

24th March, 1995

MINUTES OF CONVOCATION

Friday, 24th March, 1995
9:00 a.m.

PRESENT:

The Treasurer (Paul S. A. Lamek), Arnup, Bastedo, Blue, Bellamy, Bragagnolo, Brennan, Carey, Carter, R. Cass, Copeland, Cullity, Curtis, Elliott, Epstein, Finkelstein, Goudge, Graham, Krishna, Lamont, Lax, Legge, McKinnon, Mewett, Murphy, Murray, O'Brien, S. O'Connor, Palmer, Peters, Richardson, Ruby, Scace, Sealy, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.

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The reporter was sworn.

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IN PUBLIC

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ELECTION OF BENCHER

It was moved by Mr. Yachetti, seconded by Ms. Sealy THAT Alan W. Mewett be elected a Bencher to fill the vacancy resulting from the appointment to the Bench of Madam Justice Frances Kiteley.

Carried

MOTION TO HAVE CONVOCATION RE-HEAR DISCIPLINE MATTER

Re: George FLAK - Toronto

Ms. Christina Budweth appeared for the Society and Mr. J. Freedman appeared for the applicant.

Ms. Legge withdrew for this matter.

Mr. Cullity did not participate but remained in Convocation as a member of the public.

The Treasurer reviewed the initial question regarding the jurisdiction of Convocation to deal with the application.

Mr. Freedman made submissions on the initial question of jurisdiction.

Ms. Budweth made no submissions on this point.

Convocation was satisfied that it had jurisdiction to hear the matter. Mr. Freedman was asked whether he objected to the participation of the original panel or the members of Special Convocation who heard the Flak matter.

Mr. Freedman did not object to the members of the original panel being present but did object to the participation of those who were part of the Special Convocation.

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Messrs. Bastedo, Carter, Copeland, Brennan, Thom, Topp and Arnup and Ms. Peters withdrew for this matter.

The Treasurer withdrew and Mr. Epstein took over as Chair.

Mr. Freedman had no objection to Mr. Strosberg participating. Mr. Strosberg was the Chair of Discipline at the time the Complaint was authorized.

Mr. Freedman made submissions on the quorum requirements that 10 Benchers must be present and entitled to vote. The issue was the Treasurer and whether he or she counted for purposes of quorum requirements.

Ms. Budweth made submissions referring to section 14 of the Law Society Act and the affidavit of Richard Tinsley.

There were questions from the Bench.

Mr. Freedman made brief submissions in reply.

Counsel, the public and the reporter withdrew.

It was moved by Mr. Strosberg, seconded by Ms. Lax that Convocation requires 10 Benchers present and entitled to vote and that that number excludes the Chair of Discipline and the Treasurer.

Mr. Strosberg made an amendment to his motion, seconded by Ms. Lax that in the particular circumstances of this case Convocation should grant the solicitor a re-hearing in Convocation.

Carried

Mr. Blue abstained from voting.

Counsel, the public and the reporter were recalled and informed that the decision of Special Convocation on October 26, 1994 that Mr. Flak be disbarred be null and void and that the disposition of the Discipline Complaint be determined pursuant to a fresh hearing before Convocation.

CALL TO THE BAR

The Treasurer returned to Convocation and advised that 17 candidates were called to the Bar and taken by Mr. Lamont before Mr. Justice J. D. Ground to sign the Rolls and take the necessary oaths.

Dina Alyse Appleton	36th Bar Admission Course
Moorsaleen Kaiyume Baksh	36th Bar Admission Course
Amado F. Cabanela	36th Bar Admission Course
Arnold Grove Kar-Nok Chan	36th Bar Admission Course
Romeo D'Ambrosio	36th Bar Admission Course
Frederick John Durdan	36th Bar Admission Course
Helen Florentis	36th Bar Admission Course
Monica Helen Martius Franklin	36th Bar Admission Course
Susan Mabel Hare	36th Bar Admission Course
Deirdre Joan Hilary	36th Bar Admission Course
David Auston Mercury	36th Bar Admission Course
Aaron Leslie Moscoe	36th Bar Admission Course
Yael Reboh	36th Bar Admission Course
Marie Denyse Ginette Souigny	36th Bar Admission Course
Paul Michael Van Coeverden De Groot	36th Bar Admission Course
Tyler Alfred James Woods	36th Bar Admission Course
Joseph Arthur Pollock	Special, Transfer, Manitoba

Convocation took a brief recess at 10:50 a.m. and resumed at 11:00 a.m.

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

It was moved by Mr. Yachetti, seconded by Mr. Ruby THAT the Reports listed in paragraph 5 of the Agenda (Reports to be taken as read) be adopted.

Carried

Admissions and Membership (2 Reports)
Clinic Funding
County and District Liaison
Discipline Policy
Draft Minutes - February 1995
Equity in Legal Education and Practice
Finance and Administration
French Language Services
Investment
Lawyers Fund for Client Compensation
Legal Aid
Legal Education (Item C.-C.4 amended)
Legislation and Rules (Item B.-B.2. withdrawn)
Libraries and Reporting (Public Report)
Professional Conduct
Professional Standards
Research and Planning
Specialist Certification Board
Unauthorized Practice

COMMITTEE REPORTS

ADMISSIONS AND MEMBERSHIP COMMITTEE

Meetings of March 9 and 23, 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 9th of March, 1995 at 9:30 a.m., the following members being present: Mr. Lamont (V. Chair), Mrs. Weaver, Ms. Moliner and Mr. Murphy.

Also present: M. Angevine, A. Treleaven and P. Gyulay

B.

ADMINISTRATION

B.1. EXAMINATION RESULTS - TRANSFER EXAMINATION

B.1.1. The following candidate has completed successfully the January 1995 transfer examination:

Joseph Arthur Pollock

Province of Manitoba

Noted

24th March, 1995

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

B.2.1. Bar Admission Course

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, March 24th, 1995:

Dina Alyse Appleton
Natalka Nella Cassano
Romeo D'Ambrosio
Frederick John Durdan
Helen Florentis
Monica Helen Martius Franklin
Aaron Leslie Moscoe
Paul Michael Van Coeverden De Groot

Approved

B.2.2. The following candidates expect to have successfully completed the 36th Bar Admission Course by the week of March 20th, 1995 and ask to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, March 24th, 1995:

Susan Mabel Hare
Deirdre Joan Hilary
Sharon Lyne Layton
David Auston Mercury
Marie Denyse Ginette Souigny
Tyler Alfred James Woods

Your Committee recommends that these applications be approved conditional upon the candidates successfully completing the course, filing the necessary documents and paying the required fee prior to March 24th, 1995.

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

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, March 24th, 1995:

Joseph Arthur Pollock Province of Manitoba

Approved

B.3. MEMBERSHIP UNDER RULE 50

(a) Retired Members

B.3.1. 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:

24th March, 1995

Norman Eugene Balfour	Uxbridge
Mary Agnes Bennett	Toronto
John Montgomrey Bolton	North York
William Grant Brooks	Bewdley
James Harold Brown	Ottawa
John Joseph Culina	Sault Ste. Marie
Allan Goldstein	Scarborough
John Stewart Farquharson	Toronto
John Harvey Ham	Oakville
William Arleigh Hillman	Oshawa
Joseph Herman Konst	Ottawa
John Barker Lawson	Toronto
*Colin Simpson Lazier	Hamilton
David Ireland McWilliams	Windsor
Norman MacLeod Rogers	Toronto
Samuel Harry Starkman	North York
Louis Albert Tureck	Toronto
Granville Patrick Harcourt Vernon	Toronto
Charles Jamieson Watt	Fort Frances

* See also Membership Restored

(a)(ii)

Donald James Hamilton of London was called to the Bar on September 16, 1960. He ceased practising law effective September 30, 1994 and has submitted his application under Rule 50. There is however, a matter which will be before Discipline on March 15, 1995 (see attached). Mr. Hamilton has asked for an adjournment on this matter.

Approved

B.3.2. (b) Incapacitated Members

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:

Peter Richard Hughes	Ottawa
Barrie Rubin	Windsor
Peter Gordon Dalton Swan	Kingston

Approved

B.4. RESIGNATION - REGULATION 12

B.4.1. The following members have applied for permission to resign their memberships in the Society and have submitted Declarations/Affidavits in support. These members have requested that they be relieved of publication in the Ontario Reports.

- (a) Wallace Edward Bryan of Thunder Bay, was called to the Bar on April 19, 1963. He declares that he has engaged in the practice of law for thirty two years. All trust funds for which he was responsible have been accounted for, and paid over to the persons entitled thereto. All matters have been completed and disposed of, or arrangements made accordingly. He is not aware of any claims made against him. The second instalment of the 1994/95 annual fees is owing. His annual filings are up to date.
- (b) John William Burton of Goodwood, was called to the Bar on April 10, 1981. Upon his call, he practised with the firm Steinberg, Friedman and Michael until December 31, 1984. He was then employed by the Province of Ontario from January 1, 1985 until August 31, 1991. On September 1, 1991 he began full-time employment with the United Church of Canada. It is his intention to act as a minister of the church and not to practise law in any capacity. He has never handled any trust funds other than as an employee of the firm. All matters have been completed prior to his departure from the firm. He is not aware of any claims made against him. His annual filings are up to date.

Note: Item (b) deleted

- (c) John Charles Christie of Toronto, was called to the Bar on March 22, 1991. He declares that he practised continuously until December 31, 1994. He practised in partnership with Sandra Antoniani. All matters have been completed and disposed of accordingly. Any matters not yet completed have been taken over by Ms. Antoniani. All papers have been returned to clients or turned over to Ms. Antoniani. He is not aware of any claims made against him. The Errors and Omissions Insurance 1994 Supplementary levy is owing. His annual filings are up to date.
- (d) Adam Peter Francis Cumyn of London, United Kingdom, was called to the Bar on October 21, 1977. He states in his affidavit that he has never practised law in Ontario except for the years 1996 and 1967 when he was employed in Ottawa by the Department of Justice. He has not handled trust funds or property in Ontario. He is not aware of any claims made against him. He is now employed in business and has no reason for being a lawyer in Ontario. His rights and privileges as a member were suspended on November 1, 1994 for non-payment of the annual fee. These fees are still owing. His annual filings are up to date.
- (e) Peter Douglas Hewett Hall of Perth, was called to the Bar on March 26, 1965. He declares that he was a member of the Canadian Armed Forces, Office of the Judge Advocate General, from May 1986 until April 17, 1972. Since April 17, 1972 he has not engaged in the practice of law. He is not aware of any claims made against him. He has never handled or been responsible for trust funds. His rights and privileges as a member were suspended on April 21, 1972 for non-payment of the annual fee. These fees are still owing. His annual filings are up to date.

24th March, 1995

- (f) Edward Gokjee Wong of Vancouver, British Columbia was called to the Bar on March 22, 1991. He declares that upon his call, he practised with the firm McMillan Binch. He ceased practising law in Ontario on May 16, 1994. All matters were completed or arrangements made accordingly, prior to his departure from the firm. He is not aware of any claims made against him. He is now practising law in British Columbia. The Errors and Omissions Insurance 1994 Supplementary levy is owing, along with the second instalment of the 1994/95 annual fees. His annual filings are up to date.
- (g) Donald Roy Neilson of Hanover, was called to the Bar on June 25, 1959. He states that he ceased practising law on December 31, 1994. All monies in his trust account has been accounted for and paid out to those entitled. He has not handled trust funds since December 31, 1994. All matters relating to clients have been completed. He is not aware of any claims made against him. His annual filings are up to date.
- (h) Jeanette Elizabeth Hlinka of Toronto, was called to the Bar on April 6, 1983. She declares that she practised as an associate with the firm Blake, Cassels & Graydon. Later, she practised as an associate and partner of Irwin Schwartz. She has not practised law or handled trust funds since January 1, 1988. At the time she ceased practising law, all matters were completed and disposed of accordingly. She has no intentions of practising law in the future. She is not aware of any claims made against her. The second instalment of the 1994/95 annual fees is owing. Her annual filings are up to date.
- (i) Frank Hardy Brown of Nepean, was called to the Bar on April 8, 1976. He declares that he practised law for 18 1/2 years until December 1994. All trust funds and matters have been accounted for, and completed accordingly. He is not aware of any claims made against him. The Errors and Omissions Insurance levy for the July to December 1994 period, the 1994 Supplementary levy and the second instalment of the 1994/95 annual fees are still owing. His annual filings are up to date.

Approved

C.
INFORMATION

C.1. CHANGES OF NAME

<u>From</u>	<u>To</u>
Suzanne Elizabeth <u>Dingwall</u>	Suzanne Elizabeth <u>Dingwall Williams</u> (Marriage Certificate)
Lucienne <u>Daniels</u>	Lucienne <u>MacLauchlan</u> (Marriage Certificate)

Noted

24th March, 1995

C.2. MEMBERSHIP RESTORED

The following member gave notice under section 31 of The Law Society Act that he ceased to hold judicial offices and wish to be restored to the Rolls of the Law Society.

Effective date:

* Colin Simpson Lazier
(Ontario Court of Justice)

February 10, 1995

* See also Membership under Rule 50

Noted

C.3. ROLLS AND RECORDS

(a) Deaths

C.3.1.

The following members have died:

Wilferd Gordon Toronto, ON	Called November 21, 1935 Died August 1, 1994
Jack Klafer Wahl Toronto, ON	Called September 18, 1930 Died December 21, 1994
Milton Erele Armstrong Ottawa	Called June 18, 1936 Died December 21, 1994
John James Robertson Brampton, ON	Called September 14, 1951 Died December 28, 1994
Maureen Cooper Willowdale, ON	Called April 11, 1980 Died December 30, 1994
Douglas Albert Berlis Toronto, ON	Called June 29, 1949 Died January 5, 1995
Bernard James Davies Edmonton, AB	Called October 19, 1973 Died January 17, 1995
John Ryan Sudbury, ON	Called June 23, 1955 Died January 30, 1995
John Wilkes Cram London, ON	Called June 29, 1949 Died February 3, 1995
Leonard Edwin Wratten Toronto, ON	Called June 26, 1953 Died February 3, 1995

Noted

C.3.2.(b) Membership in Abeyance

Upon their appointments to the offices shown below, the memberships of the following members have been placed in abeyance under Section 31 of The Law Society Act:

24th March, 1995

Peter Augustus John Harris
Toronto

Called March 20, 1975
Appointed to Ontario Court of
Justice
January 31, 1995

Joseph Roheo Gilles Renaud
Cornwall

Called April 13, 1983
Appointed to Ontario Court of
Justice
(Provincial Division)
February 13, 1995

Noted

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

C. Campbell
Chair

Item B.-B.4.1. re: John William Burton was deleted.

THE REPORT AS AMENDED WAS ADOPTED

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 23rd of March, 1995, the following members being present: Mr. Lamont (V. Chair), Mrs. Weaver, and Messrs. Bragagnolo and Carter.

Also present: M. Angevine

B.
ADMINISTRATION

B.1. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.1.1. Bar Admission Course

B.1.2. 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, March 24th, 1995:

24th March, 1995

Moorsaleen Kaiyume Baksh
Amado F. Cabanela
Arnold Grove Kar-Nok Chan
Yael Reboh

Approved

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

C. Campbell
Chair

THE REPORT WAS ADOPTED

CLINIC FUNDING COMMITTEE

Meetings of February 21 and March 8, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CLINIC FUNDING COMMITTEE begs leave to report:

Your Committee met on February 21, 1995 via conference call. Present were: Joan Lax, Chair, Ian Blue, Gordon Wolfe, Pamela Mountenay-Giffin, members. Also present: Joana Kuras, Clinic Funding Manager. The Committee met again on March 8, 1995. Present were: Joan Lax, Chair, Gordon Wolfe, Pamela Mountenay-Giffin, Mark Leach. Also present: Joana Kuras, Clinic Funding Manager.

A.
POLICY

A.1 Advisory Group

The Clinic Funding Committee has established an Advisory Group of clinic staff and Board members to provide a consultation mechanism and to initiate a strategic planning process for the community legal clinic system. Following a three-year operational review, the Advisory Group will help ensure appropriate and effective consultation as competing priorities are assessed. The 10-member Advisory Group has been appointed for a two-year term and will meet on April 4, 1995 for the first time.

B.
ADMINISTRATION

B.1 Budget Estimate - Pursuant to the clinic funding Regulation, the Clinic Funding Committee is required to submit to Convocation an estimate of the monies required for the community legal clinic system for the next year. The monies required are designated by the Attorney General and administered by the Clinic Funding Committee. The Government of Ontario approved funding in 1994/95 for the community legal clinic system in the amount of \$32,377,462, and the Clinic Funding Committee has submitted an estimate for 1995/96 in the same amount.

B.2 Public Legal Education/Outreach Funds - The Clinic Funding Committee is the recipient of funds from the Department of Justice Access to Legal Information Fund to provide public legal information services in Ontario. These funds can only be used for production and distribution of legal information materials by Community Legal Education Ontario, and other individual clinic projects. The Clinic Funding Committee recommends Convocation's approval of up to \$129,020.40, for individual projects set out in Schedule A, and \$26,979.58 for Community Legal Education Ontario.

