

MINUTES OF REGULAR CONVOCATION

Friday, 23rd June, 1995  
9:30 a.m.

PRESENT:

The Treasurer (Paul S. A. Lamek), Aaron, Adams, Armstrong, Backhouse, Banack, Bellamy, Bobesich, Carey, Carpenter-Gunn, Carter, R. Cass, Cole, Copeland, Cronk, Crowe, Curtis, Eberts, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Furlong, Gottlieb, Goudge, Harvey, Krishna, Lamont, Lax, MacKenzie, Manes, Marrocco, Millar, Murphy, Murray, S. O'Connor, Pepper, Puccini, Richardson, Ross, Ruby, Scott, Sealy, Stomp, Strosberg, Swaye, Thom, Topp, Wardlaw and Wright.

The reporter was sworn.

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IN PUBLIC

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ELECTION OF TREASURER

The candidates for the position of Treasurer were Susan Elliott and David Scott.

Mr. James Wardlaw was appointed as scrutineer.

The results of the ballot were:

Total number of votes cast 48.

Ms. Elliott - 25

Mr. Scott - 23

The Secretary announced that Ms. Elliott was elected.

Ms. Elliott took the Chair as Treasurer and briefly addressed Convocation.

ELECTION OF BENCHER

It was moved by Mr. Feinstein, seconded by Mr. Copeland THAT Marshall A. Crowe be elected a Bencher to fill the vacancy in Convocation caused by the election of the Treasurer, in accordance with the provisions of section 21(2) of the Law Society Act.

Carried

CALL TO THE BAR

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

Sarah Jane Nichols	35th Bar Admission Course
Lyda Gay Berger	36th Bar Admission Course
Ntarka Nella Cassano	36th Bar Admission Course
Lana Jane Finney	36th Bar Admission Course
Dorothy Hinming Fong	36th Bar Admission Course
David James Gowanlock	36th Bar Admission Course
Ascenza Grande	36th Bar Admission Course
Franco Domenico Gualtieri	36th Bar Admission Course
Tracy Frances Heffernan	36th Bar Admission Course
Corinna Sabrina Ienna	36th Bar Admission Course
Timothy Michael Kavanagh	36th Bar Admission Course
Satwant Singh Khosla	36th Bar Admission Course
Sharon Lyne Layton	36th Bar Admission Course
Nirmala Persaud	36th Bar Admission Course
Steven Peter Safieh	36th Bar Admission Course
Parvinder Singh Saund	36th Bar Admission Course
Sharon Christine M. Seenath	36th Bar Admission Course
Valarie Grace Waboose	36th Bar Admission Course
Innasimuthu Francis Xavier	36th Bar Admission Course
Herve Depow	Special, Transfer, New Brunswick
Cindy Freedman	Special, Transfer, Alberta
Jody Hecht	Special, Transfer, Manitoba
Brenda Matte	Special, Transfer, Manitoba
Mary Geraldine Condon	Professor, Faculty of Law, Osgoode Hall Law School, York University

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IN PUBLIC

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#### LEGAL AID COMMITTEE

#### Meetings of June 8 and 12, 1995

Mr. Goudge presented the Report of the Legal Aid Committee for Convocation's approval of the Communications and Government Relations Plans to inform the profession of the current situation and solicit input on the proposed action and future of legal aid in Ontario.

A debate followed Mr. Goudge's presentation.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCACTION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June, 1995, at 2:00 p.m. the following members being present: Stephen Goudge, Chair, M. Buist, H. Burroughs (by conference call), T. Carey, P. Copeland, C. Curtis, D. Fudge, L. Hart, R. Lalonde, A. Rady (by conference call) H. Ross, M. Stanowski and B. Sullivan.

The following benchers were also in attendance: M. Adams, M. Eberts, S. Elliott, C. Ruby, H. Sachs, T. Stomp, G. Swaye.

S. Bruce Durno, President of the Criminal Lawyers Association was also in attendance as were Richard Tinsley and Gemma Zecchini from the Law Society.

Your Committee met on Monday, June 12, 1995 at 7:00 p.m., the following members being present: Stephen Goudge, Chair, H. Burroughs (by conference call), T. Carey, P. Copeland, C. Curtis, S. Cooney, M. Fuerst, L. Hart, R. Lalonde, A. Rady, H. Ross (all 3 by conference call), B. Sullivan.

The following benchers were also in attendance: M. Eberts and S. Elliott (by conference call).

Gemma Zecchini from the Law Society was also present by conference call.

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

A.  
POLICY

**BACKGROUND**

The Ontario Legal Aid Plan is a vitally important part of the administration of justice in Ontario. It is the vehicle to supply legal representation to the disadvantaged in the province. The Law Society of Upper Canada, by statute, is empowered to administer the Plan in accordance with the Act and the Regulations.

The Plan is coming under severe financial pressures. The challenge for the Law Society is to find the best ways to deal with those pressures and preserve adequate representation of the disadvantaged in Ontario.

This report will deal with the delivery system that provides legal services pursuant to legal aid certificates. The certificate program is to be differentiated from the clinic program and provides a far larger component of legal services to the disadvantaged than do legal aid clinics.

The Plan operates on a financial year that ends March 31. Some order of magnitude is provided by the following. In the 1993/94 financial year the Plan paid out approximately \$221 million on certificates, 48% for criminal law, 33% for family law, 13% for immigration and refugee law and the remainder for other services.

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In the 1994/95 year the Plan paid out \$263 million on certificates, 45% criminal law, 36% to family law, 11% to immigration and refugee law and the remainder for other services. This very large sum was the product of an agreement made with the provincial government in September 1994 which allowed payments to be made of long overdue accounts received by the Plan.

The 1995/96 budget for the Plan projects payments on certificates in the amount of \$196 million, 44% to criminal law, 39% to family law, 11% to immigration and refugee law and the remainder for other services.

MEMORANDUM OF AGREEMENT BETWEEN THE LAW SOCIETY OF UPPER CANADA AND THE GOVERNMENT OF ONTARIO, September, 1994

As a result of the financial crisis faced by the Plan in the spring of 1994, negotiations took place over the summer of 1994, resulting in an agreement with the provincial government. Schedule "A" contains the report about that agreement to Convocation together with the financial projections of that agreement and the memorandum of understanding reached as part of that agreement.

The basic principles of that agreement were as follows:

- (a) The government and the Law Society agreed to retain the present delivery system with its primary reliance on the judicare model over the next four fiscal years.
- (b) The government committed to advance \$45 million by way of guaranteed loans to the Plan in the 1994/95 year and further committed to fixed funding levels over the following four fiscal years.
- (c) The Law Society committed to manage within those allocations with the exceptions provided for in the text of the memorandum of understanding.

THE PROJECTED SHORTFALL AS OF MARCH 31, 1996

In the negotiations of last summer, the agreed projections for the cost of the certificate program in the 1994/95 year and the four subsequent financial years were based upon three main criteria:

- (a) the projected number of certificates to be issued by the Plan;
- (b) the projected average cost per account to be received by the Plan;  
and
- (c) the projected number of accounts to be received by the Plan.

The charts prepared by senior staff at the Plan attached as Schedule "B" address each of these criteria.

The experience since September, 1994 concerning certificates issued has followed projections very closely. These projections were premised on a number of factors, including the provincial government "investment strategy" to downsize the criminal justice system and the projected decline in immigration and refugee certificates due to federal legislative and policy changes. This criterion is tracking satisfactorily.

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The criterion of average cost per account is causing very substantial concern. In the negotiations for the agreement of last September, the average cost per account to be received by the Plan was projected at \$930.00. This was based on an historical average over the preceding five years ending March 31, 1994, which ranged from \$893.00 to \$922.00. In other words, the historic average cost per account had been very stable for the past five years.

Commencing in September, 1994, the average cost per account received by the Plan began to rise, and with the exception of two months since then, that rise has continued dramatically.

By March 31, 1995 the average cost per account received by the Plan in the 1994/95 year had risen to \$968.00. The average cost per account in the last six months of that year (October 1, 1994 to March 31, 1995) was \$978.00. The average cost per account in the month of March, 1995 alone was \$991.00.

In the first two months of the current financial year (April and May, 1995) the average cost per account received by the Plan is \$1,050.00.

The upward trend line causes very substantial concern.

The Legal Aid Committee and the senior staff have made very considerable efforts to determine explanations for this upward trend line. Schedule "C" indicates the steps taken, the consultations engaged in and the anecdotal explanations developed. These explanations are very difficult to demonstrate convincingly. Few provide much direct assistance in assisting the Committee to reverse the trend line.

The criterion of the number of accounts received by the Plan is also now causing great concern. From September, 1994 to the end of the financial year March 31, 1995, the number of accounts received by the Plan was very close to that predicted for the purposes of the agreement of last September.

However, in April and May of 1995 the number of accounts received by the Plan has risen dramatically. The projections of last summer were that in the 1995/96 financial year the Plan would receive approximately 219,000 accounts. If the experience of April and May, 1995 is continued for the remaining 10 months of the financial year, the Plan will in fact receive approximately 258,000 accounts.

The dramatically increasing trend line in this criterion is puzzling. The projections on which the memorandum of understanding were based drew on the declining number of certificates. There has been an historic relationship between the number of certificates issued and the number of accounts received by the Plan. This relationship has been very stable. It was the basis for the projections last summer. The dramatic increase in the number of accounts received is therefore doubly puzzling at a time when the number of certificates has been in steep decline for two years, as the charts indicate.

While explanations are difficult to arrive at, it may be that the increased number of accounts corresponds with the Plan's advice to the profession of potential shortfalls in funding as of the end of our current financial year.

Predicting the shortfall that the Plan will experience as of March 31, 1996 is extraordinarily difficult. It depends on the projections made of the average cost per account to be received by the Plan between now and year end and the number of accounts to be received by the Plan in the same time frame. Two months ago the only criterion raising concerns was that of average cost per account. The projected shortfall at that time, based on an average cost per account of between \$968.00 and \$990.00 (the figures available at that time), was approximately \$15 million to \$20 million.

At present conservative projections require that a much higher figure be used for average cost per account given the trend line of the last two months.

At present conservative projections must also include a substantial increase in the number of accounts to be received by the Plan in the next 10 months.

If the most conservative assumptions presently available are used, namely a maintenance (though not an increase) in the current average cost per account of \$1,050.00 and a maintenance (though not an increase) in the number of accounts received, namely 258,000, the shortfall to the Plan over the funding provided for by the agreement of last summer would be in the range of \$79 million as of March 31, 1996.

If less conservative estimates of average cost per account and the number of the accounts to be received are used based on the premise that the current rate of receipt cannot continue in light of the declining number of certificates in existence, the estimated shortfall is reduced.

If it is estimated that the Plan will receive 240,000 accounts at an average cost of \$1,010.00, the shortfall would be in the range of \$50 million.

In summary therefore, if the lawyers who are the service providers to the Plan continue to bill the Plan at an average cost per account of \$1,010.00 and at a rate between 240,000 and 258,000 accounts, the shortfall the Plan will experience at its financial year end will be in the range of \$50 million to \$78 million.

#### SHORT TERM MANAGEMENT

The Committee views it as critical to take short term measures to begin to address this projected shortfall. The measures considered, recommended and rejected or deferred by the Committee are found in Schedule "D". If implemented August 1, 1995, they will provide a saving to the Plan by March 31, 1996 of approximately \$11.3 million. Convocation will be asked to approve the recommended measures in July.

All of these changes are painful, for those who believe in legal aid. Many of them are controversial. Indeed, several of them were recommended against by the Tariff Review Subcommittee which reported to the Legal Aid Committee at its last meeting. The Tariff Review Subcommittee report is attached as Schedule "E".

Delay in implementation however is costly. The measures set out in the Legal Aid Committee's report take time to have an impact. For example, a delay in implementation of a further month, to September 1, 1995, would have an impact of more than one seventh of the saving because of the lead time involved. Indeed, the estimate is that the cost of delay of one month would be approximately \$3 million in lost savings.

#### CASH FLOW CONSEQUENCES

On the most conservative projection set out above, the short steps proposed by the Legal Aid Committee leave a shortfall of approximately \$67 million unaddressed. That is the difference between \$79 million and \$11.3 million. If this remains unaddressed, the consequence for the lawyers who are service providers must be clearly understood. They are set out in Schedule "F".

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In essence, the Plan would have no funds to issue cheques to its service providers as of approximately January 1, 1996. No cheques could be issued until the commencement of the subsequent financial year, April 1, 1996. The Plan's guideline for the payment of standard form accounts is 30 days after receipt. The guideline for the payment of regular accounts is 60 days. These guidelines provide that the large majority of accounts in each category will be paid in these time frames.

The consequence of a projected \$67 million shortfall would therefore be that standard form accounts received by the Plan after approximately November 30, 1995 would not be paid until April 1, 1996 at the earliest. Likewise, regular accounts received after October 31, 1995 would not be paid until after April 1, 1996 at the earliest. Moreover, thereafter the Plan's payment guidelines would have to remain at this extended level of 120 days for standard form accounts and 150 days for regular accounts. If trends continue into next year, delay in payment of accounts would be extended accordingly.

#### THE LONGER TERM

In addition to these short term considerations, it is essential that work continue immediately and urgently on longer term fundamental changes to the Plan if it is sought to have the Plan survive.

The staff of the Plan must work together with service providers to reverse the trend lines that are causing the grave concern.

At a systemic level, ways must be developed and implemented to ensure that the financial projections on which the Plan's budgets are based can be met.

The experience of the last seven months has demonstrated that the present structure of the Plan simply does not give the staff at the Plan the necessary tools to ensure that financial criteria are met. Reliance on historical behaviour patterns has proven inadequate.

#### COMMUNICATIONS PLAN

It is vitally important that the profession and particularly the lawyers who are service providers to the Plan understand as well as possible the current grave situation in which the Plan finds itself, the steps the Plan proposes to take to begin to address that situation, and the voluntary restraint in billing practices legal aid lawyers are encouraged to take to help relieve the pressure.

It is also important that there be provision for constructive feedback to be given to the Legal Aid Committee and to Convocation.

Finally, it is also important that service users be provided with information about the current circumstances of the Plan and the steps proposed to begin to address those circumstances.

