 24th, 1991 were approved by Convocation.

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MOTIONS

It was moved by Ron Cass, seconded by Paul Lamek THAT the Society's representatives to the Canadian Bar Association-Ontario council be as follows: James M. Spence, Marc Somerville, Jack Ground and Daniel Murphy and THAT the Society's representative to the National council be Mr. Donald Lamont.

Carried

It was moved by Ron Cass, seconded by Paul Lamek THAT June Callwood, Marilyn Pilkington and Gerald Sadvari be appointed as non Bencher members of the Certification Board.

Carried

It was moved by Ron Cass, seconded by Paul Lamek THAT Lloyd Brennan be added as a member of the Lawyers Fund for Client Compensation Committee.

Carried

It was moved by Ron Cass, seconded by Paul Lamek THAT Robert J. Smith be appointed a member of the Research and Planning Committee for the remainder of the year ending August 31st, 1992.

Carried

It was moved by Colin McKinnon, seconded by Robert Topp THAT the Law Society's Honours Committee be composed of the Treasurer, Samuel Lerner, Gordon Henderson, Patricia Peters, Paul Lamek, Roger Yachetti and Netty Graham.

Carried

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NOTICE OF MOTION

Notice was given by Marc Somerville that he intended to bring a motion at Convocation in January to amend Rule 51 to make the oath of allegiance optional.

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The Treasurer welcomed Ms. Shirley O'Connor, a Lay Bencher to her first Convocation.

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LEGAL EDUCATION COMMITTEE

Mr. Lamek presented the Report of the Legal Education Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991. The following members were present: P. Lamek (Chair), D. Lamont (Vice-Chair), D. Bellamy, L. Brennan, C. Curtis, P. Epstein, A. Feinstein, S. Goudge, J. Ground, L. Legge, R. Murray. Staff in attendance were: M. Bode, B. Duncan, H. Harris, M. Hart, A. Rookes, A. Treleven.

A.
POLICY

1. PROCEDURES GOVERNING THE RECRUITMENT OF SUMMER STUDENTS FOR THE SUMMER OF 1992 AND ARTICLING STUDENTS FOR THE 1993-1994 ARTICLING TERM

On November 4, 1991, the annual Articling and Summer Recruitment Procedures Meeting was held in the Department of Education Lecture Hall, chaired by Paul Lamek. Approximately 398 lawyer and student representatives were invited to attend the meeting to discuss and evaluate their experience with the 1991 summer

and articling student recruitment process. Fifty-five lawyer representatives, mainly from Metropolitan Toronto, and four (4) student representatives from the law faculties at Osgoode Hall, Queen's, University of Toronto, and Windsor were in attendance.

Donald Lamont, Chair of the Summer Student Review Committee, reported on the survey conducted by Law Society staff of lawyers and students involved in the 1991 summer student recruitment program. A summary of the results of the survey has been prepared and forms a part of the attached Report of Donald Lamont on the Summer Student Recruitment Process - 1991 (pages 1 - 5). Mr. Lamont reported that lawyers and students seem to be satisfied with the existing recruitment process and that no changes are recommended for 1992. Discussion was invited but none ensued.

Mimi Hart, Director of Placement, advised that the Society had received few reports of potential breaches of the procedures and briefly described the Law Society's pro-active monitoring of compliance with the Procedures. Alan Treleaven then led a discussion of three (3) issues which had been brought to the Society's attention concerning articling recruitment which might require amendments to the Procedures.

Issue #1

There was general consensus that placing an onus on lawyers to enquire of students before making offers whether the student has accepted a position elsewhere (or is committed to/by the matching program) would minimize the problem of students seeking to withdraw from commitments to accept other offers.

Issue #2

There was considerable discussion concerning a proposal to restrict personal contact between recruiting lawyers and articling candidates prior to the interview week. There was greater concern over the timing of the restriction than over the issue of restricting contact. Although valuable discussion took place, the issue remained unresolved at the end of the meeting.

Issue #3

Discussion took place concerning a proposal to tighten the wording of the procedure requiring students to deal with offers as expeditiously as possible so as to minimize or eliminate the prejudice to firms and others recruiting articling students when students hold on to offers throughout the period during which the offers must remain open and then reject all offers. The issue remained unresolved at the end of the meeting.

Issues #2 and #3 were deferred for further consideration. They will be placed on the agenda of the Articling Sub-Committee. The draft procedures before the Committee reflect the consensus regarding Issue #1 but do not contain any revisions with respect to the matters raised in Issues #2 and #3.

It is recommended that the draft Procedures Governing the Recruitment of Summer Students for the Summer of 1992 and Articling Students for the 1993-1994 Articling term be approved, as attached. (6 - 13)

Approved

2. BAR ADMISSION COURSE CIVIL LITIGATION EXAMINATION

Because of the significant problem on Friday, September 27 at the Toronto sitting of the Civil Litigation examination at the Royal York Hotel, it was decided that all students would receive a Pass grade in the Civil Litigation examination. This decision does not affect the requirement that students must earn a Pass grade in the Civil Litigation Course Work, a grade which is earned independently of the examination result.

An issue arises which will affect a small number of students who have not attained a Pass grade in the Civil Litigation Course Work due to their absence. (For example, one student was absent due to pregnancy, another due to illness.) All of those students will be required to complete an abridged Special Course Work educational program in January in order to be eligible to attain a Pass grade in the Civil Litigation Course Work. An issue arises as to whether such students who did not write the Civil Litigation examination on September 27 will be required to write a Special Examination in Civil Litigation following completion of the January Special Course educational program.

It is recommended that students who are required to complete the January Special Course Work educational program not be required to write an examination in Civil Litigation.

Approved

C.
INFORMATION

1. CONTINUING LEGAL EDUCATION SUBCOMMITTEE

The Continuing Legal Education Subcommittee met at 3:00 p.m. on Wednesday, November 13, 1991. Mr. Ground, a member of the subcommittee, reported orally to the Legal Education Committee.

2. BAR ADMISSION COURSE SUBCOMMITTEE

The Bar Admission Course Subcommittee is scheduled to meet at 3:00 p.m. on Thursday, November 21, 1991, to begin deliberations on new directions for the Bar Admission Course in 1992.

3. CONTINUING LEGAL EDUCATION REPORT ON COURSES

The Report was provided in writing.

4. DEPARTMENT OF EDUCATION BUDGET REPORT

Pursuant to the direction of the Treasurer, the Director reported on the Department of Education budgets to date.

5. STUDENT REQUEST FOR EARLY CALL TO BAR

A student asked for permission to be admitted to the Bar at regular Convocation on January 24, 1992.

The student otherwise would be admitted to the Bar at the Special Call in Toronto on February 7, 1992 or, if she prefers, on February 5 in London, Ontario.

The student asked to be admitted to the Bar earlier than her colleagues so that she can take up a position with a firm of English solicitors effective February 3, 1992.

The Committee denied her request.

6. UNEMPLOYED ARTICLING STUDENT

The Director of Placement, Mimi Hart, has been consulting with a student who has been unsuccessful in her efforts to find an articling position. The student's completion of the articling requirement is now in jeopardy.

Ms. Hart asked the Legal Education Committee for its advice as to whether the Law Society should become more pro-active by attempting to persuade law firms or other lawyers to provide a position for the student.

The matter was referred to the Articling Subcommittee.

7. STUDENT EXAMINATION FAILURE

A student explained in a letter that she wrote the Real Estate Bar Admission Course examination under serious disadvantage caused by a viral chest infection. Although she was entitled not to write the examination on the scheduled date (October 15) due to her illness, she indicated that she elected to so in order to remain eligible for the London Call to the Bar (February 5, 1992). At that time all students had been informed that those writing Special or Supplemental examinations would not be eligible for Call to the Bar until Convocation on February 28. Subsequent to the student writing the examination, the Call to the Bar procedure was adjusted so that students who are successful on Special and Supplemental examinations will be eligible for the Special Calls at the beginning of February. The student said in the second paragraph of her letter that, had the change in the Call to the Bar procedure been brought to her attention before the Real Estate examination "I would seriously have considered whether or not I should write said exam on October 15, 1991". The student did not say that she definitely would not have written the examination on October 15, and did not endeavour to seek Special examination status in Real Estate until after she had received the Fail grade.

The student requested that she be permitted to write the Real Estate examination in January as a Special Examination rather than as a Supplemental examination. The consequence would be that on failure of the January examination she would be entitled automatically to one further attempt. Moreover, her Fail grade on the October 15 sitting of the Real Estate examination would be nullified, as though she had not written the examination due to illness, with the consequence that she would continue to be eligible for a Conditional Pass grade on other examinations. If the Real Estate examination Fail grade were to continue to stand, she would not be eligible for a Conditional Pass grade in any other examination.

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The student's request was denied, so that her Fail grade in Real Estate will stand.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"P. Lamek"
Chair

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

- A-Item 1 - Memorandum from Mr. Donald Lamont, Q.C. to Mr. Paul Lamek, Q.C. and members of the Legal Education Committee dated October 23, 1991 re: Report - Summer Student Employment - 1991. (Pages 1 - 5)
- A-Item 1 - Draft Procedures Governing the Recruitment of Summer Students for the Summer of 1992 and Articling Students for the 1993-1994 Articling term. (Pages 6 - 13)

THE REPORT WAS ADOPTED

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ADMISSIONS COMMITTEE

Mr. Brennan presented the Report of the Admissions Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at 9:30 a.m., the following members were present: Mr. Goudge (Vice-Chair); Messrs. Brennan, Lamont and Strosberg; Ms. A.M. Stewart.

B. ADMINISTRATION

1. QUEBEC APPLICANTS FOR OCCASIONAL APPEARANCE AND INSURANCE COVERAGE REQUIREMENTS

In the last few months the Society has requested, among other materials, that applicants for licensing as an Occasional Appearance must provide a Certificate of Insurance showing the applicant to have a minimum of \$1,000,000.00 coverage per occurrence of liability.

Quebec applicants usually carry \$500,000.00 per occurrence of liability and the Society has been advised by some applicants that they find it extremely difficult to secure the additional insurance. The Committee was asked at its September, 1991 meeting if an exception could be made in the case of Quebec applicants as long as the Secretary is satisfied that the application is otherwise in good order.

Your Committee recommended to Convocation, in September, 1991 that a general exception be made for Quebec applicants as long as the Secretary is satisfied that the application is otherwise in good order.

Convocation referred the item back to the Committee.

Information regarding the availability of excess coverage was requested from the Errors and Omissions Department in a memorandum which was before the Committee.

The memorandum indicated that contrary to what the Committee has been told in the past by applicants for occasional appearances, excess insurance is readily available at a reasonable cost.

The Committee therefore recommends that members of the Quebec Bar comply with the requirement that they provide a Certificate of Insurance showing that they have a minimum of \$1,000,000.00 coverage per occurrence of liability.

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2. DIRECT TRANSFERS - QUEBEC - REGULATION 4(2)

(a) The following have met all the requirements to transfer under Regulation 4(2):

Bruce Fitzsimmons
Glenn Peter O'Farrell
Morris Szwimer

Their applications are in order and it is recommended that they be approved. Mr. O'Farrell's application is approved conditionally pending receipt by the Law Society of his original application for transfer and a current Certificate of Good Standing from the Quebec Bar.

Approved

(b) The following makes special petition to transfer under Regulation 4(2):

The following item was before the Admissions Committee in October 1991:

Nicholas Paul Kasirer (B.A. 1981 from the University of Toronto, LL.B. and B.C.L. 1985 from McGill University and D.E.A. [graduate studies in law] 1986 from the University of Paris) was called to the Bar of the Province of Quebec on the 26th day of November 1987 and practised in that province from the 26th November 1987 to the 31st December 1988 (11 months). From January 1st 1989 to the present he has held the position of full-time law professor at the Faculty of Law, McGill University, teaching both common law and civil law courses.

Mr. Kasirer presents a Certificate of Good Standing and a special petition to be permitted to proceed under Regulation 4(2).

In his petition, Mr. Kasirer asks that the Committee consider his having completed articles for the Ontario Bar, his 11 months of practice in Quebec and his years as a professor at McGill University as satisfying the requirements under Regulation 4(2) and that he be permitted to write the Statutes and Procedure in Ontario transfer examination.

If his request is denied he would be expected, as are all those having less than the requisite three years in practice, to enter the Bar Admission Course which would be impossible while he continues teaching.

His letter of the 5th September, 1991, together with his petition and curriculum vitae are before the Committee for consideration.

After reviewing the matter, the Committee reported to Convocation, on the 24th October, that it was of the view that the applicant does not satisfy the three years of practice as required by Regulation 4(2) and recommends that he be advised that if he wishes to further pursue a transfer he must apply to the Legal Education Committee to be permitted to enter the Bar Admission Course.

Convocation adopted the Committee's recommendation.

A letter dated the 17th October, 1991, was before the Committee from Mr. Kasirer in which he requested that the Committee reconsider its recommendation and grant him permission to write the Statutes and Procedure in Ontario transfer examination.

In addition, your committee received a memorandum from Andrew Brockett outlining various matters for the Committee's consideration in regard to Mr. Kasirer's application. Your Committee concluded that it ought to reaffirm its previous decision that Mr. Kasirer be required to complete the Bar Admission Course.

(Attachment # 1 - pages 20 & 21)

3. APPLICATION - FOREIGN LEGAL CONSULTANT

Lauren David Rachlin - Kavinoky & Cook - New York

An application was received from Lauren David Rachlin of the firm of Kavinoky & Cook in New York to be licensed as a foreign legal consultant.

Mr. Rachlin was called to the Bar of the State of New York on the 4th March, 1952 and has practised in that state from that date to the present. He is a member in good standing.

The applicant presently maintains two residences in Ontario.

Mr. Rachlin will be joining Johnathan E. Rodwin who is licensed as a foreign legal consultant, in April, 1989.

Mr. Rachlin's application was complete and both he and the firm have filed all necessary undertakings.

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The application and supporting material were available at the request of the Committee.

The Committee recommends that Mr. Rachlin's application be approved.

4. FULL-TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS

The following members of approved law faculties ask to be called to the Bar and admitted as solicitors without examination under Regulation 5 respecting full-time members of approved law faculties and that they be granted Certificates of Fitness:

Lucie Leger
Faculty of Law
Common Law Section
The University of Ottawa

B.A. 1981 & LL.B. 1988 both
from the University of Moncton;
LL.M. 1989 University of
Cambridge

Fee: \$ 200.00

Approved

Claire Francesca Louise Young
Faculty of Law,
The University of Western Ontario

LL.B. 1970 University of
London, England; LL.M. 1982
the University of British
Columbia.

Fee: \$ 200.00

Approved

5. ADMISSION OF STUDENTS-AT-LAW

Bar Admission Course

The following candidates, having complied with the relevant Regulations, paid the required fee of \$101.00 and filed the necessary documents, now apply for admission to the Law Society as students-at-law in the Bar Admission Course:

Under Bar Admission Course Regulation 22(7)
33rd B.A.C. (Entering Articles 1990)

946. Ackersviller, Dean John

B.Sc. Western/85;
LL.B. British Columbia/90;

947. Alderson, Douglas Alan

B.A. Toronto/81;
M.A. Toronto/84;
LL.B. York/90;

948. Allen, Robert Kevin

Joint Committee on
Accreditation/91;

949. Anstruther, Richard Ian

B.A. Manitoba/88;
LL.B. Manitoba/90;

950. Athanasoulas, Stephanos

B.A. McMaster/87;
LL.B. Western/90;

951. Attridge, Ian Campbell

B.Sc. Guelph/85;
M.E.S. York/90;
LL.B. York/90;

952. Baksh, Kadir

B.A. Mexico/75;
M.A. Mexico/76;
B.G.S. Brandon, USA/80;
J.D. Detroit, USA/91;
LL.B. Windsor/91;

953. Balthasar, Emmanuel Anton
Mathiaparanam Ponrajah

Joint Committee on
Accreditation/91;

954. Barcik, Claire Jeannette

B.A. Toronto/87;
LL.B. Ottawa/90;

955. Bartlett-Hughes, Christine
Elinor Mary

B.A. Winnipeg/84;
M.A. Queen's/88;
LL.B. Toronto/90;

956. Basu, Robin Kumar
B.A. Toronto/88;
LL.B. Toronto/90;
957. Battista, Michael Frances
B.A. Toronto/87;
LL.B. Queen's/90;
958. Bell, Dianne Elizabeth
B.A. Dalhousie/85;
LL.B. Dalhousie/90;
959. Belsey, Jodene Dawn
B.B.A. Regina/89;
LL.B. York/90;
960. Berman, John Ian
2 yrs. Arts, York;
LL.B. York/90;
961. Besner, Mitchell Israel
B.A. Western/83;
LL.L Ottawa/87;
LL.B. Ottawa/86;
962. Biggs, Nicola Wendy
B.A. Toronto/85;
LL.B. Windsor/90;
963. Birnboim, Elliot Seth
2 yrs. Arts, Carleton;
LL.B. York/90;
964. Blanshay, Robert Israel
B.A. McGill/87;
LL.B. Manitoba/90;
965. Borsanyi, Francine
B.A. Ottawa/78;
LL.L Ottawa/90;
LL.B. Ottawa/89;
966. Brion, Arturo Tomas
Joint Committee on
Accreditation/90;
967. Brisebois, Daniel
B.Soc.Sc. Ottawa/87;
LL.B. Ottawa/90;
968. Burke, Joseph Patrick
B.A. Concordia/86;
LL.B. Queen's/90;
969. Burke, Todd Joseph
B.A. Carleton/87;
LL.B. Dalhousie/90;
970. Burks, Sally Heather
Mature Student;
LL.B. Ottawa/90;
971. Capogreco, Sylvana
B.A. Toronto/86;
LL.B. Victoria/90;
972. Carvalho, Keith Christopher
B.Sc. Carleton/86;
LL.B. Ottawa/90;
973. Chaffe, James Robert
B.A. Western/87;
LL.B. Windsor/90;
974. Chan, Cheuk Christopher
Joint Committee on
Accreditation/91;
975. Chau, Wayland Chik-Wai
B.Comm. McGill/87;
LL.B. York/90;
976. Cheah, Pei Chi Mary Louise
Joint Committee on
Accreditation/91;
977. Choma, Laura Ann
B.A. Wilfrid Laurier/78;
LL.B. York/90;
978. Chondon, David Michael
B.Comm. British Columbia/90;
LL.B. Queen's/90;
979. Christie, Merran MacDonald
B.Comm. Mount Allison/86;
LL.B. Victoria/90;
980. Chudy, Timothy Walter
B.A. Manitoba/80;
M.A. Manitoba/85;
M.B.A. Dalhousie/90;
LL.B. Dalhousie/90;
981. Cini, Maltaise Esmeralda
Marie Lucarda
B.A. Carleton/84;
LL.B. Windsor/90;
982. Clarke, Dominic Toby
Joint Committee on
Accreditation/91;