B.3 The Clinic Funding Committee recommends Convocation's approval of funding allocations, as follows:

Legal Disbursements - up to \$371,500 set out in Schedule B.

Capital Purchases - up to \$247,529 for replacement equipment, security systems, computers, workstations, software and hardware and miscellaneous office equipment.

Summer Students - up to \$335,000, pending designation of the 1995/96 budget by the Attorney General:

Correctional Law Project (4)	\$ 28,000
Parkdale Community Legal Services (20)	\$139,000
Legal Assistance of Windsor (12)	\$ 84,000
Kensington-Bellwoods Community Legal Services (12)	\$ 84,000

Personnel and Operating Funds - up to \$249,739

Community Legal Services (Ottawa-Carleton)	\$ 31,000
Flemingdon Community Legal Services	\$ 5,350
Neighbourhood Legal Services (London & Middlesex)	\$ 31,000
African Canadian Legal Clinic	\$182,389

B.3 Incorporation

B.3.1 Legal Assistance Kent

Pursuant to the direction of Convocation, the Clinic Funding Committee has reviewed, as to name and objects, an application for incorporation from the above-named clinic. The Committee recommends Convocation's approval of this application.

24th March, 1995

C.
INFORMATION

C.1 Meeting with Clinic Representatives

Joan Lax and Mark Leach met with clinic Executive Directors at the annual two-day management training provided by clinic funding staff on March 2, 1995. Joan Lax, Ian Blue and Mark Leach met with the Metro Toronto Association of Legal Clinics at their two-day training conference on March 7, 1995.

ALL OF WHICH is respectfully submitted

J. Lax
Chair, Clinic Funding Committee

March 9, 1995

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

Item B.-B.2 - Copy of Special Legal Education/Outreach Projects 1994/95.
(Schedule A)

Item B.-B.3 - Copy of Legal Disbursement Funds - March, 1995.
(Schedule B)

THE REPORT WAS ADOPTED

COUNTY AND DISTRICT LIAISON COMMITTEE

Meeting of March 9, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE COUNTY & DISTRICT LIAISON COMMITTEE begs leave to report:

The Committee met on Thursday, the 9th of March, 1995 at 11:30 a.m., the following members being present: R. Topp (Chair), T. Carey and D. Murphy. The following members of the County and District Law Presidents' Executive were in attendance: R. Gates, J. Morissette, D. DiGiuseppe, R. Sonley, D. Lovell, D. Sherman, M. Hornseth, L. Eustace and J. McKay.
Staff in attendance was: M. Angevine.

1. Budget

The Committee discussed the proposed budget for 1995/96 and it was agreed that the CDLPA Executive will provide additional supporting material.

24th March, 1995

2. Cross Border Practice - Manitoba/Ontario

There was a discussion of the problem of Manitoba lawyers (who are also members of the Ontario bar) engaging in real estate practice in Ontario while claiming exemption from the E & O levy in Ontario. The Chair has written to Harvey Strosberg, Chair of LPIC, and Malcolm Heins, President of LPIC, regarding this issue and Mr. Heins is taking steps to address the problem.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

R. Topp
Chair

THE REPORT WAS ADOPTED

DISCIPLINE POLICY COMMITTEE

Meeting of March 9, 1995

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 9th of March, 1995 at 1:30 in the afternoon, the following members being present:

D. Scott (Chair), D. Bellamy (Vice-Chair), D. O'Connor (Vice-Chair), N. Graham, D. McPhadden, M. Moliner, P. Peters, S. Thom and M. Weaver were present.

M. Brown, J. Yakimovich, S. Kerr, G. Macri, D. Robertson and J. Brooks also attended.

A.
POLICY

No items.

B.
ADMINISTRATION

B.1. Report of the Discipline Organizational Change Sub-Committee

B.1.1. Marie Moliner, Chair of the Discipline Organizational Change Sub-Committee, presented the Report of the Sub-Committee. Scott Kerr addressed the Committee on issues considered in the Report and, in particular, the recommendations of the Sub-Committee.

24th March, 1995

- B.1.2. The Sub-Committee was formed to address the operations and linkages between the four Law Society departments responsible for complaints investigations, discipline and standards. The Sub-Committee's mandate was to explore ways of improving service in the areas of the production of investigative reporting in the discipline process and the reconciliation of investigative functions of the Audit & Investigation and Complaints Departments.
- B.1.3. The Sub-Committee began its task by evaluating the operations of the Complaints Department and, while the Sub-Committee's task is ongoing, it was in a position to propose certain changes to the procedures used by the Complaints Department.
- B.1.4. In its Report, the Sub-Committee outlined the current procedures of the Complaints Department and recommended the approval of a revised procedure for investigating potential discipline cases.
- B.1.5. The proposal calls for the establishment of a "Discipline Investigations Unit" within the Complaints Department. The Sub-Committee was of the view that the restructuring the Complaints Department would best meet its mandate of maximizing efficiency and performance while minimizing the risk of disruption of other related investigative operations in the Audit & Investigations Department. The Sub-Committee's Report provided a proposed mandate and summary of responsibilities of the Discipline Investigations Unit.
- B.1.6. Following discussion, the Committee approved the recommendation of the Sub-Committee that a Discipline Investigations Unit, as outlined by the Sub-Committee, be established within the Complaints Department.

C.
INFORMATION

C.1. Authorization of Discipline Charges

- Cl.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 in

Total number of charges authorized to date in
1995

January	30
February	45
March	45
TOTAL	120

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

D. Scott
Chair

THE REPORT WAS ADOPTED

DRAFT MINUTES - February 8, 23 and 24, 1995

(Draft Minutes in Convocation file)

THE DRAFT MINUTES WERE ADOPTED

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of March 9, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 9th of March, 1995, the following persons being present: Marie Moliner (Chair), Dennis O'Connor, Shirley O'Connor, Nora Richardson, André Chamberlain, Patricia Hennessy, Marilyn Pilkington, Jocelyn Churchill and Alexis Singer.

C.
INFORMATION

C.1 Rule 28 - Bulletin Status

C.1.1 The Chair reported that the "Recruitment and Hiring" bulletin was approved by Convocation on February 24, 1995. The Chair advised that Convocation has approved, in principle, all future bulletins to be distributed assuming that the extensive committee consultation system employed prior to the release of the "Recruitment and Hiring" bulletin is followed.

C.1.2 The committee received a draft of the bulletin, "Avoiding Discrimination in the Law Firm", which is meant to be the initial bulletin to be distributed to the profession. The committee agreed that this bulletin requires revision before being released to the profession. If it is not ready by the end of April 1995, the committee has agreed that the bulletin on "Recruitment and Hiring" will be distributed as the first bulletin in the series.

C.2 Committee Composition

C.2.1 The committee has agreed that it should expand its membership in order to be responsive to issues as they arise. From time to time this committee will advise Convocation when it is expanding the committee composition to look at the current issues.

C.2.2 The committee agreed that the current process for appointing non-bencher members to committees does not fulfil the requirements for the Equity in Legal Education and Practice Committee. Therefore, if this system for appointing non-bencher members is to continue, the Equity in Legal Education and Practice Committee has agreed that it should continue to be exempt from such process.

- C.2.3 The committee discussed the possibility of having an annual or semi-annual meeting follow-up report to invite various groups with interest in the Equity in Legal Education and Practice Committee to become acquainted with what the committee does, to inform the committee's agenda and to be engaged in working groups to deal with specific issues.
- C.2.4 The committee discussed the possibility of the Equity in Legal Education and Practice Committee being made up of two subcommittees - one subcommittee on education which would include representation from student groups and one subcommittee for practice which would include members of the legal profession from large firms, small firms and sole practitioners as well as members who practise inside and outside of Metropolitan Toronto.
- C.2.5 The committee agreed that the Chair should provide a list of criteria for membership on the Equity in Legal Education and Practice Committee to the Treasurer so that the Treasurer could keep these criteria in mind when selecting benchers to sit on the Equity in Legal Education and Practice Committee.
- C.2.6 The committee also agreed that the issue of how to communicate with groups which have an interest in the Equity in Legal Education and Practice Committee would be examined.
- C.3 Meeting with the Legal Education Committee Articling Subcommittee
- C.3.1 The Chair reported on her meeting with the Chair of the Articling Subcommittee and observed that the profession cannot be forced to hire articling students. Various options were examined as possible incentives including the incentive program created through the Law Society of England and Wales, whereby, providing an equal opportunity for employment is one of the things considered in approval of articling principals.
- C.3.2 The committee discussed possible employer assistance programs. One such program exists in Northern Ontario where employers hiring applicants for their first jobs are entitled to a grant of 50% of their salary or if the person being hired is Aboriginal, the employer is entitled to 75% of the salary. It was suggested that Federal and Provincial programs be explored to identify the possibility of funding to hire students after first and second year for summer jobs, by making them more competitive in the articling market.
- C.3.3 The issue of statistics on unplaced equity articling students was discussed. It was acknowledged that there are risks in examining the academic status of equity students as such information could be misused to perpetuate stereotypes of equity candidates as less qualified without taking into account the systemic barriers which the committee agreed lead to a disproportionate number of unplaced equity articling students.

- C.4 Bicentennial Equity Project
- C.4.1 The committee received a report of the Chair's meeting with Stephen Traviss, Senior Counsel, Professional Conduct and the Secretary of the Equity in Legal Education and Practice Committee on March 7, 1995. The project which will be explored is a mentoring and monitoring program to assist in a limited number of students from a designated equity group from their entry into law school through their first years of practice. Funding will be sought from various sources including the Law Foundation and The Law Society of Upper Canada.
- C.5 Outstanding Items from Previous Agenda:
- C.5.1 a) Should lawyer referrals be made on the basis of race or ethnicity when requested.
 b) CBA study of Racism in the Legal Profession.
 c) Report of the Consultation of Visible Minority Women held on March 17, 1994 (draft report distributed with February 8, 1995 agenda)
- C.5.2 These items were deferred to the next meeting.
- C.6 The Chair reported on her memorandum to the Women in the Legal Profession Committee asking that committee to include in its research on the Transitions Report other target groups, i.e. black women, disabled women.
- C.7 The Chair asked two members of the committee to examine the Law Society's response the Gender Equality resolution from the perspective of the Equity in Legal Education and Practice Committee.
- C.8 The Chair advised that she will follow-up with the Racial Equality Group of the CBA.
- C.9 The Chair asked one of the members of the committee to have comments and observations prepared on a document submitted by the Human Rights Race Relation Centre.
- C.10 The Chair announced a conference on anti-racism sponsored by the Human Rights and Race Relations Centre to be held on Tuesday, March 21, 1995 at the Hotel Plaza II.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

M. Moliner
Chair

THE REPORT WAS ADOPTED

24th March, 1995

FRENCH LANGUAGE SERVICES COMMITTEE

Meeting of March 9, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

The Committee met on Thursday, the 9th of March, 1995, the following members being present: Vern Krishna, Q.C. (Chair), and Tony Keith (CBAO). Staff representation: Marie Fortier, and Dominique Picouet.

A.
POLICY

1. Review of FLS Programme

As part of the review of the French Language Services Program, the Committee will draft a list of Existing activities and programs, to be included on the agenda for the May 11 Committee Meeting Day.

2. Bilingual Citation of Ontario Reports

The Committee will write to the French Language Consulting Editor of the Ontario Reports, Prof. J.G. Castel, regarding the bilingual citation of the Ontario Reports.

The meeting was adjourned at 1:00 p.m.

ALL OF WHICH is respectfully submitted

DATED this 24 day of March, 1995

V. Krishna
Chair

AUX MEMBRES DU CONSEIL DU BARREAU DU HAUT-CANADA

RÉUNIS EN ASSEMBLÉE

LE COMITÉ DES SERVICES EN FRANÇAIS a l'honneur de faire son rapport.

Le Comité s'est réuni le jeudi 9 mars 1995. Étaient présents M^{re} Vern Krishna, c.r. (président), M^{re} Tony Keith (ABCO) et, en qualité de membres du personnel, M^{re} Marie Fortier et M^{me} Dominique Picouet.

A.
POLITIQUE

1. Révision des services en français

Dans le cadre de la révision du programme des services en français, le Comité dressera la liste des activités actuelles qui sera incluse dans l'ordre du jour de la réunion du Comité prévue pour le 11 mai.

2. Citation du Recueil de jurisprudence de l'Ontario

Le Comité écrira au professeur J.-G. Castel, responsable du français au Comité de lecture du Recueil de jurisprudence de l'Ontario, au sujet de la citation en français.

La séance a été levée à 13 h.

Fait le 24 mars 1995.

LE PRÉSIDENT,

THE REPORT WAS ADOPTED

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Meeting of March 9, 1995

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 9th of March, 1995, at 10:30 a.m., the following members being present: C. Ruby (Chair), N. Graham (a Vice-Chair), D. Murphy, S. O'Connor and R. Wise; J. Yakimovich, S. Hickling and D. McKillop (secretary) also attended.

A.
POLICY

1. REVISIONS TO FORMS 4 AND 5; SCHEDULE A
TO FORM 4; AND SCHEDULE A TO FORM 3

The amendments to Forms 4 and 5, Schedule A to Form 4 and Schedule A to Form 3 were adopted by Convocation on February 24, 1995. Staff will be drafting a notice to appear in the Adviser to advise the profession of the new forms. Once the new forms have been printed, an additional explanatory note highlighting the changes will be sent to the membership together with examples of the new forms. The amendments include changes which were suggested when the Lawyers' Professional Indemnity Company excluded insurance coverage for mortgage brokering activity.

24th March, 1995

Jim Yakimovich also addressed the Committee as to the Society's experience with the current Forms 4 and 5 since their inception. It is believed the forms have dramatically benefitted the public in terms of disclosure of relevant information permitting them to have a better understanding as to how their money is being invested and allowing them to make intelligent and informed decisions. These procedures have also identified members who are heavily involved in mortgage brokering activity. Spot audits conducted on such members are revealing inadequacies before they become serious problems with the result being fewer complaints and claims to the Fund.

Approved

2. AMENDMENT OF RULE 50 - PRESCRIPTION OF LEVY

Staff have recently received the suggestion that Rule 50 be amended to prescribe the amount of the annual levy for the Lawyers Fund for Client Compensation in order to comply with subsection 51(3) of the *Law Society Act*. The present Rule allows Convocation to set the levy but it does not specify the actual amount of the levy as required by s. 51(3). Therefore, strictly speaking, present practice does not comply with s. 51(3). A memorandum from Andrew Brockett, secretary to the Legislation and Rules Committee, on this topic was before the Committee. A staff response suggested that it may be preferable to amend the Act rather than prescribe the amount of the levy in the Rules. A further memorandum from Mr. Brockett responding to that suggestion was also before the Committee.

In his earlier memorandum, Mr. Brockett suggested that it would be an easy matter to amend the Rules if a change in the levy is desired. The Committee had reservations about this statement and worried that a less than timely increase in the levy, when necessary, could jeopardize the Fund's ability to respond to a rapid increase in valid claims. In addition, current levies which are to come into effect at the beginning of a fiscal year (July 1st), are set as part of the winter budgetary process. Under the proposed scheme, while it would still be in Convocations's power to set the levy, in order to have it appear in the Rules the process for establishing the annual levy would need to be completed many months or possibly a year in advance of the beginning of a fiscal year.

IT IS RECOMMENDED that the current process for setting the annual levy be maintained. It is further recommended that the Legislation and Rules Committee be requested to pursue amendments to sections 51(3) and 62(1) of the *Law Society Act* which would make it clear that the present practice for establishing the annual levy ought to be continued.

Approved

3. DE MINIMIS RULE WITH RESPECT TO CLAIMS TO THE FUND

Staff presented a proposal concerning the need for a *de minimis* rule in order to concentrate valuable and limited resources on larger claims. While it is not currently a large problem (there are six open files with claims of \$500 or less), it is anticipated there will be increased numbers of small claims in the future. The Department of Audit and Investigation is freezing an increasing number of solicitors' trust accounts where a shortage has been discovered. It is now common practice that the amount of any trust shortage be pro rated amongst all the other trust beneficiaries. The result is often large numbers of clients that may, for example, receive back only 70 cents on the dollar. A client that had \$400 on deposit in the solicitor's trust account would receive \$280 after pro rating and, therefore, have a potential claim to the Lawyers Fund For Client Compensation for \$120.

24th March, 1995

This same problem appears as a result of work performed by the Office of the Staff Trustee. When that office takes control of a solicitor's practice, it is often discovered that large numbers of closed files have never been reported out. The Staff Trustee will retain counsel to complete the reports to clients and it is often found that small trust balances remain owing to the client. Typically, there are no funds in the trust account to cover these obligations. If these claims are for relatively small amounts, should these clients have recourse to the Lawyers Fund For Client Compensation or could a more cost effective and expeditious procedure be implemented to satisfy these clients?

IT IS RECOMMENDED that staff follow a simplified procedure to deal with claims of \$500.00 or less and report back to the Committee. The Committee is of the opinion that it is impractical and inefficient to investigate and process small claims using the same procedure afforded claims worth many thousands of dollars.