To this end, the Committee has addressed a communications plan. The plan (found at Tab G) is premised on Convocation reconvening in later July to decide upon the proposals presented in the Legal Aid Committee report.

#### GOVERNMENT RELATIONS PLAN

The context for these discussions has been complicated by the uncertainty created by the recent provincial election.

The Committee considers it very important that there also be a government relations plan addressing this situation. With the great assistance of Ms. Eberts and other benchers, a draft plan has been developed, which will be circulated for Convocation.

#### SUMMARY

Convocation will be invited to engage in a discussion of the many issues raised by this report.

Convocation will be invited to defer, until a Special Convocation at the end of July, its decision on the short term measures recommended by the Committee to begin to address the potential shortfall.

Convocation will be invited to approve the proposed communications plan.

Convocation will be invited to approve the proposed government relations plan.

(Copy of bound Report and attachments in Convocation file)

It was moved by Mr. Goudge, seconded by Mr. Copeland that Convocation support the principle that the Legal Aid Committee go forward with consultation with the profession and the government on short-term and long-term measures to deal with the potential shortfall with the aim of preserving the judicare system and that the Committee return to a Special Convocation in August with its recommendations.

Carried

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

#### LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

##### Meeting of June 8, 1995

Mr. Ruby presented the Report of the Lawyers Fund for Client Compensation Committee for Convocation's approval.

#### TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

#### IN CONVOCAION ASSEMBLED

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

Your Committee met on Thursday, the 8th of June, 1995, at 10:30 a.m., the following members being present: C. Ruby (Chair), B. Aaron, T. Cole, G. Gottlieb, D. Murphy, S. Thom and R. Wise; J. Yakimovich, S. Hickling, H. Werry and D. McKillop (secretary) also attended.



A.  
POLICY

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1. CAUTION AND ACKNOWLEDGEMENT ON FORMS 4 AND 5

At its May meeting the Committee once again considered a rewording of the Caution and Acknowledgement on Forms 4 and 5. The Committee was of the view that as the statement was directed at the investing public, it should be clear, concise and in plain language to ensure comprehension. Wherever possible, legal terms and unfamiliar phraseology which would typically require explanation by the lawyer should be avoided. With these principles in mind, the Committee decided upon the following wording, now called a "warning", to be incorporated in Forms 4 and 5:

Any loss you may suffer on this mortgage investment will not be insured if the lawyer has acted as a mortgage broker or has helped to arrange it.

I/We acknowledge having read and understood this warning.

A space for the client(s) signature(s) would follow.

The Committee directed that the proposed wording be forwarded to Malcolm Heins and the Ontario Real Estate Lawyers Association for any comment prior to the matter going before Convocation.

Malcolm Heins responded to the request for comment and while agreeing with the sentiments of the Committee, suggested that the phrase, "under the lawyers' professional liability policy" be added after the word "insured". Mr. Heins was of the opinion that the warning would not be correct if the lawyer was also registered as a mortgage broker and privately insured in that regard. Adopting Mr. Heins suggestion, the warning would read:

Any loss you may suffer on this mortgage investment will not be insured under the lawyers' professional liability policy if the lawyer has acted as a mortgage broker or has helped to arrange it.

I/We acknowledge having read and understood this warning.

At May Convocation, further suggestions were made regarding the wording of the warning and the matter was referred back to Committee for consideration.

The following changes (which are highlighted on the attached forms) have been made:

Form 4

- 1) The caution at the top of the current Form 4 has been removed.
- 2) Near the top of the form there is a section entitled "To Lawyer". The following sentence has been added to the end of that paragraph:  
  
"For the definition of mortgage broker and other terms found in the clause of the Lawyers' Professional Indemnity Company Policy found at the bottom of this form, please refer to the policy."
- 3) The acknowledgement found under the disclosure section on page 2 has been removed. Instead, a section at the end of the form entitled "Warning" has been added. No. 1 in this section is a pre-existing caution from the current form. No. 2 is our proposed new warning followed by an asterisk. Beneath the warning is an acknowledgement by the investor(s) that they have read and understood the warning.

23rd June, 1995

- 4) The asterisk in the warning refers the reader to the very bottom of the form where the clause from the LPIC policy that excludes coverage for mortgage brokering is reproduced.

Form 5

- 1) No. 2 above also applies to the Form 5.
- 2) The old caution found under the conditions and disclosure section on page 2 has been removed. It has been replaced by the proposed new warning followed by an asterisk. Beneath the warning is a statement by the lawyer:

"I advised and you acknowledged having read and understood this warning."

- 3) No. 4 above also applies to the Form 5.

Copies of the forms have once again been forwarded to Malcolm Heins and the Ontario Real Estate Lawyers Association for comment. Their responses, if any, will be available at the Committee meeting. (Pgs. A1 - A4)

Approved

B.  
ADMINISTRATION

No items

C.  
INFORMATION

1. STAFF MEMORANDA

The Staff Memoranda that were approved by the Review Sub-Committee were before the Committee for information purposes only with the grants to be paid from the Fund shown on Schedule "A" of this report.

Approved

2. A copy of the Financial Summary as of April 1995 is attached.  
(Pgs. C1 - C2)

Noted

3. Accounts approved by staff in May amounted to \$3,831.

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

C. Ruby  
Chair

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

- Item A.-(Form 5) 3) - Copies of Forms 4 and 5. (marked A1 - A4)
- Item C.-1. - Copy of the Staff Memoranda approved by the Review Sub-Committee with grants to be paid from the Fund. (marked Schedule "A")
- Item C.-2. - Copy of the Financial Summary as of April 1995. (Marked C1 - C2)

It was moved by Mr. Ruby, seconded by Mr. Gottlieb that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

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

CONVOCATION RECONVENED AT 2:15 P.M.

PRESENT:

The Treasurer (E. Susan Elliott), Aaron, Adams, Armstrong, Bobesich, Carey, Carpenter-Gunn, Cole, Copeland, Crowe, Curtis, Eberts, Epstein, Feinstein, Finkelstein, Gottlieb, Goudge, Harvey, Lax, MacKenzie, Millar, Murphy, Murray, S. O'Connor, Puccini, Richardson, Ross, Scott, Sealy, Stomp, Swaye, Thom, Wardlaw and Wright.

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IN PUBLIC

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#### MOTIONS

It was moved by Mr. Copeland, seconded by Mr. Murray THAT the next Annual Meeting be held on Wednesday, November 8, 1995 at 5:00 p.m. in Convocation Hall at Osgoode Hall.

Carried

It was moved by Mr. Copeland, seconded by Mr. Murray THAT Denise Bellamy again be the nominee of the Law Society of Upper Canada for election as a Director of the Federation of Law Societies of Canada.

Carried

#### AGENDA - Committee Reports Taken as Read

It was moved by Mr. Feinstein, seconded by Mr. Copeland THAT the Reports listed in paragraph 6 of the Agenda (Reports to be taken as read), be adopted.

Carried

Admissions and Membership (2 Reports)  
Bicentennial (Special Committee) (4 Reports)  
County and District Liaison  
Draft Minutes - May 1995  
Investment  
Legal Education  
Libraries and Reporting  
Professional Conduct  
Professional Standards  
Research and Planning  
Specialist Certification Board  
Unauthorized Practice  
Women in the Legal Profession

COMMITTEE REPORTS

ADMISSIONS AND MEMBERSHIP COMMITTEE

Meetings of June 8 and 22, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS AND MEMBERSHIP COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June, 1995 at 9:30 a.m., the following members being present: Mr. Lamont (Vice-Chair) and Messrs. Farquharson and Murphy.

Also present: M. Angevine and P. Gyulay.

B.  
ADMINISTRATION

B.1. PETITION TO BE CONSIDERED A PASS IN THE TRANSFER EXAMINATION

B.1.1. A transfer candidate from Quebec petitioned the Admissions and Membership Committee to be relieved of the obligation of attending the oral portion of the examination for a second time. The candidate had failed the Business Law section of the written portion at a first sitting of the examination and the Family Law section during a second attempt. His request was made on the basis of his having completed all sections of the written portion successfully at least once.

Your Committee denied the petition.

B.2. DIRECT TRANSFER - COMMON LAW - SECTION 4(1)

B.2.1. The following candidate has met all the requirements to transfer under section 4(1) of Regulation 708 made under the Law Society Act:

Barbara Ethelwyn Foster                      Province of Saskatchewan

Approved

B.3. DIRECT TRANSFER - QUEBEC - SECTION 4(2)

B.3.1. The following candidates have met all the requirements to transfer under section 4(2) of Regulation 708 made under the Law Society Act:

Anca Daian                                      Province of Quebec  
Sally Gomery                                   Province of Quebec  
Alfred Macchione                           Province of Quebec

Approved

B.4. EXAMINATION RESULTS-TRANSFER EXAMINATION

B.4.1. The following candidates have completed successfully the May 1995 transfer examination:

Hervé Robert Depow                      Province of Nova Scotia  
Cindy Freedman                           Province of Alberta  
Jody Hecht                                   Province of Manitoba  
Barbara Noreen Locke Geier           Province of Alberta  
Teresa Maioni                               Province of Quebec  
Brenda Matte                                Province of Manitoba

Noted

B.5. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.5.1. Bar Admission Course

B.5.2. The following candidate having successfully completed the 35th Bar Admission Course now has filed the necessary documents and paid the required fee and applies to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Sarah Jane Nichols

Approved

B.5.3. The following candidates having successfully completed the 36th Bar Admission Course now have filed the necessary documents and paid the required fee and apply to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Lyda Gay Berger  
Ardyth Brott  
Natalka Nella Cassano  
Ascenza Grande  
Corinna Sabrina Ienna

Timothy Michael Kavanagh  
Satwant Singh Khosla  
Sharon Lyne Layton  
Nirmala Persaud  
Parvinder Singh Saund  
Valerie Grace Waboose  
Innasimuthu Francis Xavier

Approved

- B.5.4. The following candidates expect to have successfully completed the 36th Bar Admission Course by the week of June 19th, 1995 and ask to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Lana Jane Finney  
David James Gowanlock  
Franco Domenico Gaultieri  
Tracy Frances Heffernan  
Sarah Jane Nichols  
Sharon Christine M. Seenath

Approved

- B.5.5. Transfer from another Province - Section 4(1)

- B.5.6. The following candidates having completed successfully the Transfer Examination, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Hervé Robert Depow	Province of Nova Scotia
Cindy Freedman	Province of Alberta
Brenda Matte	Province of Manitoba

Approved

- B.5.7. Full-Time Members of Faculties of Approved Law Schools

- B.5.8. The following member of an approved law faculty asks to be called to the Bar and admitted as a solicitor without examination under sec. 5 of Regulation 708 on June 23rd, 1995. She has filed the necessary documents and complied with the requirements of the Society:

Mary Geraldine Condon	Faculty of Law, Osgoode Hall Law School, York University.
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Fee: \$200.00

Approved

B.6. MEMBERSHIP UNDER RULE 50

B.6.1. (a) Retired Members

B.6.2. The following members who are sixty-five years of age and fully retired from the practice of law, have requested permission to continue their memberships in the Society without payment of annual fees:

Robert William Macaulay	Toronto
William Henry Minifie	Sarnia
Roy B. Mitchell	Thunder Bay
Alfred George Richmond	Alton

Approved

B.6.3. (b) Incapacitated Members

B.6.4. The following members are incapacitated and unable to practise law and have requested permission to continue their memberships in the Society without payment of annual fees:

Cecilia Maria Kamara	Toronto
Joseph Paul Rocchi	Binbrook
Vito Walter Targon	Cobourg

Approved

B.7. RESIGNATION - REGULATION 12

B.7.1. The following members have applied for permission to resign their memberships in the Society and have submitted Declarations in support. These members have requested that they be relieved of publication in the Ontario Reports.

- B.7.2. (a) Boris Boudewijn De Jonge of Calgary, Alberta, was called to the Bar on September 26, 1986. He ceased practising in Ontario on August 28, 1988. His annual filings are up to date.
- (b) Marie Roza Vickie Majerovich Kraay of Toronto, was called to the Bar on February 16, 1995. She ceased practising law on May 31, 1995. She is applying to resign her membership as she is moving to Washington D.C. Her annual filings are up to date.
- (c) Leonard Elliot Shifrin of Vanier, was called to the Bar on March 25, 1966. He ceased practising law in 1968. His annual filings are up to date.

Approved

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C. INFORMATION

C.1. LIFE MEMBERS

C.1.1. Pursuant to Rule 49, the following members are eligible to become Life Members of the Society with an effective date of June 21, 1995:

23rd June, 1995

Jean Carol Carrie  
Rory Finbar Egan  
Jack Friedman  
Edward Oscar King  
Lucien Emile Lamoureux  
Jack Sydney Midanik  
John Ross Tolmie

Etobicoke  
Mississauga  
Toronto  
North York  
Belgium  
Toronto  
Ottawa

Noted

C.2. CHANGE OF NAME

C.2.1. From

Patricia Winifred Cox

To

Patricia Winifred Billington  
(Marriage Certificate)

Noted

C.3. ROLLS AND RECORDS

C.3.1. (a) Deaths

C.3.2. The following members have died:

Joseph Newman  
Toronto, ON

Called January 19, 1922  
Died January 1, 1993

Ronald Ralph Dodokin  
Georgetown, ON

Called March 26, 1965  
Died February 13, 1995

Grant Kendrick Dunn  
Toronto, ON

Called March 29, 1989  
Died February 27, 1995

Harold Joseph O'Brien  
Chatham, ON

Called September 16, 1948  
Died April 13, 1995

George Cyril Power  
Scarborough, ON

Called June 20, 1946  
Died April 19, 1995

Norman Duane Dixon  
Smiths Falls, ON

Called September 16, 1960  
Died May 7, 1995

Noted



23rd June, 1995

C.3.3. (b) Membership in Abeyance

C.3.4. Upon her appointment to the office shown below, the membership of the following member has been placed in abeyance under Section 31 of The Law Society Act:

Linda Marie Walters  
Brampton, ON

Called April 15, 1981  
Appointed to Ontario Court of  
Justice  
(General Division)  
March 21, 1995

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

D. Lamont  
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS AND MEMBERSHIP COMMITTEE begs leave to report:

Your Committee met on Thursday, the 22nd of June, 1995, the following being present: Messrs. Banack, Goudge and Marrocco.