983. Cloutier, Albert Denis Raymond	B.Sc.Toronto/86; LL.B. Toronto/90;
984. Coen, Samuel Brian	B.A. York/87; LL.B. York/90;
985. Collin, Dana Lauren	2 yrs. Arts, York; LL.B. York/90;
986. Conneely, Bridget Theresa	B.Sc. McMaster/81; M.Sc. McMaster/82; B.Ed. Western/83; LL.B. Toronto/90;
987. Connor, Nils Richard	B.A. P.E.I./87; LL.B. York/90;
988. Conradi, Karin Hildegard	B.A. Simon Fraser/72; LL.B. Alberta/76;
989. Conroy, Charles Clarke	B.A. Brock/87; LL.B. Toronto/90;
990. Cooligan, Roxanne Grace	B.A. Carleton/86; LL.B. Ottawa/90;
991. Cooper, James Michael	3 yrs. Arts, Toronto; LL.B. Toronto/90;
992. Cooper, Miriam Nechama	B.A. York/87; LL.B. York/90;
993. Cooper, Paul Martin	B.A. York/87; LL.B. York/90;
994. Corcoran, Winfield Edward	B.Sc. Western/73; LL.B. Windsor/90;
995. Cormier, Coady Francis	B.B.A. Bishop's/86; LL.B. Dalhousie/89;
996. Cote, Joseph Hector Robert	Mature Student; LL.B. York/90;
997. Cowling, David George	B.A. McGill/87; LL.B. Toronto/90;
998. Croft, Bonita Marie	B.A. Mount Allison/87; LL.B. Dalhousie/90;
999. Cruz, Darryl Alexander	2 yrs. Arts, Toronto; LL.B. Toronto/90;
1000. Currie, Catherine Elizabeth	Mature Student; LL.B. York/90;
1001. D'Alimonte, Joseph	2 yrs. Arts, York; LL.B. York/90;
1002. D'Amours, Marc	B.A. Laval/86; LL.B. Moncton/89;
1003. Davies, James Cameron	B.A. York/86; LL.B. York/91;
1004. Davis, Catherine Mary	B.A. Queen's/87; LL.B. Ottawa/90;
1005. Davis, John Donald	B.A. Queen's/80; LL.M Tokyo/90; LL.B. Queen's/83;
1006. Deland, Karen Lillian	B.A. Western/86; LL.B. British Columbia/89;
1007. Denyes, Martin Kenneth	B.Journ. Carleton/87; LL.B. Queen's/90;
1008. Dodds, Maria Clare	B.A. Toronto/87; LL.B. Queen's/90;
1009. Donovan, Reginald Keith	B.B.A. Simon Fraser/86; LL.B. Dalhousie/90;

1010. Doris, James William Earl	B.A. Toronto/86; B.C.L. McGill/90; LL.B. McGill/90;
1011. Dorrett, Leslie Jane	B.A. Toronto/87; LL.B. Western/90;
1012. Doupe, Michael Joseph	B.A. Dalhousie/86; LL.B. Western/90;
1013. Dubiner, Jay Lionel	B.A. York/83; LL.B. Toronto/90;
1014. Duggal, Mangesh Singh	B.A. Michigan, USA/85; LL.B. York/90;
1015. Dumelie, Louise Elsie Mary	2 yrs. Arts, Carleton; LL.B. Queen's/90;
1016. Dunn, John Lewis	B.Sc. Royal Military College/80; LL.B. Queen's/90;
1017. Edmundson-Mosher, Nicola Jane	B.A. Ottawa/81; LL.B. Dalhousie/90;
1018. Fair, Charles Frederick	B.A. York/84; LL.B. Toronto/90;
1019. Fairburn, Jessie Michal	B.A. Toronto/87; LL.B. Toronto/90;
1020. Ferguson, Darryl Roger	B.Comm. Saskatchewan/87; LL.B. York/90;
1021. Fericean, Doina Stefania	B.A. Toronto/87; LL.B. York/90;
1022. Fine, Lorne Jonathan	B.A. York/87; LL.B. York/90;
1023. Foster, Tracey Marie	3 yrs. Arts, McMaster; LL.B. Windsor/90;
1024. Fraser, Verena Jean	B.Comm. McMaster/87; LL.B. McGill/90;
1025. Gardner, Kathleen Julie	B.A. Victoria/81; M.P.A. Queen's/87; LL.B. Queen's/90;
1026. Gee, Robert Sterling	B.A. Western/87; LL.B. York/90;
1027. Gelgor, Sarah	B.A. Toronto/87; LL.B. Queen's/90;
1028. Giacomelli, Jon David	B.A. McMaster/87; LL.B. Queen's/90;
1029. Giagnocavo, Cynthia Lynn	B.A. York/86; LL.B. York/90;
1030. Gignac, Sebastien Andre Teisserenc	B.A. York/83; M.A. Carleton/90; B.C.L. McGill/89; LL.B. McGill/89;
1031. Goldstein, Howard Hugh	B.A. York/83; M.E.S. York/88; LL.M. York/90; LL.B. York/90;
1032. Goorachurn, Dhaneswar	B.Sc. Manitoba/87; LL.B. Manitoba/90;
1033. Graham, Matthew Edward	B.A. Toronto/84; M.A. Toronto/85; LL.B. York/90;
1034. Green, Lyndsay May	B.A. Waterloo/87; LL.B. Queen's/90;

1035. Gudz, Linda Suzanne	B.A. Trent/87; LL.B. Toronto/90;
1036. Hammond, Randolph Claire	B.A. Guelph/87; LL.B. Queen's/90;
1037. Hancock, Patricia Irene	B.A. Toronto/87; LL.B. York/90;
1038. Harris, Gregory Harrington	B.A. Toronto/86; LL.B. Ottawa/90;
1039. Hazen, Deanna Elaine	Joint Committee on Accreditation/91;
1040. Heath, Spencer Duff	B.A. Alberta/87; LL.B. Western/90;
1041. Hedley, Nicholas John	B.A. York/86; LL.B. York/90;
1042. Henry, Jacqueline	B.A. York/84; M.A. Carleton/86; LL.B. York/90;
1043. Herbert, James Hilton	B.A. Alberta/85; M.A. Toronto/86; LL.B. York/90;
1044. Higgins, Robert Austin	B.A. St. Francis Xavier/85; B.C.L. McGill/89; LL.B. McGill/88;
1045. Hodgson, Douglas Charles	B.Sc. Toronto/86; LL.B. Queen's/90;
1046. Holland, Julia Evelyn	A.B. Radcliffe, USA/87; LL.B. Toronto/90;
1047. Holmes, Jill Margaret	Joint Committee on Accreditation/91;
1048. Hoskins, Robert Craig	B.Mus. Alberta/82; M.A. Alberta/86; LL.B. York/90;
1049. Houston, Mark Terrence	B.Sc. Queen's/86; LL.B. Dalhousie/90;
1050. Howard, Laura Elizabeth	B.A. McGill/87; LL.B. Toronto/90;
1051. Howe, Norman Iverson Maxwell	B.Comm. Queen's/86; B.A. Oxford, UK/88; LL.B. Dalhousie/90;
1052. Humble, Iva Mae	B.A. Iowa, USA/64; M.Ed. Western/81; LL.B. Western/90;
1053. Jack, Nancy Ann	3 yrs. Arts, Western; LL.B. Toronto/90;
1054. Janes, Robert John McCarthy	B.Sc. Memorial/86; LL.B. Toronto/90;
1055. Joy, Laura Lynn	B.A. Lakehead/85; M.A. Guelph/87; LL.B. Windsor/90;
1056. Kairys, Virginia Ann	Mature Student; LL.B. York/90;
1057. Kalina, Hans Johann	Mature Student; LL.B. Western/90;
1058. Kar, Shahana	B.Comm. McGill/87; LL.B. York/90;
1059. Katz, Joel Ian	2 yrs. Arts, Winnipeg; LL.B. Manitoba/88;
1060. Kay, Tracy Ann	B.A. Queen's/86; LL.B. Queen's/89;

1061. Kelly, Michael Mortimer St. Joseph LL.B. West Indies/88;
LL.B. Toronto/90;
1062. Kerr, Maxine Mona B.A. York/87;
LL.B. Toronto/90;
1063. Khanna, Kokila Devi Anoop Joint Committee on
Accreditation/91;
1064. Kim-Cho, Grace B.Sc. Toronto/85;
LL.B. York/90;
1065. King, Philip Tobias B.A. Western/86;
M.B.A. Western/90;
LL.B. Western/90;
1066. Kirwan, Mary Patricia Joint Committee on
Accreditation/91;
1067. Klein, Norman Joseph B.A. Waterloo/87;
LL.B. Ottawa/90;
1068. Kleinhenz, Ruth Ann B.A. Western/86;
J.D. Detroit, USA/90;
LL.B. Windsor/90;
1069. Konkin, Carol Jennifer B.A. Dalhousie/86;
LL.B. Western/90;
1070. Korman, Michael Eric B.Sc. McGill/87;
LL.B. York/90;
1071. Lalonde, Michel Philippe Paul CEGEP;
B.C.L. McGill/89;
LL.B. McGill/89;
1072. Lanigan, Colm Christopher B.Sc. Toronto/87;
LL.B. Toronto/90;
1073. Lassaline, Patrick Joseph B.A. Western/87;
LL.B. York/90;
1074. Lawson, Douglas James B.A. Western/83;
LL.B. Western/89;
1075. LeBlanc, Joseph Gerald Marc Andre B.A. Concordia/87;
LL.B. Ottawa/90;
1076. Lee, Chung-Son B.A. Toronto/86;
LL.B. Queen's/90;
1077. Lee, Edward Yeung B.A. Toronto/89;
LL.B. York/90;
1078. Lee, Haebeom B.Sc. Toronto/84;
M.B.A. York/90;
LL.B. York/90;
1079. Lee, Kien Chong Sammy Joint Committee on
Accreditation/91;
1080. Lee, Winnie Siu Wai B.Sc. Toronto/82;
LL.B. York/90;
1081. Legge, Jennifer Grace B.A. Toronto/87;
LL.B. Ottawa/90;
1082. Lepin, Ronald Kenneth B.Comm. British Columbia/90;
LL.B. Toronto/90;
1083. Leslie, Lois Mary 2 yrs. Arts, Simon Fraser;
B.Soc.Sc. Birmingham,
UK/84;
LL.B. Saskatchewan/89;
1084. Levy, Judah Jimmy B.A. McGill/81;
M.A. Clark, USA/86;
LL.B. York/90;
1085. Lewis, Robert Angus B.A. Ottawa/87;
LL.B. Ottawa/90;
1086. Lewis, Steven Neil 2 yrs. Arts, McGill;
LL.B. York/88;

1087. Lewis, Timothy Joseph	3 yrs. Arts. Western; LL.B. Toronto/90;
1088. Light, Warren Bruce	B.Comm. British Columbia/90; LL.B. Toronto/90;
1089. Lin, Yi-Ching	2 yrs. Science, Western; LL.B. Western/90;
1090. Lisus, Jonathan Charles	B.A. York/87; LL.B. York/90;
1091. Lo, Kit Tung Shirley	Joint Committee on Accreditation/91;
1092. Lum, Pooi Foong	B.Comm. Carleton/86; LL.B. Windsor/90;
1093. MacRae, Robert William	Mature Student; LL.B. York/90;
1094. Magonet, Michael David	B.A. McGill/85; B.C.L. McGill/89; LL.B. McGill/89;
1095. Mahar, Andrew Michael Francis	B.A. Concordia/85; LL.B. Toronto/90;
1096. Marquis, Rhonda May	B.A. McGill/85; LL.B. Western/90;
1097. Marshall, Hugh Ross	B.P.R. Mount St. Vincent/86; J.D. Detroit/90; LL.B. Windsor/89;
1098. McCracken, Robina Khan	B.A. Carleton/87; LL.B. Ottawa/90;
1099. McLaughlan, Belle Diana Wong	3 yrs. Arts, Toronto; LL.B. Toronto/90;
1100. McLaughlin, Mundy Yvette	B.A. USA/80; B.C.L. McGill/90; LL.B. McGill/90;
1101. McMahon, Donald James	B.A. Concordia/71; M.A. Carleton/73; LL.B. Toronto/88;
1102. Milliken, William Ross	B.A. York/84; LL.B. McGill/90;
1103. Milton, Neil William Douglas	B.Sc. McGill/87; LL.B. Toronto/90;
1104. Moberg, Michael James	B.Sc. Cornell, USA/86; L.L.B. Ottawa/89;
1105. Morton, John Robert	B.Comm. Toronto/84; LL.B. British Columbia/90;
1106. Moulson, Peter John	B.A. Western/85; M.A. Royal Military College/87; LL.B. McGill/90;
1107. Munro, Shelley Lynne	B.A. Winnipeg/86; LL.B. Toronto/90;
1108. Nadon, Bernard Marc	B.Sc. Ottawa/87; LL.B. Moncton/90;
1109. Newman, Dwanda Charlene	B.Comm. Memorial/87; LL.B. Dalhousie/90;
1110. Noreau, Joseph Gaetan Jean Marc	Joint Committee on Accreditation/91;
1111. Obembe, Esther Olufunke	Joint Committee on Accreditation/90;
1112. Perry, Glenda Sheryl	3 yrs. Arts, York; LL.B. York/90;

1113. Pettingill, Alexander David 3 yrs. Arts, Western;
LL.B. Queen's/90;
1114. Rabinovitch, Neil Stuart CEGEP;
1 yr. Arts, McGill;
B.C.L. McGill/90;
LL.B. McGill/90;
1115. Robinson, Louis Ashbourne Mature Student;
LL.B. York/90;
1116. Rudolph, Mary Jacqueline Christine CEGEP;
B.C.L. McGill/90;
LL.B. McGill/90;
1117. Sadik, Pierre Achmed Helmut B.A. York/86;
LL.B. Ottawa/90;
1118. Shute, Gillian Anne LL.B. Queen's, Ireland/76;
LL.B. Queen's/90;
1119. Shuttle, Gordon Paul M.A. Saskatchewan/87;
LL.B. Saskatchewan/90;
1120. Slemming, Juliet Elizabeth B.A. York/86;
LL.B. New Brunswick/90;
1121. Smith, Douglas William B.A. Carleton/87;
LL.B. Western/90;
1122. Sochor, Robert John B.A. McMaster/85;
B.Ed. Windsor/86;
LL.B. Ottawa/90;
1123. Speirs, Carey Richard B.A. Western/85;
LL.B. New Brunswick/90;
1124. Stark, Fern Ann CEGEP;
1 yr. Science, McGill;
B.C.L. McGill/89;
LL.B. McGill/89;
1125. Starrett, Melinda Giselle 3 yrs. Science, Waterloo;
LL.B. British Columbia/90;
1126. Stryio-Stewart, Ruth Mature Student;
LL.B. Windsor/90;
1127. Sutter, Gregory Robert B.A. British Columbia/83;
B.A. Cambridge, UK/87;
LL.B. Toronto/90;
1128. Szabo, Anna Maria M.B.A. Western/88;
LL.B. Western/90;
1129. Szigeti, Anita 2 yrs. Science, Toronto;
LL.B. Toronto/90;
1130. Temkin, Kelly Jacqueline 2 yrs. Arts, York;
LL.B. York/90;
1131. Thompson-Harry, Karen Marie B.A. Toronto/79;
LL.B. York/91;
1132. Tindal, Susan Marie B.A. Queen's/71;
M.Ed. Queen's/88;
LL.B. Queen's/91;
1133. Tong, Yuet Zee B.E.S. Waterloo/87;
LL.B. York/90;
1134. Traub, Erika B.A. Waterloo/85;
M.A. Waterloo/88;
LL.B. Ottawa/90;
1135. Trower, Cynthia Louise Anne 2 yrs. Arts, Toronto;
LL.B. York/90;
1136. Tuck-Jackson, Andrea Edna Ethel B.A. Toronto/87;
LL.B. Toronto/90;
1137. Van Moorlehem, William Casey B.A. St. Francis Xavier/87;
LL.B. British Columbia/90;

1138. Vardy, Marilyn Joyce	B.Sc. Memorial/85; B.C.L. McGill/89; LL.B. McGill/89;
1139. von Cramon, Karynn Lee	2 yrs. Arts, York; LL.B. York/90;
1140. Wadden, Robert William	B.A. Memorial/86; LL.B. Toronto/90;
1141. Weisz, Jordan Frank	3 yrs. Arts, Toronto; LL.B. York/91;
1142. Wilford, John Allen	Mature Student; LL.B. York/90;
1143. Wilson, James Kennan	B.A. Trent/84; LL.B. Western/90;
1144. Wood, James Douglas Henry	B.A. Dalhousie/87; LL.B. Dalhousie/90;
1145. Wotherspoon, Fiona	B.A. Mount Allison/87; LL.B. New Brunswick/90;
1146. Yee, Gina Angela	B.Sc. Manitoba/84; M.Sc. British Columbia/86; LL.B. Toronto/90;
1147. Zych, Kevin John	B.A. McMaster/87; LL.B. Ottawa/90;

Approved

Under Bar Admission Course Regulation 22(7)
32nd B.A.C. (Entering Articles 1989)

1168. Boychuk, Lori Ann	2 yrs. Arts, Regina; LL.B. Western/89
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Approved

Under Bar Admission Course Regulation 22(7)
31st B.A.C. (Entering Articles 1988)

1195. Shuster, Jerry Tyler	2 yrs. Arts, Western; LL.B. Western/88
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Approved

Under Bar Admission Course Regulation 22(7)
30th B.A.C. (Entering Articles 1987)

1123. Giroux, Joseph Luc Romeo Michel	B.Soc.Sc. Ottawa/83; LL.B. Ottawa/86
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Approved

Under General Transfer Provisions
To Enter Phase Three of the Bar Admission Course

Calof, Hayim	Province of Manitoba
Coderre, Caroline	Province of Quebec
Corkery, Barbara Frances	Province of Alberta
Daigneault, Pascale	Province of Alberta
Kushner, Michael Joseph	Province of Quebec
Laprade, Bernard	Province of Quebec

Leduc, Claude	Province of Quebec
O'Hara, Kevin Joseph	Province of Newfoundland
O'Neil, Lawrence Ignatius	Province of Nova Scotia
Richards, Ronald James	Province of Newfoundland
Saunders, Brian Joseph	Province of Alberta
Spiegel, Robert Neil	Province of Quebec
Stafford, Stephen James Michael	Province of Newfoundland

Approved

6. CALL TO THE BAR AND CERTIFICATE OF FITNESS

Bar Admission Course

(a) The following candidates having successfully completed the Thirty-Second Bar Admission Course, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted Certificates of Fitness:

Choo-Eng Goh
Jeffrey Julius Long
David Robert Merner
Michele Justine Lawford

Approved

7. REQUEST FOR READMISSION AFTER RESIGNATION UNDER NORMAL CIRCUMSTANCES

An application for readmission has been received from Gary Michael Freedman. Mr. Freedman was called to the Bar in Ontario on the 29th of March, 1977 and resigned his membership at his own request on the 26th of October, 1986.