Approved

4. SHARING OF INFORMATION WITH
THE LAWYERS' PROFESSIONAL INDEMNITY COMPANY (LPIC)

The Chair briefed the Committee on the new policy of LPIC which denies access to their files by staff of the Lawyers Fund For Client Compensation investigating claims from the same claimants. In the past, staff have been granted access to these files in order to assist them in their investigations. Under LPIC's new policy, investigations already performed by LPIC will need to be repeated by staff which will result in dramatic increases in costs and the time required to respond to claims. It is also felt that members and claimants will become frustrated having to assist in two separate investigations by what is perceived to be the same institution. The Chair is arranging a meeting with the Chair of the Insurance Committee, the president of LPIC and staff to discuss the issue.

Noted

B.
ADMINISTRATION

1. NEW STAFF LAWYER HIRINGS

Your Committee is pleased to report that Janet Brooks, a former staff lawyer with the Fund and currently employed with the Discipline Department, has accepted an offer of employment and will be joining the permanent staff of the Lawyers Fund For Client Compensation. Ms. Brooks will commence work at the beginning of April. In addition, Sara Hickling, whose contract of employment with the Lawyers Fund For Client Compensation expired in the Spring of 1994, has returned on a part-time basis.

It is anticipated that the increased staff levels will permit the Lawyers Fund For Client Compensation to eliminate the current backlog of claims and be in a position to respond to the anticipated increase in claims which will result from the reduced coverage offered by the Lawyers' Professional Indemnity Company.

Noted

2. 1995/96 DRAFT BUDGET

Your Committee reviewed the first draft of the 1995/96 budget for the Lawyers Fund For Client Compensation. Overall, the budget has increased a modest \$23,840.00 from that of the current year. While the overall budget has increased slightly, total salaries and common expenses have increased by \$111,000.00. This increase is primarily accounted for by the addition of a full-time staff lawyer and the part-time staff lawyer position being filled for the full twelve months instead of eight months as will be the case in 1994/95. The majority of this increase has been offset by an expected increase in investment income.

Approved

C.
INFORMATION

1. PROPOSED SECTION 15.2 OF REGULATION 708

Convocation approved proposed section 15.2 of Regulation 708 on November 25, 1994. Shortly thereafter the proposed section was forwarded to the Attorney General for comment. On January 31, 1995 legislative counsel at the Ministry of the Attorney General sent a redrafted version of proposed section 15.2.

Staff will be reviewing the suggestions made by legislative counsel to determine whether the revised section still achieves the intended result. Members of the Committee who have their own comments are to refer them to the secretary of the Committee who will ensure they are passed on to the appropriate parties.

Noted

2. REFEREE REPORTS AND STAFF MEMORANDA

The Referee Reports and 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

3. Copies of the Financial Summary as of January 1995 and graphs showing the relationship between claims made and claims outstanding with and without limits are attached.
(Pgs. C1 - C4)

Noted

4. Accounts approved by staff in February amounted to \$3,271.

Noted

5. A joint letter from the Chairs of the Priorities and Planning and Research and Planning Committees was sent to all Committee Chairs on December 10th, 1994 advising that all Law Society programs and activities are to be reviewed in light of the Society's role statement. The letter sets out specific criteria and objectives for the review and asks that Committees submit their reports to the Research and Planning Committee by September 21st, 1995. A workshop was conducted on February 17th, 1995 for all Law Society staff who are responsible for conducting the administrative and operational portions of the program reviews in order to provide an overview of program review methodologies, approaches, objectives, techniques and results. The workshop was designed to ensure that the review process is conducted on a uniform basis and that the reports that issue from the Committees next fall are consistent in content and approach.

24th March, 1995

Following the workshop, Richard Tinsley forwarded a memorandum to those individuals responsible for preparing the program reviews requesting that the first stage of the process (a list of existing programs and a comprehensive description of each) be completed in time to be included in the agenda for the May Committee meeting.

Noted

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

C. Ruby
Chair

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

- Item C.-2. - Copy of Schedule "A" - Grants approved by the Review Committee and by the Lawyers Fund for Client Compensation Committee, Thursday, March 9, 1994. (Schedule A)
- Item C.-3. - Copies of the Financial Summary as of January 1995 and graphs re: Lawyers Fund for Client Compensation. (Marked C1 - C4)

THE REPORT WAS ADOPTED

LIBRARIES AND REPORTING (Public Report)

Meeting of March 9, 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 9th of March, 1995, at 8:00 a.m., the following members being present:

S. Elliott (Chair), R. Topp (Vice-Chair), I. Blue, M. Cullity, G. Farquharson, B. Pepper, M. Hennessy, & D. DiGuiseppe, G. Howell and F. Mann (Counsel) also attended.

24th March, 1995

B.
ADMINISTRATION

COUNTY LIBRARIES - Courthouse Space - Attempt to Levy Charge by Ontario Realty Corporation

It has come to the attention of the Law Society that the Ontario Realty Corporation (the real property arm of the Ontario Government) has begun to contact county law associations to inform them that the Ontario Realty Corporation (ORC) intends to charge rent for the space occupied by county libraries in Ontario's courthouses.

The Committee considered the following documents -

- a) February 27, 1995 letter from the Ontario Realty Corporation to the Lincoln Law Association
- b) August 12, 1988 letter from Ian Scott, Attorney General to Lee Ferrier, Treasurer
- c) January 12, 1988 letter from D. G. Henderson (Attorney General's Ministry to Glen Howell

Historically, appropriate space has been provided free of charge for county libraries in the "county courthouse" in each of the county towns. The Ministry of the Attorney General had provided furniture, fixtures, and reimbursement for supplies and some equipment through the 1970's and 1980's. In 1988, the Ministry informed the Law Society that it would no longer pay for the reimbursement of supplies and equipment (the January 12, 1988 letter from D. G. Henderson). In response to the Law Society's objection to this reduction in funding, the Attorney General (Ian Scott) wrote to the Treasurer of the Law Society in which he made the following statement -

"Our principal contribution to the associations is the provision of library space in the court houses at no cost."

The Committee recommends that the Treasurer should immediately contact the Ministry of the Attorney General, referring to the 1988 statement of the Attorney General, and reiterate that, as part of the administration of justice in this province, the provision of space at no cost in Ontario's courthouses for the 47 county libraries is the obligation of the Ontario Ministry of the Attorney General.

C.
INFORMATION

County Libraries - Law Foundation of Ontario - Draft Resolution re Proposed Endowment Fund

The Committee did not have an opportunity to discuss the correspondence between the Treasurer and Roger Yachetti (a trustee of the Law Foundation) on the matter of a proposed Law Foundation grant to provide an Endowment Fund for the benefit of Ontario's county libraries.

24th March, 1995

The Committee will shortly be discussing various proposals for utilization of the income from the expected endowment, and will be reporting on this matter to Convocation.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

S. Elliott
Chair

THE REPORT WAS ADOPTED

RESEARCH AND PLANNING COMMITTEE

Meeting of March 9, 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 9th of March, 1995, at 8 a.m, the following members being present: L. Brennan (Chair), F. Carnerie, A. Feinstein, the Hon. A. Lawrence, R. Manes, J. Palmer, H. Sealy, M. Somers.

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

A.
POLICY

- A.1. LAWYER-MEMBERS ON STANDING COMMITTEES
- A.1.1. In May, 1993, Convocation adopted a policy governing lawyer-members (non-benchers) who serve on Standing Committees of Convocation ("the 1993 policy").
- A.1.2. In January 1995, Convocation extended the term of the current lawyer-members on Standing Committees to August 31, 1996. The twelve-month extension was made in order to permit time for the 1993 policy to be reviewed, and if necessary, amended.
- A.1.3. A subcommittee was asked to bring forward recommendations concerning the 1993 policy. After considering an interim report submitted by the lawyer- members, as well as the responses to the questionnaire sent to benchers concerning the 1993 policy, the subcommittee proposed amendments to the 1993 policy.
- A.1.4. A copy of the subcommittee's report containing the recommendations to the Research and Planning Committee may be found at Attachment A.
- A.1.5. Your committee adopted the amendments proposed by its subcommittee.

- A.1.6. Your Committee therefore recommends that the revised version of the policy governing lawyer-members found at Attachment B be approved. Those parts of the policy which are new have been indicated by shading.
- A.1.7. The recommended changes to the policy have no budgetary implications.
- A.1.8. As was the case with the 1993 policy, the revised policy does not cover the non-bencher members of the *Equity in Legal Education and Practice Committee*. Your Committee understands that the *Equity Committee* supports the principle that its non-bencher members should be selected and appointed under the terms of the policy governing lawyer-members. There are, however, further details and budgetary implications to be considered. It will not be difficult to recommend a further change to the policy when these details have been determined.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

- C.1. REVIEW: RESEARCH AND PLANNING COMMITTEE TERMS OF REFERENCE
- C.1.1. As your Committee will be reviewing its programs, it has decided that the first step will be to review its terms of reference to consider whether they are consistent with the Role Statement.
- C.1.2. The current terms of reference for the *Research and Planning Committee* as set out in Rule 46D made under subsection 62(1) of the *Law Society Act* are as follows:
- C.1.2.1. The Research and Planning Committee is responsible to Convocation for all matters related to emerging policy issues affecting the Society and the profession which do not fall within the jurisdiction of other standing committees and without limiting the generality of the foregoing, the Research and Planning Committee shall undertake and direct research into such policy issues and shall develop proposals relevant to these issues for the consideration of Convocation and the other standing committees of Convocation.
- C.1.3. A subcommittee composed of Lloyd Brennan, Hope Sealy, Ronald Manes and Michael Somers has been appointed to review the terms of reference and advise Convocation on recommended changes.
- C.2. PROGRAM REVIEW: CONFERENCE TO ESTABLISH OBJECTIVES AND GOALS
- C.2.1. As the conclusion of the program review exercise being undertaken by every committee, your Committee is planning a conference at which Convocation would adopt objectives and goals, consistent with the Role Statement, for the quadrennial term 1995-1999.

24th March, 1995

- C.2.2. A two-day conference in October 1995, at a cost of no more than \$50,000 has been proposed. The proposal has not yet received budgetary approval for 1995-1996.
- C.2.3. Your Committee has authorized the subcommittee charged with the task of planning the conference to retain a facilitator.
- C.2.4. Your Committee wishes to emphasize that the purpose of the conference will be a program review and not a governance review. Any review that may be undertaken on the initiative of the *Joint-Committee* (Finance and Administration/Research and Planning) on *Governance and Operations* will be distinct from the Objectives and Goals Conference.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

L. Brennan
Chair

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

- Item A.-A.1.4. - Copy of the the Ad-Hoc Subcommittee on Lawyer-Members re: Clarification of Policy adopted by Convocation extending Terms of Layer-Members by one year.
(Attachment A - A-3)
- Item A.-A.1.6. - Copy of Revised version of the Policy Governing Lawyer-Members on Committees - March 9, 1995.
(Attachment B - B-4)

THE REPORT WAS ADOPTED

SPECIALIST CERTIFICATION BOARD

Meeting of March 9, 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 9th of March 1995 at nine o'clock in the morning, the following members being present: R. Yachetti (Chair), R. Manes (Vice-Chair), A. Cooper, J. Callwood, P. Furlong, M. Pilkington and G. Sadvari. C. Giffin, of the Law Society, was also present.

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

The Civil Litigation Specialty Committee met on Tuesday, the 14th of February 1995 at eight-thirty in the morning.

The Criminal Law Specialty Committee met (conference call) on Friday, February 24, 1995 at one o'clock in the afternoon.

24th March, 1995

On behalf of the Immigration Law Specialty Committee, the Committee Chair (M. Green) met (by telephone) with the Program Administrator on Wednesday, March 1 at two o'clock in the afternoon.

A.
POLICY

A.1. SPECIALISTS ENTERING PRACTICE REVIEW PROGRAMME

- A.1.1. Your Board approved the following policy when a Specialist enters the Practice Review Programme or has a formal complaint arise.

If the Specialist's certificate expires during this time, it will not be extended, nor will the application be considered for recertification, until the lawyer has completed the Practice Review Programme or until the formal complaint is resolved. The lawyer cannot advertise themselves as a Specialist until such time that their certificate is renewed by the Board.

A.2. RETIRED SPECIALISTS

- A.2.1. Your Board approved a new policy that the member status of "retired or not working" brings about the cancellation of certification.

- A.2.2. As a result of the above, it was agreed that the Chair and Vice-Chair would create a formal thank-you letter to be sent to retired members who had been participants in the Specialist Certification Program.

A.3. CHANGES TO STANDARDS FOR CERTIFICATION IN CIVIL LITIGATION

- A.3.1. Your Board approved the following recommended changes to the Civil Litigation standards incorporating the new definition of "substantial involvement" to provide a more definitive guideline in dealing case-by-case with applicants who have a specialized or focused area of practice within civil litigation and seek dual certification in that specialty area along with civil litigation.

2. COMMENTS ON FOCUSED PRACTICES:

For those lawyers who have a focused practice within a particular area of civil litigation, the principle of "substantial involvement" will be applied. Substantial involvement may be measured by several standards such as the extent of legal work within the area of civil litigation, the number or type of litigious matters handled within a certain period of time, teaching in the area of civil litigation, or demonstrable and transferrable civil litigation skills.

B.
ADMINISTRATION

B.1. FUNDS FOR DEVELOPMENT OF M.C.L.E. PROGRAMS IN CERTIFICATION PREPARATION

B.1.1. The Board discussed its concerns that no provisions have been made for funding in the 1995/96 interim budget for the development of education programs for the preparation of specialists who are not able to qualify by experience alone.

B.1.2. It was agreed that Mr. Yachetti would arrange a meeting of himself, R. Manes (Vice Chair), Dean M. Pilkington, P. Lamek, R. Tinsley and P. Epstein to resolve the Board's urgent concern over M.C.L.E. funding and overall lack of support for the Specialist Certification Program.

B.2. REQUEST BY CONVOCATION FOR REVIEW OF PROGRAM

B.2.1. The Board reviewed and discussed materials pertaining to the Law Society program evaluation and agreed that the Program Administrator would execute the required report. Board members will review interim drafts and provide input where necessary.

C.
INFORMATION

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:

Richard Howell (of Mississauga)

C.1.2. Your Board is pleased to report the certification of the following lawyer as an Immigration Law Specialist:

Guidy Mamann (of Toronto)

C.2. RECERTIFICATION OF SPECIALISTS

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

Carl Fleck (of Point Edward)
Roger Hughes (of Toronto)

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

24th March, 1995

Miles Halberstadt (of Toronto)
Irwin Koziembrocki (of Toronto)

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

R. Yachetti
Chair

THE REPORT WAS ADOPTED

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of March 9, 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 9th of March, 1995 at 9:30 a.m., the following members being present: P. Peters (Chair) and N. Graham. Guest: D. Lovell. Staff in attendance was: A. John (Secretary).

B
ADMINISTRATION

1. SECTION 50 PROSECUTIONS

In anticipation of Convocation's debate on the memorandum from the Unauthorized Practice Committee respecting s. 50 prosecutions, your Committee received a proposal from a member of the County and District Law Presidents' Association. The CDLPA will seek approval of the proposal at the next plenary in May 1995.

ALL OF WHICH is respectfully submitted

DATED the 24th day of March, 1995

P. Peters
Chair

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

Item B.-1. - List of Prosecutions.

THE REPORT WAS ADOPTED

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24th March, 1995

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

PROFESSIONAL CONDUCT COMMITTEE

Meeting of March 9, 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 9th of March, 1995 at three o'clock in the afternoon, the following members being present: M. Cullity (in the Chair), K. Braid, I. Blue, T. Carey, M. Moliner, D. Murphy and M. Weaver. The following staff were present: M. Devlin, D. Godden and S. Traviss. By invitation: Dino DiGiuseppe, Vice-President of the County and District Law Presidents' Association.

A.
POLICY

1. WARDLAW REVISED MOTION

Mr. Wardlaw has revised the motion he tabled at Convocation in June of 1994 after receiving input from the Real Property Section of the CBAO, the County and District Law Presidents' Association and the Ontario Real Estate Lawyers Association.

There are two principal objectives that would be accomplished were the motion passed by Convocation and the necessary changes made to the Rules of Professional Conduct.

1. Lawyers would not be permitted to act for both a vendor and a purchaser where title is to pass and the transaction is on an arm's length basis. Lawyers would be able to act for both parties where the transaction was not at arm's length and where no opinion on title was being given.
2. A lawyer would not be permitted to act in mortgage transactions for both purchasers and lenders or borrowers and lenders unless the lender is an institutional lender or when a mortgage loan is being made on a non-arm's length basis.

All the Benchers with a solicitor's practice were invited to attend the meeting to make their views known.

Mr. DiGiuseppe, the Vice-President of the County and District Law Presidents' Association asked that his organization be afforded an opportunity to debate the motion at its May plenary meeting before the Law Society reached a conclusion.

The Committee recommends to Convocation that the motion not be debated until September so that further consultation with interested organizations can be undertaken.

If Convocation agrees with this recommendation, the Professional Conduct Committee will bring to the September 1995 Convocation a specific recommendation on Mr. Wardlaw's motion.