Also present: M. Angevine.

B.  
ADMINISTRATION

B.1. DIRECT TRANSFER - QUEBEC - SECTION 4(2)

B.1.1. The following candidate has met all the requirements to transfer under section 4(2) of Regulation 708 made under the Law Society Act:

Lloyd Paul Duhaime

Province of Quebec

Approved

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

B.2.1. Bar Admission Course

- B.2.2. The following candidates having successfully completed the 36th Bar Admission Course now have filed the necessary documents and paid the required fee and apply to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Dorothy Hinming Fong  
Steven Peter Safieh

Approved

B.2.3. Transfer from another Province - Section 4(1)

- B.2.4. The following candidate having completed successfully the Transfer Examination, filed the necessary documents and paid the required fee now applies for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, June 23rd, 1995:

Jody Hecht

Province of Manitoba

Approved

B.3. MEMBERSHIP UNDER RULE 50

B.3.1. (a) Retired Members

- B.3.2. The following member who is sixty-five years of age and fully retired from the practice of law, has requested permission to continue her membership in the Society without payment of annual fees:

\* Mary Patricia Weaver

Sudbury

\* effective June 30, 1995

Approved

B.4. RESIGNATION - REGULATION 12

- B.4.1. The following member has applied for permission to resign his membership in the Society and has submitted a Declaration in support. This member has requested that he be relieved of publication in the Ontario Reports.

23rd June, 1995

- (a) John Murray McPherson of Red Deer, Alberta was called to the Bar on March 29, 1977. He declares that he has not engaged in the practice of law since his Articles in 1975-76. He is currently practising law in Alberta as a Crown Prosecutor.

Approved

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

D. Lamont  
Chair

THE REPORTS WERE ADOPTED

BICENTENNIAL COMMITTEE

Meetings of December 5, 1995, January 11, April 12 and May 11, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BICENTENNIAL COMMITTEE begs leave to report:

Your Committee met on Monday, the 5th of December, 1994 at 5:00 p.m., the following members being present: J. Wardlaw (Chair), F. Kiteley, B. O'Brien and B. Pepper. Also in attendance were S. Binnie, A. Langlois and S. Traviss.

A.  
POLICY

1. BICENTENNIAL STAMP

Mr Pepper reported that the deadline for presenting material to Canada Post Corporation in support of an application for a bicentennial stamp was probably in February or March, 1995. He had received information suggesting that the Law Society would be advised to make a formal and detailed submission. Archives' staff agreed to take on the necessary task of producing a suitable submission.

2. AN EQUITY PROJECT

Consideration of alternative equity projects was postponed due to the absence of an Equity Committee member at the meeting.

3. COORDINATION AND FUNDING OF BICENTENNIAL PROJECTS

The Chair moved to consider a draft budget that had been prepared by staff members in response to a request made in October to investigate potential projects. The staff recommended using part of the remaining bicentennial funds, amounting to approximately \$60,000, to hire a part-time professional events coordinator for 1995-96. This person's task would be to coordinate events across

23rd June, 1995

the Province and to develop a plan for producing and marketing bicentennial memorabilia. In the ensuing discussion several approved or proposed projects were reviewed; these included the Law Society History, a proposed Equity Project, sales of memorabilia, a bicentennial letterhead, and a bicentennial stamp.

Committee members then approved requesting a professional events coordinator to review the bicentennial projects currently under development or consideration and comment on their feasibility and cost. The Committee specifically requested cost and revenue estimates for sales of bicentennial memorabilia.

Mr O'Brien proposed that the Director of Finance be asked to place funds previously allocated for the Bicentennial into an interest-bearing account, in order to generate greater revenue.

4. OTHER BICENTENNIAL MATTERS

The Committee considered the question of a design for a Law Society bicentennial letterhead, to be in use by early 1996. Barry Pepper mentioned a sesquicentennial letterhead recently used by Dalhousie University. A motion was approved for the expenditure of five hundred dollars on the design of a bicentennial symbol appropriate for the new Law Society letterhead.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

J. Wardlaw  
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BICENTENNIAL COMMITTEE begs leave to report:

Your Committee met on Wednesday, the 11th of January, 1995 at 4:30 p.m., the following members being present: B. Pepper (in the Chair), F. Kiteley and A. Scace. Also in attendance were: S. Binnie, D. Crosbie, A. Langlois, A. Singer, S. Traviss and G. Zecchini.

A.  
POLICY

1. BICENTENNIAL COORDINATION

A professional events coordinator, May Hum, gave a presentation to the Committee on revenue sources for the Bicentennial. In light of the fact that existing bicentennial funds are inadequate for the projects under consideration and that the equity project remains unfunded, Ms. Hum concentrated on three potential methods of revenue generation and discussed their relative utility for the Bicentennial:

- (a) sponsorship of special events, by businesses or law firms;
- (b) direct fundraising, from law firms or members of the profession;
- (c) sales of memorabilia or other merchandise.

Ms. Hum's overall recommendation was that sponsorship of events or professional fund-raising were more likely to be successful as methods of revenue generation than reliance on sales of memorabilia. Direct sales of memorabilia to the profession might evoke responses from only five to ten per cent of the membership; this would not be profitable in relation to the initial outlay. In addition, bicentennial events must be planned specifically with a view to such sales. In Ms. Hum's view, sales of memorabilia could enhance bicentennial fund-raising but should not be relied on as a major source of funds.

The sponsorship alternative meant asking companies doing business with the Law Society as well as law firms to fund particular bicentennial events. Whatever the form of events, they would have to have appeal for potential sponsors and offer some kind of "spin-off" for investing in a particular event.

Fundraising was best employed for major and costly projects where minor events could not raise sufficient funds (although they could be useful in publicising a cause). Any fundraising should be done directly, for instance through approaching large law firms, and for a specific project. This kind of fundraising requires the services of an experienced fundraiser; it might be advisable to hire a professional fundraiser.

The Chair thanked Ms. Hum.

## 2. EQUITY PROJECT

A motion was put and approved to refer consideration of an equity project to the Equity in Legal Education and Practice Committee for discussion and preliminary costing of proposals.

## C. INFORMATION

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### 1. CONSIDERATION OF MATTERS ARISING FROM DECEMBER MEETING

#### (a) Progress of the Stamp Project

Mr Pepper reported on recent contacts with Canada Post Corporation clarifying the date for a stamp submission. Discussion of other organizations making financial contributions to Canada Post for postage stamps met with general rejection from the Committee, as being both politically unacceptable and financially out of the question for the Law Society.

#### (b) Responses from the County and District Law Associations

Susan Binnie reported that relatively few County and District Law Associations had responded to the Treasurer's letter suggesting the formation of local bicentennial committees and/or to the offer of a travelling exhibit in 1997. It was proposed that replies be sent to interested associations and that the remainder be contacted again after July, 1995.

23rd June, 1995

(c) Stephen Traviss reported that he had spoken to the Director of Finance and that the Finance Department was not in favour of placing bicentennial funds in an interest-bearing account.

(d) Gemma Zecchini spoke to a question raised in a memorandum from Communications Department staff member, Andrew Kondraski, of January 6, 1995, concerning the need to increase the amount allocated by the Committee for the design of a bicentennial letterhead. Ms. Zecchini pointed out that the design should provide a bicentennial symbol for use on other materials and that the amount of \$500 was inadequate for this purpose. Mr Pepper showed a sample of the sesquicentennial letterhead used by Dalhousie University. After discussion, the Committee voted to increase the amount for design to \$1200.

2. OTHER BUSINESS

The need to settle an underlying bicentennial theme was raised by Fran Kiteley, who proposed a process of winnowing out bicentennial projects and then selecting a theme based on the projects adopted. Ms. Kiteley asked for a list of possible and approved projects to be circulated before the next meeting and suggested using the meeting to decide on a list of feasible events.

3. COMMITTEE MEMBERSHIP

The question of adding members to the Committee was raised but consideration was postponed until after the Benchers Election in May. The Committee accepted in principle that non-bencher participation in the Committee would be welcome in the case of volunteers offering to run bicentennial projects.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

J. Wardlaw  
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BICENTENNIAL COMMITTEE begs leave to report:

Your Committee met on Wednesday, the 12th of April, 1995 at 4:30 p.m., the following members being present: J. Wardlaw (Chair), T. Carey, F. Kiteley, B. O'Brien, B. Pepper and A. Scace. Also in attendance were: S. Binnie, A. Langlois and S. Traviss.

A.  
POLICY

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1. NOTEPAPER SYMBOL FOR BICENTENNIAL

The Committee met with graphic designer Geordie Allan, who has been working on possible bicentennial letterhead symbols. Mr Allan presented four designs to the Committee out of which members unanimously selected a typographical design in a sanserif type (attached as Appendix A).

Mr Allan was asked to obtain costs for foil printing the numbers in the design as opposed to colour printing. The former, which would add to the cost of the letterhead, might be used in limited quantities or during the bicentennial year.

C.  
INFORMATION

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1. BICENTENNIAL PROJECTS

(a) HISTORY PROJECT

Christopher Moore has completed the second chapter of the history volume and the chapter has been sent to members of the Advisory Committee for review. He is working on the fifth and final chapter and is using a volunteer research assistant (who is working for twenty hours a week) as well as a paid assistant for one day a week. The pay of the assistant is being shared between the Law Society and Mr Moore, to a maximum figure of \$2,500, an amount that is covered in the budget for the project.

Ramsay Derry, the editorial consultant for the volume will approach potential publishers with a revised version of the first chapter. He will be discussing details of publication to obtain the best publication agreement for the Law Society.

(b) THE BICENTENNIAL COIN PROJECT

Susan Binnie reported that Kenneth Jarvis was keeping in touch with the Canadian Mint but that there had been no developments.

(c) THE DESIGN OF AN EQUITY PROJECT

Stephen Traviss reported that a sub-committee of the Equity in Legal Education and Practice Committee had met to discuss the project and would be formulating a proposal over the next few months.

2. THE BICENTENNIAL STAMP

A draft stamp submission to Canada Post for a bicentennial stamp, developed by Archives staff, was presented for review by Susan Binnie, who explained the purpose and the intended audience for the submission. Committee members made several suggestions, including minor changes to the text and additional names of lawyers for an appendix to the submission. Mr Pepper offered to have photographs taken of Osgoode Hall to accompany the submission. Mr Pepper also discussed his plans to undertake political lobbying on behalf of the stamp submission.

3. CHART OF POTENTIAL PROJECTS AND  
APPLICATION FOR FUNDS TO LAW FOUNDATION

In response to a request made by Fran Kiteley at the January Committee meeting, Archives staff prepared a chart of bicentennial projects currently under consideration or already adopted. The draft chart was circulated before the meeting. Discussion of funding methods for these projects ensued and a proposal was made by Barry Pepper for the Committee to make an application to the Law Foundation for additional bicentennial funding.

Brendan O'Brien pointed out that the objects of the Law Foundation, as a charitable institution, were restricted to legal education or similar objectives. But, in his view, several bicentennial projects might qualify as "legal education." The Committee agreed that the Chair should approach the Treasurer and the Secretary to discuss whether there were reasons not to make such an application and, if not, approved making an application promptly.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

J. Wardlaw  
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BICENTENNIAL COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of May, 1995 at three o'clock in the afternoon, the following members being present: J. Wardlaw (Chair), T. Carey, B. Pepper and B. O'Brien. Also in attendance were: S. Binnie, A. Langlois and S. Traviss.

C.  
INFORMATION

1. BICENTENNIAL COMMITTEE PROGRAM REVIEW

In response to a request for a program review document, Archives staff had prepared a three-page review of bicentennial projects and funding. Committee members read and approved the document.

2. STAMP PROJECT

The final draft of a submission to Canada Post for a stamp in 1997 was reviewed and approved. Mr Pepper produced proofs of photographs of Osgoode Hall by a professional photographer for use with the stamp submission. The Committee selected five photographs for enlargement and asked for a print of the Great Library from the Archives Department for inclusion in the submission. Two copies of the prints were requested by the Committee for the purpose of political lobbying as well as for the original submission. The submission is being translated into French and both English and French versions will be submitted to Canada Post.



3. LAW SOCIETY WEEK

The Committee requested that the idea of a "Law Society Week" in 1997 be investigated with the City and the Province, and that potential weeks in June and July, 1997 be discussed with those responsible at the municipal and provincial levels.

4. BICENTENNIAL PROJECT TO  
REFURBISH THE BARRISTERS' LOUNGE

There has been an expression of interest in refurbishing the Barristers' Lounge as a bicentennial project, by the County of York Law Association. The Chair will be meeting with Mr. Victor Colebourn, President of the Association, to inquire further into the details of the proposed project.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

J. Wardlaw  
Chair

THE REPORTS WERE ADOPTED

COUNTY AND DISTRICT LIAISON COMMITTEE

Meeting of June 8, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

On Thursday, the 8th of June, 1995 at 11:30 a.m., the following members were present: T. Carey and D. Murphy. The following members of the County and District Law Presidents' Association Executive were in attendance: H. Arrell, G. Coleman, D. DiGiuseppe, L. Eustace, R. Gates, D. Lovell, J. McKay, J. Morissette and D. Sherman. Staff in attendance were: M. Angevine, G. Howell and A. John.

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1. RESOLUTIONS PASSED AT THE MAY 1995 PLENARY

The following Resolutions passed by the County and District Law Presidents' Association Plenary in May 1995, are submitted to Convocation for consideration.

Errors and Omissions Insurance

- (i) That the CDLPA has no objection to their representative on the LPIC Board of Directors receiving an honorarium.
- (ii) That the Board of Directors at LPIC include a majority of non-benchers appointed by various associations which represent the interests of lawyers.
- (iii) That the volume surcharge be based on income earned in 1995.

Unauthorized Practice

- (iv) The CDLPA has approved a proposal concerning prosecutions for the unauthorized practice of law. The proposal includes guidelines for remuneration and the designation of counsel to appear on behalf of the Law Society in each area and district outside Toronto. This proposal is for a trial period of one year from the date of acceptance by the Unauthorized Practice Committee.