The applicant is not in any arrears of fees and asks that he be readmitted upon filing all necessary documents with the Finance Department.

His letter requesting readmission was date stamped the 30th of September, 1991, which puts him within the five year period and thus he is not required to sit requalification examinations.

Mr. Freedman's application was delayed in being put to the Committee until he paid the readmission fee of \$321.00. His cheque arrived on October 21st.

The application is complete and in order and the Committee recommended that it be approved.

C.
INFORMATION

1. MICHAEL J. SPICER - SECTION 27(4) HEARING

A Committee of Benchers held a hearing pursuant to Section 27(4) of The Law Society Act, R.S.O. 1980, c. 233, to determine whether Mr. Michael J. Spicer was of good character.

The Committee concluded that Mr. Spicer was not of good character and prepared a seventy-five page report of its findings.

22nd November, 1991

Mr. Spicer has advised the Law Society that he does not wish to pursue his application further at this time. Benchers wishing a copy of the report may obtain one from Roberta Hewlett (Deputy Secretary's Office - extension 3302).

Noted

Note: Item 1 deleted, see below

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"L. Brennan"
for Chair

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

B-Item 2(b) - Memorandum from Mr. Andrew Brockett to Ms. Patricia Gyulay
dated November 13, 1991 re: Admissions Committee:
Application for Transfer: Quebec: Nicholas Paul Kasirer.

(Numbered 20 - 21)

Section C, Item 1 of the Report re: Spicer, was deleted.

THE REPORT WITH THE EXCEPTION OF C-ITEM 1 WAS ADOPTED

Mr. Brennan also presented an Addendum to the Admissions Report dated November 22nd, 1991.

ADMISSIONS COMMITTEE - ADDENDUM - NOVEMBER 22ND, 1991

C.
INFORMATION

1. MICHAEL J. SPICER - SECTION 27 (4) HEARING

Since the Committee met on November 14th, 1991, Mr. Spicer has advised the Society that he has decided to pursue his application. Once the matter has been scheduled for a future Convocation, copies of the report will be distributed to all Benchers.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"L. Brennan"
Chair

THE ADDENDUM WAS ADOPTED

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CALL TO THE BAR

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

Choo-Eng Goh	32nd Bar Admission Course
Michele Justine Lawford	32nd Bar Admission Course
Jeffrey Julius Long	32nd Bar Admission Course
David Robert Merner	32nd Bar Admission Course
Lucie Leger	Professor, University of Ottawa
Claire Francesca Louise Young	Professor, University of Western Ontario

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FINANCE AND ADMINISTRATION COMMITTEE

Mr. Wardlaw presented the Report of the Finance and Administration Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 14th of November, 1991 at three o'clock in the afternoon, the following members being present: J.J. Wardlaw (Vice-Chair in the Chair), D.E. Bellamy (Vice-Chair), T.G. Bastedo, A. Feinstein, D.H.L. Lamont, P.B.C. Pepper, and M.P. Weaver. Also in attendance were D.A. Crosbie, D.E. Crack and D.N. Carey.

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the four months ended October 31st 1991.

Approved

2. NEW ACCOUNTING SOFTWARE FOR COMPUTER

A memorandum from the Director of Finance outlining the need for new accounting software is attached.

The Committee approved in principle the acquisition of this software subject to final assessment of the two options by the Director of Finance and his staff (which would include site visits to some current users of the systems) and approval by the Chair of the Committee.

3. STATUS OF MEMBERSHIP - MATERNITY LEAVES

There are two requests from members of the profession who are concerned that the payment of Law Society fees under the current fee structure creates some form of discrimination against women who wish to take maternity leave. The two cases are slightly different and are summarized here, with copies of letters from the members attached:

(i) This member expresses concern that she has begun maternity leave part way through our fiscal year and will be returning to practice later in our fiscal year. Our system currently provides that this member would have to pay the full fees. Her suggestion is, first, that a provision should be allowed that any women who work less than a full year due to maternity leave not be required to pay the full fee, and second that the requirement that full fee payment be made by such members penalizes those members for having a child and is therefore contrary to the Ontario Human Rights Code.

(ii) This member had contacted the Ontario Human Rights Commission Office in Ottawa and was about to make a complaint. The official from the Ontario Rights Commission contacted the Director of Finance about the complaint. It was suggested that the matter be allowed to be presented to our Finance Committee before proceeding. This letter is also attached.

This member provides a history of her maternity leaves commencing in July 1986 to present. It is her contention also that members wishing to fulfill their family responsibilities and taking maternity leave are faced with an inordinate barrier to retaining their status and their ability to return to practice at a later date.

The Committee resolved to refer the matter to the Women in the Legal Profession Committee and that they report back to the Finance Committee.

4. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 10 members who have not complied with the requirements respecting annual filing and who have not paid their late filing fee.

In all 10 cases all or part of the late filing fee has been outstanding four months or more. The 10 members owe \$12,860.00 of which \$5,900.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 10 members be suspended by Convocation to be effective on the 29th of November 1991 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: See motion, page 22

5. SUSPENSION OF MEMBERS - ERRORS AND OMISSIONS LEVY

There are 445 members who have neither paid their Errors and Omissions Insurance Levy nor filed a claim for exemption for the period July to December 1991. Three notices have been sent.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation to be effective on the 29th of November 1991.

Approved

Note: See motion, page 22

6. SUSPENSION OF MEMBER - ERRORS AND OMISSIONS INSURANCE

The following member paid her Errors and Omissions Insurance levy for the period March to June 1989 with a cheque which was subsequently dishonoured by the bank.

Bernadette Kelly Roy	"N.S.F."
\$406.25	

The Committee is asked to recommend that the rights and privileges of this member be suspended by Convocation to be effective on the 29th of November 1991 if the Errors and Omissions Insurance levy remains unpaid on that date.

Approved

Note: See motion, page 22

7. MEMBERSHIP UNDER RULE 50

(a) Retired Members

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

Jean-Eudes Brassard	Oka, PQ
Theodore Sumner Farley	Schomberg
Robert Lawrence Hendrie	Don Mills
John Waller De Courcy O'Grady	Toronto
Oliver George Prevost	Kingston
John Howard Ryan	Scarborough
Robert Henry Watson	Collingwood
John Anthony Whittingham	Toronto
Raymond Douglas Archibald	Iroquois
Helen Martha Carefoot	Windsor

(b) Incapacitated Members

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

Sandra Vivienne Bair-Muirhead	Thunder Bay
Aimee Frances Logan	Don Mills

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

Approved

8. RESIGNATION - REGULATION 12

(a) John William Kentish Jr. of the Bahamas, has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on 12th April 1962 and practised law only until 1970. In that time he did not handle trust funds or other clients' property. His annual filings are up to date. The member has requested that he be relieved of publication in the Ontario Reports.

(b) James Allen Sheppard of White Rock, B.C., applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on 31st March 1989 and has not worked in private practice since. He has never handled trust funds or other client's property. His annual filings are up to date. The member has requested that he be relieved of publication in the Ontario Reports.

Their declarations are in order and the Committee was asked to approve them without publication.

Approved

C.
INFORMATION

1. LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of 20th November 1991:

Edgar Frank Bastedo	Oshawa
William Thomas Harris	Janetville
William Robert Ross Learmonth	Toronto
Neldo Lawrence Lorenzetti	Toronto
Donald Cyril Anthony McDonnell	Chatham
William Ralph Meredith	Ottawa
Harold Sissons Shurtleff	Belleville
Gordon Bruce Will	Brantford
William Miller Wismer	Toronto

Noted

2. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Susan Caroline Jacobs	Susan Caroline Jacobs <u>Slater</u> (Married Name)
Elizabeth Ann Joy Klassen	Elizabeth Ann Joy <u>Isajiw</u> (Married Name)
Kareen Jane Colbert	Kareen Jane <u>Colbert-Walker</u> (Married Name)
Krista Schult Martin	Krista Schult <u>Moldaver</u> (Married Name)
Cynthia Kriezman	Cynthia <u>Amsterdam</u> (Married Name)

(b) Student Members

<u>From</u>	<u>To</u>
Allison Jean Fleury	Allison Jean <u>Cheron</u> (Married Name)
Shenda Lee Hanna	Shenda Lee <u>Tanchak</u> (Maiden Name)
Valerie Anne Winnifred Hazlett	Valerie Anne Winnifred Hazlett <u>Parker</u> (Married Name)
Leanne Michelle Heacock	Leanne Michelle <u>Grilli</u> (Married Name)
Emily Jelich Clapperton	Emily <u>Jelich</u> (Maiden Name)
Paula Harbalwinder Kalsi	Paula Harbalwinder <u>Sehmi</u> (Married Name)
Maureen Elena Pearl	Maureen Elena <u>Goldlist</u> (Married Name)
Lisa Stephanie Serdan-Labute	Lisa Stephanie <u>Labute</u> (Deleting Maiden Name)

Noted

3. MEMBERSHIP RESTORED

The following member gave notice under section 31 of The Law Society Act that he has ceased to hold judicial office and wishes to be restored on the Rolls and records of the Society.

Effective Date

Donald Gordon Edward Thompson	3rd November 1991
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Noted

4. ROLLS AND RECORDS

(a) Deaths

Michael Huntly Gordon
Toronto

Called March 21st 1969
Died February 27th 1991

John Joseph Patrick McDermott
Picton

Called June 19th 1952
Died July 3rd 1991

James Ross MacBrien
Toronto

Called September 9th 1938
Died September 1st 1991

William Loren Kennedy
Hamilton

Called September 17th 1953
Died September 6th 1991

Foster Bullivant Eddy
Burlington

Called November 19th 1925
Died September 8th 1991

Herbert Alfred Bunn
North York

Called June 23rd 1955
Died September 8th 1991

William Chandler Lech
Peterborough

Called June 24th 1954
Died September 9th 1991

Frank Elmer McMahon
Downsview

Called November 20th 1930
Died September 16th 1991

Hugh Roderick Joseph McDonald
Nepean

Called June 22nd 1960
Died September 22nd 1991

Joel Alan Organek
Toronto

Called March 26th 1971
Died September 26th 1991

Jean Thomas Richard
Ottawa

Called October 17th 1929
Died September 27th 1991

Guy Murison Cottrell
Windsor

Called March 21st 1975
Died September 28th 1991

Rae Marcus
Toronto

Called April 9th 1987
Died September 28th 1991

Noted

(b) Membership in Abeyance

Julie Edna Marie Gagnon
Toronto

Called April 13th 1987
Appointed to the Ontario Municipal Board
August 30th 1991

Lee Kenneth Ferrier
Toronto

Called April 10th 1964
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

John Robert Rogers Jennings
Toronto

Called April 10th 1964
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

John Alan Baker MacDonald
Toronto

Called March 19th 1970
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

Terrence Antoine Platana
Fort Frances

Called March 23rd 1973
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

George William Adams
Ottawa

Called October 19th 1973
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

Robert Napier Weekes
Barrie

Called March 21st 1975
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

Called March 29th 1977
Appointed to the Ontario Court of Justice,
General Division
October 11th 1991

Noted

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

December 6, 1991	WLA Dinner Convocation Hall
December 12, 1991	Lawyers Club Dinner Convocation Hall

Noted

"J. Wardlaw"
for Chair

B-Item 1 - Memorandum from Mr. David Crack to Chair and Members of the Finance Committee dated November 7, 1991 re: Financial Statements - Highlights as at October 31, 1991.
(marked B.1, 6 pages)

B-Item 2 - Memorandum from Mr. David Crack to the Chair and Members of the Finance Committee dated November 8, 1991 re: New Accounting Software for Computer.
(marked B.2, 3 pages)

B-Item 3(i) Letter from Ms. Cathy Pike to Mr. David Crack dated November 6, 1991 re: Payment of LSUC fees. Letter (together with enclosure) from Ms. J. Helen Beck to Mr. David Crack dated November 9, 1991.
(marked B.3(i), 2 pages, B.3(ii), 3 pages)

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

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from November 29th, 1991 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(See list in Convocation file)

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of the following member who paid her Errors and Omissions Insurance Levy for the period March 1st, 1989 to June 30th, 1989 with cheques which were subsequently dishonoured by the bank be suspended from November 29th, 1991 for one year and from year to year thereafter until the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Bernadette Kelly Roy	\$406.25
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Carried

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of each member who has neither paid the Errors and Omissions Insurance levy which was due on July 1st, 1991 nor filed an approved application for exemption from coverage and whose name appears on the attached list, be

suspended from November 29th, 1991 for one year and from year to year thereafter or until an application for exemption has been approved or the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(See list in Convocation file)

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LEGAL AID COMMITTEE

Ms. Kiteley presented the Report of the Legal Aid Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at two o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Ally, Bond and Brennan, Ms. Campbell, Ms. Cohen, Ms. Curtis, Mr. Durno, Ms. Fuerst, Ms. Kehoe, Messrs. Koenig, Lalande, Petiquan and Ms. Weir.

A.
POLICY

1. REPORT RE: LEGAL AID REVIEW

The Committee received and had a lengthy debate on the draft report with respect to the review by the Treasurer of Ontario. The draft report, subject to minor modifications, was approved unanimously by the Legal Aid Committee and the Steering Committee was authorized to take such steps as are necessary between now and the next Legal Aid Committee meeting with respect to the report and the review.

The Report is attached hereto and marked as SCHEDULE (A).

2. ABT REPORT ON LEGAL AID

Due to the lengthy debate on the draft report with respect to the review by the Treasurer of Ontario, the Legal Aid Committee had insufficient time to review Chapters 6 and 8 of the Abt Report and will conduct this review at the next Legal Aid Committee meeting.

B.
ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE
FOR THE SIX MONTHS ENDED SEPTEMBER 30, 1991

(a) Finance

The Director's report pursuant to Section 88 (2) of the Regulation for the six months ended September 30, 1991 takes the form of the following financial statement:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Six Months Ended September 30, 1991 (\$000)

	Actual Sep. 30 1990	Actual Sep. 30 1991	Forecast 1991/92	Budget 1991/92
<u>Opening Balance</u>	\$6,925.8	2,022.1	2,022.1	-

<u>Income</u>				
Treasurer of Ontario	69,646.0	103,665.0	161,963.5	208,890.5
Northern Legal Services	450.0	650.0	1,300.0	1,300.0
Family Violence Grant	150.0	130.0	210.0	250.0
Refugee Claimant Grant	1,875.0	6,288.5	8,500.0*	8,800.0
Law Foundation	12,500.0	10,876.9	19,000.0	24,000.0
Client Contributions	4,700.0	5,896.6	11,500.0	10,000.0
Client Recoveries	1,000.0	983.0	1,900.0	2,200.0
Research Sales	75.0	65.4	150.0	210.0
The Law Society	-	202.5	5,672.0	5,672.0
Miscellaneous	1,000.0	907.5	1,900.0	2,500.0
	<u>98,322.2</u>	<u>131,687.5</u>	<u>214,117.6</u>	<u>263,822.5</u>
<u>Expenditure</u>				
Certificate Accounts	60,562.5	81,761.3	195,500.0	186,540.0
Refugee Accounts	2,025.0	3,399.7	8,200.0*	8,000.0
Duty Counsel Fees				
& Disbursements	3,865.5	3,679.7	8,000.0	9,200.0
Salaried Duty Counsel	468.5	920.6	2,000.0	2,000.0
Northern Legal Services	450.0	550.5	1,300.0	1,300.0
Community Clinics	13,431.7	14,560.3	29,525.5	30,000.0
Student Legal Aid Societies	1,339.4	1,406.5	1,473.5	1,473.5
Research Facility	860.4	1,037.6	2,200.0	1,970.0
Area Office Admin.	5,375.0	6,454.2	13,268.0	13,268.0
Provincial Office Admin.	3,438.8	4,447.4	9,471.0	9,471.0
Refugee Admin.	150.0	161.1	300.0	300.0
Public Info./Education			300.0	300.0
	<u>91,966.8</u>	<u>118,378.9</u>	<u>271,538.0</u>	<u>263,822.5</u>
<u>Closing Balance</u>	<u>6,355.4</u>	<u>13,308.6</u>	<u>(57,420.4)</u>	<u>0</u>

*Forecast reduced by \$1,000.0 since last month

Statistics

The following table compares reported activity for the six months ended September 30, 1991 with activity for the previous fiscal year:

	<u>Sep. 30, 1990</u>	<u>Six Months Ending Sep. 30, 1991</u>	<u>% Change</u>
Summary Legal Advice	27,146	30,328	11.7%
Referrals to Other Agencies	62,353	72,642	16.5%
Applications for Certificates	93,152	122,208	31.2%
Refusals	16,670	18,611	11.0%
As a Percentage of Applications	18.0%	15.2%	
Certificates Issued	76,392	103,697	35.7%
Persons Assisted by Duty Counsel:			
Fee for Service	110,986	115,306	3.9%
Salaried	43,568	58,819	35.0%
Telephone Hot Line	7,663	10,096	31.7%

(b) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR OCTOBER, 1991

The Report on the Payment of Solicitors Accounts is attached hereto as SCHEDULE (B).

(c) REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR OCTOBER, 1991

The Report on the Status of Reviews in the Legal Accounts Department is attached hereto as SCHEDULE (C).

(d) AREA COMMITTEES - APPOINTMENTS & RESIGNATIONS

APPOINTMENTS

Essex

Michael Gordner, solicitor

Norfolk

Tom Miranda, Insurance agent

Northumberland

Gordon C. Kelly, solicitor

Stormont, Dundas & Glengarry

Ben Stidwell, retired assistant manager

22nd November, 1991

Nipissing
William A. Brunton, solicitor

RESIGNATIONS

Essex
Donald Tait

Nipissing
Jeffrey B. Merriman

C.
INFORMATION

1.(a) LETTER TO THE TREASURER OF THE LAW SOCIETY
FROM THE MINISTRY OF THE ATTORNEY GENERAL RE: ABT REPORT

The Legal Aid Committee received for its information a copy of a letter from the Ministry of the Attorney General to the Treasurer of the Law Society dated September 24, 1991 concerning the Abt Report which the Legal Aid Committee is currently reviewing.