Note: Item deferred, see page 107

2. RULE 9, PARAGRAPH 7 COVERS THE DIVISION OF FEES - ONE OF THE SUB-PARAGRAPHS SAYS THAT A LAWYER CANNOT HAVE A LEASE WHERE "A LANDLORD DIRECTLY OR INDIRECTLY SHARES IN THE FEES GENERATED BY THE LAW PRACTICE"

Some practitioners have drawn the Society's attention to one of the paragraphs in Commentary 7 in Rule 9 under the heading of "Division of Fees". The paragraph in question is set out in bold below.

Division of Fees

7. Any arrangement whereby lawyers directly or indirectly share, split or divide fees with conveyancers, notaries public, students, clerks or other persons who bring or refer business to the lawyer's office, is improper and constitutes professional misconduct. It is equally improper for a lawyer to give any financial or other reward to such persons for referring business.

Thus an arrangement between a lawyer and a conveyancer to divide fees on applications for probate or administration is improper whether both participate in the work or not.

It is also improper for the lawyer, in return for a fee, to permit the lawyer's name to be placed on such applications which have been prepared by the conveyancer.

A lawyer cannot give or accept a referral fee to or from a lawyer with respect to the referral of a client. This would also apply to an Ontario lawyer's dealings with a lawyer in another jurisdiction even where that jurisdiction may permit referral fees.

A lawyer shall not enter into a lease or arrangement whereby a landlord directly or indirectly shares in the fees or revenues generated by the law practice.

This does not prohibit an arrangement respecting the purchase and sale of a law practice when the consideration payable includes a percentage of revenues generated from the practice sold.

The Committee concluded that there was no harm to the public or to the profession were the rent paid to a landlord to reflect the financial position of the law practice. As well, the Committee noted that the existing provision did not reflect the economic reality of leasing arrangements in today's marketplace.

The Committee concluded that the fifth paragraph of Commentary 7 be deleted from the Rule.

The Committee asks Convocation to adopt its recommendation that this paragraph be deleted from Commentary 7.

B.
ADMINISTRATION

1. BUDGET 1995-96

The Committee approved its 1995-96 budget for submission to the Finance and Administration Committee.

2. REVIEW OF THE WORK OF THE
PROFESSIONAL CONDUCT COMMITTEE

The Committee has been asked, as have all other Committees, to review its programs in light of the mission statement adopted by Convocation last September.

The Committee's Secretary has prepared a short outline of the work done by the Committee and its staff which the Committee concluded was a good start in the review process.

C.
INFORMATION

1. CAMPBELL - FINKELSTEIN SUB-COMMITTEE
TO REPORT IN APRIL ON ONE ASPECT OF RULE 29
(CONFLICTS CREATED BY THE MIGRATING LAWYER)

Messrs. Campbell and Finkelstein have been asked to look at the discretionary recommendation contained in the Federation of Law Societies draft Rule on conflicts created by the migrating lawyer. This recommendation provided that a law society could, if it so chose, create a system whereby parties with a conflict of interest problem (in the law firm move context) could instead of having the matter heard by a court or tribunal turn to the Law Society to receive an opinion. If one of the parties were dissatisfied with this opinion they could take it to the courts.

There are two principal questions the sub-committee will be addressing:

- (1) To decide to facilitate the offering of this service would necessitate the amending of the 1972 policy of Convocation (confirmed in 1974) that it is the appropriate function of the courts or tribunals to adjudicate conflict disputes.

24th March, 1995

- (2) If the Law Society were to decide to take on this responsibility there would be some costs involved (e.g. the paying of senior practitioners to listen to parties and give a ruling). Consideration would need to be given to trying a 2 or 3 year pilot project.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

M. Somerville
Chair

It was moved by Mr. Cullity, seconded by Ms. Elliott that Item A.-1. re: Wardlaw Revised Motion be deferred to September Convocation.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

MOTION

To provide that one Benchers may hear applications for an adjournment of proceedings before Convocation

It was moved by Mr. Cullity, seconded by Ms. Elliott that effective April 1, 1995 the Treasurer assign the Discipline Committee Hearing Assignment Benchers to serve as a one-member panel of Convocation with authority to hear applications for adjournments of hearings before Convocation and to make decisions in respect of such applications.

Carried

AGENDA - Additional Matters Requiring Debate and Decision by Convocation

SPECIAL COMMITTEE ON CONFLICTS OF INTEREST (amended)

Mr. Scace presented the amended Report on the Special Committee on Conflicts of Interest which was before Convocation on February 24, 1995 for Convocation's approval.

AS AMENDED BY CONVOCATION ON FEBRUARY 24TH, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON CONFLICTS OF INTEREST begs leave to report:

The Special Committee on Conflicts of Interest was struck on March 25, 1994 to consider the issue of conflicts of interest with respect to benchers and benchers firms; its members being Arthur Scace (Chair), Lloyd Brennan, Kevin Carroll, Maurice Cullity, Carole Curtis, Susan Elliott, Marie Moliner, Ross Murray and Hope Sealy.

Your Committee has met on April 21st, August 10th, September 7th, November 9th and November 25th, 1994 and January 26th and February 10th, 1995.

I Background

This Committee was created as a result of the debate in Convocation concerning the report of the Special Committee on Lawyers' Fees. That Special Committee was charged with recommending guidelines for the selection and compensation of counsel to represent the Law Society in a variety of matters. When its report came before Convocation, a lively debate ensued in which the need for a comprehensive policy for benchers and their firms on conflicts of interest vis a vis the Law Society was identified. Convocation voted to establish this special committee for that purpose.

Your Committee has explored various approaches to the problem of conflicts of interest which arise by virtue of the bencher's role.

In so doing your Committee has examined in some detail the different functions that benchers perform and the nature and context of the problems that arise in each of those roles.

At the outset your Committee recognized that there is an enormous variety and number of conflicts arising out of the bencher role. It is acknowledged that it is not practical to attempt to deal with every such conflict. Accordingly your Committee has limited its consideration to those conflicts which are significant.

II Discussion

As a general principle, it is acknowledged that benchers are elected precisely because of the combination of interests, talents and experience which they as individuals can bring to the work of Convocation. Furthermore, your Committee feels that benchers have an obligation to carry those attributes into Convocation.

In addition, your Committee recognizes that there are certain conflicts of interest which are inherent in any self-governing body. Every elected bencher is by definition also a member of the Law Society and therefore has a self-interest in the matters coming before Convocation. That self-interest is, however, essential to the effective governance of the profession. The question your Committee has focused on is, "At what point does an individual bencher's self-interest become so significant that a conflict of interest arises which interferes with that bencher's ability to make a decision in the best interest of the Law Society and the public?".

There is a clear distinction between voting on issues which affect the profession as a whole and necessarily affect benchers as members and voting on issues where the bencher is in a position to benefit, either financially or otherwise, in a fairly specific and direct way from a particular decision of Convocation.

Further, there may well be instances where a bencher not only ought not to vote on an issue but ought not to speak or even attend in Convocation while certain issues are considered.

The Committee has attempted to formulate a general statement of principle by which individual benchers may govern themselves. As well, it has tried, where possible, to enumerate specific rules and guidelines for particular situations. The Committee recognizes that the problem is complex and does not lend itself to a simple straightforward solution. In any solution proposed, there will be areas of disagreement. That this is necessarily so was evident from the discussion in the Committee. There are some situations which will be resolved ultimately by the exercise of the personal judgment of the bencher involved.

III Sample Issues

In order to provide Convocation with a sense of the scope of the issues that the Committee identified, a sampling of some of the questions posed during the course of the Committee's deliberations is included here:

1. May a benchner whose firm acts for LPIC in insurance defense matters participate in debate or decisions concerning such matters as
 - (a) an increase or decrease in the schedule of rates for counsel to LPIC;
 - (b) changes to the amount and structure of the member's deductible; or
 - (c) changes to the coverage provided by LPIC.
2. May a benchner whose practice includes a substantial proportion of legally aided clients participate in debate or decisions involving such matters as:
 - (a) Legal Aid service cuts in the area of law in which the benchner primarily practises;
 - (b) changes to the Legal Aid Tariff which would affect the benchner's practice;
 - (c) funding of disbursements by Legal Aid where the benchner's practice would be affected; or
 - (d) the introduction of a staff delivery model for services in the benchner's area of practice.
3. To what extent may a benchner who is employed by the provincial government participate in debate or decisions involving:
 - (a) any matters concerning the Legal Aid Plan;
 - (b) negotiations with the government; or
 - (c) proposals for amendments to the Law Society Act which would materially affect the relationship between the Law Society and the government.

These examples serve to illustrate the kinds of issues that were considered by the Committee which went beyond the conflicts usually identified in relation to benchers, such as, direct retainer by the Society or involvement in the discipline process.

Your Committee struggled to answer these and other questions and could not in every case provide a complete response that was acceptable to all Committee members. In some instances, however, the Committee, after a thorough analysis of the issue, reached a consensus on the response. It is important to state, however, that even in those cases where the Committee reached agreement that in the particular circumstances a benchner ought not to be prohibited from participating, it at the same time recognized that individual benchers might well, in the exercise of their personal judgment, decide they ought not to participate. In other words, the fact that there is no absolute prohibition does not necessarily settle the matter. Benchers must be aware of and alert to situations which require them to exercise independent judgment.

For example, as to the matters outlined in question #2, the Committee initially felt that there are special considerations surrounding Legal Aid which bear on the issue of who may vote. Perhaps the most significant of these is that Convocation's authority with respect to the Legal Aid Plan differs somewhat from its authority over many of the other programs administered by the Law Society. This difference arises by virtue of the fact that funding for the Ontario Legal Aid Plan is provided primarily by the government of Ontario. Thus the conflicts may not be as direct and immediate as they might seem to be at first. Taking this into account, your Committee concluded that there should be no absolute prohibition against any benchers voting on all the issues outlined in question #2. Each bencher must assess their own personal situation and decide whether or not to participate. After exploring the Legal Aid issues further, however, the Committee concluded that while there are some special considerations surrounding Legal Aid, on balance, there should not be a different standard applied to conflicts arising in a Legal Aid context than would be applied in any other context.

IV Types of Conflicts

The Committee identified a number of different situations in which conflicts or potential conflicts needed to be addressed. To the extent possible, this report will describe each of them and suggest an approach for dealing with them.

A. Proceedings involving an individual member's rights and privileges - benchers acting in a quasi-judicial capacity

This category includes:

Discipline, incapacity, admission, readmission and competency proceedings and any other proceeding involving an individual member's rights and privileges.

The Committee is of the view that even the slightest perception of a conflict of interest in these proceedings must be scrupulously avoided at every stage in the proceeding.

Accordingly, your Committee suggests the following specific rules:

1. Bencher prohibited from appearing as counsel

A bencher may not appear as counsel before a Committee of benchers or Convocation in a discipline, incapacity, admission, readmission, or competency hearing or any other matter involving an individual member's rights and privileges.

2. Member of bencher firm appearing as counsel

A member of a bencher firm may appear as counsel before a Committee of benchers or Convocation in a discipline, incapacity, admission, readmission, or competency hearing or any other matter involving an individual member's rights and privileges, provided the bencher in question does not in any way participate in the matter.

3. Member of bencher firm providing evidence

Where a member of a bencher firm provides evidence (other than a written testimonial) in any hearing or other matter before a Committee of benchers or Convocation involving an individual member's rights and privileges, the bencher in question will be excluded from all deliberations.

4. Bencher participating who knows member

It is a matter of individual judgment whether a bencher who knows a member either personally or professionally should participate as a bencher in any stage (e.g. investigation, authorization, pre-hearing, hearing) of the process in respect of a discipline, incapacity, admission, readmission or competency hearing or any other matter involving that member's rights and privileges, subject to the usual considerations governing bias or reasonable apprehension of bias in proceedings before an administrative tribunal.

In this context your Committee considered one example of a fairly common situation ie: where the bencher is on a discipline panel and a member is before the panel who is known to the bencher. In this particular instance the following steps are suggested, assuming that the bencher concludes that he or she can continue to participate:

The bencher should:

- (1) state on the record that the bencher knows the member and provide particulars of the circumstances;
- (2) indicate on the record that the bencher does not feel that he or she is unable to continue to participate by virtue of the knowledge or relationship;
- (3) invite the member to take a few moments to consider whether he or she wishes to raise any objection to the bencher's continued involvement.

The advantage of this approach is that the panel is then able to deal with the issue at the outset and where the member raises no objection, he or she will, in most cases, be precluded from raising it at some later date, as, for example, a ground for appeal.

5. Bencher as witness

It is a matter of individual judgment whether a bencher who knows a member either personally or professionally should participate as a witness or in some other capacity in support of the member in respect of a discipline, incapacity, admission, readmission or competency hearing or any other matter involving that member's rights and privileges.

Your Committee in formulating these rules suggests that benchers should be alert to the consequences both for them as individuals and for Convocation and the Society's admissions and discipline process, should they or members of their firm provide character evidence on behalf of an individual member in a proceeding before Convocation or a hearing panel. Your Committee urges benchers to weigh carefully any request for their participation on behalf of an individual member, bearing in mind the need to ensure that a sufficiently large and diverse pool of benchers is maintained for hearings in Committee and Convocation.

B. Direct Retainer by the Law Society or the Lawyers' Professional Indemnity Company of a benchers or a benchers firm

In considering the elements which should be included in this policy, your Committee, after some discussion, concluded that it was not in the best interests of the Law Society or LPIC to exclude benchers and benchers firms from the pool of counsel eligible for selection. The Committee felt that some of these individuals and firms possess substantial expertise in the area of solicitor's negligence, which expertise the LSUC and LPIC have made a significant investment in developing. To exclude them would, in effect, be throwing away that investment as well as denying LPIC access to experienced counsel. Accordingly, your Committee does not recommend that Convocation adopt a policy under which the Society or LPIC would be prohibited from directly retaining benchers or members of benchers firms.

Instead, the following guidelines are proposed for the retaining of counsel generally by the Society or LPIC. The Committee made the observation that in the vast majority of instances, counsel will be selected and retained by senior Law Society or LPIC staff and not by Convocation. The guidelines have been prepared with this in mind.

1. The Law Society or LPIC should establish criteria for the selection of counsel having regard to the following goals:
 - (a) To ensure that the Society or LPIC is represented by counsel who will provide competent and cost effective legal services and, in particular, to ensure that the services are provided by individuals whose skills, training and experience are most appropriate to the task.
 - (b) To ensure that the Society's or LPIC's work is distributed as equitably as possible having regard to considerations of specific expertise, geographic location, gender, equity and resources.
2. In each instance where the Society or LPIC retains counsel, there should be a written notation confirming that the selection criteria have been applied and setting out in brief terms the justification for the particular choice.
3. There should also be an independent review of the selection process on a periodic basis.
4. There should be a semi-annual report to Convocation of all law firms retained during the preceding six months, specifying the amounts billed for fees and disbursements by firm.

It is also suggested that LPIC avoid, wherever possible, retaining a benchers to represent LPIC and a member in an insurance matter where that matter is also the subject of a Law Society complaints investigation.

C. Policy Issues Considered by Committees or Convocation

For the balance of matters considered in Committee or Convocation, it is suggested that it is up to the individual benchers to decide whether or not to participate in the decision.

On a very simplistic basis, it is recognized that each benchner brings to their work at the Society a unique combination of personal and professional experience which will affect their approach to and ultimately their decisions upon the matters before Convocation. It is both understood and expected that this is the case. To require individual benchers to declare a conflict of interest by virtue of the fact that some aspect of their personal or professional experience impinges upon or in some way relates to the issue before Convocation, would significantly impair not only the individual benchner's freedom to participate but also Convocation's ability to deal with business.

The Committee wrestled with how to offer useful guidance to benchers in reaching a decision.

Two situations were raised by way of example to illustrate instances where, in the Committee's view, benchers ought to refrain from participating.

1. Solicitor-Client Relationship

A benchner ought not to participate in a matter where:

1. the benchner or the benchner's firm acts for a client whose interests will be significantly affected by Convocation's decision, or
2. the benchner or the benchner's firm is, by virtue of a solicitor-client relationship, in possession of confidential information pertaining to the issue under consideration which may tend to influence the benchner's decision on the matter.

2. Employment Relationship

Where a benchner is an employee, the benchner ought not to participate in a matter where:

1. the benchner's employer has a significant interest, which is distinct from the interest of the profession at large, in a matter before Convocation, or
2. the benchner, by virtue of his or her employment, is in possession of confidential information pertaining to the issue under consideration which may tend to influence the benchner's decision on the matter.

V Rulings by Convocation

Lastly, your Committee considered whether there should be some procedures introduced to assist benchers in recognizing and dealing appropriately with conflicts of interest. There was unanimous support for this proposal. Accordingly, your Committee recommends as follows:

1. Benchers are invited to consult informally with the Treasurer to seek guidance in situations involving the appearance of, or a potential or actual conflict of interest relating to their responsibilities as benchers.
2. Benchers may also seek a ruling by Convocation on any situation involving the appearance of, or a potential or actual conflict of interest relating to their own or any other person's responsibilities as benchner.

3. Where a ruling is sought, Convocation may rule that the bencher or benchers who are the subject of the ruling:
 - (a) be required to withdraw from Convocation while the matter in question is under consideration;
 - (b) may remain in Convocation and be available to inform Convocation but may not otherwise participate in the debate or decision on the matter in question;
 - (c) may remain in Convocation and participate in the debate but may not vote on the matter in question; or
 - (d) may participate fully in the debate and decision on the matter in question.
4. Convocation shall maintain a record of such rulings as are made and where appropriate, such advice as is given, so that it is available for reference as required.