Legal Aid

- (v) In anticipation of the expected decline in revenues in the Ontario Legal Aid Plan, the CDLPA had asked for the following:
  - 1. Cost saving measures should not include an increase in the existing Statutory Deductions or the imposition of holdbacks on accounts.
  - 2. Fees paid for services rendered by counsel should not be reduced below current levels, either directly or indirectly.
  - 3. Consideration should be given to the imposition of an application or user fee in the range of \$50.00 to \$100.00 per certificate.
  - 4. The Legal Aid Sub-Committee Report should be circulated throughout the CDLPA in order that a presentation can be made to Convocation.

Rules of Professional Conduct- Conflict of Interest

- (vi) The CDLPA is opposed to the current amendment to Rule 5 respecting conflicts of interest and recommends a comprehensive review in consultation with members of the profession.

Library

- (vii) That the allocation of costs or charges for library space in court houses in Ontario remain the sole responsibility of the Ministry of the Attorney General.
- (viii) That the CDLPA not pay rent, costs or charges with respect to libraries and support facilities in Ontario court houses.
- (ix) That the CDLPA Executive and the County of York along with the Law Society establish a joint committee to prepare a unified response to the issue of rent charges on court house facilities by the Ontario Realty Corporation.

Court Practice

- (x) That the CDLPA repeats its opposition to the ability of a Regional Senior Judge to move the place of trial without the consent of all parties.
- (xi) That the CDLPA opposes the elimination of Examinations for Discovery in the proposed Simplified Rules of Civil Procedure.
- (xii) That the CDLPA opposes any proposal to require counsel to gown for motions and Assignment Court.

2. NEXT PLENARY

The County and District Law Presidents' Association is planning its next plenary in Toronto on November 8, 9, and 10, 1995.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995.

R. Topp  
Chair

THE REPORT WAS ADOPTED

DRAFT MINUTES - May 26, 1995

Draft Minutes in Convocation file

THE DRAFT MINUTES WERE ADOPTED

23rd June, 1995

INVESTMENT COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995 at nine-thirty in the morning, the following members being present: Mr. Wardlaw (Chair). Staff members present were David Crack and David Carey.

B.

ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee the investment report summary for the various Law Society Funds together with supporting documentation as at May 31, 1995 (Schedule A).

Approved

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

J. Wardlaw  
Chair

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

Item B.-1. - Copy of the Investment Report Summary for the various Law Society Funds as at May 31, 1995.  
(Schedule A)

THE REPORT WAS ADOPTED

LEGAL EDUCATION COMMITTEE

Meeting of June 8, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE LEGAL EDUCATION COMMITTEE requests leave to report:

The Committee met on Thursday, the 8th of June, 1995, at 10:30 a.m.

The following members attended: Philip Epstein (Chair), Tom Carey, Vern Krishna, Laura Legge, Joan Lax, Dean Marilyn Pilkington (Osgoode Hall Law School), Mohan Prabhu (non-Bench member), and Marc Rosenberg (non-Bench member). Other Benchers in attendance were: Larry Banack, Derry Millar, Harriet Sachs, and Richmond Wilson. The following staff attended: Katherine Corrick, Brenda Duncan, Mimi Hart, Ian Lebane, Margaret McSorley and Alexandra Rookes.

A.  
POLICY

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A.1           PHASE THREE MANDATORY ATTENDANCE REQUIREMENT

- A.1.1       On Thursday, May 26, a special subcommittee met to consider the Phase Three mandatory attendance requirement. Members in attendance were Derry Millar (Chair), Michael Adams, Eleanore Cronk, Stephen Goudge and Sidney Troister (Bar Admission Course Real Estate Section Head). Members of the staff participating at the meeting were Katherine Corrick and Ian Lebane of the Bar Admission Course Faculty, and Alan Treleaven.
- A.1.2       The subcommittee concluded as a matter of policy to recommend changes to the mandatory attendance requirement. The subcommittee considered the rationale for the mandatory attendance requirement, and concluded that the participatory learning format of Phase Three enhances the quality of professional preparation for Bar Admission Course students, and therefore ought to be retained.
- A.1.3       The subcommittee considered the Human Rights Code and decided that the mandatory attendance requirement should be revised to provide reasonable accommodation for disadvantaged students.
- A.1.4       The subcommittee proposes that students who request accommodation be required to apply in writing. Students would be required to include in the application a proposal for the specific nature of the accommodation. The staff would consider the application, decide whether the student is entitled to accommodation, and determine what alternate educational requirement the student must satisfy.
- A.1.5       In reaching its conclusion, the subcommittee also made the following decisions:
- 1)       The alternative educational program would have to be a reasonable substitute for the mandatory attendance requirement, rather than a mere token.
  - 2)       The decisions would be made by the staff, and there would be no appeals permitted to the Legal Education Committee or to Convocation.
- A.1.6       Alan Treleaven has drafted proposed Phase Three Requirements for Standing (pages 1 - 5), and in particular has endeavoured to incorporate the recommendations of the special subcommittee in section 13.
- A.1.7       Recommendation: It is recommended that the proposed mandatory attendance requirement be approved.

A.2        PHASE THREE REQUIREMENTS FOR STANDING: 1995

A.2.1       Phase Three of the Bar Admission Course begins its fifth term on September 5, 1995, the first day of the Civil Litigation course, and runs to December 14, 1995, the day of the Business Law examination.

A.2.2       The Legal Education Committee and Convocation annually settle and approve the Requirements for Standing that govern Phase Three of the Bar Admission Course. A draft version of the Requirements for Standing for Phase Three 1995 of the Bar Admission Course is attached. (pages 1 - 5)

A.2.3       Recommendation: It is recommended that the Phase Three 1995 Requirements for Standing be approved.

A.3        SPECIAL LECTURES PROPOSAL: 1996

A.3.1       The topic for Special Lectures should be both one of immediate practical interest to a large number of practitioners and also lend itself to in depth scholarly examination. Estates practice is an appropriate topic for the 1996 program. It is a growing practice area for many large and small firms throughout the province. Significant legislative changes have occurred in the area, such as the Substitute Decisions Act, the Consent to Treatment Act, the Advocacy Act, Powers of Attorney Act and the New Estate Rules. Moreover, it has been fifteen years since the Estates area was the subject of Special Lectures.

A.3.2       Recommendation: It is recommended that a program on changing law and practice in the Estates area be approved as the subject of the 1996 Special Lectures.

B.  
ADMINISTRATION

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B.1        PHASE THREE 1995 EXAMINATION TIMETABLE

B.1.1       It is proposed that the following be the schedule for examinations for Phase Three 1995 of the Bar Admission Course:

1)        Regular Sitting

- a)        September 18, 1995: Civil Litigation,
- b)        October 2, 1995: Criminal Procedure,
- c)        October 19, 1995: Family Law,
- d)        October 30, 1995: Estate Planning and Administration,
- e)        November 10, 1995: Public Law,
- f)        November 13, 1995: Professional Responsibility,
- g)        November 27, 1995: Real Estate,
- h)        December 14, 1995: Business Law.

2) Special and Supplemental Examination Sitzings

i) First Sitting (1996)

- a) Monday, January 8: Civil Litigation,
- b) Tuesday, January 9: Family Law,
- c) Thursday, January 11: Estate Planning,
- d) Friday, January 12: Real Estate,
- e) Monday, January 15: Business Law,
- f) Tuesday, January 16: Criminal Procedure,
- g) Wednesday, January 17: Professional Responsibility,
- h) Friday, January 19: Public Law.

ii) Second Sitting (1996)

- a) Wednesday, April 17: Criminal Procedure,
- b) Friday, April 19: Public Law,
- c) Monday, April 22: Civil Litigation,
- d) Wednesday, April 24: Family Law,
- e) Friday, April 26: Estate Planning,
- f) Monday, April 29: Real Estate,
- g) Wednesday, May 1: Business Law,
- h) Friday, May 3: Professional Responsibility.

B.1.2 The examination sittings should be confined to this schedule, so that any student who is entitled to write further examinations at the end of the schedule will be obliged to wait until the next dates, to be scheduled beginning in the fall of 1996.

B.1.3 Recommendation: It is recommended that the Phase Three 1995 schedule for examinations, supplemental examinations and special examinations be approved on the basis that no other examinations will be scheduled prior to dates, to be announced, beginning in the fall of 1996.

C.  
INFORMATION

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C.1 POLICY FOR USE AND RENTAL OF SPACE

C.1.1 In 1991 the Building Committee, now the Facilities Subcommittee to the Finance and Administration Committee, was directed by Convocation to investigate the feasibility of renting Law Society space to external groups for meetings, seminars and conventions.

C.1.2 In March 1994, the then Facilities Manager produced a report for the Facilities Subcommittee entitled "Recommendations for the Use and Rental of Space for the Law Society of Upper Canada." The Introduction to the Report indicates that there had been inquiries from external professional groups requiring facilities, but that the Law Society had been unable to accommodate most requests because of the lack of a policy and procedures for the use and rental of space. The Report calls for clearly defined policies and procedures on the use and rental of space, which would provide guidelines for the following:

- 1) Priority for use of space.
- 2) Identifying groups that may book the space.
- 3) Identifying the types of event that may be held.
- 4) Rental rates and other charges.
- 5) Areas of responsibility.

C.1.3 The Department of Education teaching facilities were originally created to permit the Law Society to fulfil its mandate to provide effective legal education to the profession and students. Introducing a comprehensive policy for outside users presents a particular challenge to the Law Society's Continuing Legal Education Department.

C.1.4 It is important to consider issues relating to proposed rental of Law Society facilities, and in particular how such rentals affect the ability of the Department of Education to fulfil its educational mandate.

C.1.5 The Chair of the Legal Education Committee instructed the Director of Education to form a working group of staff members, including staff from the Finance and Administration Department, to recommend effective procedures for the use and rental of Law Society teaching facilities.

C.2 MANDATORY CONTINUING LEGAL EDUCATION SUBCOMMITTEE

C.2.1 The consultation group of the M.C.L.E. Subcommittee has begun meeting to plan the consultation process.

C.2.2 A Notice to the Profession about the consultation process will appear in the Ontario Reports in June, along with the Executive Summary. This will appear in both French and English. Copies of the complete Discussion Paper will be available in the county and district libraries and by request to Sophia Sperdakos, the M.C.L.E. Project Director.

C.2.3 The group will spend the month of June communicating with C.L.E. liaisons in the counties and districts, developing the consultation schedule, planning focus group meetings, developing survey questions about C.L.E. needs and attitudes, and determining a proposed agenda for meetings.

C.2.4 In view of the difficulty of scheduling meetings during the months of July and August, the consultation meeting schedule will focus on a concentrated period in September and October. A complete schedule of meetings will be published in the Ontario Reports.

C.2.5 The goals of the consultation process are as follows:

- 1) to ensure that a broad spectrum of the profession has the opportunity to express its views on the policy issues the Subcommittee is considering;
- 2) to ensure that meetings are planned so as to maximize participation of the profession and involve as many counties as possible;



- 3) to develop an effective consultation process, which will provide meaningful information about C.L.E. needs and experience, concerns of the profession, and attitudes to mandatory C.L.E.; and
- 4) to organize effective follow-up from meetings to solicit further views in writing.

C.2.6 The Subcommittee is concerned that meetings be well attended by the profession, and will be seeking the active assistance of benchers and local practitioners in the counties and districts in encouraging members of the profession to attend and discuss the issues.

C.3 BAR ADMISSION COURSE REVIEW SUBCOMMITTEE

C.3.1 The Bar Admission Course Review Subcommittee Report, approved by Convocation on April 28, 1995, has been circulated to all lawyers who teach in the Bar Admission Course, members of the M.C.L.E. Subcommittee, the 16 Canadian law schools (common law), and representatives of professional organizations, including the Canadian Bar Association Ontario, the County and District Law Presidents Association, the Advocates' Society and the York County Law Association. An advertisement is being run in the Ontario Reports inviting lawyers to request a copy of the Report and to provide comments to the Bar Admission Course Review Subcommittee.

C.3.2 The first major consultation meeting was held on Wednesday, June 7 with Bar Admission Course Section Heads and Assistant Section Heads, and the Senior Instructors from London and Ottawa.

C.4 ARTICLING PLACEMENT UPDATE REPORT FOR THE 1995-1996 TERM

C.4.1 As of June 1, 1995, 1195 applications for Phase One 1995 have been received. If enrolment reaches 1200, applications on file represent 99.5% of the incoming class.

C.4.2 1021 students, representing 85.4% of the class, have secured an articling position. 122 students, representing 10.2% of the class, continue to seek articles, and 52 students, representing 4.3% of the class (all of whom were unplaced when surveyed in January, 1995), have failed to respond to requests from the Law Society for up-to-date information on their articling placement status. If all students not responding to the Law Society are unplaced, the number of students currently seeking articles is 174 (14.5% of the class).

C.4.3 At June 1, 1994, 186 students representing 14.7% of the class were without articles. By December of 1994, 97% of students seeking articles in the 1994-1995 term had commenced articling while 31 students (including out of province students claiming to be seeking articles in Ontario) remained on record with the Law Society as seeking placement. 11 students (.86% of the class) were in regular contact with the Placement Office and actively seeking placement.

C.4.4 Up-to-date statistics will be distributed at Convocation.

C.5 PLACEMENT OFFICE INITIATIVES TO ASSIST STUDENT SEEKING ARTICLES

C.5.1 Several initiatives are under way to assist students seeking articles in the 1995-1996 articling term.