A copy of the letter is attached hereto as SCHEDULE (D).

(b) REPORT TO CONVOCATION WITH RESPECT TO THE
UNIVERSITY OF OTTAWA STUDENT LEGAL AID SOCIETY

The Legal Aid Committee received for its information a copy of the Report to Convocation by the Special Committee Appointed by the Treasurer in Convocation on October 12, 1990 with respect to the University of Ottawa Student Legal Aid Society.

ALL OF WHICH is respectfully submitted

"F. Kiteley"
Frances P. Kiteley
Chair

November 14, 1991

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

- A-Item 1 - Report - Review of the Ontario Legal Aid Plan.
(Appendix A, 4 pages)
- B-Item 1(b) Report on Payment of Solicitors Accounts - October 1991.
(Appendix B, 2 pages)
- B-Item 1(c) Report on the Status of Reviews in the Legal Accounts Department -
October 31, 1991. (Appendix C)
- C-Item 1(a) Letter from R.J. Wilson, Director General Bureau of Review
Department of Justice to Mr. James Spence, Treasurer dated September
24, 1991. (Appendix D)

Also enclosed with the Report (1) Submission to the Government of Ontario - Legal Aid on Trial (November 1991) and (2) Report - A Critical Assessment of Legal Aid in Manitoba: An Evaluation Report (1987).

It was moved by Robert Topp, seconded by Dan Murphy that on page 10 of the paper on "Legal Aid on Trial" under the heading "Conclusion" the words in the third paragraph "in the area of criminal law" be deleted and the word "Sub-committee" be changed to "sub-committees" so that the sentence should now read "The Tariff Review sub-committees will be reconstituted to examine in closer detail the various options suggested to reduce costs."

The Chair accepted this amendment.

THE REPORT AS AMENDED WAS ADOPTED
.....

Ms. Kiteley commended the work of the senior Legal Aid staff.
.....

CONVOCATION ADJOURNED FOR A SHORT RECESS
.....

CONVOCATION RECONVENED

.....

PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented the Report of the Professional Conduct Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at three o'clock in the afternoon, the following members being present: Mr. Campbell (Acting Chair), Ms. Elliott and Ms. Mohideen.

A.
POLICY

1. LAWYERS' INTEREST IN A TITLE SEARCH
COMPANY - CAN A LAW PARTNERSHIP
INCORPORATE A TITLE SEARCH COMPANY
AND REFER CLIENTS TO IT?

A law firm has asked if it could form a title search company and refer clients' title searches to it. Set out is its proposal:

At the present time, members of our Partnership are giving consideration to the incorporation of a corporation which carry on business as a "freelance" title searching firm. It is contemplated that our firm would direct a substantial amount of business to the newly incorporated entity, which would render title search and other services to the firm, on normal commercial terms.

Concern has been expressed that notwithstanding the language of Rule 9, the fact that members of the firm, or members of their immediate families are shareholders of the entity providing title search services might result in contravention of Rule 9 due to our indirect pecuniary interest in the recipient of the disbursement.

In referring to Rule 9 they are probably referring to paragraph 8 of the Commentary which reads:

The fiduciary relationship between lawyer and client requires full disclosure in all financial dealings between them and prohibits the acceptance by the lawyer of any hidden fees. No fee, reward, costs, commission, interest, rebate, agency or forwarding allowance or other compensation whatsoever related to professional employment may be taken by the lawyer from anyone other than the client without full disclosure to and the consent of the client or, where the lawyer's fees are being paid by someone other than the client, such as a legal aid agency, a borrower, or a personal representative, without the consent of such other person or agency.

Paragraph 7 of the Commentary under Rule 5 (Conflict of Interest) is on point. It reads:

The same basic considerations apply where the conflicting interest arises not by reason of the lawyer's duties or obligations to another client but by reason of the financial or other interest of the lawyer or the lawyer's associate. For example, the lawyer, or a family member, or a law partner might have a personal financial interest in the client or in the matter in which the lawyer is requested to act for the client, such as a partnership interest in some joint business venture with the client.

Quite apart from the financial issue which requires disclosure to the client and the client's consent, there is always the problem raised by virtue of title searching done for other law firms. The title search company would have to ensure that it did not search a title for a party in a transaction where the other party to the transaction or one of the other parties was represented by the law firm that owned the title search company.

The Committee was of the opinion that the law firm could own and operate a title search company provided those clients whose title searches were to be done by the company were advised of the law firm's interest in the company and

22nd November, 1991

gave the law firm a written consent and acknowledgement. The possible problem noted above about the lawyer for a purchaser using the title search company when the law firm was representing the vendor was viewed by the Committee as not being a problem.

The Committee asks Convocation to adopt its recommendation.

Note: See motion, see below

2. REPORT OF THE SPECIAL COMMITTEE TO
INVESTIGATE POLICY OF THE UNIVERSITY
OF OTTAWA STUDENT AND LEGAL AID SOCIETY

The Committee reviewed the Special Committee's Report and makes no comment.

C.
INFORMATION

1. SUB-COMMITTEE ON MARTIN V. GRAY
(CONFLICTS OF INTEREST)

The Chair, Mr. Campbell, and the Committee's Secretary are preparing draft guidelines to be considered by the sub-committee. It is hoped that the sub-committee will be making a report to the January meeting of the Committee.

2. SUB-COMMITTEE ON PARAGRAPH 1 OF
THE COMMENTARY TO RULE 13 (DUTY
TO REPORT WRONGDOING)

Two advertisements were placed in the Ontario Reports of October 25th and November 1st inviting comments from the profession. Replies are slowly coming in. It is anticipated that further advertisements should be run. Once a goodly number of responses are received a meeting of the sub-committee will be convened and a report made to the Professional Conduct Committee probably in February or March.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"M. Somerville"
Chair

It was moved by Laura Legge, seconded by Allan Rock that Item 1 under Policy re: Lawyers' interest in a title search, be deleted.

It was moved by Brendan O'Brien, seconded by James Wardlaw that Item 1 under Policy be referred back to the Committee for further consideration including the insurance issue.

Mrs. Legge withdrew her motion and Mr. O'Brien's motion was adopted.

THE REPORT WITH THE EXCEPTION OF A-ITEM 1 WAS ADOPTED
.....

CLINIC FUNDING COMMITTEE

Mr. Epstein presented the Reports of the Clinic Funding Committee of its meetings on October 10th and November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The Director of LEGAL AID begs leave to report:

CLINIC FUNDING

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

The Director recommends to Convocation that the Report of the Clinic Funding Committee dated October 11, 1991 be adopted.

22nd November, 1991

Attached is a copy of the Clinic Funding Committee's Report.

ALL OF WHICH is respectfully submitted

"R. L. Holden"
Robert L. Holden
Director
Legal Aid

October 11, 1991

To: Robert L. Holden, Esq.,
Provincial Director
The Ontario Legal Aid Plan.

The Clinic Funding Committee met on October 10th, 1991. Present were:
Philip Epstein, Q.C., Chair, Joan Lax, Thea Herman, Jim Frauman.

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Supplementary legal disbursements

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

Toronto Workers' Health and Safety Legal Clinic - up to \$3,000

Industrial Accident Victims Group of Ontario - up to \$6,000

2. ACE re. Reallocation of Outreach Funds

The Committee approved an allocation, in an amount up to \$6,900, to the Advocacy Centre for the Elderly for a reprint of the booklet "Every Resident: Bill of Rights for People Who Live in Ontario Nursing Homes". This brochure meets the needs of a vulnerable target group and has been very well received in the community.

B. INFORMATION

1. The Committee approved a request for proposal to conduct an operational review of the community legal clinic system. The Reviewer will be selected by November 29, 1991.
2. The Committee approved the Annual Report for community legal clinics for 1990/91, which will be distributed in November, 1991.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Philip Epstein, Q.C.
Chair
Clinic Funding Committee

October 11, 1991

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of LEGAL AID begs leave to report:

CLINIC FUNDING

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

The Director recommends to Convocation that the Report of the Clinic Funding Committee dated November 15, 1991 be adopted.

22nd November, 1991

Attached is a copy of the Clinic Funding Committee's Report.

ALL OF WHICH is respectfully submitted

Robert L. Holden
Director
Legal Aid

November 15, 1991

To: Robert Holden, Esq.,
Provincial Director,
The Ontario Legal Aid Plan.

The Clinic Funding Committee held its meeting, via conference call, on November 14, 1991. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin.

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Supplementary legal disbursements

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

Algoma Community Legal Clinic - up to \$3,000
Rainy River District Community Legal Clinic - up to \$5,000
South Etobicoke Community Legal Services - up to \$3,000

b. Regional training funds

The Clinic Funding Committee reviewed applications for regional training funds from the four regions - north, southwest, east and Metro Toronto - and the Steering Committee on Social Assistance. The Committee has approved funding for clinic staff training, as follows:

North	up to \$66,000
East	up to \$40,000
Southwest	up to \$40,000
Toronto	up to \$12,000
WCB Network	up to \$ 5,591
Social Assistance	up to \$ 7,000

2. Incorporations

Pursuant to the directions of Convocation, the Clinic Funding Committee has reviewed, as to name and objects, applications for incorporation from the following established clinics:

Niagara North Community Legal Assistance
Georgina Community Legal Services
Rural Legal Services

The Committee recommends Convocation's approval of these applications.

B. INFORMATION

1. New CFC Member

The Committee welcomed Pamela Giffin as a new member of the Clinic Funding Committee. This appointment was recently made by the Attorney General after receiving nominations from various community legal clinics.

22nd November, 1991

2. Hiring of Clinic Funding Staff

Mr. Joseph C. McCalmont has been hired as Director of Finance, effective, October 28, 1991. Mr. Andrew Hamilton has been hired as a staff lawyer, effective November 19, 1991.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Philip Epstein, Q.C.
Chair
Clinic Funding Committee

November 15, 1991

THE REPORTS WERE ADOPTED

.....

LIBRARIES AND REPORTING COMMITTEE

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting on October 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991, at 9:00 a.m., the following members being present:

D. Murphy (Chair), R. Topp (Vice-Chair), R. Bragagnolo, M. Cullity, S. Elliott, G. Farquharson, A. Feinstein, G. Henderson, M. Hickey, R. Lalande, B. Pepper, and Mrs. Weaver; G. Howell and P. Bell also attended.

A.
POLICY

NO ITEMS

B.
ADMINISTRATION

1. COUNTY LIBRARIES - 1992 BUDGETS

The Chief Librarian requested financial documents for 1991 and 1992 budgets from the 47 County Law Associations. The Chief Librarian reported to the Committee that he received financial documents for 1991 and 1992 budgets from all 47 County Law Associations. After a lengthy discussion the Committee gave approval to the Chief Librarian's report on the consolidated budget estimates for 1992.

2. ONTARIO REPORTS - CROWN
COPYRIGHT IN REASONS FOR JUDGMENT

It was reported that the question of Crown copyright was discussed at a CLIC forum in Ottawa on May 31st, 1991. Benchers present were Gordon Henderson and the Law Society's representative to CLIC, Samuel Lerner and Glen Howell, Chief Librarian, and Fraser Mann, the Society's counsel, also attended. The Committee asked that the Law Society's position paper on Crown copyright (first drafted in 1985 and submitted to a Federal Parliamentary Committee) be reviewed and possibly up-dated in light of current events. Mr. Henderson addressed the Committee and answered questions concerning the matter. The Committee thanked Mr. Henderson for his many hours of work on this matter.

IT IS RECOMMENDED that the Society's position on Crown copyright be re-affirmed and that the Society investigate:-

- (a) the production of a CD-ROM (compact disc) of the Ontario Reports and
- (b) the current process of providing copies of judgments to the legal profession in Ontario.

Note: Item 2 deferred, see page 31

22nd November, 1991

3. TRANSITIONS IN THE ONTARIO LEGAL PROFESSION -
A SURVEY OF LAWYERS CALLED TO THE BAR BETWEEN 1975 AND 1990

It was reported that the above report was adopted by Convocation on April 26th, 1991. Each Standing Committee was asked to consider the report's recommendations and any action that should be taken. This matter was deferred until the next meeting of the Committee.

C.
INFORMATION

1. APPLICATION TO THE LAW FOUNDATION FOR
1992 FUNDING OF COUNTY LAW LIBRARIES

After reviewing the Chief Librarian's report on the County Libraries 1992 budgets and the report of the County & District Law Presidents' Association Libraries meeting, the Committee decided to ask the Law Foundation of Ontario in the Law Society's Omnibus application for an amount of \$929,000.00 for 1992 funding. This is an increase of \$69,000.00 over the 1991 counties operating grant of \$860,000.00, but it is a decrease of \$103,000.00 from the Committee's total grant from the Law Foundation of \$1,032,000.00 for 1991.

2. ONTARIO REPORTS - DATA BASE - Q.L. SYSTEMS

It was reported that the contract with Q.L. Systems to continue the Ontario Reports data base on the Q.L. retrieval system was signed by the Society and by Q.L. Systems. The contract is for a term of three years from October 1, 1991. The Society has an option during the term of the contract to buy unreported judgements from Q.L. for an agreed amount. The Society is also in a position to create a compact disc version of the Ontario Reports, a new technology that the Committee will be investigating shortly.

3. RIDDELL COLLECTION

The Great Library and the Archives branch of the Law Society of Upper Canada are participating in the presentation of an exhibition celebrating the 75th anniversary of the Riddell Canadian Library at Osgoode Hall. Chief Justice Dubin has given the Law Society permission to display the exhibit in the Rotunda of Osgoode Hall.

4. BOOK LIST

The Great Library added 34 new titles to its book collection for July, August and September 1991.

ALL OF WHICH is respectfully submitted

DATED this 24th day of October, 1991

"D. Murphy"
Chair

The Chair asked that Item 2 under Administration re: Ontario Reports - Crown Copyright, be deferred until the next Regular Convocation.

THE REPORT WITH THE EXCEPTION OF B-ITEM 2 WAS ADOPTED
.....

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991, at 9:00 a.m., the following members being present:

R. Topp (Vice-Chair in the Chair), S. Elliott, G. Farquharson, A. Feinstein, R. Lalonde, B. Pepper and Mrs. M. Weaver; G. Howell and P. Bell also attended.

A.
POLICY

NO ITEMS

B.
ADMINISTRATION

1. EDITORIAL BOARD - ONTARIO REPORTS

Ms Jamie Cameron, an Editor of the Ontario Reports responsible for constitutional and personal injury cases, and Andrew Marshall, Executive Editor of the Ontario Reports, attended to discuss the process of reporting reasons for judgment in the Ontario Reports.

2. TRANSITIONS IN THE ONTARIO LEGAL PROFESSION -
A SURVEY OF LAWYERS CALLED TO THE BAR BETWEEN 1975 AND 1990

It was reported that the above report was adopted by Convocation on April 26th, 1991. Each Standing Committee was asked to consider the report's recommendations and any action that should be taken. A discussion took place on the recommendations and their effect on the activities of the Libraries and Reporting Committee. The Committee instructed the Secretary of the Committee to advise the Chair of the Women in the Legal Profession Committee that there are no matters to be reported to that Committee at this time.

C.
INFORMATION

1. FINANCIAL REPORT - DEPARTMENT BUDGET

The Chief Librarian reported to the Committee on the finances of the department.

2. BOOK LIST

The Great Library added 40 new titles to its book collection for November 1991.

3. LIST OF BOOKS APPROVED BY THE COUNTY
AND DISTRICT LIBRARIES COMMITTEE

The Chief Librarian reported on the list of books that was approved by the County and District Libraries Committee as suggestions for purchase for the first six months of 1991. The list was received.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"D. Murphy"
Chair

THE REPORT WAS ADOPTED
.....

UNAUTHORIZED PRACTICE COMMITTEE

Mr. Carter presented the Reports of the Unauthorized Practice Committee of its meetings on October 10th and November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991 at 10:30 a.m., the following members were present: Mr. Hickey (Chair), Messrs. Cass, Farquharson, Ms. Graham, Mr. Scott and Ms. Weaver. Also in attendance was: Ms. West (Secretary).

22nd November, 1991

B.
ADMINISTRATION

1. INVESTIGATIONS

The Society does not have sufficient evidence in some cases to commence a prosecution. The Committee authorized a request to the Treasurer for the use of an investigator who will not disclose that he/she is from the Law Society and further authorized the commencement of prosecutions if the necessary evidence is obtained and in one case where the necessary evidence is in hand.

Approved

ALL OF WHICH is respectfully submitted

DATED the 25th day of October, 1991

"R. Carter"
Chair

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

B-Item 1 - List of Current Investigations. (Page 2)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at 10:30 a.m., the following members were present: Ms. Mohideen (Acting Chair), Messrs. Cass, Farquharson, Ms. Graham, and Mr. Lawrence. Also in attendance was: Ms. West (Secretary).

B.
ADMINISTRATION

1. INVESTIGATIONS

The Society does not have sufficient evidence in some cases to commence a prosecution. The Committee authorized a request to the Treasurer for the use of an investigator who will not disclose that he/she is from the Law Society and further authorized the commencement of prosecutions if the necessary evidence is obtained and in one case where the necessary evidence is in hand.

Approved

ALL OF WHICH is respectfully submitted

DATED the 22nd day of November, 1991

"R. Carter"
Chair

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

B-Item 1 - List of Current Investigations. (Page 2)

The Chair asked that the matter of the appointment of an investigator be deleted.

THE REPORTS AS AMENDED WERE ADOPTED
.....

LEGISLATION AND RULES COMMITTEE

Ms. Elliott presented the Report of the Legislation and Rules Committee of its meeting on October 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991, at 2:00 p.m. the following members being present:

M. Cullity (Chair), S. Elliott (Vice-Chair), R. Cass, D. Murphy and S. Thom; P. Bell and A. Stone also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. AMENDMENT TO THE LAW SOCIETY ACT RE LIFE BENCHERS

It was reported that it was necessary to amend section 12(1) of the Law Society Act as a consequence of the following resolution passed by Convocation on February 15th, 1991:

"the qualifications for appointment by the Law Society of Upper Canada as a life bencher be amended so a bencher who has been elected for at least three four year terms and has served for twelve years as a bencher, will be eligible to become a life bencher at the completion of the third four year term"

The Committee noted that the terms of the resolution appear to exclude periods in office as a consequence of an election by benchers to fill a vacancy and periods served prior to a resignation during a three-year elected term. Accordingly, IT IS RECOMMENDED THAT:-

1. (1) Subsection 12(1) of the Law Society Act, being Chapter 233 of the Revised Statutes of Ontario, 1980, be amended by adding thereto the following paragraphs:

5. Every person who has become an ex officio bencher by virtue of the number of times elected and the period of service under a predecessor of this section.