All of which is respectfully submitted

Arthur Scace
Chair

The matter was stood down.

CONVOCATION ADJOURNED FOR LUNCHEON AT 12:40 P.M.

The Treasurer and Benchers had as their guest for luncheon Professor Terrence White, Joana Kuras and The Honourable Samuel Grange.

CONVOCATION RECONVENED AT 2:00 P.M.

PRESENT:

The Treasurer, Arnup, Bastedo, Blue, Bellamy, Brennan, Carey, Carter, R. Cass, Cullity, Curtis, Elliott, Epstein, Finkelstein, Goudge, Lamont, Legge, McKinnon, Mewett, Murphy, Murray, O'Brien, S. O'Connor, Palmer, Peters, Richardson, Scace, Sealy, Thom, Topp and Wardlaw.

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IN PUBLIC

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CONTINUATION OF THE REPORT OF THE SPECIAL COMMITTEE ON CONFLICTS OF INTEREST

It was moved by Mr. Scace, seconded by Ms. Sealy that the amended Report of the Special Committee on Conflicts of Interest be adopted.

Carried

THE REPORT WAS ADOPTED

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

LEGAL AID COMMITTEE

Meeting of March 9, 1995

Mr. Goudge presented Item A.-A.2 re: Legal Aid Budget for 1995/96 for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of March, 1995, the following members being present: Stephen Goudge, Chair, L. Brennan, M. Buist, H. Burroughs, C. Curtis, D. Fox, D. Fudge, L. Hart, R. Lalande, P. Peters, A. Rady, and B. Sullivan.

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

A.
POLICY

A.1 REGULATION 68/95

A.1.1 Regulation 68/95 to implement the Memorandum of Understanding was not filed with the Registrar of Regulations until February 20, 1995. This amendment makes it effective on the date initially intended, that is November 16, 1994. A copy of Regulation 68/95 is attached hereto as SCHEDULE A for the approval of Convocation.

A.2 LEGAL AID BUDGET FOR 1995/96

A.2.1 The Legal Aid Committee adopted the Legal Aid Budget for 1995/96 at its meeting in February. The Budget, together with explanatory notes, is attached hereto and marked as SCHEDULE B.

B.
ADMINISTRATION

B.1 NEW LAY MEMBERS OF THE LEGAL AID COMMITTEE

B.1.1 The Legal Aid Committee welcomed two new lay members to replace Judy Campbell and Bruce Ally:

HUGETTE BURROUGHS: Redatrice/editorialiste of the french language newspaper "Le Journal de Cornwall",

LINDA HART: Manager, Information and Advisory Services, City of Toronto Housing department and Cityhome.

24th March, 1995

- B.1.2 The curricula vitae for Ms. Burroughs and Ms. Hart are attached hereto and marked as SCHEDULE C.
- B.2 STATEMENT OF INCOME AND EXPENDITURE FOR
THE TEN MONTHS ENDED JANUARY 31, 1995
- B.2.1 The Legal Aid Committee received the Statement of Income and Expenditure for the Ten Months ended January 31, 1995 which is attached hereto and marked as SCHEDULE D.
- B.3 REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS
FOR THE MONTH OF FEBRUARY, 1995
- B.3.1 The Legal Aid Committee received the Report on the Payment of Solicitors Accounts for February, 1995 which is attached hereto and marked as SCHEDULE E.
- B.4 REPORT ON THE STATUS OF REVIEWS IN THE LEGAL
ACCOUNTS DEPT. FOR THE MONTH OF FEBRUARY, 1995
- B.4.1 The Legal Aid Committee received the Report on the Status of Reviews in the Legal Accounts Department for February, 1995 which is attached hereto and marked as SCHEDULE F>
- B.5 AREA COMMITTEES - APPOINTMENT
Waterloo
Shirley C. Pearce, retired area office administrator.

ALL OF WHICH is respectfully submitted

S. Goudge
Chair

March 24, 1995

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

- Item A.-A.1.1 - Copy of Regulation made under the Legal Aid Act. (Schedule A)
- Item A.-A.2.1 - Copy of the Legal Aid Budget for 1995/96. (Schedule B)
- Item B.-B.1.2 - Copies of curricula vitae for Ms. Burroughs and Ms. Hart. (Schedule C)
- Item B.-B.2.1 - Copy of the Statement of Income and Expenditure for the Ten Months ended January 31, 1995. (Schedule D)
- Item B.-B.3.1 - Copy of the Report on the Payment of Solicitors Accounts for February, 1995. (Schedule E)
- Item B.-B.4.1 - Copy of the Report on the Status of Reviews in the Legal Accounts Department for February, 1995. (Schedule F)

24th March, 1995

It was moved by Mr. Goudge, seconded by Mr. Brennan that Item A.-A.2 be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

FINANCE AND ADMINISTRATION COMMITTEE

Mr. Bastedo presented a memorandum prepared by the Deputy Secretary re: Draft Guidelines for Waiver of E. & O. Levy.

(Memorandum in Convocation file)

It was moved by Mr. Finkelstein, seconded by Ms. Sealy that #2. (page 2) under the draft guidelines of the memorandum be amended by adding the word "necessarily" so that the first sentence of paragraph #2. then read:

"Financial hardship is not necessarily, in and of itself, sufficient to justify the waiving of the E&O levy."

Carried

It was moved by Mr. Bastedo, seconded by Mr. Finkelstein that the guidelines as amended be adopted.

Meeting of March 9, 1995

Mr. Bastedo presented Item B.-2. re: Discussion of L.S.U.C./L.P.I.C. Finance and Administration Issues and Item B.-4. & 5. of the Finance Report 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 9th of March, 1995 at 10:30 a.m., the following members being present: T. Bastedo (Chair), A. Feinstein, J. Wardlaw, B. Pepper, C. Curtis, P. Furlong and M. Moliner, H. Strosberg, J. Palmer, M. Weaver, R. Manes, R. Bragagnolo. Also in attendance was B. Graham (Coopers & Lybrand). Staff in attendance were M. Heins, M. Strom, R. Tinsley, D. Crack, D. Carey, and L. Johnstone.

R.
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 seven months ended January 31, 1995. [pages 4 - 7]

Approved

2. DISCUSSION OF L.S.U.C./L.P.I.C. FINANCE AND ADMINISTRATION ISSUES

The Chair asked staff to prepare memoranda setting out finance and administration issues which need to be addressed as L.P.I.C. is separated from the Society as an independent commercial insurer. Those memoranda are attached. [pages 8 - 17]

(i) It was recommended that the responsibility for the billing and collection of all levies and premiums as well as the accounting for same, move to LPIC in time for LPIC to manage the second instalment of the 1995 Errors & Omissions levy billing, due July 1, 1995.

Approved

(ii) Consideration of the management of Insurance Funds (including the Errors & Omissions Fund of the Law Society) was discussed and will be addressed by the Chair of the Investment Committee separately.

Noted

(iii) The Chair recommended the establishment of a staff committee comprising Richard Tinsley (Chair), David Crack (from the Law Society) and Malcolm Heins and Michelle Strom (from LPIC) to act as a management liaison committee between the two organizations.

Approved

3. REPORT OF SUBCOMMITTEES

(a) *Administration Subcommittee* [No Report]

(b) *Report of the Priorities and Planning Subcommittee*

The Chair presented a preliminary consolidated budget for the 1995/96 financial year which showed a requirement of net expenditures of \$19,107,720 and, as a result, an estimate of for the annual membership fee of \$1,231 compared to \$1,132 in 1994/95, an increase of \$99. (This increase includes a \$35 additional County Library levy as approved by the Libraries and Reporting Committee.) The Subcommittee will meet to discuss those Committee budgets which are in excess of the guidelines set by Convocation, (ie. Zero Increase). A final report and recommendation as to fee will be before the Committee in April.

Noted

(c) *Report of the Facilities Subcommittee* [No Report]

4. 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 March 24, 1995 if the late filing fee remains unpaid on that date.

Approved

Note: Motion, see page 121

24th March, 1995

5. 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 March 24, 1995 if the fees or levies remain unpaid on that date.

Approved

Note: Item deleted

C.
INFORMATION

1. PAYMENT TO LEGAL AID PLAN - ASSESSABLE ADMINISTRATION EXPENSE

In a letter dated February 20, 1995 (page 18), the Deputy Director of Finance of the Ontario Legal Aid Plan requested a payment from the Legal Aid Levy Funds collected under Section 93.1 of the Legal Aid Regulations in the amount of \$6,000,000. This represents a contribution toward the "assessable administrative expenses" for the Ontario Legal Aid Plan for their fiscal year ended March 31, 1995. The Law Society's budget provided an amount of \$6,500,000 for this purpose.

The Director of Finance has discussed the matter with the Chair who has approved this payment be made. With this payment, by the end of the current fiscal year, the levy account will have a balance of \$1,975,000 calculated as follows:

	<u>Budget</u>	<u>Actual</u>	<u>Excess</u>
Final Amount re: March 31, 1994	\$6,500,000	\$6,000,000	\$ 500,000
At June 30, 1994 Accumulation (includes all funds accumulated since inception of Legal Aid Levy)			975,000
Amount of Current Request for year ended March 31, 1995	6,500,000	6,000,000	<u>500,000</u>
Balance, March 7, 1995			<u>\$1,975,000</u>

Notes: (1) There will be further contributions to this fund as a number of members have yet to pay their second instalment of the accrual fees.

(2) This amount was paid in January 1994 but the final balance was not.

Noted

2. 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:

April 12, 1995

Law Day
Small Dining Room

April 19, 1995

Women's Law Assoc.
Convocation Hall

24th March, 1995

April 26, 1995	Medico-Legal Dinner Convocation Hall
May 3, 1995	Judges Dinner Convocation Hall
May 4, 1995	Law Clerks Reception Convocation Hall
May 5, 1995	Law Clerks Luncheon Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

T. Bastedo
Chair

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

- Item B.-1. - Memorandum to the Chair and Members of the Finance and Administration Committee from Mr. David Crack dated March 2, 1995 re: Financial Statement Highlights - Seven Months Ended January 31, 1995. (pages 4 - 7)
- Item B.-2. - Memorandum to The Treasurer and Mr. Tom Bastedo from Mr. Richard Tinsley dated March 7, 1995 re: LSUC/LPIC - Transfer of Administrative and Financial Functions. (pages 8 - 17)
- Item C.-1. - Copy of letter from M. Robert J. Rowe, Deputy Director, Finance, The Ontario Legal Aid Plan to Mr. David Crack, Director of Finance dated February 20, 1995. (page 18)

Item B.-5. re: Suspension - N.S.F. Cheque was deleted.

It was moved by Mr. Bastedo, seconded by Mr. Finkelstein that Item B.-4. re: Suspension - Late Filing Fee be adopted.

Carried

It was moved by Mr. Bastedo, seconded by Mr. Finkelstein that the Report as amended be adopted.

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

Mr. Bastedo also reported on the search for the new Chief Executive Officer. He advised that a subcommittee of the Joint Committee on Governance and Operation would be selecting this individual.

24th March, 1995

MOTION TO SUSPEND - FAILURE TO PAY LATE FILING FEE

It was moved by Mr. Bastedo, 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 March 24, 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)

INVESTMENT COMMITTEE

Meeting of March 9, 1995

Mr. Wardlaw presented Item A. re: Insurance Funds Transfer of Investment Responsibility for Convocation's approval.

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 9th of March, 1995 at nine-thirty in the morning, the following members being present: Messrs. Wardlaw (Chair) and Bragagnolo. Staff members present were David Crack and David Carey.

A.
POLICY

The Lawyers' Professional Indemnity Company ("LPIC") is intending to move all functions relating to the insurance operations, both LPIC and E&O, from the Law Society of Upper Canada to LPIC. This includes all accounting functions, levy billing and collection, and all investment functions. Before the transfer of functionality can take place certain fundamental issues must be understood by the decision makers so that the decision made is an informed decision.

The Law Society of Upper Canada ("The Society"), a non-profit organization, must have an investment policy that reflects factors such as:

- the nature of the organization's obligations to its members, i.e. "reason for being", and
- intangible considerations such as the psychology of its members.

These factors influence the investment objectives with regard to current income, marketability, liquidity, and safety.

The current investment policy, summarized, is as follows. The complete policy is attached as Appendix 1.

24th March, 1995

All investments follow the guidelines of the Trustee Act of Ontario (except for LPIC which must follow the Insurance Act of Ontario). No common or preferred shares will be acquired. All investments must be rated AA low or equivalent by the recognized bond rating agencies, and all investments must be capitalized in Canada. Eighty percent of the portfolios must be in government or major bank backed securities.

Differing portfolio strategies should be used for different organizations. Issues which need to be considered are:

- For whom are we investing?;
- What do we want to achieve with the portfolio?;
- Are there any applicable laws that must be followed?; and
- How do we retire the Errors and Omissions Insurance Fund deficit.

Each of the above questions will be addressed in the following paragraphs.

For whom are we investing?

LPIC will eventually be operating at "arm's length" from The Society and will be separate and distinct from The Society in the members' eyes, the public's eyes, and in the eyes of the regulators. Therefore, it is important to determine for whom is The Society investing and for whom is LPIC investing. The Society is investing funds on behalf of its members, therefore, in effect, The Society is acting as a trustee and must act accordingly. LPIC is investing for insurance purposes and, even though they are members' funds, there are different criteria and objectives from The Society (i.e. The Society's purpose is to protect capital, LPIC is to manage the portfolio to maximize income).

What do we want to achieve with the portfolios?

One of the most important considerations are the cash flow requirements. LPIC, through their budgeting and payable process, will have a better knowledge than The Society of the cash requirements for indemnity payments, legal costs, operating expenses, etc. The Society, through its budget and payable process, will have a better knowledge than LPIC of The Society's cash requirements and therefore The Society should manage the General Fund and Lawyers' Fund for Client Compensation. The Errors and Omissions Insurance Fund (as distinct from LPIC) is a fund of The Society. A decision as to which entity is to manage these funds must be made.

Are there any applicable laws or regulations that must be followed?

The Society's General Fund, Lawyers' Fund for Client Compensation and Errors and Omissions Insurance Fund must follow Section 5(2) of The Law Society Act which states, "...that the Society has and may exercise all powers of trustees under the Law of Ontario." Furthermore, the Investment Policy as approved by Convocation states that all Law Society investments must fall under the Trustee Act of Ontario. LPIC must follow the Insurance Act of Ontario guidelines.

How do we retire the Errors and Omissions Insurance Fund deficit?

The Consolidated Errors and Omissions Fund comprises two separate and distinct "entities"; first, The Society's Errors and Omissions Insurance Fund, and, second the Lawyers' Professional Indemnity Company, an independent commercial insurer and a wholly owned subsidiary. The deficit of the Consolidated Errors and Omissions Insurance Fund is, for the most part, attributable to the Errors and Omissions Insurance Fund, a "Fund" of The Society not LPIC. Therefore the deficit is a responsibility of the members, not the "independent commercial insurer". The Society is empowered to assess levies, LPIC can only assess an insurance premium. In order to eliminate the Society's deficit, surcharge levies are being assessed on the members.

Discussion

The investment management decision depends largely on the premium/levy issue which will be dealt with by the Finance and Administration Committee. Is LPIC to render a premium to LSUC who will, in turn, issue a levy to the member or will LPIC be issuing both levies and premiums?

Issues to consider when making decisions:

- i. The Law Society is empowered, through legislation, to suspend members for non-payment of levies. LPIC cannot suspend members without a legislative change.
- ii. All Law Society funds must be invested under the auspices of the Trustee Act of Ontario. LPIC funds must be invested under the auspices of the Insurance Act of Ontario.
- iii. The Law Society, as the parent company, is ultimately responsible for LPIC, therefore if losses occur in LPIC the Law Society must ensure those losses are "covered-off".

For the above reasons, that is, obligation to the members and for the ability to manage The Society's funds in the interest of the members and to allow LPIC to operate independently of The Society, the Committee is asked to consider one of the following:

- A.1 "that the funds of the Lawyers' Professional Indemnity Company be managed by the Board of Directors of the Lawyers' Professional Indemnity Company who shall appoint such personnel or organization as deemed necessary, and, that the funds of The Law Society of Upper Canada, namely the General Fund, Lawyers' Fund for Client Compensation and Errors and Omissions Insurance Fund, be managed by the Law Society of Upper Canada's Special Committee on Investments under such policy as approved by Convocation, and that the transition of the investment function of Lawyers' Professional Indemnity Company funds take place in an orderly and timely fashion."

OR

- A.2 "that the funds of the Lawyers' Professional Indemnity Company and The Law Society's Errors and Omissions Insurance Fund be under the management of the Board of Directors of the Lawyers' Professional Indemnity Company who shall appoint such personnel or organization as deemed necessary, and, that the funds of The Law Society of Upper Canada, namely, the General Fund and Lawyers' Fund for Client Compensation, be under the management of the Law Society of Upper Canada's Special Committee on Investments under such policy as approved by Convocation, and the transition of the investment function of Lawyers' Professional Indemnity Company and Errors and Omissions Funds take place in an orderly and timely fashion."