- C.5.2      Resume Writing and Interview Skills Workshop for Phase One Students seeking Articles. As in 1994, the Placement Office has offered a resume writing and interview skills workshop to students in Phase One who continue to seek articles. The first workshop was on May 25, 1995 in Toronto. The second workshop was held on June 1 in London. Additional workshops are planned for students in the second and third offerings of Phase One in Toronto and in Ottawa. Videotapes are available. Students attending the workshops are provided with an opportunity to have their resume and cover letter reviewed and critiqued. This program has been enormously well received by students. The B.A.C. Bulletin advising of the Workshop is attached. (page 6)
- C.5.3      Articling Placement Mentor Program. As an adjunct to other activities intended to increase the number of articling positions for this years unplaced students, the Placement Office has implemented a Mentor Program. The objective of the program is to provide unplaced students with a support link by pairing them with a member of the profession who will provide advice, support and encouragement in the student's search for an articling position.
- C.5.4      Mentors meet with students for approximately one hour each week to discuss issues of concern to the students and to provide advice on strategies the student might employ in the job search. A principal component of the Mentor's role is providing encouragement to the student to maintain a positive, constructive attitude and approach to securing an articling position.
- C.5.5      The program assists the Society's Placement Office to deal efficiently with the increased demand for individual counselling. In 1994, 85% of students enrolling in the Mentor Program secured a placement. Both students and mentors participating in the inaugural year of the program in 1994 have recommended continuation of the program. Material describing the program is attached. (pages 7 - 13)
- C.5.6      Marketing to the Profession of the Need for additional Articling Positions. Marketing of the need for additional articling positions has begun in earnest. The Benchers' Bulletin contained a notice about the need for additional positions, and Philip Epstein is canvassing various sectors of the profession by letter. Mr. Epstein's letters promote the traditional twelve month term as well as joint and part-time articles.
- C.5.7      Since receipt of the Benchers' Bulletin and the Chair's letters (late in the week of May 22), the Placement Office has received 13 full-time job notices, and 9 requests for a registration form to list an articling vacancy with the service.
- C.5.8      Further initiatives are planned in June including Ontario Reports Notices and specialized marketing based on the skills and interests of the unplaced students. A sample promotional letter is attached. (pages 14 - 15)

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- C.5.9      Corporate Articling Advisory Committee. Following the second meeting of the Corporate Articling Advisory Committee established by the Articling Subcommittee (April 5, 1995), the Placement Office developed a promotional document entitled "Summary for Corporate Counsel re: Becoming an Articling Principal" for use by Committee members in promoting the articling program among corporate counsel. A telephone campaign was initiated by five Committee members (4 corporate counsel, 1 law firm lawyer) who called 22 corporate counsel to discuss the possible creation of an articling position in their company. The traditional 12 month term, joint articles, and the potential to share a student were discussed.
- C.5.10      Thus far, the initiative has heightened awareness among corporate counsel, many of whom have agreed to consider an articling student in the 1996-1997 year. Modest progress has been made getting counsel to consider taking an articling student in the 1995-1996 year. The Summary document is attached. (pages 16 - 22)
- C.6          CONTINUING LEGAL EDUCATION REPORT ON COURSES
- C.6.1        The Continuing Legal Education Report, prepared by the Director of Continuing Legal Education, Brenda Duncan, is attached. (pages 23 - 26)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

P. Epstein  
Chair

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

- Item A.-A.1.6 - Copy of the Proposed Phase Three Requirements for Standing.  
(pages 1 - 5)
- Item C.-C.5.2 - Copy of the BAC Bulletin CFPB - May 16, 1995.  
(page 6)
- Item C.-C.5.5 - Copy of Articling Placement Mentor Program.  
(pages 7 - 13)
- Item C.-C.5.8 - Copy of the sample promotional letter re: Articling Placement.  
(pages 14 - 15)
- Item C.-C.5.10 - Copy of Summary for Corporate Counsel re: Becoming an Articling Principal.  
(pages 16 - 22)

THE REPORT WAS ADOPTED

LIBRARIES AND REPORTING COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995, at 8:00 a.m., the following members being present:

S. Elliott (Chair), R. Topp (Vice-Chair), M. Adams,  
G. Farquharson, G. Swaye, D. DiGuiseppa. G. Howell also attended.

A.  
POLICY

no items

B.  
ADMINISTRATION

1. County Libraries - Ontario Realty Corporation - Rent?

The Committee reviewed the following documents on this issue:

1. May 10th letter from Igor Ellyn Q.C. (President of CBAO) to Larry Taman, Deputy Attorney General.
2. May 17th letter from David Lovell to Glen Howell, summarizing Mr. Lovell's discussion over lunch with Larry Taman, Deputy Attorney General, at the CDLPA Plenary Session on May 11th.
3. Text of the three Library Resolutions passed at the May 12 CDLPA Plenary Session, all relating to the "Rent" issue.
4. May 18th letter from Harrison Arrell (CDLPA Chair), attaching a Government document regarding the \$200 annual grant from the Ministry of the Attorney General to each county law association, identifying such grant to be for the purchase of books, and being unrelated to the issue of "access for Crown Attorneys".
5. Synopsis sheet on the mandate of the Ontario Realty Corporation.

The Committee also discussed the recent letter sent by Marion Boyd, Attorney General to Paul Lamek, Treasurer, in which the Attorney General provided clarification on the relationship between the Ontario Realty Corporation (ORC) and the Ministry of the Attorney General, and in turn the Ministry and the county law associations (and that there should have been no line of communication between the ORC and county law associations).

In the Minister's letter, there is reference to a developing "chargeback system." However, any such "charge back system" would not be in effect before 1997 for "special purpose buildings such as courthouses". The letter also states that "the Ministry of the Attorney General has made no decisions affecting the current status of the county law associations' space allocation", and that if a review of the existing [rent-free] arrangement should be required, "extensive consultations would be undertaken between the Ministry and the county law associations before any changes occur."

The Committee asked its Sub-Committee on this issue (a Sub-Committee chaired by Dino DiGiuseppe, and including Michael Adams) to maintain a "watching brief" and to continue to gather information from the county law associations on this matter, but decided that there was no need to obtain a legal opinion on this issue at this time.

2. County Libraries - CDLPA Library Committee Meeting and Pilot Project for Technology

The Committee was previously provided with a copy of the Agenda for the May 10th meeting of the CDLPA Library Committee.

The May 10th meeting resolved that a Pilot Project on utilization of computer technology and electronic resources be established immediately, for purposes of a report back to the Committee and to the Law Society by October/November of 1995.

Subsequently, a Subcommittee on computer technology resources was established and met recently by teleconference. The members of the Subcommittee are:

Bill Taggart (Cobourg)	Mike Hennessy (Sudbury)
Mark Shields (St. Thomas)	Anne Matthewman (York County)
Mike Neville (Ottawa)	Glen Howell (Law Society).

After a full discussion of potential sites and projects for the testing of computer technology and new electronic resources, it was decided to leave the choice of particular sites to the discretion of the Chief Librarian, based on the teleconference discussions. Four or five sites will be chosen for the testing of CD-Rom resources, one site (York County) will be chosen to test enhanced Internet access, and one further site may be chosen to test the viability of access to On-Line Databases in lieu of conventional print resources.

The budget for the pilot project (over the next six months) would be taken from the revenue generated by the \$35 increase in the county library levy for the 1995-96 fiscal year. The project would start towards the end of July. The attached Memo from the Chief Librarian to the Chair (Susan Elliott) provides the financial breakdown of the \$25,000 budget for equipment and CD-Rom products for the pilot project.

3. Libraries & Reporting Committee - Program Evaluation Process -Statement of Activities of the Programs under the Jurisdiction of the Committee

A draft Statement of Activities of the several programs under the jurisdiction of the Libraries & Reporting Committee was adopted for forwarding to the Research & Planning Committee in preparation of the second stage of evaluation in September. The Statement covers the following programs:

23rd June, 1995

1. Great Library (incl. Search-Law)
2. County Libraries
3. Ontario Reports

ALL OF WHICH is respectfully submitted

Dated this 23th day of June, 1995

S. Elliott  
Chair

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

Item B.-2. - Copy of Memorandum from Mr. Glen Howell to Ms. Susan Elliott dated June 13, 1995 re: Pilot Project for Technology for Counties - Key Documents re: Budget of \$20,000.

THE REPORT WAS ADOPTED

PROFESSIONAL CONDUCT COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995 at three o'clock in the afternoon, the following members being present: Finkelstein (Acting Chair), L. Banack, G. Bobesich, K. Braid, E. Cronk, G. Gottlieb, D. Millar, H. Puccini, G. Swaye and B. Wright. The following staff were present: M. Devlin, D. Godden, S. Traviss and A. Kontos.

C.  
INFORMATION

1. ADR IMPLEMENTATION SUB-COMMITTEE'S  
RECOMMENDATIONS ADOPTED BY CONVOCATION  
ON APRIL 28, 1995 - NEED TO AMEND THE RULES  
OF PROFESSIONAL CONDUCT TO REFLECT THIS

Convocation adopted the recommendations of the ADR Implementation Sub-Committee (a sub-committee of the Research and Planning Committee) on April 28.

One of the recommendations is that a new Rule of Professional Conduct be implemented to require lawyers to canvass ADR options with clients.

The proposed rule reads as follows:

Responsibility to Advise Clients of Alternatives to Litigation

1. The lawyer must consider alternatives to court proceedings such as arbitration and mediation, that are available to resolve disputes.
2. The lawyer has a duty to inform the client about such alternative dispute resolution mechanisms.
3. The lawyer has a duty to respond within a reasonable time to proposals by an opposing party or counsel for the use of alternative methods of dispute resolution.
4. The lawyer has a duty to inform the client of any proposal from an opposing party concerning alternative dispute resolution and, if the proposal is rejected, the lawyer must provide reasoned advice as to why alternative dispute resolution is inappropriate.
5. Methods of alternative dispute resolution should be used in good faith to advance the interests of the client and should not be employed to delay a just resolution of the issues.

Commentary

The public needs alternatives to litigation. In appropriate cases, the legal profession is obliged to assist clients to consider such alternatives. The rule requires lawyers to inform clients of such alternatives in order to assist clients in avoiding the costs and delays associated with traditional methods of dispute resolution.

Alternatives to traditional methods of dispute resolution are not restricted to arbitration and mediation. There is a wide spectrum of alternatives to dispute resolution which should be canvassed by the lawyer when advising clients.

It is good practice for the lawyer to give advice concerning alternative dispute resolution in writing to the client.

This would be Rule 30 if adopted.

The Committee discussed the issue at some length and this included the central question as to whether there should be a rule at all. A decision has been deferred to the September meeting of the Committee.

2. WARDLAW MOTION

The Professional Conduct Committee will be discussing the Wardlaw motion at its September meeting.

23rd June, 1995

The input of the profession will be sought through the Benchers Bulletin and the specific input of the County and District Law Presidents' Association, the Real Property Section of the Canadian Bar Association - Ontario and the Ontario Real Estate Lawyers Association.

ALL OF WHICH is respectfully submitted

DATED this 23rd of June, 1995

N. Finkelstein  
Acting Chair

THE REPORT WAS ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of June 8, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June, at 3:00 p.m., the following members being present: R.W. Murray (Chair), D. Murphy (Vice-Chair), R. Aaron, R. Carter, R. Cass, T. Cole, G. MacKenzie, H. Warder-Abicht, R. Wilson

Also Present: S. Gale, S. Kerr, S. McCaffrey, P. Rogerson

B.  
ADMINISTRATION

B.1. Practice Review Programme - Requests for Reconsideration of Authorization - Firm

- B.1.1. Seven members of this firm were authorized for participation in the Practice Review Programme in April, 1995. One member of the firm had been identified by the Lawyers Professional Indemnity Company as a potential candidate for the Programme. When the staff committee reviewed the list of potential candidates prior to authorization for participation being sought, a recommendation was made that the firm as a whole be considered for participation, on the basis that any changes needing to be made to the member's practice would likely have to be implemented by the firm as a whole, and therefore authorizing the participation of one member only might be ineffective. As a result, profiles were prepared of all firm members as listed on the Law Society's database at the time, and the past Chair of this Committee authorized participation of the firm. The Committee reviewed the profile of the partner who was originally identified as a potential candidate. With the exception of this individual, no one in the firm has received more than 4 complaints, or 3 potential LPIC claims.



- B.1.2. The initial letter that is sent to Programme participants was sent to all members of the firm who had been authorized, over the signature of the then Chair of this Committee. The firm requested reconsideration of the firm's authorization and also raised a number of procedural and policy issues. Discussion of those issues has been deferred to the fall of 1995.
- B.1.3. The Committee withdrew authorization for all members of the firm with the exception of the member initially identified by LPIC. A staff attendance has been authorized, if the solicitor is willing to agree to same, to acquire additional information about his practice, after which this matter should be brought back before the Committee in order to determine whether this lawyer, and his partners, are appropriate candidates for the Programme.
- B.2. Request for Reconsideration of Authorization
- B.2.1. This solicitor was authorized to participate in the Practice Review Programme in November 1994 based on a referral from the Complaints Department. At the time of authorization, the solicitor had received 7 complaints and 1 potential LPIC claim since her call to the Bar in 1991. The solicitor has had no further complaints or claims since her authorization into the Programme.
- B.2.2. The solicitor advised that she practises in the areas of personal injury, institutional abuse and wrongful dismissal, and that clients of this type of practice are likely to make unsubstantiated complaints. The solicitor acknowledged that in some complaints received, there was indeed a communication problem and that she now understands how to avoid these types of complaints through improved client communication. The solicitor has not agreed to any attendances or reviews of her practice to date.
- B.2.3. The Committee reviewed the solicitor's submissions and her profile, and concluded that the authorization for her participation in the Programme should be withdrawn.
- B.3. Request for Reconsideration of Authorization
- B.3.1. A third request for reconsideration of authorization was brought before the Committee.
- B.3.2. This solicitor was authorized to participate in the Programme in May 1995 based on a referral from the Lawyer's Professional Indemnity Company. At the time of authorization, the solicitor had received 7 complaints and a total of 31 potential LPIC claims. The Law Society has paid \$333,780 in adjuster and legal fees, and claims payments, to date. The solicitor does not believe he is a suitable candidate for the Programme and has consulted with a Benchler regarding the reconsideration of his authorization to participate. After reviewing the solicitor's profile, the Committee reaffirmed the authorization to participate.
- B.4. File Closures - Practice Review Programme
- B.4.1. Three files were closed on the basis of the members' successful completion of the Programme.