6. Every person who has taken office as a bencher by virtue of an election, other than an election in Convocation, on at least three occasions and who has served the full term of each such election.

(2) Paragraphs 7 and 9 of subsection 12(1) of the said Act are repealed.

(3) Paragraph 6 as re-enacted by subsection (1) applies to elections held and terms served as a bencher before paragraph 6 comes into force but, where a person has satisfied the conditions of paragraph 6 before it comes into force, the ex officio office does not take effect until the paragraph comes into force and unless the bencher is otherwise in office.

Commencement

2. This act comes into force on the day it receives Royal Assent.

As a result of doubts expressed as to the intention of Convocation on the points noted above, the Committee has provided the following alternative draft of paragraph 6 in the event that Convocation determines that, notwithstanding the requirement that the bencher shall have been elected for three full four year terms, periods of service as a result of an election by benchers to fill a vacancy, or prior to a resignation, should be taken into account:

6. Every person who has served as bencher for twelve years and who has been elected a bencher by members under section 15 on at least three occasions.

The Committee noted that the term "ex officio bencher" as used in the Law Society Act is not appropriate as a reference to life benchers.

Note: Item 1 deleted, see page 35

C.
INFORMATION

1. AGENTS OF OCCASIONAL APPEARANCE MEMBERS

It was reported that Bill 75, a bill that amends the Law Society Act, to create temporary members from outside Ontario who are working for the Ontario Attorney General on an exchange program, was given second reading in the Legislature.

2. It was reported that the Committee is within budget.

3. It was reported a request to revoke Sub-section 20(4) of Regulation 573 will be sent to Queen's Park.

ALL OF WHICH is respectfully submitted

DATED this 24th day of October, 1991

"S. Elliott"
for Chair

Item 1 under Administration was deleted.

THE REPORT WITH THE EXCEPTION OF B-ITEM 1 WAS ADOPTED
.....

Ms. Elliott also presented the Legislation and Rules Committee Report of its meeting on November 14th, 1991.

AMENDMENT OF OCTOBER 24TH, 1991
REPORT TO CONVOCATION RE LIFE BENCHERS
ITEM B ADMINISTRATION 1.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991, at 2:30 p.m. the following members being present:

Susan Elliott (Vice-Chair in the Chair), R.W. Cass, S. Lerner, and S. Thom; P. Bell also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. AMENDMENT TO THE LAW SOCIETY ACT RE LIFE BENCHERS

It was reported that it was necessary to amend section 12(1) of the Law Society Act as a consequence of the following resolution passed by Convocation on February 15th, 1991:

"the qualifications for appointment by the Law Society of Upper Canada as a life benchers be amended so a benchers who has been elected for at least three four year terms and has served for twelve years as a benchers, will be eligible to become a life benchers at the completion of the third four year term"

The Committee noted that the terms of the resolution appear to exclude periods in office as a consequence of an election by benchers to fill a vacancy and periods served prior to a resignation during a four-year elected term. Accordingly, IT IS RECOMMENDED THAT:-

1. (1) Subsection 12(1) of the Law Society Act, being Chapter 233 of the Revised Statutes of Ontario, 1980, be amended by adding thereto the following paragraphs:

5. Every person who has become an ex officio benchner by virtue of the number of times elected and the period of service under a predecessor of this section.

6. Every person who has served as a benchner by virtue of an election, other than an election in Convocation, on at least three occasions and who has served the full term of each such election.

(2) Paragraphs 7 and 9 of subsection 12(1) of the said Act are repealed.

(3) Paragraph 6 as re-enacted by subsection (1) applies to elections held and terms served as a benchner before paragraph 6 comes into force but, where a person has satisfied the conditions of paragraph 6 before it comes into force, the ex officio office does not take effect until the paragraph comes into force and unless the benchner is otherwise in office.

Commencement

2. This act comes into force on the day it receives Royal Assent.

As a result of doubts expressed as to the intention of Convocation on the points noted above, the Committee has provided the following alternative drafts of paragraph 6 in the event that Convocation determines that periods of service as a result of an election by Benchers to fill a vacancy, or prior to a resignation, should be taken into account:

6. Every person who is elected a benchner under section 15 on at least three occasions and who serves as a benchner for twelve years.

- OR -

6. Every person who has served as a benchner for twelve years.

The first alternative would retain the requirement of an election for three full four-year terms by members. The second alternative would be satisfied either by elections by members or by Convocation to fill a vacancy.

The Committee has presented the above alternatives for consideration by Convocation. Sections 12, 15 and 21 of the Law Society Act concerning life benchers are attached. (Pgs. B1 - B2)

The Committee noted that the term "ex officio Benchner" as used in the Law Society Act is not appropriate as a reference to life Benchers.

Note: motion, see page 37

C. INFORMATION

1. DEPARTMENT BUDGET

It was reported that the Committee is within budget for October.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"S. Elliott"
for Chair

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

B-Item 1 - Copies of Sections 12, 15 and 21 of the Law Society Act re: Life Benchers. (marked B1 - B2)

It was moved by Stuart Thom, seconded by Harvey Strosberg that Convocation accept the second option on page 2 of the November Report - "6. Every person who has served as a benchner for twelve years".

Withdrawn

Mr. Copeland entered Convocation.

22nd November, 1991

It was moved by Marc Somerville, seconded by Denise Bellamy that Item 1 under Administration re: Life Benchers, be sent to the Research and Planning Committee to address the merits of the issue and bring forth a Report on the consequences.

Carried

It was moved by Barry Pepper, seconded by David Scott that the last sentence under Item 1 under Administration be deleted re: "The Committee noted that the term "ex officio Benchers" as used in the Law Society Act is not appropriate as a reference to life Benchers."

Not Put

THE REPORT WITH THE EXCEPTION OF B-ITEM 1 WAS ADOPTED

.....

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Mr. Ruby presented the Report of the Lawyers Fund for Client Compensation Committee of its meeting on October 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991, at 11:45 a.m. the following members being present:

C. Ruby (Chair), R. Murray (Vice-Chair), K. Howie, A. Feinstein, F. Kiteley and S. Thom and Ms Mary Lou McPhedran, Ms Karen Fellowes and Ms Patricia Marshall were present by invitation; P. Bell and H.A. Werry also attended.

A.
POLICY

1. AMENDMENT TO SECTION 51 OF THE LAW SOCIETY ACT TO
INCLUDE PAYMENTS TO VICTIMS OF SEXUAL ASSAULT BY LAWYERS

The Secretary reported that Mr. Tinsley corresponded with the Chair of the Task Force of the Ontario College of Physicians and Surgeons investigating sexual abuse complaints. Since the number of complaints against lawyers, by their clients, alleging sexual abuse had increased in recent years, it has been suggested by the Chair of the Task Force that the Society consider paying damages to the victims of sexual assault or abuse from the Lawyers Fund for Client Compensation. If the Lawyers Fund for Client Compensation were to be used for this purpose, the Law Society Act would have to be amended. Section 51(5) provides as follows:-

51(5) Convocation in its absolute discretion may make grants from the Compensation Fund in order to relieve or mitigate loss sustained by any person in consequence of dishonesty on the part of any member in connection with such members's law practice or in connection with any trust of which he was or is a trustee, notwithstanding that after the commission of the act of dishonesty he may have died or ceased to administer his affairs or to be a member.

The Committee heard from Mary Lou McPhedran, Karen Fellowes and Patricia Marshall and is grateful to them for giving us an opportunity to hear them.

IT IS RECOMMENDED that the staff obtain more information and bring this matter forward at the November meeting of the Committee.

B.
ADMINISTRATION

1. INVESTMENTS FORECAST OF CLAIMS PAYMENTS

The Chair asked that the matter of forecasting the future payment of grants from the Lawyers Fund be considered. A discussion took place concerning the best method to achieve this goal.

IT IS RECOMMENDED that the staff of the Fund review the claims to the Lawyers Fund for Client Compensation and make a report of the anticipated future payments out of the Fund so that the Finance Department can plan the investments of the Fund.

22nd November, 1991

C.
INFORMATION

1. REFEREES' REPORTS AND MEMORANDA OF AN ASSISTANT SECRETARY

The Secretary reported that several Referees' Reports and memoranda of an Assistant Secretary were approved by the Review Sub-Committee and the grants appear on Schedule "A" attached.

2. Accounts approved by Assistant Secretaries in September amounted to \$6,073.65.

3. Copies of the Financial Summary and the Activity Report for the three months ending September 30th, 1991, are attached. The total face value of claims to be processed as at September 30th, 1991, is \$33,018,201. (Pgs. C1 - C3)

4. It was reported that all accounts for the three months ending September 30th, 1991, are within budget.

5. REDUCING SOLICITORS' DEFALCATIONS

It was reported that the third special policy dinner meeting was held on October 1st, 1991.

ALL OF WHICH is respectfully submitted

DATED this 24th day of October, 1991

"C. Ruby"
Chair

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

C-Item 1 - Grants approved by the Review Committee and by the Lawyers Fund for Client Compensation Committee, Thursday, October 10th, 1991.
(Schedule "A")

C-Item - Financial Summary for the period July 1, 1991 - September 30, 1991.
Compensation Fund, Activity Report, September 30, 1991.
(marked C1 - C3)

THE REPORT WAS ADOPTED
.....

PROFESSIONAL STANDARDS COMMITTEE

The Report was stood down.
.....

COUNTY & DISTRICT LIAISON COMMITTEE

Mr. Brennan presented the Report of the County & District Liaison Committee of its meeting on October 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991 at eleven thirty in the morning, the following members being present: R.C. Bragagnolo, Chair, L. Brennan, C. Curtis, E.S. Elliott, R.C. Topp. The following members were present from the County and District Law Presidents' Association Executive: H. Arrell, M. Bode, S. Foley, R. Gates, M. Hennessy, D. Lovell, N. Mossip, R. Smith and R. Weekes;

1. Bencher Election Reform

Mr. Topp, Chair of the Special Committee on Bencher Election Reform spoke briefly regarding his plans for the Committee's work over the next number of months. In particular he stressed that the Special Committee would be engaging in a wider consultative process than had previous Committees on this issue. Mr.

22nd November, 1991

Topp indicated that the membership of the Committee would be finalized fairly soon and that he hoped that the Committee would be in a position to report to Convocation in approximately 12 - 15 months.

The County and District Law Presidents' Association Executive responded by advising Mr. Topp that their organization was very interested in the work of this Committee and would like to have two representatives on it.

2. Speakers for November 14 County and District Law Presidents' Dinner

Several individuals were proposed by the Executive to be invited to speak at the dinner on Thursday, November 14. It was also suggested that a subcommittee of the Executive be struck and given responsibility for the selection of speakers for upcoming Plenary sessions.

3. Family Law Checklist

The Executive reported in general terms on the response of its members to the draft Family Law Checklist prepared by a subcommittee of the Professional Standards Committee. The comments were very positive and a detailed letter addressing specific items in the checklist has been forwarded to the subcommittee for its attention.

4. Reforms Implementation

The Committee was advised that the Special Committee on Reforms Implementation, chaired by Dennis O'Connor, expects to report to Convocation shortly outlining its recommendations, inter alia, for the implementation of reforms in the Professional Standards program. The Special Committee is most concerned to receive the views of the County & District Law Presidents on its proposals at their November Plenary. Material will be circulated to those attending the Plenary and the Chair has requested an opportunity to address the Presidents on the work of the Special Committee.

ALL OF WHICH is respectfully submitted

DATED this 24th day of October, 1991

"L. Brennan"
for Chair

THE REPORT WAS ADOPTED
.....

RESEARCH AND PLANNING COMMITTEE

Mr. Brennan presented the Report of the Research and Planning Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991, at 8:00 a.m., the following members being present: T. Bastedo (Chair), L. Brennan, C. Curtis, S. Elliott, A. Feinstein, S. Goudge, the Hon. A. Lawrence, F. Mohideen, D. Scott.

Also present: M. Angevine, A. Brockett.

A.
POLICY

A.1. DOCKETING HOURS SPENT BY BENCHERS ON LAW SOCIETY BUSINESS

A.1.1. Recommendation

In accordance with the decision of Convocation on June 13, 1991, it is recommended that all benchers be asked to docket the hours they spend on Law Society business over the period January 1 to April 30, 1992, and that benchers be asked to record their hours on the attached form (Attachment A) and to submit completed forms to the Society each month.

A.1.2 Reasons for the recommendation

In May 1990, your Committee received a report from its Subcommittee on Benchers' Responsibilities. The report included the results of a survey of the hours spent by benchers on Law Society business. Your Committee was of the view that if there was to be further study of issues relating to benchers' workload (as recommended by the Subcommittee) there was a need for more precise data. Accordingly, it was recommended that all benchers be asked to docket the hours they spend on Law Society business over a three or four-month period. Convocation adopted this recommendation at its meeting on June 13, 1991 and authorized the Committee to determine the most suitable time for the experiment.

Your Committee has developed a standard reporting form which is to be found at Attachment A. The form allows for the fact that there may be a variety of different ways currently employed by benchers for docketing units of time. It asks benchers to record the total number of hours spent each week on Law Society business, to the nearest whole hour.

Your Committee has concluded that the most appropriate time for this experiment would be the four-month period January 1 to April 30, 1992.

A.1.3. Financial impact of the recommendation

The costs of conducting this experiment can be met from the existing budget of the Research and Planning Committee.

B.
ADMINISTRATION

B.1. STRATEGIC PLANNING CONFERENCE

B.1.1 Recommendation

It is recommended that the dates Thursday, October 29, to Saturday, October 31, 1992 be reserved for a Strategic Planning Conference, it being understood that the holding of the conference is contingent upon Convocation's approval of the necessary expenditure in the 1992-1993 budget.

B.1.2. Reasons for the recommendation

B.1.2.1 On October 24, 1991, Convocation gave its approval in principle to a proposal to hold a Strategic Planning Conference in the fall of 1992, on the understanding that implementation of the proposal was contingent upon approval of the necessary expenditure in the 1992-1993 budget.

B.1.2.2. A subcommittee of the Research and Planning Committee has been established to plan the conference (Abraham Feinstein, David Scott, Stephen Goudge, Ronald Manes). The objective will be to prepare a strategic plan for the Law Society with concrete proposals for future action.

B.1.2.3. Your Committee is persuaded that, for maximum effectiveness, such a conference should be residential and should be held elsewhere than at Osgoode Hall. It is proposed that the spouses and personal guests not be invited.

B.1.2.4. The costs of holding the conference in a hotel would be hard to justify in the current economic climate. Inquiries were therefore made of the Geneva Park Conference Centre (north of Orillia). Information about the Conference Centre is given in Attachment B.

B.1.2.5. Accommodation and meal costs for eighty participants for two days at Geneva Park are estimated at \$20,240. If the conference were to be held at Osgoode Hall, accommodation and meal costs are estimated at \$17,100.

B.1.2.6. Considerable economies of time and expense can be achieved if the conference is held on an occasion when benchers will already be travelling to Toronto for a meeting of Convocation. It is therefore envisaged that Convocation will meet at Osgoode Hall on a Thursday and that benchers should then travel to Geneva Park for the Conference, arriving early on Thursday evening and departing on Saturday afternoon. Chartered bus transportation is being considered.

B.1.2.7. The only Thursday to Saturday in September or October 1992 on which Geneva Park could accommodate the conference is October 29-31. A deposit of \$100 will reserve the necessary accommodation until after the Law Society's 1992-1993 budget has been adopted.

B.1.2.8. Convocation is currently scheduled to meet one week earlier: namely October 22 and 23, 1992. It is proposed that those meetings of Convocation be cancelled.

B.1.3. Financial impact of the recommendation

B.1.3.1 The costs of the conference (if approved) will be part of the 1992-1993 budget.

B.1.3.2 Additional travel costs will be kept to a minimum by combining the occasion with a scheduled meeting of Convocation.

B.1.3.3 The Geneva Park Conference Centre is probably the most economical place to hold a residential conference.

B.1.3.4 The cost in the current fiscal year will be the \$100 deposit which will come from the Committee's existing budget.

C.
INFORMATION

C.1. COMMITTEE REPORTS: PROPOSAL TO AMEND STANDARD FORMAT: EXPERIMENT

The observation has been made that debate in Convocation might be assisted if a standard format were to be used for the presentation of recommendations in committee reports. Before bringing a recommendation to Convocation, your Committee will be adopting the following format in the "A. POLICY" section of its own reports as an experiment:

- i. Text of the recommendation.
- ii. Reasons for the recommendation.
- iii. Alternative proposals, if any.
- iv. Arguments in favour of alternative proposals.
- v. Financial impact of the recommendation.

Your Committee will review the experiment at its meeting in April 1992.

C.2. PROCEDURE IN CONVOCATION: RIGHT TO MOVE AND SECOND MOTIONS

Your Committee has discussed a suggestion that, in order to ensure that motions are not debated at Convocation unless there are at least two voting benchers who see a need for such debate, only those benchers who have a vote in Convocation should be entitled to move and second motions and amendments of motions.

Your Committee is of the view that it is not necessary to discuss the proposal further at this time. It will be reconsidered in the spring of 1992.

C.3. TRANSCRIPT OF THE PROCEEDINGS OF CONVOCATION

In accordance with the proposals adopted by Convocation in February 1991, and reaffirmed in September 1991, the transcript of the proceedings of Convocation is now being distributed to all County Law Libraries. Special binders are being provided to each of the libraries.

C.4. ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE

Attachment C is a report from the Alternative Dispute Resolution Subcommittee dated November 7, 1991.

C.5. VOLUNTARY PRO BONO SUBCOMMITTEE

Attachment D is a report from the Voluntary Pro Bono Subcommittee, dated November 7, 1991.

C.6. KEEPING THE PROFESSION INFORMED ABOUT TECHNOLOGICAL DEVELOPMENTS

As the first step in considering what the Law Society might do to keep its members informed about technological developments, Susan Elliott, in

22nd November, 1991

co-operation with Sue McCaffrey (Staff Lawyer, Professional Standards) is preparing a report on what the various departments of the Law Society currently do in this area.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"L. Brennan"
for Chair

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

- A-Item A.1. A.1.1 - Example of form to be filled out by Benchers re: Record of time spent on Law Society business. (Attachment A)
- B-Item B.1. B.1.2.4. Information concerning Geneva Park Conference Centre. (Attachment B)
- C-Item C.4. - Report from the Voluntary Pro Bono Subcommittee - November 7, 1991. (Attachment C)

THE REPORT WAS ADOPTED
.....

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

The Treasurer and Benchers had as their guests for luncheon The Honourable Frank W. Callaghan, The Honourable W.D. Chilcott, The Honourable Sandra Chapnik and The Honourable W.Z. Estey.
.....