The Committee is also asked to consider an amendment to item 2 of the Investment Policy as follows:

B.1.i The Law Society of Upper Canada

Retain the services of outside investment counsel. The investment counsel shall advise the Society from time to time as to what investments should be made. The Deputy Director of Finance has the responsibility to obtain the best price/yield from outside brokers for Society funds, and shall invest the Society's monies accordingly.

B.1.ii The Lawyers' Professional Indemnity Company

The Lawyers' Professional Indemnity Company funds shall be managed by the Board of Directors of the Lawyers' Professional Indemnity Company under such policy as the Board of Directors may approve from time to time. The Board of Directors will appoint such personnel or organization to manage the funds accordingly.

OR

B.2.i The Law Society of Upper Canada

Retain the services of outside investment counsel. The investment counsel shall advise the Society from time to time as to what investments should be made. The Deputy Director of Finance has the responsibility to obtain the best price/yield from outside brokers for the Society's General Fund and Lawyers' Fund for Client Compensation, and shall invest the monies accordingly.

B.2.ii The Lawyers' Professional Indemnity Company

The Lawyers' Professional Indemnity Company portfolio and The Society's Errors and Omissions Insurance Fund portfolio shall be managed by the Board of Directors of the Lawyers' Professional Indemnity Company under such policy as the Board of Directors may approve from time to time. The Board of Directors will appoint such personnel or organization to manage the funds accordingly.

Summary

The overriding question with respect to the management of the funds is which entity will be managing which funds. Due to the various issues discussed the largest factor would be The Society's obligation to its members. Another issue that must be brought into the equation is the perception The Society wishes the members, public and regulators to have with the creation of LPIC.

The obligation to the members is to eliminate The Society's Insurance Fund deficit and preserve the members' capital while maximizing the return utilizing policies as set by Convocation. Therefore The Society should manage its funds (General Fund and Lawyers' Fund for Client Compensation). It must be resolved whether LPIC should manage not only the LPIC (insurance company) funds but also the Errors and Omissions (Society) funds.

24th March, 1995

Recommendation

Your Committee after considering all the issues and discussing the situation with staff at both LSUC and LPIC recommend that Convocation approve items A.2 and B.2.i and B.2.ii above. That is,

A.2 "that the funds of the Lawyers' Professional Indemnity Company and The Law Society's Errors and Omissions Insurance Fund be under the management of the Board of Directors of the Lawyers' Professional Indemnity Company who shall appoint such personnel or organization as deemed necessary, and, that the funds of The Law Society of Upper Canada, namely, the General Fund and Lawyers' Fund for Client Compensation, be under the management of the Law Society of Upper Canada's Special Committee on Investments under such policy as approved by Convocation, and the transition of the investment function of Lawyers' Professional Indemnity Company and Errors and Omissions Fund take place in an orderly and timely fashion.

B.2.i The Law Society of Upper Canada

Retain the services of outside investment counsel. The investment counsel shall advise the Society from time to time as to what investments should be made. The Deputy Director of Finance has the responsibility to obtain the best price/yield from outside brokers for the Society's General Fund and Lawyers' Fund for Client Compensation, and shall invest the monies accordingly.

B.2.ii The Lawyers' Professional Indemnity Company

The Lawyers' Professional Indemnity Company portfolio and The Society's Errors and Omissions Insurance Fund portfolio shall be managed by the Board of Directors of the Lawyers' Professional Indemnity Company under such policy as the Board of Directors may approve from time to time. The Board of Directors will appoint such personnel or organization to manage the funds accordingly."

Approved

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee the investment report summaries for the various Law Society Funds together with supporting documentation for the month ended February 28th, 1995 (Schedule A).

Approved

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

J. Wardlaw
Chair

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

- Item A. - Copy of Investment Policies. (Appendix 1)
- Item B.-1. - Copy of the Investment Report summaries for the various Law Society Funds together with supporting documentation for the month ended February 28, 1995. (Schedule A)

A motion by Mr. Bastedo, seconded by Mr. Finkelstein was accepted by the Chair that the Law Society have one member on the Investment Committee of LPIC who is not connected with LPIC or the Finance and Administration Committee.

Carried

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

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

LEGAL EDUCATION COMMITTEE

Meeting of March 9, 1995

Mr. Epstein presented Item A.-A.1 re: Bar Admission Course Pilot Project Request for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

REPORT TO CONVOCATION

THE LEGAL EDUCATION COMMITTEE seeks leave to report:

The Committee met on Thursday, the 9th of March, 1995, at 10:30 a.m.

The following members attended: Philip Epstein (Chair), Susan Elliott (Vice-chair), Donald Lamont (Vice-chair), Colin McKinnon (Vice-chair), Ian Blue, Lloyd Brennan, Dean Donald Carter (Queen's University), Tom Carey, Vern Krishna, Allan Lawrence, Joan Lax, Dean Marilyn Pilkington (Osgoode Hall Law School), Marc Rosenberg (non-Bencher member), Stuart Thom. Bencher member Maurice Cullity also attended. Special guest Alan Mewett attended. The following staff attended: Erika Abner, Marilyn Bode, Katherine Corrick, Brenda Duncan, Marie Fortier, Ian Lebane, Alexandra Rookes, Margaret McSorley, Sophia Sperdakos, Alan Treleaven.

A.
POLICY

A.1 BAR ADMISSION COURSE PILOT PROJECT REQUEST

A.1.1 Kingston and Windsor students have requested the holding of Bar Admission Course pilot projects in Kingston at Queen's University and in Windsor at the University of Windsor.

A.1.2 The initial request was from Kingston. The staff researched and prepared a draft budget for a Phase One and Phase Three pilot project in Kingston. (page 1) The staff also prepared an explanatory document entitled "Notes to Budget" (page 2) and a second document entitled "Assumptions and Factors to Consider for Kingston Pilot Project". (pages 3 - 4) The Windsor request followed more recently.

A.1.3 There were a number of issues considered, including the following:

- 1) In how many locations would the Law Society need to consider offering the course in subsequent years?
- 2) What would be the negative impact of running a pilot only in one new location and not elsewhere?
- 3) What would the costs be to continue to run the program in Kingston, Windsor and perhaps other locations on an ongoing basis?
- 4) What is a realistic minimum number of students for which an alternative site program should be run?
- 5) How effectively would the Law Society be able to maintain consistency of delivery if the course is offered in four, five or more locations?
- 6) Would it be realistically possible to discontinue offering the program in a new location once it had been run there?
- 7) Would the running of a program in Kingston, Windsor and other locations on an ongoing basis unduly limit the choice of course model currently being studied by the Bar Admission Course Review Subcommittee?
- 8) Would the Bar Admission Course Review Subcommittee, in considering alternatives to the current course, be limited in its options by the added costs and complexity involved in running the program in additional locations?
- 9) Is the issue of access in itself to be the determinative factor when designing a future model of Bar Admission Course?
- 10) Even with the operation of a program in other locations, how many other students are likely to continue having access problems because they continue to have to move or commute a significant distance?
- 11) Would the opening of other locations create an under utilization of the facilities that the Law Society currently owns or leases?

A.1.4 After giving very serious consideration to all of the issues, the Legal Education Committee decided not to recommend institution of any Bar Admission Course pilot projects at this time, but to require the Bar Admission Course Review Subcommittee to give the matter serious consideration in its deliberations and to re-visit the issue at the earliest opportunity in the fall term.

A.1.5 Recommendation: It is recommended that:

- 1) the Law Society not proceed with a Bar Admission Course pilot project at this time,
- 2) the Bar Admission Course Review Subcommittee give the issues raised by Kingston and Windsor students prominent consideration in its deliberations,

- 3) the Legal Education Committee re-visit the proposal for one or more pilot projects at the earliest opportunity in the fall term.

A.2 PHASE ONE REQUIREMENTS FOR STANDING

- A.2.1 The Phase One Requirements for Standing will govern Phase One of the Bar Admission Course in 1995. The draft Phase One Requirements for Standing are attached (pages 5 - 8), and with some minor drafting improvements are the same as those that governed Phase One in 1994.
- A.2.2 Recommendation: It is recommended that the Phase One 1995 Requirements for Standing be approved.

B.
ADMINISTRATION

There is no Regular Business and Administration matters to report this month.

C.
INFORMATION

C.1 MANDATORY CONTINUING LEGAL EDUCATION SUBCOMMITTEE

- C.1.1 The M.C.L.E. Subcommittee held a two day meeting on March 3 and 4, 1995. Working groups held joint meetings on Friday, March 3, 1995 and all the groups met in a plenary session on Saturday, March 4, 1995. Frank Harris, Executive Director, Minnesota State Bar Association C.L.E., accepted an invitation to attend the two day meetings to respond to questions and provide some insights into issues and experiences in Minnesota during the 20 years of its M.C.L.E. system.
- C.1.2 The empirical evidence and the content groups considered research the groups have done to date, and will continue to develop their work. The delivery and providers' groups discussed, in particular, issues related to ensuring delivery of education throughout the province.
- C.1.3 The Subcommittee will have an interim discussion paper to present to Convocation in April. The paper will report on the work of the Subcommittee to date and the process it is following.

C.2 BAR ADMISSION COURSE REVIEW SUBCOMMITTEE

- C.2.1 Bar Admission Course Subcommittee representatives met with graduates of the most recent Bar Admission Course in Toronto on February 13, and with members of the profession in Ottawa on February 9 and London on February 14 following the respective calls to the Bar in those locations.
- C.2.2 The meetings focused on the following principal issues:
 - 1) The adequacy of student knowledge of substantive law and procedure on entering the Bar Admission Course,

- 2) What knowledge, skills and attitudes students ought to possess to be licenced to practise law,
- 3) Possible changes to the examination process, including the pros and cons of entrance examinations,
- 4) Whether the Bar Admission Course is an overly intensive cram course,
- 5) The sufficiency of standards in the Bar Admission Course,
- 6) Whether there should be limited licencing of lawyers according to practice areas,
- 7) How articling can be improved as an educational experience.

C.2.3 The Subcommittee scheduled a subsequent meeting on Saturday, March 11 and a consultation meeting on Tuesday, March 21 with lawyers called to the Bar in 1993 and 1994.

C.3 ARTICLING PLACEMENT REPORT FOR THE 1995-96 TERM

C.3.1 The 1995 Bar Admission Course application form asks students whether they have secured an articling position. The Placement Office has created a database to record this information.

C.3.2 As of March 8, 1995, 1,148 applications for Phase One 1995 had been received.

C.3.3 952 students representing 82.93% of the class have secured an articling position. 196 students representing 17.1% are without articles at this time.

C.3.4 As of February 22, 1994, 1,210 applications for Phase One 1994 had been received. This represented 98.6% of the incoming class. At that time, 993 students representing 82.06% of the class had secured an articling position while 217 students representing 17.9% of the class had not.

C.4 GRADUATE PLACEMENT SURVEY RESULTS

C.4.1 The Placement Office conducted a survey at the signing of the rolls for Call to the Bar to determine the employment status of students who had completed Phase Three.

C.4.2 The sample: 963 students responded to the survey. This represents 77% of the Phase Three class and 89.4% of the 1,077 called to the Bar in February.

C.4.3 Placed group data: 61.7% (366) of 594 respondents indicate they have secured permanent employment following Phase Three. Of those 366 respondents, 35.3% (340) are returning to their articling employer while 19.5% (188) have secured a position with other than their articling employer. 6.8% (66) are starting their own practice. 4.36% (42) indicate that they are not seeking permanent employment at the present time. For example, some of these students will continue their education.

C.4.4 Unplaced group data: 327 students (33.95%) indicate they are actively seeking a position but have not yet secured employment.

- C.4.5 Historical results: A table depicting graduate placement results over an eight year period is attached. (page 9) The overall 1994-1995 results are in line with the experience in prior years in that 66% of students have secured a position by the Call to the Bar. A significant shift, apparent in the 1993-1994 and the 1994-1995 results, is the decrease in the number of students reporting that they have been hired back by their articling firm, and the increase in the number of students reporting their employment status as "employed other". In part, this appears to be the result of increased numbers of students reporting at the Call that they intend to start up their own practice. Further analysis would be required to establish whether students follow through with this intention.

Note: amendment, see pages 131-132

C.5 IMPROVED PLACEMENT SERVICE BY VOICE MAIL

- C.5.1 The Placement Office has converted three voice mail boxes to information lines with 24 hour direct dial access. Each mail box provides up-to-date placement information to the caller. There are mail boxes for those seeking an articling position in the 1994-1995 and 1995-1996 terms, and a mail box for recent graduates seeking placement. Within each mail box the caller receives a staff dictated message containing details of the latest jobs listed with the Placement Office. The caller may re-listen, loop to another mail box, or ring for staff assistance.
- C.5.2 The project was initiated at virtually no expense and provides prompt service while creating greater efficiency of human resources by reducing the amount of staff time spent repeating standard information.
- C.5.3 The direct dial line in Toronto is 947-3980. The service is accessible to out of town callers during office hours through the Society's toll free number. The service has been in place for two weeks and comments by users are very positive. The Placement Office is considering further use of pre-recorded messages to support other aspects of its works.

C.6 CONTINUING LEGAL EDUCATION BURSARY FUND

- C.6.1 The program to assist financially needy lawyers in attending continuing legal education courses was advertised recently in the Ontario Reports. (page 10)

C.7 CONTINUING LEGAL EDUCATION REPORT ON COURSES

- C.7.1 The Continuing Legal Education Report, prepared by the Director of Continuing Legal Education, Brenda Duncan, is attached. (pages 11 - 12)

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

P. Epstein
Chair

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

- Item A.-A.1.2 - Copy of a draft budget for Phase One and Phase Three pilot project in Kingston. (page 1)
- Item A.-A.1.2 - Copy of the explanatory document entitled "Notes to Budget". (page 2)
- Item A.-A.1.2 - Copy of a document entitled "Assumptions and Factors to Consider for Kingston Pilot Project. (pages 3 - 4)
- Item A.-A.2.1 - Copy of the draft Phase One Requirements for Standing - 1995. (pages 5 - 8)
- Item C.-C.4.5 - Copy of a table re: Bar Admission Course Graduate Placement Data from informal Student Employment Survey. (page 9)
- Item C.-C.6.1 - Copy of advertisement re: Concerned about paying for Continuing Legal Education? (page 10)
- Item C.-C.7.1 - Copy of the Continuing Legal Education Report. (pages 11 - 12)

An amended Item C.-C.4 of the Report re: Graduate Placement Survey Results was distributed to Convocation.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

AMENDED LEGAL EDUCATION COMMITTEE REPORT TO CONVOCATION

Note: This information item replaces item C.4 in the March 1995 Legal Education Committee Report to Convocation.

C.4 GRADUATE PLACEMENT SURVEY RESULTS: AMENDED REPORT

C.4.1 The Placement Office conducted a survey at the signing of the rolls for Call to the Bar to determine the employment status of students who had completed Phase Three.

C.4.2 963 students responded to the survey. This represents 89% of the 1,077 students called to the Bar in February, and 77% of the 1,250 students in Phase Three.

C.4.3 61.68% or 594 respondents indicate they have secured permanent employment following Phase Three. The 61.68% placed group breaks down as follows:

340 (35.3%)	returning to their articling employer
188 (19.5%)	secured a position elsewhere
66 (6.8%)	starting their own practice
594 (61.6%)	

C.4.4. 4.36% or 42 respondents report they are not seeking permanent employment at the present time. Some of these students will continue their education.

C.4.5 33.95% or 327 respondents indicate they are actively seeking a position but have not yet secured employment.

- C.4.6 A table depicting graduate placement results over an eight year period is attached (page 9). The number of students employed by their call to the bar in 1994-1995 is in line with overall averages. A significant shift, apparent in the 1993-1994 and the 1994-1995 results, is the decrease in the number of students reporting that they have been hired back by their articling firm, and the increase in the number of students reporting their employment status as "employed other". In part, this appears to be the result of increased numbers of students reporting at the call that they intend to start up their own practice. Further analysis would be required to establish whether students follow through with this intention.

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

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of March 9, 1995

Mr. Cullity presented Item B.-B.3. re: Rules made under Subsection 62(1) of the Law Society Act: Rules 27 and 46A for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of March, 1995, at 11:30 a.m., the following members being present: M. Cullity (Chair), R. Bragagnolo, S. Thom.

P. Peters attended to make a quorum.

Also present: A. Brockett, E. Spears, C. Wishart (LPIC).

A.
POLICY

No items to report.