- B.4.2. In the first case, the solicitor was authorized to participate in the Programme in February 1995 based on a referral from a Complaints Review Commissioner. At the time of authorization, the solicitor had 12 complaints and 5 potential LPIC claims since 1990. The Chair of the Committee authorized a staff attendance only, after which the necessity for participation was to be reassessed. A staff attendance was held in April, 1995 at which time some recommendations were made which the solicitor agreed to implement, but it does not appear that the solicitor requires the assistance of the Practice Review Programme. The solicitor has had no additional complaints or claims since his authorization into the Programme.
- B.4.3. In the second case, the solicitor was authorized to participate in the Programme in September 1993 based on a referral from the Complaints Department. At the time of authorization, the solicitor had 15 complaints and 5 potential LPIC claims since 1990. The solicitor has implemented or is in the process of implementing many recommendations regarding the administration of his practice. The solicitor has had one additional complaint and one additional potential claim since the authorization into the Programme. The additional complaint was received in December 1994; the additional claim was reported in September 1993 for an event that occurred in 1989.
- B.4.4. In the third case, the solicitor was authorized to participate in the Practice Review Programme in November 1993 based on a referral from Errors & Omissions (as it then was). At the time of authorization, the solicitor had received 10 complaints and 7 potential LPIC claims since 1988.
- B.4.5. A review of the solicitor's practice was conducted in March 1994. Staff attended in August 1994 and March 1995, and the staff reviewer is satisfied with the progress made by the solicitor in implementing the recommendations made to him in the course of the Programme. The solicitor has had an additional 2 complaints and no further claims since the authorization into the Programme. The last complaint was received in December 1994.
- B.4.6. Two files were closed on the basis that the solicitors were unwilling to participate in or to cooperate with the Programme.
- B.4.7. In the first case, the solicitor was authorized to participate in the Practice Review Programme in February 1995. At the time of authorization, the solicitor had received 7 complaints and 3 potential LPIC claims since 1990. The solicitor sought to have his file closed and to be reinstated on the Lawyer Referral Service on the basis of inaccuracies in the information that led to his referral to the Practice Review Programme initially. The solicitor was referred by the Department of Audit and Investigation, which advised that executions were not searched on a particular real estate transaction, the statutory declaration in that transaction was not reviewed by the solicitor, and when errors in the real estate forms were identified by the lawyer representing the purchaser, the solicitor refused to correct them because he did not have time to do so. The solicitor was advised of the basis for referral, and the Committee reviewed his response thereto as well as his profile. The Department of Audit and Investigation has confirmed that the information that led to the referral was not

gained through an audit of the solicitor's practice, but was reported by another member. It appears from the member's response and documentation provided that the information was not accurate. The Complaints Department has advised that, based on the solicitor's complaints history, he nonetheless appears to be an appropriate candidate for the Programme. The solicitor has declined to participate, and his file was closed on that basis. The Committee authorized the solicitor's reinstatement on the Lawyer Referral Service.

- B.4.8. In the second case, the lawyer was authorized to participate in the Practice Review Programme in June 1994 based on a referral from the Complaints Department. At the time of authorization, the lawyer had received 15 complaints since 1992 and 4 potential LPIC claims since 1991. A review of the lawyer's practice was conducted in December 1994 and the report made several recommendations. The lawyer failed to respond to the report despite numerous reminder letters, including a letter from the Chair of this Committee. The lawyer has also been suspended since December 1994 for non-payment of fees. The lawyer has received an additional 5 complaints and one potential claim since the authorization into the Programme. The Committee closed the solicitor's file based on his current suspension and his unwillingness to cooperate with the Practice Review Programme.
- B.4.9. The Committee referred the two matters to the Staff Committee to consider what alternative action, if any, should be pursued by the Law Society.
- B.4.10. One file was closed on the basis that the solicitor is no longer in private practice. The lawyer was authorized to participate in the Practice Review Programme in March 1995 based on a referral from the Complaints Department. At the time of authorization, the solicitor had received 10 complaints and 1 potential LPIC claim since 1990. A review of the lawyer's practice by the Audit Department revealed inadequacies in books and records. The lawyer was invited to participate in the Practice Review Programme but in May 1995 he advised staff that he was no longer in private practice. Law Society records indicate that he is now "Employed - Other". The Committee agreed that staff should monitor the lawyer's status yearly in the event that he returns to private practice, at which time the file can be re-opened if appropriate to do so.
- B.4.11. One file was closed based on the fact that the solicitor is no longer practising law. The solicitor was authorized to participate in the Practice Review Programme in September 1992 based on a referral from the Audit Department. At the time of authorization, the solicitor had received 8 complaints since 1987 and 8 potential LPIC claims since 1981. The solicitor has had an additional 20 complaints and an additional 6 potential claims since the authorization into the Programme. The solicitor advised in October 1992 that she was selling her practice, moving and did not intend to recommence her practice. The solicitor has been suspended since May 1994 for non-payment of fees. The Committee agreed that the solicitor's status should be monitored annually, so that her file can be reopened if she returns to private practice, should it be appropriate to do so.

C.  
INFORMATION

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C.1.        File Closure

- C.1.1.     A solicitor who was authorized to participate in the Practice Review Programme in April 1990 was permitted to resign from the profession. His file has therefore been closed.

C.2.        Professional Standards Departmental Report

- C.2.1.     In May, 5 lawyers were authorized to participate in the Practice Review Programme and 4 files were closed, bringing the total number of open files to 151. Department staff conducted 19 attendances across the province in April. Benchers Tom Carey, Samuel Lerner and Laura Legge sat as review panellists; their assistance is greatly appreciated.

- C.2.2.     The Law Society's annual performance appraisal process is underway; this process is the means by which a directed, specific analysis of an employee's capabilities can be made, and provides employees with an opportunity to comment on issues concerning employment.

- C.2.3.     A large volume of telephone enquiries continues to be received from members of the profession who are facing the possibility of requalification in the future. Members are often trying to decide whether to maintain their membership, resign, or become suspended; potential requalification requirements may influence these decisions.

C.3.        Practice Advisory Service Report

- C.3.1.     The total number of calls handled by the Service during the month of April was 793, and a number of calls were handled by secretaries in the department. In the March Adviser, a package of materials was offered to assist practitioners in the orderly closing of a practice. The secretaries responded to approximately 170 requests for these materials, and department lawyers dealt with many calls concerning specific aspects of closing down a practice. These questions have been received since the insurance crisis started, and specifically since the announcement of the tail premiums.

- C.3.2.     Many calls come from practitioners who would like to continue to appear as agents in Small Claims Court, conduct collections work, be Notaries Public, and act as paralegals. They are advised of: the difficulty of convincing clients that they are no longer acting as lawyers; the uninsured risk the member runs; the problem in drawing the line between being a paralegal and giving legal advice, potentially engaging in unauthorized practice. Calls are also received from legal assistants planning to open an office as a paralegal, and asking for the Law Society's guidelines regarding paralegals.

- C.3.3.     A Start-Up Workshop was held in May.

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- C.3.4. The Law Practice Management Section of the American Bar Association held a meeting in San Antonio, Texas of practice advisers from across Canada and the U.S. A paper outlining the Law Society's Practice Advisory Service was contributed to this meeting, but it is hoped that there will be actual representation at the next meeting, scheduled for next spring in Chicago.

ALL OF WHICH is respectfully submitted

DATED this 22th day of June, 1995

R. Murray  
Acting Chair

THE REPORT WAS ADOPTED

RESEARCH AND PLANNING COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995, at 8:00 a.m., the following members being present: H. Sealy (in the Chair), F. Carnerie, A. Feinstein, R. Murray, M. Somers.

Also present: M. Eberts, H. Puccini, H. Ross, B. Wright

Staff: E. Spears, R. Tinsley, G. Zecchini

A.  
POLICY

No items to report.

B.  
ADMINISTRATION

No items to report.

C.  
INFORMATION

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C.1.           OBJECTIVES AND GOALS CONFERENCE

C.1.1.       Consultant and Facilitator

C.1.1.1.     In May 1995, your Committee asked its Conference Planning Subcommittee to come forward with names of persons who might serve as consultants (to design the Conference) and as facilitators (to ensure that the Conference produced results).

C.1.1.2.     The Subcommittee reported that it had met with two consultants. It recommended, and the Committee agreed, that Ruth Armstrong of Vision Management Services should be retained to serve as the consultant.

C.1.1.3.     The Committee discussed Ms. Armstrong's ideas for the Conference.

C.1.2.       Expansion of Conference Planning Subcommittee

C.1.2.1.     Your Committee considered the expansion of the Conference Planning Subcommittee. The Subcommittee was asked to make recommendations to the Committee. The views of members of the Committee and of benchers attending the meeting were canvassed. In the result, the Subcommittee was asked to expand its membership and it will be doing so.

C.1.2.2.     Mary Eberts volunteered to join, and was welcomed to, the Subcommittee.

C.1.3.       Conference Participants

C.1.3.1.     Your Committee considered the question of who should participate in the Conference. In particular, should persons other than benchers and members of committees be invited to participate in the Conference? The views of members of the Committee and of benchers attending the meeting were canvassed. The Subcommittee has been asked to make a recommendation to the Committee. The Committee expects to decide this matter shortly.

C.2.         PROGRAM REVIEW

C.2.1.       The Committee had before it a list of Research and Planning Committee programs and activities. Your Committee discussed the list briefly.

C.2.2.       The view was offered that the following programs and activities fit with the Law Society's role of governing the profession in the public interest:

- Monthly meeting to consider emerging policy issues, initiate research and develop policy proposals.

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- Joint responsibility (with Priorities and Planning Subcommittee of the Finance and Administration Committee) for initiating and guiding program evaluation by all committees.
- Organizing Objectives and Goals Conference for the fall of 1995.
- Overseeing the production of an index and digest of policy matters considered by Convocation.

C.2.3. The view was also offered that the following activity might not easily fit with the Law Society's role:

- Implementation of the policy governing selection and appointment of lawyer-members to committees of Convocation.

C.2.4. In response to the latter view, the following argument was made to justify this activity as essential to the Law Society's role: The composition of Convocation is not necessarily reflective of the composition of the profession (although it was agreed that there has been improvement in this regard over the years). The appointment of lawyer-members to committees of Convocation serves to make the body that governs a truer reflection of the profession which it governs. This is essential to the Law Society's role of governing the profession.

C.2.5. One of the activities of the Research and Planning Committee is overseeing the policy governing the distribution of the Convocation transcript to County Law Libraries. It was suggested that consideration should be given to stopping the distribution of the Convocation transcript to County Law Libraries if there was no demand for the transcript. The Committee recalled a survey that was done that indicated that demand for the transcript was not great.

C.2.6. The Committee's comments on its programs and activities will be passed on to the successor Committee.

C.3. REVISED TERMS OF REFERENCE FOR RESEARCH AND PLANNING COMMITTEE

C.3.1. Revised terms of reference for the Research and Planning Committee were before the Committee. Your Committee endorsed the revised terms of reference and will communicate its endorsement to the successor Committee.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

H. Sealy  
Vice-Chair

THE REPORT WAS ADOPTED

SPECIALIST CERTIFICATION BOARD

Meeting of June 8, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIALIST CERTIFICATION BOARD begs leave to report:

Your Board met on Thursday the 8th day of June 1995 at nine o'clock in the morning, the following members being present: R. Yachetti (Chair), R. Manes (Vice-Chair), P. Furlong, J. Callwood, M. Pilkington and G. Sadvari. Also attending was Bencher, G. Swaye. C. Giffin, of the Law Society, was also present.

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

The Criminal Law Specialty Committee met (conference call) on Friday, the 26th day of May 1995 at one o'clock in the afternoon.

A.  
POLICY

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No items.

B.  
ADMINISTRATION

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No items.

C.  
INFORMATION

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C.1. CERTIFICATION OF SPECIALISTS

C.1.1. Your Board is pleased to report the certification of the following lawyer as a Civil Litigation Specialist:

Eric Appotive (of Ottawa)



23rd June, 1995

C.1.2 Your Board is pleased to report the certification of the following lawyers as Labour Law Specialists:

Stewart Saxe (of Toronto)  
Russel Zinn (of Ottawa)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

R. Yachetti  
Chair

THE REPORT WAS ADOPTED

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995 at 9:30 a.m., the following members being present: N. Finkelstein (Acting Chair), K. Carpenter-Gunn, R. Carter, T. Cole, G. Gotlieb and R. Wilson. Staff in attendance was: A. John (Secretary).

B  
ADMINISTRATION

1. Your Committee authorized two prosecutions.

ALL OF WHICH is respectfully submitted

DATED the 23rd day of June, 1995

N. Finkelstein  
Acting Chair

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

Item B.-1. - List of Prosecutions.

THE REPORT WAS ADOPTED

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Meeting of June 8, 1995

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 8th of June, 1995, at 9:45 a.m., the following members being present: P. Copeland (Chair), N. Angeles-Richardson, P. Hennessy, B. Luke, C. Ruby.

Also present: N. Backhouse, J. Hagan (Professor of Law and Sociology, University of Toronto), F. Kay (Assistant Professor of Sociology, University of British Columbia), P. Parker (Research Associate, Faculty of Law, University of Toronto), T. Stomp.

Staff: L. Johnstone, A. Singer, E. Spears.

A.  
POLICY

A.1. FOLLOW-UP TO THE TRANSITIONS REPORT AND OTHER RESEARCH PROJECTS

A.1.1. In February, your Committee reported to Convocation that it proposed to retain an expert consultant to study changes in the legal profession since publication of the *Transitions Report* in 1991.

A.1.2. Your Committee met with Fiona Kay (Assistant Professor of Sociology, University of British Columbia), John Hagan (Professor of Law and Sociology, University of Toronto) and Patricia Parker (Research Associate, Faculty of Law, University of Toronto). A research proposal, including a budget, was presented to the Committee

A.1.3. The research proposal comprises two parts:

1. A "longitudinal" study of the 1,597 members who responded to the 1990 survey on which the *Transitions Report* was based. Such a study could ascertain the current career status of the respondents and compare it with their status in 1990. It provides an opportunity to examine advances and setbacks in the progress of women in the legal profession. It will examine issues such as promotions, career diversification and attrition rates from the practice of law. It will also enable a further study of how family responsibilities have affected career paths and the extent to which workplace supports have been introduced for lawyers with family responsibilities. The study will provide information about the extent to which inequities existing in the 1990 sample have been reduced or corrected. It will also give up-dated information on the careers of lawyers who, in 1990, were engaged in positions outside the traditional private practice of law.