CONVOCATION RECONVENED AT 2:40 P.M.
.....

PRESENT:

The Treasurer, Arnup, Bellamy, Brennan, Carter, R. Cass, Copeland, Curtis, Elliott, Epstein, Feinstein, Ground, Howland, Jarvis, Krishna, Lamek, Lamont, Lax, Manes, McKinnon, D. O'Connor, S. O'Connor, Peters, Rock, Ruby, Scott, Somerville, Strosberg, Thom, Topp, Wardlaw and Weaver.
.....

BUILDING COMMITTEE

Mr. Lamont presented the Report of the Building Committee dated October 24th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BUILDING COMMITTEE begs leave to report:

Your Committee has reviewed and approved the following report.

C.
INFORMATION

1. Cost of Additions and Alterations to Educational Wing

As shown by the following figures, the work contracted for in February 1990 at an estimated cost of \$13,219,260 was completed at a cost of \$13,194,688. The actual cost shown has subsequently been reduced by receipt of a federal sales tax rebate of \$253,857.

Estimate of cost, February 1990.....	\$13,219,260
June 21, 1991 estimate of cost of original work.....	\$13,051,289
August 26, 1991 estimate of cost of original work.....	\$13,194,688

Tax rebate from federal government.....\$ 253,857
 Net cost of original work.....\$12,940,831

Not included in the original estimate of cost was the cost of partitioning and fitting up the space created on the 4th, 5th and 6th floors. In addition, further costs were incurred when the scope of the original contract was enlarged on various occasions to provide some additional features not included in the original contract. Examples of these additional costs are set out on the following page.

The cost of this additional work is.....\$ 1,890,735

Net cost of work including increase in scope and extras.....\$14,831,566

1) Examples of Increases in Scope of Original Work

a)	Additional 1100 square feet of space created at 4th floor level.....	\$ 80,102
b)	Relocating existing electrical, telephone and computer cables in proper raceways along hallways....	\$ 252,000
c)	Partitioning layout changes and finishes to existing building adjacent to new work.....	\$ 140,000
d)	Correcting drainage problem in elevator sump pit.....	\$ 58,000
e)	New control valves and pumps for existing fire hose outlets.....	\$ 52,000
f)	Premium time to meet September 1990 deadline for education wing renovations to overcome delay caused by strike.....	\$ 71,000
g)	Revisions to kitchen equipment.....	\$ 50,000
h)	Millwork in renovated areas required to match existing millwork.....	\$ 67,000
i)	Mechanical and electrical.....	\$ 68,101

2) Examples of Work to Fit-Up New Space on 5th and 6th Floors

a)	Drywall and acoustic tile.....	\$ 104,460
b)	Electrical.....	\$ 196,357
c)	Finish hardware.....	\$ 25,000
d)	Painting.....	\$ 21,790
e)	Carpentry, millwork, installation.....	\$ 39,649
f)	Flooring and carpeting.....	\$ 51,577
g)	Mechanical.....	\$ 98,910
h)	Construction management and supervision.....	\$ 54,963
i)	GST and architects fees are over and above the listed construction costs.	

2. Cost of Roof Repairs over Benchers' Quarters

The current estimate of costs for the new roof on the Benchers' Quarters is \$343,596 made up of \$306,154 construction costs and \$37,442 engineering and architectural costs.

The Ministry of Culture and Communications has approved a grant under the Cultural Facilities Improvement Program of approximately one third of this cost to a maximum of \$114,531.

22nd November, 1991

3. Repairs to 44 Eccles Street, Ottawa

In the fall of 1990 an estimate in the amount of \$170,000 for the repair of the stone work and windows of our Ottawa Educational Centre was received. Due to weather conditions and our concern about the accuracy of the estimate, work proceeded with only part of the work at a cost of \$32,942.

This summer, new estimates were received for the balance of the work and a local architect was retained to oversee the work. Approval was given to proceed with the balance of the work at a tendered cost of \$62,500. As work proceeded and a more detailed examination of the stone work was possible, our architect recommended that more work be done than was originally contemplated. The construction cost of the balance of the work, including the additional work recommended by the architect, is estimated to be approximately \$92,000 and the architect's fees will be approximately \$8,000. Following consultation with the Chair of the Building Committee, the Under Treasurer authorized the contractor to proceed with the additional work. It is now underway.

4. Other Major Work Underway

a) Elevator Lobby

This work which was approved by Convocation on June 21, 1991 will be completed by the end of the month, if not sooner.

b) Enhancement of Eastern Entrance

Convocation approved work on the eastern entrance on June 21, 1991. At that time the preliminary estimate of cost was \$39,000. Before this work got underway, the Equity in Legal Education and Practice Committee requested that the entrance be made wheelchair accessible. This would involve the construction of a ramp and the electrification and automation of three sets of doors.

When the prices from the sub-trades were received, it was found that the cost of the enhancements, access ramp and automatic doors was approximately \$120,000. The project was trimmed back to include only the new stone work and lighting of the entrance, with wiring carried to appropriate points to permit the installation of automatic doors at a later date. The estimate, which is said to be a very firm one, is \$50,000. This work is proceeding and should be finished around the end of this month.

c) Lobby of Robing Room Area

As part of the general maintenance of the building the lobby outside the barristers robing room and the hallways from that lobby to the courts and to the administrative offices of the Law Society are being refurbished. This will include painting and new carpet. Some plaster work is also involved.

d) Improved Lighting in Convocation Hall

The installation of the stained glass windows in Convocation Hall have reduced the light level in the room. Examination of the sockets of the existing light fixtures showed that they were substantially deteriorated. New parts for the fixtures have, therefore, been installed. Research is continuing to determine the best alternative to improve the lighting in Convocation Hall.

ALL OF WHICH is respectfully submitted

DATED this 24th day of October 1991

"D. Lamont"
Chair

THE REPORT WAS ADOPTED

.....

COMMUNICATIONS COMMITTEE

Mr. McKinnon presented the Report of the Communications Committee of its meeting on November 14th, 1991.

22nd November, 1991

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991, the following members were present: Ross Murray (Acting Chair), Jack Ground, Fran Kiteley, Fatima Mohideen, and Stuart Thom. Also in attendance: Theresa Starkes, Gemma Zecchini.

C.
INFORMATION

1. Draft Public Opinion and Membership Surveys

The initial drafts of the public and membership surveys were presented to the Communications Committee. The Committee was invited to review each survey and make suggestions regarding content. The final questions for each survey will be drafted from these suggestions. The surveys will be conducted within the first two weeks of December.

2. Media Activity

A summary of media activity for the month of October is attached (C-1).

3. Call Statistics

Call statistics for Lawyer Referral Service and Dial-A-Law programme are attached (C-2 to C-3).

4. Lawyer Referral Service/Pro Bono Lawyer Referral Service Mailings

The Lawyer Referral Service recruitment mailing to all Ontario lawyers and the Pro Bono Lawyer Referral Service mailing to all lawyers in Middlesex and Wentworth counties have been completed. The results of these mailings will be reported to Convocation when all the responses have been received by the Communications Department.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"C. McKinnon"
Chair

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

C-Item 2 - Media activity summary - October, 1991. (marked C-1)

C-Item 3 - Dial-A-Law and Lawyer Referral statistics - to October 31, 1991.
(marked C-2 - C-3)

THE REPORT WAS ADOPTED

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CERTIFICATION BOARD

Mr. O'Connor presented the Report of the Certification Board of its meetings on October 10th and 31st, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Thursday, the 10th of October, 1991 at four o'clock in the afternoon, the following members being present: D.R. O'Connor (Chair), D.W. Scott (Vice-Chair), J. Callwood, A. Feinstein, V. Krishna, R.D. Manes and G.P. Sadvari. R.A. Cotton (Chair - Environmental Law Specialty Committee), R.E. Dimock (Chair - Intellectual Property Law Specialty Committee) and M.M. Green (Chair - Immigration Law Specialty Committee) attended the meeting. S. Thomson, of the Law Society, was also present.

Your Board met on Thursday, the 31st of October, 1991 at nine o'clock in the morning, the following members being present: D.R. O'Connor (Chair), D.W. Scott (Vice-Chair), J. Callwood, A. Feinstein, G.P. Sadvari and R.D. Yachetti. S. Thomson, of the Law Society, was also present.

Specialty Committees met as follows:

The Environmental Law Specialty Committee met on Friday, the 21st of June, 1991 at twelve-thirty in the afternoon.

The Environmental Law Specialty Committee met on Friday, the 5th of July, 1991 at twelve-thirty in the afternoon.

The Labour Law Specialty Committee met on Monday, the 8th of July, 1991 at five o'clock in the afternoon.

The Workers' Compensation Law Specialty Committee met on Wednesday, the 24th of July, 1991 at four-fifteen in the afternoon.

The Environmental Law Specialty Committee met on Friday, the 9th of August, 1991 at twelve-thirty in the afternoon.

The Civil Litigation Specialty Committee met on Monday, the 19th of August, 1991 at ten o'clock in the morning.

The Criminal Litigation Specialty Committee met on Friday, the 23rd of August, 1991 at one o'clock in the afternoon.

On behalf of the Family Law Specialty Committee, the Committee Chair met with the Certification Program Administrator on Wednesday, the 4th of September, 1991 at eight o'clock in the morning.

The Environmental Law Specialty Committee met on Friday, the 6th of September, 1991 at twelve-thirty in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 17th of September, 1991 at eight-thirty in the morning.

The Labour Law Specialty Committee met on Monday, the 23rd of September, 1991 at five o'clock in the afternoon.

The Criminal Litigation Specialty Committee met on Friday, the 27th of September, 1991 at one o'clock in the afternoon.

The Workers' Compensation Law Specialty Committee met on Friday, the 27th of September, 1991 at four-fifteen in the afternoon.

The Environmental Law Specialty Committee met on Friday, the 4th of October, 1991 at twelve-thirty in the afternoon.

The Workers' Compensation Law Specialty Committee met on Thursday, the 10th of October, 1991 at four-fifteen in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Wednesday, the 23rd of October, 1991 at eight-thirty in the morning.

The Labour Law and Workers' Compensation Law Specialty Committees presented their draft Standards at a dinner meeting of the C.B.A.O. Labour Law Section on Thursday, the 24th of October, 1991 at seven-thirty in the evening.

The Intellectual Property Law Specialty Committee met on Thursday, the 7th of November, 1991 at eleven o'clock in the morning.

The Workers' Compensation Law Specialty Committee met on Friday, the 8th of November, 1991 at four-fifteen in the afternoon.

A.
POLICY

1. CRITERIA FOR THE CREATION OF NEW SPECIALTIES

The Certification Board is considering a proposal that would require any individual or group recommending the implementation of a new Specialty to demonstrate the following:

- a) a public need for certification of Specialists in that field;
- b) access to that particular Specialty for lawyers throughout the province.

The Board will further consider this proposal.

2. IMMIGRATION LAW SPECIALTY

The Certification Board is of the opinion that there is well-documented and urgent public need for the establishment of an Immigration Law Specialty program.

The Board recommends that the Immigration Law Standards (APPENDIX "A") be adopted and that the Immigration Law Specialty program be implemented without delay.

3. OBJECTIVE STANDARDS FOR SPECIALIST CERTIFICATION

As a means of achieving greater objectivity in the assessment of applicants for Specialist certification, the Board will explore in depth the appropriateness of introducing specific education requirements and examinations.

B.
ADMINISTRATION

1. WORKERS' COMPENSATION LAW SPECIALTY COMMITTEE MEMBERSHIP

The Board recommends that Roslyn Pauker should be appointed to the Workers' Compensation Law Specialty Committee to replace departing member Elaine Newman. (APPENDIX "B")

C.
INFORMATION

1. CERTIFIED SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Civil Litigation Specialists (24 names):

J. Brian Casey (of Toronto)
Dana B. Fuller (of Toronto)
Arthur M. Gans (of Toronto)
E. Marshall Green (of Barrie)
Peter G. Hagen (of Ottawa)
Joseph R. Henderson (of Niagara Falls)
R. Scott Jolliffe (of Toronto)
Ian D. Kirby (of Toronto)
William J. Leslie (of Barrie)
Larry J. Levine (of Toronto)
Jerry Levitan (of Toronto)
Donald H. MacOdrum (of Toronto)
John W. Makins (of London)
Thomas A. McDougall (of Ottawa)
Wilfrid Menninga (of Belleville)
Robert B. Munroe (of Hamilton)
Leah Price (of Toronto)
Joel Richler (of Toronto)
Robert F. Seiler (of Oshawa)
Jeffrey W. Strype (of Toronto)
Rod B. Thibodeau (of North York)
David S. Wilson (of Toronto)
Robert B. Wilson (of Windsor)
Robert D. Wilson (of Toronto)

The Board is pleased to report the certification of the following lawyers as Criminal Litigation Specialists (3 names):

Peter F. Kemp (of Kingston)
Leonard A. Walker (of Burlington)
Michael P. Zaduk (of Toronto)

The Board is pleased to report the certification of the following lawyers as Family Law Specialists (5 names):

G. Ross Davis (of Toronto)
Peter D. Eberlie (of London)
Matti E. Mottonen (of Sudbury)
Alex Pazaratz (of Hamilton)
Alan F.N. Poole (of Toronto)

2. STATUS REPORT ON INTELLECTUAL PROPERTY LAW SPECIALTY COMMITTEE

The Certification Board has accepted the offer of the Intellectual Property Law Specialty Committee to canvass the following issues with the intellectual property bar by way of a ballot. The ballot is in the preparatory stages, but may include questions such as:

- a) Would the public interest be served by the recognition and advertisement of Specialists in the field of intellectual property?
- b) Would certification in intellectual property be welcomed by those who devote their professional time to this field?

3. SCHEDULE OF MEETINGS

The following Certification Board meeting schedule has been established:

Friday, November 22, 1991 at 8:00 a.m.
Friday, January 24, 1992 at 8:00 a.m.
Friday, February 28, 1992 at 8:00 a.m.
Friday, March 27, 1992 at 8:00 a.m.
Friday, April 24, 1992 at 8:00 a.m.
Friday, May 29, 1992 at 8:00 a.m.
Friday, June 26, 1992 at 8:00 a.m.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"D. O'Connor"
Chair

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

- A-Item 2 - Report of the Immigration Law Specialty Committee on Immigration Law Specialist Standards for Certification. (Appendix "A", 6 pages)
- B-Item 1 - Letter from Mr. David W. Brady to Mr. Allan M. Rock, Q.C. dated July 3, 1991 re: Specialty Committee - Workers' Compensation Law. Letter from Ms. Roslyn Pauker, Acting Manager, Special Services Unit to Mr. David Brady dated June 21, 1991 re: Law Society of Upper Canada Workers' Compensation Specialist Committee. Resume of Ms. Roslyn Pauker. (Appendix "B", 6 pages)

It was moved by Vern Krishna, seconded by Ronald Manes that the Immigration Law Specialty be restricted to a 3 year plan rather than 5 years.

Carried

THE REPORT WAS ADOPTED
.....

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Bellamy presented the Report of the Women in the Legal Profession Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 14th of November, 1991, at 11:30 a.m., the following members being present: D. Bellamy (Chair), S. Goudge, J. Lax, F. Mohideen.

Also present: A. Feinstein, D. Crosbie, J. Johnstone, H. Sava, A. Brockett.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

C.1. MODEL PERSONNEL POLICY REGARDING SEXUAL HARASSMENT IN THE WORKPLACE

Your Committee received and considered a revised draft of the Model Personnel Policy regarding Sexual Harassment in the Workplace. The document is intended to be for the information of law firms that wish to draw up their own personnel policies on sexual harassment.

A subcommittee has been established to prepare further revisions for consideration by a special meeting of the Committee on December 6. It is expected that the final text of the policy will be ready for presentation to Convocation at its meeting in January, 1992.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"D. Bellamy"
Chair

THE REPORT WAS ADOPTED
.....

FRENCH LANGUAGE SERVICES COMMITTEE

Ms. Peters presented the Reports of the French Language Services Committee of its meetings on October 10th and November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991 at 11:30 a.m. The following members attended the meeting: Bencher representation: Ms. P.J. Peters (Chair), Mr. R.C. Topp (Vice-Chair), Ms. K.J. Palmer (Vice-Chair), Mr. C.L. Campbell and Mr. V.C. Krishna. Staff representation: Mr. A. Treleaven, Ms. H. Harris and Ms. D. Paquet (Secretary). Special representation: Mr. R. Paquette, AJEFO, Mr. T. Keith, CBAO and Ms. G. Cortis, Legal Aid.

C.
INFORMATION

1. French Language Services Implementation Plan - September 1991 Update

Your Committee reviewed outstanding issues raised at its September meeting in connection with the implementation of the French Language Services Policy.

Concern was raised regarding designated bilingual positions not being filled by bilingual staff. A follow-up report has been requested from Secretariat.

The French Language Services Implementation Plan was reviewed and finalized for release to management and key support staff.

2. French Bar Admission Course

The Director of Education reported that registration quotas in the French Bar Admission Course in Ottawa were full and expressed concern about future teaching terms. The number of French-speaking students is increasing and, consequently, more classes (20 students per class) have to be formed and more French-speaking instructors have to be hired from an already small pool of resources.

Your Committee requested that a report on the cost implications of accommodating additional students be presented for its consideration in November 1991.

The Canadian Bar Association - Ontario (CBAO) representative offered his organization's assistance with the referral of French-speaking instructors.

3. Service and Filing of Official Documents in French

Your Committee reviewed a concern raised by the Association des juristes d'expression française (AJEFO) regarding the refusal by some court offices and members of the profession to accept service of official documents in French. Insofar as this issue involves the conduct of a Law Society member towards a fellow lawyer, and assuming that it would require the addition of a rule, it was agreed that the matter be referred to the Professional Conduct Committee.

4. Ontario Reports - Bilingual Image

Your Committee reviewed concerns raised by Francophone members of the profession on the non-bilingualization of certain elements of the Ontario Reports, such as the cover page, recruitment advertisements, notices to the profession, calendar of events, etc.

In order to determine cost implications of added translated text, it was decided that a meeting would be convened with representatives of the Libraries and Reporting Committee and this Committee, in consultation with the Communications Branch.

It was suggested that in future the French Language Services Office serve as editorial liaison with the publishing firm on the French content of the Ontario Reports.

The meeting was adjourned at 12:45 p.m.

ALL OF WHICH is respectfully submitted

DATED this 25th day of October, 1991

"P. Peters"
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at 11:30 a.m. The following members attended the meeting: Bencher representation: Ms. P.J. Peters (Chair), Mr. R.C. Topp (Vice-Chair) and Mr. V.C. Krishna. Staff representation: Mr. A. Treleaven, Ms. H. Harris and Ms. D. Paquet (Secretary). Special representation: Mr. T. Keith, CBAO and Ms. G. Cortis, Legal Aid.