B.
ADMINISTRATION

B.1. REGULATION 708: SECTION 4: ADMISSION BY TRANSFER: AMENDMENTS

B.1.1. Recommendations

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

4. (1) An applicant who is qualified to practise law in any province or territory of Canada outside Ontario may be called to the bar and admitted as a solicitor, on the Committee's recommendation, if he or she satisfies the following conditions:

1. The applicant is a graduate of a law course that is offered by a university in Canada and is approved by Convocation, or has a certificate of qualification issued by the Joint Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Canadian Law Deans.
 2. The applicant has passed the transfer examination prescribed by Convocation.
 3. The applicant has filed a certificate of good standing that was issued by a member society of the Federation of Law Societies of Canada, during the three-month period immediately before the applicant passed the transfer examination.
 4. At the time of his or her call to the bar and admission as a solicitor, the applicant continues to be in good standing with the member society that issued the certificate of good standing.
 5. For a period or periods totalling at least seventeen months within the three-year period immediately before he or she passed the transfer examination, the applicant was engaged in one of the following activities, or any combination of them:
 - i. the active practice of law as a member of a law society or equivalent body that is a member society of the Federation of Law Societies of Canada,
 - ii. the pre-call education program of a member society of the Federation of Law Societies of Canada,
 - iii. service under articles of clerkship in Ontario.
- (2) An applicant is engaged in the pre-call education program of a member society of the Federation of Law Societies of Canada when he or she,
- (a) is enrolled and participates in a teaching or education program prescribed by that society and distinct from a university law course; or

- (b) serves under articles of clerkship to a member of that society in accordance with its rules or regulations.

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

B.1.2. Explanation

B.1.2.1. On November 25, 1994, Convocation adopted a recommendation from the Legislation and Rules Committee that section 4 of Regulation 708 be revoked and replaced by a new section 4 establishing a uniform set of requirements to be met by applicants seeking admission to membership in the Law Society by transfer from any Canadian jurisdiction outside Ontario. Convocation approved the following wording for new section 4:

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

(a) (i) is a graduate of a law course, approved by Convocation, in a university in Canada, or

(ii) has a certificate of qualification issued by the Joint Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Canadian Law Deans;

(b) for a period or periods totalling at least seventeen months within the three year period immediately preceding the application, has been engaged in,

(i) the active practice of law as a member of a law society or equivalent body which is a member society of the Federation of Law Societies of Canada,

(ii) the pre-call education program of a member society of the Federation of Law Societies of Canada, or

(iii) a combination of the activities referred to in subclauses (i) and (ii);

(c) files a certificate of good standing issued by a member society of the Federation of Law Societies of Canada; and

(d) passes the transfer examination as prescribed from time to time by Convocation.

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

(a) enrolled and participating in a teaching or education program prescribed by that society and distinct from a university law course; or

(b) serving under articles of clerkship to a member of that society in accordance with the rules or regulations of that society.

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

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

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

B.1.2.2. In January 1995, legislative counsel at the Ministry of the Attorney General sent to the Law Society a version of new section 4 different from that approved by Convocation. The changes have been discussed with legislative counsel, and the wording set out in paragraph B.1.1.1. has been agreed upon and approved by your Committee.

B.2. REGULATION 708 MADE UNDER THE LAW SOCIETY ACT: FRENCH VERSION OF SECTION 23: AMENDMENT TO CORRECT TRANSLATION OF "COUNCIL OF CANADIAN LAW DEANS"

B.2.1. Recommendation

B.2.1.1. That in the French version of clause 23(9)(b) of Regulation 708, the word "des" before the word "doyennes" be deleted, so that clause 23(9)(b) will read (deleted text struck through):

soit d'un certificat d'aptitude délivré par le Comité mixte sur les équivalences des diplômes de droit, constitué par la Fédération des professions juridiques du Canada et le Conseil des doyens et des doyennes des facultés de droit du Canada.

B.2.2. Explanation

B.2.2.1. At present, the French version of clause 23(9)(b) reads:

soit d'un certificat d'aptitude délivré par le Comité mixte sur les équivalences des diplômes de droit, constitué par la Fédération des professions juridiques du Canada et le Conseil des doyens et des doyennes des facultés de droit du Canada.

B.2.2.2. Legislative counsel at the Ministry of the Attorney General have notified the Law Society that there is an error in the French version of clause 23(9)(b) of Regulation 708: The word "des" before the word "doyennes" should be deleted.

Note: Item withdrawn, see page 141

B.3. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULES 27 AND 46A: AMENDMENTS TO DELETE REFERENCE TO THE INSURANCE COMMITTEE

B.3.1. Recommendations

B.3.1.1. That paragraph 10 of Rule 27 of the Rules made under subsection 62(1) of the Law Society Act be revoked.

B.3.1.2. That Rule 46A of the Rules made under subsection 62(1) of the Law Society Act be revoked.

B.3.2. Explanation

- B.3.2.1. Pursuant to paragraph 10 of Rule 27, the Insurance Committee is established as a standing committee of Convocation. The responsibilities of the Committee are set out in Rule 46A, which currently reads:

INSURANCE COMMITTEE

46A. The Insurance Committee is responsible to Convocation for matters pertaining to indemnity for professional liability for members of the Society and shall make such recommendations to Convocation as it considers advisable to carry out its responsibilities.

- B.3.2.2. Since the report to Convocation of the Insurance Task Force and the Insurance Committee in October 1994, the Insurance Committee has ceased to meet, and its work has been taken over by the Board of Directors of the Lawyers' Professional Indemnity Company ("LPIC"). There is no longer a need for the Insurance Committee to remain a standing committee of Convocation.

- B.3.2.3. The Board of Directors of LPIC, although succeeding the Insurance Committee, is not a standing committee of Convocation. No reference need be made in the Rules to the existence of the Board and to its responsibilities.

B.4. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 50: AMENDMENTS TO INCLUDE REFERENCE TO INSURANCE LEVY SURCHARGES

B.4.1. Recommendations

- B.4.1.1. That in Rule 50 of the Rules made under subsection 62(1) of the Law Society Act, the part entitled "INDEMNITY FOR PROFESSIONAL LIABILITY" be revoked and replaced by the following new part:

INDEMNITY FOR PROFESSIONAL LIABILITY

- (a) Levies for indemnity for professional liability to be used for an insurance fund to cover insurance premiums, reserves, group deductibles, adjusting costs, counsel and legal fees, administration costs and other expenses reasonably incurred in connection with indemnity for professional liability.
- (b) The levies are payable by every member who engages in active practice in any year.
- (c) The levies are to be paid to the Society at such time and in such amount in any year as Convocation may from time to time determine.
- (d) The levies payable shall be:
 - (i) A general levy as may be set by Convocation or required by the Society's policy of professional liability insurance, payable as follows:

- (A) By any member who commences practice in January, February or March of any year except those called to the Bar in February of any year
 100% of the prescribed levy;
- (B) By any member who is called to the Bar and commences practice in February of any year
 75% of the prescribed levy;
- (C) By any member who commences practice in April, May or June of any year
 75% of the prescribed levy;
- (D) By an member who commences practice in July, August or September of any year
 50% of the prescribed levy;
- (E) By any member who commences practice in October, November or December of any year
 25% of the prescribed levy.
- (ii) Such other levies in the form of surcharges or other payments as may be set by Convocation or required by the Society's policy of professional liability insurance, payable at the times and in the manner determined by Convocation or specified in the policy.
- (e) The following are eligible to apply for exemption from payment of the levies:
 - (i) full-time counsel or solicitor to the Government of Ontario or of Canada or to any corporation, (except a law corporation), a Crown Attorney, City Solicitor or law teacher, unless in any year the member engages in practice apart from such employment; and
 - (ii) any member (except a member who is a shareholder of a law corporation) not engaging in practice during the year in respect of which the levy is prescribed.
- (f) If at the end of the year the insurance fund is not entirely used up the surplus remaining shall be carried forward into the next year.

B.4.1.2. That the French Language Services Committee be asked to arrange for a French translation of the new part of Rule 50 entitled "INDEMNITY FOR PROFESSIONAL LIABILITY".

B.4.2. Explanation

B.4.2.1. At present, the part of Rule 50 entitled "INDEMNITY FOR PROFESSIONAL LIABILITY" reads:

INDEMNITY FOR PROFESSIONAL LIABILITY

A levy for indemnity for professional liability to be used for an insurance fund to cover insurance premiums, reserves, group deductibles, adjusting costs, counsel and legal fees, administration costs and other expenses reasonably incurred in connection with indemnity for professional liability payable by every member who engages in active practice in any year to be paid to the Society at such time and in such amount in any year as Convocation may from time to time determine as follows:

- (i) By any member who commences practice in January, February or March of any year except those called to the Bar in February of any year
..... 100% of the prescribed levy;
- (ii) By any member who is called to the Bar and commences practice in February of any year
..... 75% of the prescribed levy;
- (iii) By any member who commences practice in April, May or June of any year
..... 75% of the prescribed levy;
- (iv) By any member who commences practice in July, August or September of any year
..... 50% of the prescribed levy;
- (v) By any member who commences practice in October, November or December of any year
..... 25% of the prescribed levy;

The following are eligible to apply for exemption from payment of the levy:

- (a) full-time counsel or solicitor to the Government of Ontario or of Canada or to any corporation (except a law corporation), a Crown Attorney, City Solicitor or law teacher, unless in any year the member engages in practice apart from such employment; and
- (b) any member (except a member who is a shareholder of a law corporation) not engaging in practice during the year in respect of which the levy is prescribed.

If at the end of the year the insurance fund is not entirely used up the surplus remaining shall be carried forward into the next year.

B.4.2.2. As a result of the October 1994 report of the Insurance Task Force and the Insurance Committee, members are now required to pay levy surcharges and make other insurance payments. It has been suggested that the part of Rule 50 entitled "INDEMNITY FOR PROFESSIONAL LIABILITY" be amended to include reference to the levy surcharges and other insurance payments.

B.4.2.3. The text proposed in paragraph B.4.1.1. is a re-numbering of the current rule. The only substantive change is in subclause (d)(ii).

B.5. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: FORM 2: AMENDMENTS TO REQUIRE MEMBERS TO PROVIDE ADDITIONAL INFORMATION

B.5.1. Recommendations

B.5.1.1. That question 10 on Form 2 prescribed under subsection 62(1) of the Law Society Act be revoked and replaced by the following question 10:

10. *In this question, "venture" means a joint venture, syndicated mortgage investment, partnership or other form of business enterprise.*

24th March, 1995

I HAVE/HAVE NOT either directly, or indirectly through a corporation in which I have, or a related person has, an interest, participated in a venture with a client or former client.

If question 10 is answered affirmatively, please complete the following. If questions (b), (c) or (d) are answered affirmatively, please provide full particulars:

- (a) I HAVE/HAVE NOT reported this venture in the Form 2 completed in respect of my last fiscal year and filed with the Law Society.

In regard to the financing of the venture:

- (b) I HAVE/HAVE NOT been indebted for borrowed money either directly or indirectly to a client or to a person who at the time of borrowing was or had been my client.
- (c) I HAVE/HAVE NOT personally guaranteed a mortgage, or other document, securing indebtedness, in which a client is involved as a borrower or lender.

In regard to independent legal advice for the clients participating in the venture:

- (d) I HAVE/HAVE NOT complied with the guidelines of Rule 5 of the Rules of Professional Conduct and recommended that the clients, who have invested in a corporation or other entity in which I have an interest, receive independent legal advice.

[Note: If the corporation or other entity is one whose securities are publicly traded, the member need not recommend that the clients receive independent legal advice.]

B.5.1.2. That the French Language Services Committee be asked to arrange for a French translation of the new question 10 on Form 2.

B.5.2. Explanation

B.5.2.1. At present, question 10 on Form 2 reads:

10. I HAVE/HAVE NOT either directly, or indirectly through a corporation in which I, or a related person has an interest, participated in a joint venture, syndicated mortgage investment, partnership or other form of business enterprise with a client or former client. (Please specify.)

B.5.2.2. On January 27, 1995, Convocation adopted a recommendation from the Discipline Committee (Policy Section) that Form 2 be amended to require members who participate in a joint venture, etc. with a client or former client to supply information necessary to enable staff to determine whether there exists, in a member's activities, the potential for a breach of the Rules of Professional Conduct. Draft wording for the amended Form was included in the Committee's report to Convocation.

C.
INFORMATION

- C.1. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 50: REQUEST TO AMEND TO REQUIRE PAYMENT OF UNPAID DEDUCTIBLES
- C.1.1. Your Committee has received a request from the Lawyers' Professional Indemnity Company to amend the part of Rule 50 entitled "INDEMNITY FOR PROFESSIONAL LIABILITY" to provide for the prescription of an unpaid deductible under the Law Society's policy of professional liability insurance as a levy. The Committee is considering the request.
- C.2. LAW SOCIETY ACT: AMENDMENTS CONCERNING THE LAW FOUNDATION OF ONTARIO: STATUTE LAW AMENDMENT ACT (GOVERNMENT MANAGEMENT AND SERVICES), 1994 (BILL 175)
- C.2.1. The Lieutenant Governor has named March 1, 1995 as the day on which section 49 of the *Statute Law Amendment Act (Government Management and Services), 1994* (Bill 175) comes into force.
- C.2.2. Section 49 of the *Statute Law Amendment Act (Government Management and Services), 1994* (attached to this report as Attachment A) amends the *Law Society Act* to permit the pooling of funds held in solicitors' mixed trust accounts. This is accomplished by requiring members who intend to deposit mixed trust account money in designated financial institutions to deposit it in an account held jointly by the member and the Law Foundation.
- C.2.3. The pooling of funds held in solicitors' mixed trust accounts will not take place until such time as Convocation makes regulations designating the financial institutions in which joint accounts will be required.
- C.3. LAW SOCIETY ACT: SUBSECTION 57(1): INSTITUTIONS IN WHICH MEMBERS MAY HOLD MIXED TRUST ACCOUNTS: AMENDMENTS: FINANCIAL SERVICES STATUTE LAW REFORM AMENDMENT ACT, 1994 (BILL 134)
- C.3.1. The Lieutenant Governor has named March 1, 1995 as the day on which section 389 of the *Financial Services Statute Law Reform Amendment Act, 1994* comes into force.

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- C.3.2. Section 389 of the *Financial Services Statute Law Reform Amendment Act, 1994* (attached to this report as Attachment B) amends subsection 57(1) of the *Law Society Act* to permit members to keep mixed trust accounts at credit unions or leagues to which the *Credit Unions and Caisses Populaires Act, 1994* applies.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

M. Cullity
Chair

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

- Item C.-C.2.2. - Copy of section 49 of the Statute Law Amendment Act (Government Management and Services). (Attachment A - A-4)
- Item C.-C.3.2. - Copy of section 389 of the Financial Services Statute Law Reform Amendment Act, 1994. (Attachment B)

Item B.-B.2. re: Regulation 708 made under the Law Society Act: French Version of Section 23 was withdrawn.

It was moved by Mr. Cullity, seconded by Ms. Elliott that Item B.-B.3. be adopted.

Carried

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of March 24, 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 Friday, the 24th of March, at 8:30 a.m., the following members being present: C. McKinnon (Chair), D. Murphy (Vice-Chair), R. Cass, R. Carter, L. Legge, M. Weaver.

Also Present: N. Amico, S. Gale, S. McCaffrey, P. Rogerson.

B.
ADMINISTRATION

B.1. REQUEST FOR RECONSIDERATION

- B.1.1. The solicitor was authorized to participate in the Practice Review Programme in March, 1995. He was called to the Bar in 1991 and has received two complaints, and reported two potential claims, since that time. Both claims files were closed without payment of a claim, although \$1,419.28 was expended in adjuster fees.
- B.1.2. Written submissions were received from the solicitor, requesting that his authorization for participation be reconsidered but, if affirmed, that he nonetheless be reinstated on the Lawyer Referral Service roster. He has indicated that even a restricted reinstatement would be preferable to complete withdrawal from the Service roster.
- B.1.3. Although it is unusual for a member who has received only two complaints to be referred to the Programme, the Special Committee on Competence, in its report to Convocation of April, 1986, stated:
- While the more likely candidates will be those solicitors in respect of whom multiple complaints have been received over time, it should be made clear that even a single complaint, depending upon its nature, might give rise to intervention.
- B.1.4. The remedial assistance of the Practice Review Programme, if made available to this solicitor at this stage in his career, may be able to assist him in avoiding complaints and claims in the future. This proactive, preventative approach is preferable to waiting until the solicitor has accumulated a large number of complaints or claims, and then attempting to assist him.
- B.1.5. At the request of the solicitor, the Professional Standards Department was contacted by the Area Director for the Ontario Legal Aid Plan in Scarborough who indicated that, in her view, the solicitor could benefit from participation in the Programme.
- B.1.6. When a lawyer is authorized for participation in the Practice Review Programme, pursuant to Convocation policy the Lawyer Referral Service is so notified, and the Communications Department removes the lawyer's name from the Service's roster.
- B.1.7. Upon the successful completion of the Practice Review Programme, the Standards Department notifies the Lawyer Referral Service, and the lawyer's name is ordinarily restored to the Service's roster. To date, only a very small percentage of the matters authorized have resulted in the prompt termination of a review on the basis of inaccurate Law Society data.
- B.1.8. Where it considers it appropriate to do so, the Committee can recommend to the Lawyer Referral Service that a lawyer's name be restored to the Referral Service roster even though that lawyer is participating in the Practice Review Programme. Discretion remains with the Service as to whether to accept the Committee's recommendation in this regard. The Committee, in May, 1990, recognized that many participants in the Programme rely heavily on the Referral Service to augment their limited client base, and some competency problems can be directly related to the tenuous financial viability of a practice. Removal of the lawyer's name from the roster could exacerbate some of the problems leading to competency concerns. In addition, the purpose of the Programme is not to eliminate a lawyer's practice or make it financially impossible for a lawyer to continue in practice.