2. A new survey of women and men in the legal profession in co-operation with a research project that is just beginning under the leadership of Dr. Kay and Dr. John Hagan. This project concentrates on a comparative study of new entrants to the legal profession in Quebec and Ontario. It will provide important information about ethnic minorities and women as they complete their articles and enter the practice of law. It will address issues of race and ethnicity and the way in which these factors affect entry to the profession, articles, fields of law, work settings and earnings.

A.1.4. Dr. Kay also indicated that it might be possible to include in the longitudinal study research on the impact of increased insurance levies on female lawyers.

A.1.5. Budget

A.1.5.1. The Committee has \$25,000 in its 1995-1996 budget (commencing July 1, 1995) for "research projects". A request has been made to the Finance and Administration Committee to approve the carrying forward of \$25,000 unspent research funds from 1994-1995 to provide a total of \$50,000 for research projects in 1995-1996.

A.1.5.2. Your Committee briefly considered other sources of Law Society funding that might be available for the research project. In this regard, it was noted that Dr. Kay's proposed studies would provide information on issues other than women's issues. The Committee will explore further what other sources of funding might be available.

A.1.6. Your Committee has decided provisionally to proceed with Dr. Kay's proposed studies. The Committee's final decision will depend on the availability of adequate funding for the research project.

B.  
ADMINISTRATION

No items to report.

C.  
INFORMATION

C.1. IMPACT OF INSURANCE LEVIES ON WOMEN LAWYERS

C.1.1. In May, your Committee considered the impact of insurance levies on women lawyers and how information particular to women in practice may be best communicated to LPIC in its ongoing deliberations, thereby ensuring that the needs of women lawyers have been fully canvassed and considered.

C.1.2. In order to address this issue effectively, your Committee considered it essential that it have a proper body of knowledge on which to base any decision. It, therefore, instructed staff to undertake research into this question.

23rd June, 1995

- C.1.3. Staff have prepared statistics concerning members who left the profession over the period January 1992 to May 1995 (Attachment A). The statistics show the numbers of members who ceased to be in good standing, or ceased to be members, over the period January 1992 to May 1995, for the following reasons:
1. Suspension for failure to pay insurance levy.
  2. Other reasons,
    - suspension for failure to pay annual fee;
    - deceased;
    - resigned at own request;
    - excused fee because over age 65 (or disabled) and no longer practising law.
- C.1.4. The Committee was urged to be cautious in drawing conclusions from the data for the following reason. Experience shows many members who are suspended will be reinstated within a few weeks. The 1995 insurance levy suspensions have only just been implemented: it is reasonable to expect that a number of those currently shown as suspended will shortly be reinstated.
- C.1.5. Your Committee has requested additional information concerning the granting of deferrals in respect of the payment of insurance levies.
- C.2. DIFFERENTIAL LEGAL AID TARIFF RATES
- C.2.1. In May, your Committee considered the question of the effects of differential legal aid tariff rates for lawyers practising in the areas of criminal and family law and the particular effects such rates have on the practice of female lawyers.
- C.2.2. The Chair of the Committee briefly reported on the work of the Legal Aid Committee on legal aid tariff rates.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

P. Copeland  
Chair

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

- Item C.-C.1.3. - Statistics Report re: Numbers of members suspended for non-payment of insurance levies compared with numbers of members who have ceased to be in good standing or have ceased to be members for reasons other than non-payment of insurance levies or discipline, 1992 - 1995.

(Marked Attachment A - A -4)

THE REPORT WAS ADOPTED

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

DISCIPLINE POLICY COMMITTEE

Meeting of June 8, 1995

Mr. Scott presented Item A.-A.1. re: Report of the Sub-Committee on Frozen Trust Accounts, for Convocation's Approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE DISCIPLINE POLICY COMMITTEE begs leave to report:

Your Committee met on the 8th of June, 1995 at 1:30 in the afternoon, the following members being present:

D.W. Scott (Chair), R. Carter, M. McPhadden, S. Thom, C. Ruby and R. Topp were present.

R. Aaron, N. Backhouse, L. Banack, T. Cole, E. Cronk, G. Gottlieb, K. Carpenter-Gunn, G. Mackenzie, H. Puccini, H. Sachs, G. Swaye, R. Wilson also attended.

N. Perrier, J. Yakimovich, S. Kerr, M. Vear, D. McKillop, E. McIntyre, M. Seto and J. Brooks also attended.

A.  
POLICY

A.1. REPORT OF THE SUB-COMMITTEE ON FROZEN TRUST ACCOUNTS

A.1.1. The Sub-Committee on Frozen Trust Accounts was established to consider courses of action available to the Law Society when a lawyer's trust account, or separate estate account for which the lawyer acts as estate trustee, reflects a shortage of money on deposit. The Sub-Committee was composed of Dennis O'Connor, Q.C. (Chair) and Maurice Cullity, Q.C. Staff members were James N. Yakimovich, Director, Department of Audit & Investigation, David McKillop, Staff Trustee. Advisor to the Committee was Alan Driver, C.A., Coopers & Lybrand.

A.1.2. J. Yakimovich presented the Report of the Sub-Committee. A copy of the Report is Attachment "A".

A.1.3. Your Committee recommends that Convocation adopt the recommendations of the Sub-Committee which are summarized at pages 3 through 5 of its Report and dealt with in detail at pages 6 through 17 of the Report. The recommendations are outlined as follows:

1. The current practice of freezing a trust account, including an estate account which a lawyer maintains as an estate trustee, until deficiencies are rectified is an appropriate measure. Staff will consider matters of law and apply their judgment in determining whether or not to freeze a trust account.

(Report of Sub-Committee: page 3, item #1; page 7)

2. In the event that it is reasonable to conclude that a trust account or an account which is held by a lawyer in his or her capacity as executor, is in a shortage position, the account will be immediately frozen by co-signing controls and the member will be instructed to make full and immediate restitution. A new trust account will be opened and controlled via co-signing to keep separate any "new" trust money. In the event the member is not able to make restitution to the account within a short grace period, the Society will make application to the Court for an Order under section 42 of the *Law Society Act*.

(Report of Sub-Committee: page 3, item #1; page 9)

3. When at the inception of the audit or investigation it is determined that the trust or estate accounting records are sufficiently deficient or unreliable to the extent that the trust liability reflected in the records and the trust bank account, or estate account, cannot be reconciled, the account will be frozen by voluntary co-signing and,

- (a) the member will be granted up to five working days to update the accounting records and to fully reconcile the trust liability, as shown in the records, to the balances in the related trust or estate bank account(s). Any shortage determined on reconciliation must be eliminated immediately. Those who fail to meet this demand will be granted an extension only with the approval of the Treasurer, Secretary, or Chair or Vice Chair of the Discipline Committee.
- (b) the Society will apply for an Order pursuant to section 42 of the *Law Society Act* with respect to any members who have not satisfied the requirements of (a).

(Report of Sub-Committee: page 3, item #1; page 10)

4. In any instance in which the Society has applied for an Order under the provisions of section 42, the Society will seek appropriate directions from the Court with respect to notification of the beneficiaries of the account in accordance with the circumstances. Such directions might, for example, deal with *de minimus* amounts and methods of contacting clients whose present addresses are unknown.

(Report of Sub-Committee: page 3, item #2; page 10)

5. The Law Society should generally follow the *pro rata* distribution principle approved by the Ontario Court of Appeal in *Re Ontario Securities Commission and Greymac Credit Corp.* (1986), 55 O.R. (2d) 673 for the distribution of residual amounts in a trust account that is in a shortage position. The Court retains discretion to apply the "last in, first out" principle as established in *Devaynes v. Nobel, Clayton's Case* (1816), 35 E.R. 767. Distributions on the basis of this principle should not be made without the approval of the Court.

(Report of Sub-Committee: page 3, item #4; page 11)

6. In appropriate circumstances the Society would apply to the Court pursuant to the *Trustee Act* and the Rules of Civil Procedure, or pursuant to section 42 of the *Law Society Act* if amended as recommended, to permit an interim distribution of frozen trust money. It is important to relieve beneficiaries and reduce prejudice as much as possible by making an early distribution. Proceeding with the sanction of the Court also reduces potential liability.

(Report of Sub-Committee: page 4, item #5)

7. In instances in which the lawyer's trust account is frozen and affected clients require immediate access to trust money, procedures should be established, where possible, to expedite payments from the Lawyers Fund for Client Compensation.

(Report of Sub-Committee: page 4, item #6; pages 12-13)

8. The Society's role should not be considered to extend to attaching or freezing a lawyer's personal assets to afford aggrieved clients the opportunity to satisfy civil judgments. At the same time, the Society should continue with its current practice of advising aggrieved clients of their rights to pursue such actions. The Lawyers Fund for Client Compensation may wish to revisit the possibility of attaching a member's personal assets or appointing a receiver in appropriate circumstances.

(Report of Sub-Committee: page 4, item #7; pages 12-13)

9. The adverse impact of charging trusteeship costs against trust money is recognized. Therefore, in general, the payment of Law Society costs should not be sought when the payment of those costs will create a trust shortage or will further reduce the amount of trust money available for distribution.

In those investigations in which the records are unreliable, clients may be directed to the Lawyers Fund for Client Compensation. In this instance, a reimbursement for costs from the frozen trust money may be sought pursuant to an Order under amended section 42 of the *Law Society Act*, as a distribution to clients will not take place from trust money.

In all other cases, an Order should be sought against the member for the Society's costs.

(Report of Sub-Committee: page 4, item #8; page 14)

10. The issue of the Society's involvement in providing guarantees for borrowings made by law firms to eliminate trust shortages should be referred to the directors of L.P.I.C. for their consideration.

(Report of Sub-Committee: page 4, item #8; page 15)

11. The provisions of section 42 of the *Law Society Act* should be expanded significantly to enable the Court to make Orders to impose restrictions on the member's continued handling of trust funds, to permit the application of the Order against other trust funds of trust property received subsequent to the date of the Order; to deal with future management and disposition of trust property; to permit the appointment of the Society or others as trustee; and to provide for an application for directions of the Court.

Proposed amendments would permit the Society to apply *ex parte* for the appointment of a trustee as is currently the case under section 43. Section 43 is used when the Society seeks to be appointed trustee over the member's entire law practice and not just their trust or estate bank accounts, etc. The circumstances of each case will determine whether it is advisable to proceed with notice under the *Trustee Act* and the Rules of Civil Procedure or *ex parte* under section 42.

(Report of Sub-Committee: page 3, item #3; page 5, item #10; page 17; Appendix 1)

12. The Society should adopt an investigative policy of making a full determination with respect to the allocation of amounts missing from trust accounts among clients. The Society would seek direction of the Court as to the distribution of the residual trust money pursuant to section 42, as it is proposed to be amended, or pursuant to the *Trustee Act* and the Rules of Civil Procedure.

(Report of Sub-Committee: page 5, item #10; page 16)

13. In those circumstances in which the Society is appointed trustee of the member's trust property, pursuant to amended section 42 of the *Law Society Act*, or the *Trustee Act* and the Rules of Civil Procedure, as a result of a trust shortage, it will become responsible for identifying all clients affected by the trust shortage and quantifying the extent of trust shortages to the extent that the solicitor's records and any other available information permit.

(Report of Sub-Committee: page 5, item #11; page 14)



B.  
ADMINISTRATION

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B.1. SOLICITOR-CLIENT PRIVILEGE AND SEARCH WARRANTS

- B.1.1. Your Committee was advised that increasingly, where a search warrant of a lawyer's office is issued, it will specify that a lawyer from the Law Society shall attend on the premises during the execution of the warrant by the police. A recent search warrant read as follows:

A representative of the Law Society of Upper Canada will attend during the execution of the Warrant to Search to act as an observer, to oversee the search and protect the privilege of the clients of the firm.

The warrant further specified the Society's role to be as follows:

Once the files are obtained, each file will be opened and the contents of the file will be viewed by a representative of the Law Society of Upper Canada to determine if the file contains information that a claim of privilege could be expected.

- B.1.2. Your Committee was further advised that in most instances, the lawyer claims privilege on behalf of clients and takes measures to ensure that clients are apprised of their entitlement to advance their claim of privilege as provided for in section 488.1 of the *Criminal Code*.
- B.1.3. Your Committee's advice was sought with respect to those instances in which the lawyer fails to take measures to protect the interests of clients, or is not in a position to do so, with the result that the Attorney General is in a position to apply for the release of the sealed documents without the clients having been informed of the seizure of their files and their opportunity to claim privilege pursuant to the *Criminal Code*.
- B.1.4. Your Committee discussed various concerns arising from this item including, the importance of making submissions regarding the amendment of the *Criminal Code*; the need to enter into negotiations with the Attorney General of Canada and the Attorney General of Ontario with respect to the provisions in search warrants; the role of the Society generally in such searches given such issues as the possible conflict of interest between a solicitor and his or her client in respect of the claiming of privilege; and, the recovery of the Society's costs in relation to such searches.
- B.1.5. Your Committee established a Sub-Committee to (a) study the role of the Law Society in searches of lawyers' offices and (b) determine what should be done in the immediate future in respect of the naming of the Society in search warrants, including commencing discussions with the Attorney General of Ontario and the Attorney General of Canada.

B.2. CRIMINAL AND QUASI-CRIMINAL CHARGES AGAINST MEMBERS

- B.2.1. The Committee was advised that it has come to the attention of the Chair and Vice-Chairs of the Committee during their consideration of requests for the authorization of formal disciplinary action against lawyers that the Society is not advised in all cases of outstanding criminal or quasi-criminal charges laid or convictions entered against lawyers.
- B.2.2. The Committee recommended that discussions be commenced with the offices of the Attorney General of Ontario and the Attorney General of Canada to ensure that all such matters are reported to the Law Society.

C.  
INFORMATION

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C.1. AUTHORIZATION OF DISCIPLINE CHARGES

- C.1.1. Once a month, the Chair and Vice-Chairs of your Committee meet with staff to consider requests for formal disciplinary action against members. The following table provides a summary of Complaints authorized to date in 1995.