C.
INFORMATION

1. French Bar Admission Program

The Legal Education Department suggested in their follow-up report on registration in the French Bar Admission Program at Ottawa that they be given discretionary authority to limit access to such program for the next three years. Pedagogical, logistical and physical considerations dictate that the Ottawa Legal Education Centre cannot effectively teach more than one class of 24 students. Registration guidelines will be prepared by Legal Education management and submitted to the Legal Education Committee for consideration.

It was suggested that a group of potential French instructors be targeted amongst the bar and that a letter be sent to them to encourage their level of participation in the program.

2. Bilingualization of Ontario Reports

With respect to French language notices to the profession and miscellaneous items in the Ontario Reports, and the overall bilingual image of this publication, it was agreed that your committee's Chair would contact the Ontario Reports' staff coordinator at the Law Society to review related procedures and implications in conjunction with the Chair of the Libraries and Reporting Committee.

3. Transitions in the Legal Profession Report

At the request of the Women in the Legal Profession Committee's Chair, your committee reviewed the Transitions in the Legal Profession Report with a view to determining if any action pertaining to French language services should arise from such report. Upon discussion, no such action was perceived as being required at this time, with the exception of the translation into French of the Report, which is currently underway.

The meeting was adjourned at 12:40 p.m.

ALL OF WHICH is respectfully submitted

DATED this 29th day of November, 1991

"P. Peters"
Chair

THE REPORTS WERE ADOPTED
.....

PROFESSIONAL STANDARDS COMMITTEE

Mrs. Weaver presented the Report of the Professional Standards Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on the 14th of November, 1991 at eleven thirty in the morning the following members being present: Mrs. Weaver (Vice-Chair), Ms. Graham, Mrs. Legge and Mr. Wardlaw.

Also present were Mrs. Devlin, Ms. McCaffrey, Ms. Poworoznyk and Messrs. Grieve, Kerr and Macri.

A.
POLICY

1. PRACTICE ADVISORY SERVICE - TRANSITIONS IN THE ONTARIO LEGAL PROFESSION

The Committee considered a request from the Committee on Women in the Legal Profession to review the practices and procedures employed by the Practice Advisory Service and the Practice Review Programme to ensure that they conform with the guidelines contained in the Transitions Report. More specifically, it was suggested that one of the steps which could be taken in carrying out this process would be to research statistical data to differentiate between men and women involved in the programmes.

The Committee recommended that consideration of this matter be deferred to the January meeting to permit the Chair to consult with the Chair of the Women in the Legal Profession Committee to obtain more specific information on the types of statistics that are being requested and the purpose for which they are being requested.

B.
ADMINISTRATION

1. PRACTICE ADVISORY SERVICE - "THE ADVISER"

The Committee considered the contents of The Adviser and approved it for publication subject to the incorporation of all amendments arising from their discussion of same.

2. SUB-COMMITTEE SECURITIES LAW

The Committee approved the formation of a sub-committee whose mandate is to devise standards for lawyers practising in the field of Securities Law.

Jack Ground, Q.C. has agreed to Chair the sub-committee.

C.
INFORMATION

1. PRACTICE ADVISORY SERVICE - STATUS REPORT

Attached as C1 - C2 is a copy of the monthly status report.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

"M. Weaver"
for Chair

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

C-Item 1 - Monthly Status Report of the Practice Advisory Service.
(marked C1 - C2)

THE REPORT WAS ADOPTED
.....

INVESTMENT COMMITTEE

Mr. Wardlaw presented the Reports of the Investment Committee of its meetings on October 10th and November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of October, 1991 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair), Feinstein and Hickey.

B.
ADMINISTRATION

1. INVESTMENT REPORT

The Deputy Director of Finance presented to the Committee an investment report summary for the various Law Society Funds together with supporting documentation for the month ended September 30th, 1991.

Approved

2. OTHER MATTERS

A new schedule presented to the Committee matches the Errors and Omissions Insurance Fund investment with its Reserves for Unpaid Claims. The Committee was asked to approve the purchase of \$10 million worth of bonds to strengthen the Law Society's position for those years where the investments held are less than the Reserves. A letter from Martin, Lucas and Seagram Limited is attached supporting this request. All acquisitions would be done when the bond market is considered favourable to the Law Society and with the Chair's approval.

Approved

C.
INFORMATION

1. MATCHING FUNDS

In an attempt to match future liabilities with securities, we have developed a schedule for the Errors and Omissions Fund. The schedule details the Reserves for Unpaid Claims and maturing investments. These are based on fiscal year.

A study of the Lawyers' Fund for Client Compensation claims over the last few business cycles will be performed and should allow the Society to match maturing investments with claims. A schedule detailing this should be ready for inclusion at a future point in time.

2. DETAILS OF INVESTMENTS

Details of the investments are available to any Bencher upon request.

ALL OF WHICH is respectfully submitted

DATED this 25th day of October 1991

"J. Wardlaw"
Chair

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

- B-Item 1 - Investment Report summary for various Law Society Funds for month ended September 30, 1991. (Pages 1 - 2)
- B-Item 2 - Letter from Mr. Rowland Bell, Martin, Lucas & Seagram Ltd. to Mr. David Carey dated October 4, 1991. (Page 3)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of November, 1991 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair) and Feinstein. Also in attendance were Messrs. Seagram and Bell of Martin, Lucas & Seagram Ltd., the Society's independent investment counsel. Staff members present were David Crack and David Carey.

B.
ADMINISTRATION

1. INVESTMENT REPORT

The Deputy Director of Finance presented to the Committee an investment report summary for the various Law Society Funds together with supporting documentation for the month ended October 31st, 1991.

Approved

2. OTHER MATTERS

i) More and more bond issues are sold on a "book-basis", that is, unregistered. The Committee was asked to approve the acquisition of this type of bond to ensure the Law Society is not excluded from future bond issues that would qualify under our investment policy.

It was determined that "book-base" acquisition would be allowed if receiving registered bonds was not possible or practical. This decision was supported by our independent investment counsel. The Law Society receives a copy of the purchase and final settlement contract that is filed on our premises. All investments are reviewed on a regular basis to ensure all coupons and maturities are credited to our accounts at the appropriate time.

Approved

ii) Due to the volatile nature of the current bond market there are many peaks and valleys. When a product becomes available at a price favourable to the Law Society, we must react quickly. In the past the Deputy Director of Finance, after finding the product and discussing with independent investment counsel, will contact the Chair, or one of the other Committee members if the Chair is not available to receive approval for acquisition. This time consuming process has excluded the Law Society from acquiring favourably priced product.

Approved

It was proposed that the Deputy Director of Finance be permitted to acquire up to \$1,500,000 for Errors and Omissions and up to \$750,000 for the Lawyers' Fund for Client Compensation after discussions with independent investment counsel and receiving approval from the Director of Finance. All acquisitions would be made following the investment policy guidelines. The Chair would be informed after the acquisition has been made.

Approved

ALL OF WHICH is respectfully submitted

DATED this 22nd Day of November 1991

"J. Wardlaw"
Chair

B-Item 1 - Investment report summary for various Law Society Funds for month ended October 31, 1991.

THE REPORTS WERE ADOPTED
.....

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Mr. Strosberg presented the Report of the Equity in Legal Education and Practice Committee of its meeting on November 14th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 14th of November, 1991, the following members being present: Harvey T. Strosberg (Chair), Joan L. Lax, Anne-Marie Stewart, Stein Lal and Donald A. Crosbie.

C.
INFORMATION

1. The committee reviewed the need for and established the following subcommittees:

a) Subcommittee on Education Equity Awards

Chair : Anne-Marie Stewart
Members: Rosalie Abella
Donald Crosbie

To review the selection criteria, the selection process and awards procedure to be followed in 1992.

b) Subcommittee on Access to Legal Education

Chair : Allan Rock
Members: Anne-Marie Stewart
Joan Lax

To examine the access to legal education issues that may be facing visible minority and aboriginal persons wishing to become lawyers.

c) Subcommittee to Liaise with Aboriginal People

Chair : Joan Lax
Members: Shirley O'Connor (to be confirmed with Ms. O'Connor)

To seek advice from aboriginal groups on the activities of the committee.

d) Subcommittee to Liaise with Visible Minority Groups

Chair : Stein Lal

To seek advice from visible minority groups on the activities of the committee.

e) Subcommittee to Liaise with Disabled Persons

Chair : Harvey Strosberg

To seek advice from disabled persons on the activities of the committee.

f) Subcommittee on Research

Chair : Maurice Cullity

Members: Rosalie Abella

To research the availability of statistical data concerning aboriginal and visible minority groups and to design appropriate questionnaire and polling techniques to be used in gathering such information.

g) Subcommittee on Fund Raising

Chair : Harvey Strosberg

Members: Joan Lax

To investigate availability of appropriate third party funding sources to bear or share the costs of the committee's research or outreach programs.

Each subcommittee will be chaired by a committee member but non-committee members will be actively sought out. The subcommittees dealing with aboriginal people, visible minority groups and the disabled will have representation from both the interest group involved and from outside the interest groups to encourage a broad review of issues and reports that have benefitted from a consideration of views from different interest groups.

ALL OF WHICH is respectfully submitted

DATED this 22th day of November 1991

"H. Strosberg"
Chair

THE REPORT WAS ADOPTED
.....

SPECIAL COMMITTEE ON REQUALIFICATION

Ms. Peters presented the Report of the Special Committee on Requalification dated June 21st, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON REQUALIFICATION begs leave to report:

In May 1989, Convocation appointed a committee composed of Patricia Peters (Chair), Denise Bellamy (ad hoc), Maurice Cullity (ad hoc), Netty Graham, John Ground, Donald Lamont (ad hoc), Jeffrey Lyons, Helen King MacLeod, Allan Rock (ad hoc) and James Spence to review existing policies on the requalification of members who have not been involved in the active practice of law for five or more years and to formulate alternatives.

Roger Yachetti was added to the Committee in September of 1990.

Christine Iannetta and Richard Tinsley acted as staff to the Committee.

The Special Committee reviewed the requalification processes in other Canadian law societies. In addition, the Special Committee canvassed the members of the profession by way of an open invitation for comments made in the report of the proceedings of Convocation dated May 26, 1989. It also reviewed the Practice Inspection Program of the Ontario Institute of Chartered Accountants and invited Robert Anderson and Scott Kerr to advise on the Spot Audit and Professional Standards programs.

SUSPENDED MEMBERS

In September 1986, Convocation adopted a recommendation of the Admissions Committee that those whose rights and privileges had been suspended for failure to pay a fee or levy and who have remained suspended for five consecutive years or more should be required to complete successfully the examinations of the teaching term of the Bar Admission Course and, if unsuccessful, be permitted to attend the Bar Admission Course and be required to complete successfully the

teaching term including the examinations, before being permitted to resume practising. The policy behind this rule is that, prima facie, those people who have not been engaged in the active practice of law in Ontario for the previous five years are not current in their knowledge of the law and procedures in Ontario and it is the Society's obligation to ensure that its members have such knowledge.

The current approach used by the Admissions Committee in regard to members who have been suspended for five years or more and who are re-applying for membership is to review an applicant's employment history and decide whether or not the applicant should be excused from some or all of the Bar Admission Course exams and whether or not any limitations should be placed on the applicant's right to practise. The examinations themselves, based on the Bar Admission Course materials as they presently exist, will not be continued. At present, a staff committee headed by the Director of Legal Education, Alan Treleaven and the chair of the Committee of the Reorganization of the Transfer Examinations, Tom Lockwood, is developing a series of examinations to replace both the Bar Admission Course transfer examinations and the current Statute and Procedures examinations. These are primarily used to test the knowledge of those transferring from another province, but they might well be suitable for the purposes of requalification.

Attached as Appendix #1 is a chart summarizing the approaches taken in some of the other Canadian jurisdictions. Basically, all of the provinces surveyed have some type of requalification process for suspended and non-practising members who return to the practice of law. The requirements range from the writing of exams to the imposition of limitations on the members' rights to practise. An example of such a limitation would be that such a member may practise only as an employed solicitor for one year. The common element is that each individual is assessed and specific conditions imposed which take into account the member's background and circumstances.

Attached as Appendix #2 is Rule 6.20(1) of the Law Society of Newfoundland. It sets out the requirements for members who are switching from the non-practising category to the practising category. Applicants must provide evidence of current working knowledge of the law. The Law Society of Newfoundland Education Committee has discretion and assesses each case on its own merits.

The practice of reviewing each case individually is also followed by the Ontario College of Physicians and Surgeons. Although readmission is not as common in the medical field, the College has recently reviewed a case in which the applicant had not practised for ten years. Its decision was to require that the applicant fully retrain before being allowed to practise.

The Institute of Chartered Accountants of Ontario (ICAO) Practice Inspection Program is one which aims at ensuring the continued competency of its members. Adopted in 1980, following a referendum, each member's practice is reviewed by a full-time or part-time inspector, approximately once every five years. Members are notified in advance of the inspection and bear its expense. Upon recommendation of the inspector, a member may be referred to the Professional Conduct Committee which is empowered to impose sanctions. Attached as Appendix #3 is a memorandum from Scott Kerr to Richard Tinsley dated 18 February, 1991 which provides a comparison of the Law Society's Professional Standards Program and the Institute of Chartered Accountants Practice Inspection Program.

NON-PRACTISING MEMBERS

During the discussion at Convocation that led to the appointment of the Committee, it was suggested that the considerations that would justify requalification for suspended members apply also to members who have ceased to practise but have continued to pay their annual fees. Having discussed this matter extensively, the Committee can find no policy or practical reason for distinguishing between these two groups.

If the supervisory responsibilities of the Professional Standards Committee are expanded and strengthened in the future it might be possible to relax or even remove requalification requirements but the Committee is of the opinion, that until that occurs, such requirements should remain and that they should apply to non-practising fee-paying members as well as members who have been suspended.

PRACTISING MEMBERS

There are certain checks on members to ensure competence. The first is Rule 2 which places a positive obligation on members to take on only such work as they are competent to do. Rule 2 provides that:

"2(a) The lawyer owes the client a duty to perform any legal service undertaken on the client's behalf.

(b) The lawyer should serve the client in a conscientious, diligent and efficient manner, and should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation.

COMMENTARY

KNOWLEDGE AND SKILL

1. Competence in the context of the first branch of this Rule goes beyond formal qualification of the lawyer to practise law. It has to do with the sufficiency of the lawyer's qualifications to deal with the matter in question, and includes knowledge and skill, and the ability to use them effectively in the interest of the client."

A breach of Rule 2 could result in discipline proceedings. In fact, it has rarely been invoked as the basis of a charge. In the cases where it has been invoked, it involved practising members who had, over a period of time, consistently failed to provide an adequate level of service, as demonstrated by numerous complaints from clients.

Another check for ensuring the competency of lawyers is the Professional Standards Committee. Members who fail to provide an adequate level of service, as evidenced by numerous client complaints or errors and omissions claims, are subject to having their practices reviewed and may be invited, among other things, to take retraining programs set by the Committee. As with the discipline process, this is a reactive program rather than a proactive one, although the Committee has been developing practice guidelines for the assistance of the profession. To date, guidelines have been developed in the areas of criminal, real estate and family law and are presently being formulated in the areas of civil litigation and wills and estates law.

The Committee's consideration of the need for requalification when a member moves from the non-practising to the practising category led inevitably to the question whether requalification requirements should be restricted to persons not engaged in the practice of law or whether they should be aimed at ensuring that all members meet a minimum standard of professional competence. This issue also involves a recognition of the growth in specialization. Should members who change their practices from one area to another be required to undertake some type of formal requalification process?

Another aspect of this issue is that members who pay 66% of the fee, i.e., those employed other than in the practice of law, may be as qualified in a specific area of the law as those who are full fee-paying members. One member who wrote to the Law Society had dual qualifications as a chartered accountant and as a lawyer. He is currently a tax specialist in an accounting firm. He pays 66% of the fee. If he decides to leave his accounting practice to practise as a tax lawyer, he feels he should not have to requalify because he is just as knowledgeable about tax law while working in an accounting firm as he would be if working for a law firm. Similarly, should a lawyer and patent agent currently employed as a patent agent by a company, who then takes up a position with a law firm as a patent lawyer, be required to requalify? These are only two examples which illustrate the complexity of trying to set rules regarding requalification.

A practical difficulty in addressing the problem of members who are engaged in the practice of law and, after a period of years in one area of law, switch to another, is one of monitoring such changes. While members are asked to indicate the nature of their practices on the Notice of Fees Due form, it is not mandatory and members may indicate several areas of practice. The Society would then have to check each form individually to determine whether the percentage distribution of the member's practice has changed significantly or whether new areas have been added.

Currently, the only method of policing members of the profession who are engaged in the practice of law and who switch from one area to another is that, if they fail to provide an adequate level of service, as evidenced by a complaint from a client or fellow member, they are subject to review by the Society's Professional Standards Committee.

Apart from the practical difficulty of policing changes from one area of practice to another, there would be other more fundamental problems in attempting requalification or other testing procedures in such cases. One such problem is that areas of practice overlap and the same legal issues can arise in several different areas. A lawyer who practises predominantly in one area might be quite competent, as well as accustomed, to handle particular cases that arise from time to time in another area. For this reason, even at a time of increasing specialization, a requirement that members identify their areas of practice could not be expected to do more than provide information about the principal emphasis of a particular lawyer's field or practice.

Moreover, the Law Society has recognized civil litigation as an appropriate area of specialization. If a member who is certified as a specialist in civil litigation is to be regarded as qualified to deal with the broad range of cases which fall under that heading and which cut right across the boundaries of different areas of practice, it would be difficult to justify a requirement that another lawyer who has practised non-litigiously in one of those areas should requalify before being permitted to practice in another.

While recognizing the logical difficulty in separating the questions of competence that are raised by lawyers who return to practice from those raised by lawyers who move from one area of specialization to another, the Committee believes that the practical difficulties of identifying, monitoring and policing such changes would make it unwise to attempt to impose requalifying requirements on lawyers who change their principal area of practice. The Committee believes that for such members the risk of infringing Rule 2 and of incurring liability for negligence, together with future development of the mandate and responsibilities of the Professional Standards Committee are the most appropriate safeguards.

CONCLUSIONS

This report does not address methods of ensuring the continuing competence of members of the profession by way of mandatory continuing legal education, periodic mandatory requalification or by a program of practice inspection similar to that used by the ICAO. Further study in these areas is being done by the Continuing Legal Education Reform Committee chaired by Tom Bastedo and by the Professional Standards Committee chaired by Roger Yachetti. In the latter case, the Reforms Implementation Committee is presently considering proposals developed by the Professional Standards Committee which call for mandatory participation in and cooperation with a system of peer review.