Total number of charges authorized to date in 1995	
January	30
February	45
March	45
April	36
May	101
June	45
TOTAL	302

D. Scott  
Chair

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

- Item A.-A.1.2. - Copy of the Report of the Discipline Policy Committee re: Subcommittee Report on Frozen Trust Accounts.  
(marked Attachment A (24 pages))

It was moved by Mr. Scott, seconded by Mr. Cole that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of June 8, 1995

Mr. Murray presented Item B.-5., 6. & 7. re: Suspensions for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June, 1995 at 10:30 a.m., the following Benchers being present: R.W. Murray (Chair), W.M. Adams, K. Carpenter-Gunn, R.W. Cass, P.D. Copeland, C. Curtis, E.S. Elliott, A. Feinstein, N. Finkelstein, P. Furlong, J.D. Harvey, P.B.C. Pepper, H.J. Ross, T.K. Stomp, G.A. Swaye, J.J. Wardlaw and B.H. Wright. Staff in attendance were D.E. Crack, D.N. Carey, L. Johnstone, and M. Strom.

B.  
ADMINISTRATION

1. FINANCIAL REPORT

The Director of Finance presented a highlights memorandum for the General Fund and the Lawyers' Fund for Client Compensation for the ten months ended April 30, 1995.

Approved

2. BANKING RESOLUTION - ERRORS AND OMISSIONS INSURANCE FUND

At the May meeting, a Banking Resolution in the form approved by the Board of Directors of LPIC for the operation of LPIC bank accounts was before the Committee for approval.

The matter was deferred in order to obtain further information about the authorization limits as set out in the draft resolution.

In March 1995, and as a result of a recommendation of the Insurance Task Force, Convocation approved that the Lawyers' Professional Indemnity Company (LPIC) assume the management of all insurance funds including the Society's Errors and Omissions Insurance Fund. The effect of this change has been that all payments of claims, and other costs, are now made directly by LPIC rather than the E & O fund as had previously been the case. The Society's obligation is to reimburse LPIC from the Errors and Omissions Insurance fund for the Society's share of claims obligations (ie. the group deductible portion). In addition, payments will be made for GST and PST charged on levies and the premium on the insurance policy between LPIC and the Society. These reimbursements are paid from time to time with transactions being "grouped" in order to reduce the number of the payments made. The result is that there will be in the order of 20 - 25 cheques per month, each of which will generally be in excess of the current signing authorities provided under the Law Society's banking resolution for the E & O fund. Those signing authorities are:

up to \$10,000	one of the Director of Finance, Deputy Director of Finance, Under Treasurer, Secretary, Deputy Secretary or Benchner
\$10,000 to \$25,000	one of the above plus the Under Treasurer
over \$25,000	one of the above plus one Benchner (Chair or member of the Finance and Administration Committee)

It is requested that the signing authorities for the Errors and Omissions Insurance fund of the Law Society be the same as the signing authorities for LPIC as follows:

up to \$100,000	one of the President, Chief Financial Officer, Vice President of Claims or Director of company.
over \$100,000	any two of the above

It was resolved that the signing authorities on the Errors and Omissions Insurance fund of the Law Society be any two of the President, Chief Financial Officer, Vice President of Claims or Director of the company for all cheques.

Approved

3. \$100,000 LEGAL EDUCATION BURSARY

In April 1995, Convocation approved that \$100,000 of the surplus in the General Fund be used for bursaries for needy students.

In a letter dated May 12, 1995, Philip Epstein, Chair of the Legal Education Committee, requests that the funds be released so that a separate fund can be established to earn interest until the funds are distributed.

The Committee was asked to consider whether, in authorizing the \$100,000 amount, it was intended that interest be earned to the credit of the separate fund.

Denied

4. REQUEST FOR CARRY FORWARD OF FUNDS

A request from the Women in the Legal Profession Committee to carry forward funds in a sum of up to \$25,000 was put over from the May meeting.

Mr. Paul Copeland, Chair of the Women in the Legal Profession Committee, addressed the Committee.

The Committee was asked to consider this request.

Denied

Note: Motion, see page 299

5. SUSPENSION OF A MEMBER - ARREARS OF ANNUAL FEES

There is a member who has not paid all of her 1994/95 annual fee of which the second instalment was due January 1, 1995. Two notices have been sent.

The Committee was asked to recommend that the rights and privileges of this member be suspended by Convocation on June 23, 1995 if the annual fee remains unpaid on that date.

Approved

Note: Item deleted

6. SUSPENSION OF MEMBERS - LATE FILING FEE

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

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

The Committee was asked to recommend that the rights and privileges of these members be suspended on June 23, 1995 if the late filing fee remains unpaid on that date.

Approved

Note: Motion, see page 298

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

There are members who paid their Annual Fees or their Errors and Omissions Insurance levies with cheques which were subsequently dishonoured by the bank.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on June 23, 1995 if the fees or levies remain unpaid on that date.

Approved

Note: Motion, see page 298

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C.  
INFORMATION

1. LEGAL MEETINGS AND ENTERTAINMENT

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

June 2 & 3, 1995	Westminster Institute Convocation Room and Small Dining Room
June 3, 1995	Law and Society Association Meeting Convocation Hall
June 7, 1995	Public Trustee Meeting Museum Room

23rd June, 1995

June 15, 1995	Pollution Probe Meeting Convocation Hall
June 22, 1995	Smith, Lyon Reunion Convocation Hall and Barristers Lounge
June 28, 1995	Osgoode Alumni Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1995

R. Murray  
Chair

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

- Item B.-1. - Copy of Memorandum from Mr. David Crack to the Chair and Members of the Finance and Administration Committee dated June 8, 1995 re: April 1995 Financial Statement Highlights Projection to June 30, 1995. (pages 4 - 9)
- Item B.-2. - Copy of a Banking Resolution (Certificate and Agreement) for the operation of LPIC bank accounts. (pages 10 - 14)
- Item B.-3. - Copy of letter from Mr. Philip Epstein to Mr. David Crack dated May 12, 1995 re: \$100,000.00 Legal Education Bursary. (page 15)
- Item B.-4. - Copy of Memorandum from Mr. Andrew Brockett to Mr. David Crack dated April 21, 1995 re: Women in the Legal Profession Committee: carry forward of funds from 1994-1995 budget. (page 16)

The Chair asked that Item B.-5. be deleted.

It was moved by Mr. Murray, seconded by Mr. Finkelstein THAT the rights and privileges of each member who paid the Annual Fees or the Errors and Omissions Insurance Levy with cheques which were subsequently dishonoured by the bank and whose name appears on the attached list be suspended from June 23, 1995 and until the necessary fee or levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

It was moved by Mr. Murray, seconded by Mr. Finkelstein 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 June 23, 1995 and 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)

23rd June, 1995

It was moved by Mr. Murray, seconded by Mr. Finkelstein that the Report as amended be adopted with the exception of Item B.-4.

Carried

ITEM B.-4. RE: REQUEST FOR CARRY FORWARD OF FUNDS

Mr. Copeland presented the Women in the Legal Profession Committee's request to carry forward funds in a sum of up to \$25,000 in order that an expert consultant could be retained to study changes in the legal profession since the publication of the Transitions Report in 1991.

It was moved by Mr. Copeland, seconded by Ms. Curtis that Convocation approve the carrying forward of \$25,000 of unspent research funds.

Carried

ROLL-CALL VOTE

Aaron	For
Adams	For
Armstrong	For
Bobesich	Against
Carey	For
Carpenter-Gunn	For
Cole	For
Copeland	For
Curtis	For
Eberts	For
Epstein	For
Feinstein	For
Finkelstein	For
Gottlieb	For
Goudge	For
Harvey	Against
Lax	For
MacKenzie	For
Millar	For
Murphy	For
Murray	For
S. O'Connor	For
Puccini	For
Richardson	For
Ross	For
Sealy	For
Stomp	For
Swaye	For
Thom	Against
Wright	Against

THE REPORT AS AMENDED WAS ADOPTED

23rd June, 1995

NOTICE OF MOTION

The following Notice of Motion is to be brought before Convocation in September 1995.

MOVED BY: Philip Epstein

SECONDED BY: Mary Eberts

THAT Convocation reconsider its position in regard to supporting government initiatives to use licensing requirements to enforce family support orders.

MOTION - COMMITTEE APPOINTMENT

It was moved by Mr. Epstein, seconded by Mr. Copeland that Mr. Carey and Ms. Ross continue as members of the Legal Aid Committee until the reconstitution of the Standing Committees.

Carried

ORDERS

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Raymond Vincent Donohue, of the City of Sarnia, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of December, 1993, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Raymond Vincent Donohue be reprimanded in Convocation and pay costs in the amount of \$2,500.00.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed



23rd June, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 3rd day of March, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Oscar Jan Mullerbeck be Reprimanded in Convocation and that he pay costs in the amount of \$1,000.00.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Donald John Cosway, of the City of Scarborough, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 16th day of March, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

23rd June, 1995

CONVOCATION HEREBY ORDERS that Donald John Cosway be suspended for a period of one (1) month, such suspension to commence on the 1st day of July, 1995.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Christophe Marc Cloutier, of the City of Gloucester,  
a Barrister and Solicitor  
(hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 11th day of January, 1995, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Christophe Marc Cloutier be suspended for a period of eight months, such suspension to commence on the termination of his administrative suspension.

DATED this 23rd day of March, 1995

"C. McKinnon"  
Acting Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

23rd June, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Stephen John Kennedy, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 3rd day of March, 1995, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Stephen John Kennedy be granted permission to resign.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF David Michael Pomer, of the Town of Woodbridge, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 17th day of March, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

23rd June, 1995

CONVOCATION HEREBY ORDERS that David Michael Pomer be Reprimanded in Convocation.

DATED this 27th day of March, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 23rd day of March, 1995, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

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

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

23rd June, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Jeffrey Bernard Merriman, of the Town of Haileybury, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 17th day of March, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Jeffrey Bernard Merriman be suspended for a period of twelve (12) months with the Solicitor's right to return to practise being conditional on fulfilling the following requirements:

- (a) that he provide a report from his treating psychologist, Dr. Phillips, or psychiatrist, Dr. Collins, confirming that he is capable of returning to the practice of law;
- (b) that if at the time of the giving of the opinion referred to above it is Dr. Phillips'/Dr. Collins' professional opinion that the Solicitor requires further psychotherapy that the Solicitor undertake to attend such treatment and authorizes Dr. Phillips/Dr. Collins to report to the Society any premature termination of such treatment;
- (c) that upon his return to practise the Solicitor practise under the supervision of another solicitor for a period of two years;
- (d) that in regard to condition (c) above, the supervising solicitor must be fully advised of these complaints and the Report of the Committee and sign an Acknowledgement that they will report any concerns regarding the Solicitor's ability to practice to the Society;
- (e) that if at the conclusion of the two year period in (c) and (d) above, the Solicitor elects to commence sole practice, he be required to enrol in and co-operate with the Practice Review Program of the Professional Standards Department;
- (f) that he reply to the complaint of Ms. Wellard before the date of Convocation;

23rd June, 1995

(g) that he be required to pay the Society's costs in the amount of \$2,000.00 payable over the period of a year commencing on May 1, 1995.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 14th day of February, 1995, in the presence of Counsel for the Society and the Solicitor being in attendance wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Peter David Clark be suspended for a period of eight (8) months and if the following conditions are not satisfied within the eight (8) month period, the suspension to continue thereafter until the following conditions are satisfied:

1. the Solicitor make all filings to the Law Society.
2. the Solicitor make available to the Law Society adequate books and records for audit.
3. the Solicitor immediately deliver the DAR file to Mr. Perrier.
4. the Solicitor satisfy Senior Discipline Counsel of the Law Society that he is psychologically fit to continue the practice of Law. If the Solicitor disagrees with the decision of the Senior Discipline Counsel, this matter will be referred to a Committee of Convocation.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

23rd June, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 21st day of March, 1995, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid:

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

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Ian Douglas Knoll Henderson, of the City of Brampton, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 23rd day of February, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

23rd June, 1995

CONVOCATION HEREBY ORDERS that Ian Douglas Knoll Henderson be suspended for a period of two (2) months, such suspension to commence the 1st day of July, 1995 and that he pay costs in the amount of \$2,500.00.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Murray Herman,  
of the Town of Thornhill, a Barrister  
and Solicitor (hereinafter referred  
to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of March, 1995, in the presence of Counsel for the Society, the Solicitor and Duty Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Murray Herman be suspended for a period of two (2) months, that he continue his participation in the Practice Review Program, that he file monthly trust reconciliations with the Law Society for a period of two years, said reconciliations to commence at the time that he will be permitted to do so in light of his recent declaration of Bankruptcy, that he pay the Law Society's costs in the amount of \$2,500.00 and that he undertake to prepare and deliver a file list and that he implement a file tickler system in his office by March 15, 1995.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed



23rd June, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of March, 1995, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that David Samuel Hovland be reprimanded in Convocation and pay costs in the amount of \$250.00.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 14th day of February, 1995, in the presence of Counsel for the Society, the Solicitor and Duty Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

23rd June, 1995

CONVOCATION HEREBY ORDERS that Stephen Walter Junger be suspended for a period of one (1) month, such suspension to commence on the 16th day of June, 1995 and that he pay costs in the amount of \$1,500.00.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Paul Francis O'Neill, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Decision of the Discipline Committee dated the 14th day of April, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Paul Francis O'Neill be reinstated on the following conditions:

1. The Solicitor maintain on a current basis the books and records for his law practice as required by section 15 of Regulation 708 made under the Law Society Act.
2. The Solicitor make all filings as required by section 16 of Regulation 708 made under the Law Society Act within the time period prescribed by that section.
3. The Solicitor submit monthly trust bank reconciliations for all his trust accounts to the Law Society, as well as submit monthly general bank reconciliations for his general bank account no later than 20 days after the end of each particular month, such submissions to continue for 36 months from the date of reinstatement, if he operates a trust account and general bank account for his law practice.
4. The solicitor inform his accountant/bookkeeper in writing of his obligations to the Law Society concerning maintenance and updating of his books and records.

23rd June, 1995

5. The solicitor operate newly established trust bank accounts and general bank accounts, should he re-establish a law practice.

DATED this 27th day of April, 1995

"P. Lamek"  
Treasurer

"R. Tinsley"  
Secretary

(SEAL - The Law Society of Upper Canada)

Filed

CONVOCATION ROSE AT 3:00 P.M.

Confirmed in Convocation this *29* day of *September*, 1995

  
Treasurer