THE COMMITTEE'S RECOMMENDATIONS ARE AS FOLLOWS:

1. That all members and former members who have not been practising law for five or more years should be required to requalify in order to resume the practise of law.
2. That this Committee be directed to liaise with the staff committee reviewing the transfer examinations for the purpose of determining whether such examinations would serve for the purpose of requalification.
3. That changes be made to the Notice of Fees Due Form, in order to require that a member must indicate either by declaration or affidavit whether that member has been practising law during the preceding year.
4. That a joint committee be established of the Special Committee on Requalification and the Professional Standards Committee to review the Practice Review Program of the Professional Standards Committee and to make recommendations for the requalification of persons who have not practised law for five years or more.
5. That the Joint Committee develop a range of reasonable conditions to be met by applicants who wish to recommence the practice of law.
6. That the Law Society implement a media campaign in order to alert members and former members of the profession to the new policy on requalification.

ALL OF WHICH is respectfully submitted

DATED this 21st day of June, 1991

Patricia J. Peters, Q.C.
Chair
The Special Committee on Requalification

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

- | | |
|---------------|--|
| Appendix #1 - | Chart summarizing the transfer and requalification examinations taken in other Canadian jurisdictions. |
| Appendix #2 - | Copy of Rule 6.20(1) of the Law Society of Newfoundland. |
| Appendix #3 - | Memorandum from Mr. Scott Kerr to Mr. Richard Tinsley dated February 18, 1991 re: Comparison of the Professional Standards Programme and the ICAO'S Practice Inspection Programme. |

It was moved by Clay Ruby, seconded by Marc Somerville that judges and full-time members of Administrative tribunals be exempted from the requalification process.

Not Put

It was moved by Ronald Manes, seconded by Marc Somerville that the Committee meet once more and define what activities are encompassed by the phrase "practice of law".

Carried

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SPECIAL COMMITTEE ON REFORMS IMPLEMENTATION

Mr. McKinnon presented the Report of the Special Committee on Reforms Implementation for information only.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON REFORMS IMPLEMENTATION begs leave to report:

The Reforms Implementation Committee, consisting of Dennis O'Connor Q.C., Chair, June Callwood, Paul Lamek Q.C., Colin McKinnon Q.C., Allan Rock Q.C., Robert Topp and Roger Yachetti Q.C., assisted by staff members Margaret Angevine, Scott Kerr and Gavin MacKenzie, and by Professor Marilyn Pilkington, last reported to Convocation on May 31st, 1991. Since that date the Committee has met on four occasions, namely; June 13, June 25, September 4 and September 27, 1991. The Committee has devoted most of its time during these meetings to the subject of reforms to the Society's professional standards programme and the bulk of this report (Part 1) concerns those reforms. Other matters considered by the Committee are set out in Parts 2 and 3 of this report.

Part 1. Proposals arising out of the Report of the Professional Standards Committee

The Reforms Implementation Committee proposes to Convocation that it recommend to the Attorney General the following statutory amendments to provide for the regulation of professional standards of competence in the legal profession. These provisions are substantially based on the recommendations of the Professional Standards Committee in its report dated March 8, 1990, which was approved by Convocation on September 28, 1990, after being discussed with and approved by the County and District Law Associations in May 1990. The report of the Professional Standards Committee is attached as Appendix "A".

Rationale of the Proposals

The Law Society of Upper Canada has statutory responsibility for the regulation of the legal profession in Ontario. It regulates the competence of the profession at the entry level through its bar admission examinations. It also assists members of the profession to maintain competence through its continuing legal education programs, the practice advisory service, and the guidance provided by the Professional Standards Committee. A member of the Society who fails to meet standards of professional competence is in breach of Rule 2 of the Rules of Professional Conduct and may be disciplined for professional misconduct.

The proposals for regulating professional competence reflect two policies. The first policy, on which there appears to be broad consensus, is that concerns about professional competence should generally be dealt with through remedial rather than disciplinary procedures, provided that such an approach will adequately protect the interests of clients. The second policy reflected in the proposals is that the Law Society should have the statutory authority to inquire into the competence of members of the profession. This policy has been adopted with respect to other self-regulating professions such as the Ontario College of Physicians and Surgeons and the Barreau du Quebec. Both of these bodies provide for random investigations of competence. Such measures are, in the view of the Committee, an important addition to the profession's ability to regulate itself. The assumption that, once qualified for admission, every member of a profession will necessarily continue to maintain standards of competence in a rapidly changing legal environment, is not, in the view of the Committee, an assumption which can be justified.

Summary of the Proposals

The draft which follows provides a definition of standards of professional competence (s. 1). It provides for two types of practice review: (1) investigation of a member's practice where, as a result of complaints, errors and omissions claims or information obtained through audits or investigations, it appears that the member's competence to practise law is in issue (s. 2); and (2) random practice review, which would be initiated through the administration of a questionnaire (s. 3).

The draft specifies who will conduct a practice review (s. 4), the member's duty to co-operate (s. 5), and the contents of the reviewer's report (s. 6). If the member accepts the findings and recommendations made in the report, the matter can be settled by a professional competence panel consisting of a single elected benchner (s. 7(1)). Such a benchner may also hold a conference with the member and a representative of the Society in an effort to settle any issues arising with respect to the report (s. 7(2)). Where the findings or recommendations are disputed, the matter proceeds to a panel consisting of one elected benchner and two other members of the Society (s. 8).

The draft specifies the orders that can be made (s. 11), the effect of non-compliance (s. 12), the extent of publication (ss. 9 and 13), and the availability of appointment of a trustee (s. 14), reinstatement (s. 15), appeal (s. 16) and referral from the Discipline Committee (s. 17).

Overlap between Professional Misconduct, Unsatisfactory Professional Practice and Professional Competence:

With the adoption of provisions for investigating and enforcing standards of professional competence, there would be four options available for the investigation of the professional conduct or competence of a member:

- (1) Individual complaints of unsatisfactory professional practice would be dealt with by the complaints process, including the Complaints Resolution Commissioner.
- (2) Gross neglect, a pattern of neglect, mistakes, or unsatisfactory professional practice in different matters, or a single instance of unsatisfactory professional practice which the solicitor has not taken reasonable steps to correct or resolve could amount to professional misconduct and be dealt with through the discipline process.
- (3) On the basis of complaints, errors and omissions claims, or information obtained through audits or other investigations, a member's competence to practise law could be investigated.
- (4) A random practice review programme aimed at monitoring and assisting members for purposes of maintaining acceptable levels of competency in the profession generally.

The competency investigation referred to in option 3 is a broader procedure which complements the investigation of specific complaints of unsatisfactory professional practice or misconduct. It enables the Law Society to investigate the underlying problem rather than focus solely on its specific manifestations.

The random practice review provisions enable the Society to assert a degree of quality control with respect to competency among members of the profession at large.

Although the competency procedures are intended to be remedial, it is clear that they carry the risk that the member's practice may be significantly restricted. Thus, complaints should generally be dealt with through the complaints and discipline processes. A competency investigation should not be initiated unless the Chair or Vice-Chair of Professional Standards is reasonably satisfied that the member's competence to practise law is in issue.

Draft Provisions:

Standards of Professional Competence

1. A member fails to meet standards of professional competence where there are significant deficiencies in the member's knowledge, skills, or office systems as reasonably required in order to advance and protect the interests of clients and provide a reasonable level of service to clients, given the nature of the member's practice.

Investigations of professional competence

2. The Chair or Vice-Chair of the Professional Standards Committee, if reasonably satisfied that the member's ability to meet standards of professional competence is in issue, on the basis of

(a) complaints made to the Society concerning the member's practice,

(b) errors and omissions claims with respect to the member's practice, and/or

(c) information obtained through audits or investigations conducted pursuant to this Act, may appoint a person or persons to conduct a review of the member's practice.

Practice Review

3. (1) The Chair or Vice Chair of the Professional Standards Committee may on a random basis direct that a member's law practice be reviewed by a person or persons appointed for the purpose of ascertaining and reporting whether the member meets standards of professional competence in the rendering of professional services.

(2) The member shall be notified in writing of the review and be provided with a questionnaire concerning the nature and scope of the member's practice, the means by which the member maintains competence, and the member's practices in delivering services to clients. The member shall deliver the completed questionnaire to the Secretary of the Law Society within three weeks of the date of notice.

Practice reviewer

4. (1) A person appointed to conduct a review of a member's practice shall be

(a) a lawyer appointed to the staff of the Society, or

(b) a member of the Society appointed by the Professional Standards Committee to a panel of practice reviewers.

(2) A person appointed to conduct a review of a member's practice may be assisted by a person or persons with relevant expertise in office management, office systems or accounting.

Duty to co-operate

5. (1) A member shall co-operate fully with a review of the member's practice pursuant to s. 2 or s. 3, and shall answer all inquiries and produce all documents relating to the member's practice as are reasonably required by the person or persons appointed to conduct the review. Failure to comply with these obligations shall constitute professional misconduct.

(2) A member's answers to inquiries made pursuant to subsection (1) are not admissible in any proceeding for professional misconduct or conduct unbecoming a barrister and solicitor.

Reviewer's report

6. (1) The person or persons appointed to conduct a review of a member's practice shall report to the Chair of the Professional Standards Committee

(i) the findings made as a result of the review of the member's practice, including any significant deficiencies in the member's knowledge, skills, or office systems as reasonably required in order to advance and protect the interests of clients, and provide a reasonable level of service to clients, given the nature of the member's practice and

(ii) recommendations made for the purpose

As a matter of policy, the reviewer should

(a) be experienced in the type of law practice under review,

(b) be from outside the locale, and

(c) be selected in consultation with the member whose practice is under review.

Guidelines will be developed for practice reviewers.

The provisions for practice review are intended to be remedial rather than punitive. Note, however, that a member would also be obliged to answer inquiries in a discipline investigation.

of ensuring that the professional services provided by the member meet the standards of competence of the profession, which recommendations may include any of the matters provided for in section 10.

(2) The Chair of the Professional Standards Committee shall forthwith provide a copy of the report to the member whose practice has been reviewed.

Single Member Professional Competence Panel

7. (1) Where the member accepts the findings and recommendations made pursuant to section 6, and so notifies the Chair of the Professional Standards Committee, the Chair may appoint a panel consisting of one elected benchner to review the report and recommendations and make any orders arising therefrom as provided in section 11. At the discretion of the panel, the orders may be issued to the member in person or in writing.

(2) Where the member does not accept the findings and recommendations made pursuant to section 6, the Chair or Vice Chair of the Professional Standards Committee may appoint a panel consisting of one elected benchner to review the report and recommendations, to hear from the member, and from the Society and to consider the possibility of resolving any or all of the issues, for the purpose of settling appropriate orders as provided in section 11, or facilitating an expeditious hearing pursuant to section 8.

Professional Competence Panel

8. Where the member does not accept the findings and recommendations made pursuant to section 6, and the matters in issue are not concluded pursuant to section 7, the Chair or Vice Chair of the Professional Standards Committee shall appoint a panel composed of three members of the Society, at least one of whom is an elected benchner, to review the report and recommendations of the person or persons who reviewed the member's practice, to hear representations from the member and from the Society, and to hear any additional evidence relevant to the competence of the member.

Notice

9. The Secretary shall forthwith notify the member affected of the appointment of a Professional Competence Panel and shall give not less than seven days' notice of the date set for hearing.

In camera or public hearing

10. (1) Notwithstanding section 9 of the *Statutory Powers Procedure Act*, R.S.O. 1980, c. 484, a hearing held with respect to the competence of the member to practise law shall be held *in camera*, but if the member requests that the hearing be public, it shall be open to the public, except as provided in subsection (2).

(2) Where the panel is of the opinion that intimate financial or personal matters pertaining to the member's clients may be disclosed at the hearing, and that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of disclosure, the panel may hold the hearing concerning any such matter *in camera*.

Orders

11. (1) Where a Professional Competence Panel appointed pursuant to section 8 has found that the member fails to meet standards of professional competence within the meaning of section 1, it may by order, as it considers necessary in order to protect the member's

clients and the public as it might be affected by the member's practice,

(a) suspend the member's rights and privileges, until and unless the member is reinstated pursuant to section 15, or

(b) limit the member's rights and privileges by prohibiting the member from practising law except in accordance with terms and conditions to which the member consents, which may include, but are not restricted to, the following:

(i) that the member enrol and participate in continuing legal education courses in specified subjects and/or in other programmes provided or approved by the Law Society;

(ii) that the member restrict the nature and/or scope of the member's practice, and/or enhance the resources available within the practice;

(iii) that the member practise law only under the supervision of another member appointed for that purpose by the Society;

(iv) that the member obtain professional advice and/or services in relation to the management of the member's practice;

(v) that the member report as directed on compliance with any term or condition by which the member's practice is limited and authorize other persons involved with the conduct of the member's practice to report thereon as directed;

(vi) that the member participate in any program, the purpose of which is to improve the overall competency and/or health of the member; and

(vii) that the member comply with any other term or condition that is just and appropriate;

(e) direct that the decision of the panel be referred to the Director of the Legal Aid Plan for review of the member's status on the Legal Aid Panel;

(f) direct that the member be removed from the panel of the Lawyer Referral Service;

(g) direct that the decision of the panel be referred to the Society's Certification Board, and any other body which certifies specialists in law;

(h) direct that the member's practice be inspected periodically by such person or persons appointed for that purpose by the Chair or Vice-Chair of the Professional Standards Committee; and

(i) give any other direction that is just and appropriate in the circumstances.

(2) At any stage of a hearing conducted pursuant to section 8, a Professional Competence Panel may refer the matter to the Chair or Vice Chair of the Professional Standards Committee with a recommendation

(a) that an inquiry be conducted into the capacity of the member, pursuant to section ***; or

(b) that the matter be referred to the Discipline Complaints Authorization Committee.

Non-compliance

12. Where it is alleged that a member has failed to comply with an order made pursuant to section 7 or section 11, the Chair or Vice-Chair of the Professional Standards Committee shall direct that a Professional Competence Panel composed of three members of the Society, at least one of whom is an elected benchler, be appointed to conduct a hearing into the matter. The provisions of sections 9 and 10 apply to such a hearing. If, after holding a hearing, the panel finds that the member has failed to comply with an order made pursuant to sections 7 or 11, the panel may modify the terms of the order or suspend the member in accordance with paragraph (1)(a) of section 11.

Publication

13. (1) The fact that a member is the subject of an inquiry pursuant to this part shall not be disclosed.

(2) Where a hearing into a member's competence has been open to the public, the findings, order and reasons of the professional competence panel shall be made public.

(3) Where a hearing has been held *in camera*, and a member's rights and privileges have been suspended, the Society shall make public the order of the professional competence panel, and the findings or reasons with respect thereto.

(4) Where a hearing has been held *in camera*, and a member's rights and privileges have been limited, the professional competence panel shall determine what aspects of the order shall be made public, in accordance with the need to protect the public.

Appointment of Trustee

14. Where a member's rights and privileges are suspended pursuant to section 7 or 11, the Society may apply for the appointment of a Trustee pursuant to s. ***.

Reinstatement

15. Where a member's rights and privileges have been suspended or limited pursuant to sections 7 or 11, an application to remove or vary the suspension or limitation may be made at any time after the expiry of any minimum time period specified pursuant to sections 7 or 11.

Appeal

16. Where a member's right to practise law is suspended pursuant to sections 11 or 12, the member may appeal to the designated appeal panel of Convocation. There shall be no appeal from any other decision of a Professional Competence Panel.

Referral from Discipline Committee

17. Where a discipline hearing panel seized of a complaint against a member is reasonably satisfied that the competence of the member to practise law is in issue, it may refer the matter to the Chair or Vice-Chair of the Professional Standards Committee, and may adjourn the discipline hearing pending a determination in accordance with the provisions of this part.

Part 2 Fines in Discipline Proceedings

In May 1991, your Committee was requested by Convocation to consider whether the imposition of fines in the discipline process might have adverse consequences for the Law Society under the Charter. Specifically, there was concern expressed that by imposing fines, the Law Society might risk its process being characterized as penal rather than regulatory, thus invoking the protections provided by s.11 of the Charter. Your Committee asked Professor Pilkington to canvass the issues and prepare an opinion for the Society. The

22nd November, 1991

full text of that opinion is reproduced at Appendix B of this report. In brief, the conclusions reached are as follows:

- (i) Persons charged with discipline offences, even serious ones, do not receive the benefit of s.11 unless they are subject to penal consequences;
- (ii) If a professional discipline statute does not provide for fines or imprisonment, s.11 will not apply to proceedings conducted under it.
- (iii) Where a discipline statute does provide for fines, or some curtailment of freedom, the proceedings may continue to operate without the restrictions of s.11 of the Charter, provided the penalty is related to the regulatory purpose.
- (iv) Fines may be either penal or regulatory.
- (v) Regulatory bodies may impose fines, subject to two conditions, namely;
 - 1. The fine must not be of a magnitude to redress the wrong done to society at large.
 - 2. The imposition of the fine must be for "a particular private purpose".
- (vi) Although it is difficult to distinguish between fines for a penal purpose and fines for a regulatory purpose, it appears that it is possible to justify fines as a lesser and effective sanction in the disciplinary process, provided that the amount of the fine is not unduly punitive.
- (vii) Finally, although the basis upon which fines may be considered regulatory as opposed to penal is far from clear, there is only minimal risk involved in the Society's providing for fines as one of the possible sanctions in the discipline process.

Part 3 Final Phase of Implementation

Your Committee has reached the final phase of its work, namely the submission of proposals for legislative reform to the Attorney-General. Your Committee is of the view that in the course of this process issues may well arise which will require some further consideration by the Society and suggests that it remain in place to provide assistance and make recommendations to Convocation in this regard.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of November, 1991

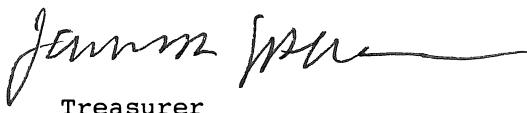
Chair

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

- Appendix A - Discussion Paper - Proposed changes in format to the Practice Review Programme.
- Appendix B - Letter from Ms. Marilyn L. Pilkington, Associate Professor to Mr. Dennis O'Connor, Q.C. dated June 19, 1991 re: Charter Implications of Providing for Fines in Discipline Proceedings.
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CONVOCATION ADJOURNED AT 4:20 P.M.
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Confirmed in Convocation this *22nd* day of *February*, 199²₁.


Treasurer