24th March, 1995

- B.1.9. The Committee affirmed the solicitor's authorization for participation in the Practice Review Programme, but granted the solicitor's request for reinstatement on the Lawyer Referral Service if he undertakes not to practise civil litigation.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

C. McKinnon
Chair

It was moved by Mr. McKinnon, seconded by Mr. Murphy that the Report dated March 24, 1995 re: Request for Reconsideration, be adopted.

Carried

Meeting of March 9, 1995

Mr. McKinnon presented Item A.-A.1. re: Access to Information for Convocation's approval.

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 Wednesday, the 9th of March, at 3:00 p.m., the following members being present: C. McKinnon (Chair), N. Graham, H. Warder-Abicht, M. Weaver.

Also Present: N. Amico, S. Kerr, S. McCaffrey, P. Rogerson.

A.
POLICY

A.1. ACCESS TO INFORMATION

A.1.1. The issue of the exchange of information has not been considered since January, 1985, when Convocation affirmed a policy that there is to be an open exchange of information within the Law Society, with the exception of the Practice Advisory Service. Since 1985, however, the Law Society has grown both in size and in the complexity of its responsibilities, as well as in the number of initiatives now undertaken which gather information about the membership.

A.1.2. In the absence of a more comprehensive assessment, no policy guidance is available to staff with respect to the extent to which information can be exchanged between the different departments of the Law Society, or provided to the public. As a result, a patchwork of policies and procedures has developed.

A.1.3. At its March meeting, your Committee considered whether there should be a release of information gained through the Practice Review Programme (PRP) to the investigative branches of the discipline process. The issue arose because of two specific developments:

1. In September, 1994, a staff committee was created, composed of representatives from the Audit, Complaints, Discipline and Professional Standards departments, and LPIC, to consider what action, including possible disciplinary action, should be taken against members whose PRP files were closed because of their unwillingness to either participate in or co-operate with the Programme.

2. A member of the Complaints Department staff has recently been given responsibility for developing "omnibus" discipline investigations: these are investigations where a member has a lengthy history of complaints, failure to respond to Law Society enquiries, and other problems which may indicate "ungovernability" and/or numerous breaches of Rule 2 (Competence and Quality of Service). As part of the investigation, the staff member seeks out information about the lawyer in question from sources other than the Complaints Department. Information contained in PRP files could provide important insights into the member's practice, which might assist the investigator in deciding whether to initiate disciplinary action.

A.1.4. Members are encouraged to participate in the Practice Review Programme as a remedial alternative to the discipline process, and are assured that their participation in the Programme, and information disclosed as a result of that participation, will be kept confidential. Information gained about the member's practice is not communicated to the Discipline Department, unless the member is participating through the discipline process, or it is information of a nature that would fall within the mandatory reporting parameters of Rule 14, commentary 1 of the Rules of Professional Conduct (e.g. trust shortages or other serious misconduct). This policy was decided upon in recognition of the fact that members would be unlikely to agree to participate in the Programme in the absence of such a policy, thereby nullifying the intended remedial effect of the Programme. In addition, the reforms to the *Law Society Act*, which would mandate participation in the Programme in particular circumstances, provide that a member's answers to inquiries made in the PRP are not admissible in any proceeding for professional misconduct or conduct unbecoming a barrister and solicitor. The marginal note in the November, 1991 report of the Special Committee on Reforms Implementation states the rationale: "The provisions for practice review are intended to be remedial rather than punitive".

A.1.5. Given the voluntary, consensual, remedial nature of the Practice Review Programme, your Committee concluded that it is not appropriate for the investigative departments of the Law Society to have access to information gathered through the Programme.

- A.1.6. During the discussion, concern was expressed about the absence of any policy guidelines from Convocation which might have assisted the Committee in dealing with the complex question of balancing competing interests as between various Law Society departments, on the exchange of information issue. Given the difficulties the Committee experienced in reaching its conclusion, given that the Committee's conclusion was not unanimous, and given the apparent absence of any recent policy which might assist both staff and committees in resolving this issue, your Committee recommends that a new Special Committee should be struck to address this issue.

A.2. CRIMINAL DEFENCE CHECKLIST - STANDARDS FOR CROWN ATTORNEYS

- A.2.1. Discussion of this item was deferred to the April Committee meeting.

B.
ADMINISTRATION

B.1. ADDITIONAL BUDGET ITEM - FISCAL 1995-96 - STAFFING REQUEST

- B.1.1. The Committee approved an amendment to the Professional Standards Department budget to extend the contract of a full-time secretary presently employed in the department, from June, 1995 to June, 1996, in recognition of the need for additional secretarial support due to the increase in volume of files, and consequent increase in correspondence, reports, profiles, review panel materials and similar documentation.

- B.1.2. The additional cost of this secretarial position will be approximately \$15,000, since there were already funds budgeted for one-half of the position.

B.2. REQUEST FOR RECONSIDERATION OF AUTHORIZATION FOR PARTICIPATION IN PRACTICE REVIEW

- B.2.1. The member was authorized to participate in the Practice Review Programme based on a referral from the Complaints Department. The solicitor was called to the Bar in 1969 and has received a total of 7 complaints since 1990, and 9 potential LPIC claims since 1992, 3 of which involve mortgage investments for 1 client. More than half of the complaints and claims were received in 1993. The member was authorized to participate in the Practice Review Programme in November, 1994, but only a staff attendance was authorized, because the nature of the complaints was not necessarily indicative of practice problems. The member sought a reconsideration of his authorization.

- B.2.2. The Committee has reviewed a copy of the member's Law Society history as well as his submissions outlining reasons for his request and has recommended that a letter be sent to the member from the Chair of the Committee, again proposing an attendance by the Director of the Department, in order to determine whether participation in the Programme is warranted. In light of the member's complaints and claims history, the Committee was not prepared to conclude, without further information, that the authorization to participate should be revoked.

B.3. REINSTATEMENT TO LAWYER REFERRAL SERVICE

- B.3.1. The member was authorized to participate in the Practice Review Programme in November, 1993. He had been referred to the Programme by a Complaints Review Commissioner; at the time of authorization, he had received 21 complaints between 1987 and 1993, and had reported 4 potential LPIC claims; he has received one additional complaint since that time. After several discussions with staff, and an exchange of correspondence with the Secretary of the Law Society, the member eventually agreed to participate.
- B.3.2. A two-day review of the member's practice was conducted in November 1994, resulting in a 26 page report by the reviewer. While the reviewer's report was a positive one, he did make 11 recommendations for the improvement of the member's practice. The member responded in detail to the reviewer's report, disputing the majority of the recommendations.
- B.3.3. The member has requested reinstatement to the Lawyer Referral Service. The Committee reviewed the member's Law Society history of complaints and claims as well as the member's submissions for reinstatement on the Lawyer Referral Service, and the reviewer's recommendations.
- B.3.4. The member has indicated a reluctance to meet with staff in order to conduct a follow-up review of the practice, writing: "before you attend at my office I wish a detailed outline as to what you intend to follow up on and how you intend to do this. I have no intention to let you come in and do a fishing expedition." The tone of this quotation is typical of the solicitor's contact with the Professional Standards Department, and is relevant to an observation made in the first recommendation of the reviewer, that the member "is lacking in diplomacy and perhaps appropriate courtesy with clients when they are undergoing emotional stress". The recommendations made by the reviewer are of a nature which staff would ordinarily pursue with a member participating in the Programme. The issues of attitude, diplomacy and communication skills are frequently discussed by department staff with members participating in the Programme, and often account for complaints received.
- B.3.5. The purpose of the Lawyer Referral Service is to refer members of the public to members of the profession for legal services. It is Convocation's policy that, as a general rule, members authorized to participate in the Practice Review Programme are not reinstated on the Lawyer Referral Service roster until the Programme has been successfully completed, and this Committee satisfied that the reviewer's concerns have been addressed. Given the recommendations

of the reviewer, and the observations of staff (based on telephone calls and correspondence only), the Committee has declined the member's request for restoration to the Lawyer Referral Service roster, and has directed the Chair of the Committee to write to the member, affirming the policy of Convocation and requesting the member to continue to co-operate with the Programme.

B.4. FILE CLOSURES - PRACTICE REVIEW PROGRAMME

- B.4.1. One file was closed based on the member's successful completion of the Practice Review Programme. At the time of the authorization the member had accumulated 17 complaints and 7 potential LPIC claims.
- B.4.2. A reviewer attended at the member's practice on one occasion, a review panel was held on the member's behalf and staff attended on six occasions; several recommendations were made with respect to the improvement of the member's practice. The member's main area of difficulty was his need to practise more defensively and his large volume of clients.
- B.4.3. The member made an effort to implement the recommendations made, and the number of complaints and claims began to diminish, such that in 1994 he received 2 complaints and reported 2 potential claims, for events which occurred in 1989 and 1993, and for which liability is doubtful. It appears that the member's implementation of the recommendations made to him in the course of the Programme have benefitted the member.
- B.4.4. Two Practice Review files were closed based on the members' unwillingness to participate in the Programme. In the first instance, the matter has been referred to the Discipline department to pursue the breach of the member's undertaking to participate. In the second instance, the member has been referred to the Staff Committee to decide what alternatives, if any, should be considered by the Law Society, since the member has rejected the remedial process offered.

C.
INFORMATION

C.1. REVIEW OF ACTIVITIES, PROGRAMS AND PROPOSALS IN LIGHT OF LAW SOCIETY
ROLE STATEMENT

- C.1.1. When Convocation adopted the Role Statement in October, 1994, it directed all committees to review their activities, programs and proposals in light of the Role Statement, as recommended by the Research and Planning Committee. In January, 1995, Committee members were provided with a letter from the Chairs of the Research and Planning Committee and Priorities and Planning Subcommittee, identifying the matters to be considered, a copy of the Role Statement, and the revised final report on the Role of the Law Society.

- C.1.2. Dr. Arnold Love, President of the Canadian Evaluation Society and a faculty member in the York M.B.A. program, conducted a one-day workshop for members of staff on February 17, 1995, introducing and explaining the process of program evaluation.
- C.1.3. This Committee had originally intended that the review commence at the March meeting, by considering a summary of the current and future programs of each department. In light of the impending Benchers election, presentation of this information has been deferred to the May committee meeting, so that incoming Benchers can be given a comprehensive description of each program, and can provide direction as to how to continue with the process.
- C.1.4. This matter is therefore deferred to the Committee's May agenda.
- C.2. PRACTICE ADVISORY SERVICE - STATUS REPORT
- C.2.1. The number of calls received in January, at 907, more than doubles the volume received in January in the early 1990s, and represents an increase of more than 200 calls over the number received in January, 1994. 150 of the calls sought errors and omissions information, and 18 discussed retirement issues, which probably also had an LPIC component to them. The area of greatest concern under the Rules of Professional Conduct was conflicts of interest.
- C.2.2. The four lawyers in the Service attended one day each at the CBAO Annual Institute, covering programs on real estate, trusts, civil procedure and family law. The Director of the Service also attended a seminar for staff to introduce the concepts and methods of program evaluation.
- C.2.3. The monthly Start Up Workshop was held at the beginning of the month.
- C.3. PROFESSIONAL STANDARDS - DEPARTMENTAL REPORT
- C.3.1 In February, 8 members were authorized to participate in the Practice Review Programme, 4 on the basis of a staff attendance only. Eight files were closed, bringing the total number of open files to 148. No review panel was held in February.
- C.3.2. Staff were scheduled to conduct 33 follow-up reviews in the month of February; 9 of these were cancelled due to conflicting commitments of the lawyers participating.

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- C.3.3. The Staff Working Group has been meeting on a weekly basis, finalizing the review of the proposed amendments to the *Law Society Act*, in order to implement the changes approved by Convocation on the recommendation of the Reforms Implementation Committee. The targeted deadline for completion is late June, 1995.

ALL OF WHICH is respectfully submitted

DATED this 24th day of March, 1995

C. McKinnon
Chair

It was moved by Mr. McKinnon, seconded by Mr. Murphy that Item A.-A.1. be adopted.

Carried

THE REPORTS WERE ADOPTED

NOTICE OF MOTIONS

The following Motions will be before April Convocation.

1. Moved by: Abraham Feinstein
Seconded by: Joan Lax

THAT former Treasurers should continue to have all the rights and privileges of an elected benchers except the right to vote in the election of a Treasurer

2. Moved by: Mary Weaver
Seconded by: Maurice Cullity

THAT the tail levy imposed pursuant to the provisions of the Insurance Committee Task Force Report dated October 28th, 1994 at page 71 will not be payable by persons who cease to be a member of the Society on or before January 1, 1996.

REQUEST BY LAW TIMES

A discussion took place on the request of the Law Times for information on Benchers' Expenses and records of Benchers' participation on Law Society committees, discipline panels and attendance at Convocation.

It was moved by Mr. Epstein, seconded by Mr. Finkelstein that the public records be accumulated for release to individual Benchers who can then release them with explanations to Law Times and that the information be made available to the profession through the next issue of the Benchers Bulletin to be published prior to the election.

Carried

ROLL-CALL VOTE

Arnup	For
Bastedo	For
Bellamy	For
Blue	For
Brennan	For
Carey	For
Cullity	For
Curtis	For
Elliott	For
Epstein	For
Finkelstein	For
Lamont	Against
Mewett	For
McKinnon	For
Murray	For
O'Brien	For
Palmer	For
Peters	For
Sealy	For
Thom	Against
Topp	For
Wardlaw	For
Weaver	For

Mr. McKinnon asked that an amendment be made to Mr. Epstein's motion, seconded by Ms. Weaver that information on Benchers' records on participation on Law Society committees, discipline panels and attendance at Convocation be made available to Law Times with the exception of Benchers' expenses which will only be released after individual Benchers have an opportunity to have input into their own expenses.

Not Put

It was moved by Ms. Curtis, seconded by Mr. Carey that the information requested be released to Law Times in a timely fashion with explanation even if it is available before the publication of the Benchers' Bulletin.

Carried

ROLL-CALL VOTE

Arnup	Against
Bastedo	For
Bellamy	For
Blue	For
Brennan	For
Carey	For
Cullity	Against
Curtis	For
Elliott	For
Epstein	For
Finkelstein	For
Lamont	Against
Mewett	Against
McKinnon	For
Murray	For
O'Brien	Against
Palmer	For
Peters	For
Sealy	Against
Thom	Against
Topp	Against
Wardlaw	For
Weaver	Against

.....

ORDERS

The following Orders were filed.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Joseph Linzner,
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 13th day of December, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

24th March, 1995

CONVOCATION HEREBY ORDERS that Joseph Linzner be suspended for a period of three months and the suspension be deemed to have been completed in light of the Solicitor voluntarily ceasing practice from the 1st of February, 1994 to the 30th of April, 1994.

DATED this 26th day of January, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Dragan Vujic, of
the City of Kitchener, 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 December, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, herein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

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

DATED this 26th day of January, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

24th March, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Robert Emerson Pritchard, of the City of Sault Ste. Marie, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 19th day of December, 1994, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, where in the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Robert Emerson Pritchard be suspended for a period of eighteen (19) days, and thereafter until such time as the following conditions are met:

- (a) the Society receives a report from the Chief of Psychiatric Medicine of the Sault Ste. Marie General Hospital, Dr. Leung, that the Solicitor is continuing program and that the Solicitor is capable of practising law while adhering to the drug regime;
- (b) the Solicitor provide to the Society a release authorizing Dr. Leung to advise the Society immediately if he becomes aware that the Solicitor has ceased the prescribed drug regime;
- (c) the Solicitor will not practice as a sole practitioner but will practice only in association with another solicitor or solicitors who are apprised of his medical history and are prepared to supervise his practice and report to the Society if they form any concerns that the Solicitor is no longer participating in prescribed regime. This condition is to continue until relieved by the Secretary.
- (d) the Solicitor give an Undertaking not to operate a trust account; and
- (e) the Solicitor participate in and complete the Practice Review Program before returning to practice and that after his return to practice he continue to participate in and co-operate with the Practice Advisory Department.

DATED this 26th day of January, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

24th March, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 30th day of November, 1994, in the presence of Counsel for the Society, neither the Solicitor nor counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Charles Morgan be suspended for a period three (3) months, such suspension to commence after the termination of the current administrative suspension and pay costs in the amount of \$3,000.00.

DATED this 26th day of January, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF David Jean Royer, of the City of Cornwall, 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 12th day of December, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

24th March, 1995

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

DATED this 26th day of January, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Sidney Irving Lovas, 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 2nd day of December, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, where in the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Sidney Irving Lovas be suspended for a period of three months and said suspension to continue until such time as he:

- a) replies to the Audit Department in connection with the inadequacies set out during an examination of the member's books and records;
 - b) file Forms 2 and 3 pursuant to the Regulations;
- and pay costs fixed in the amount of \$2,500.00.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

24th March, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Hugh Gordon O'Leary, of the City of Thunder Bay, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

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

CONVOCATION HEREBY ORDERS that Hugh Gordon O'Leary be suspended for a period of seventy-five (75) days, to commence after his administrative suspension has ended.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Stephen Lorne McDonald, of the City of Sudbury, 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 Committees dated the 11th day of October, 1994, in the presence of Counsel for the Society, and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

24th March, 1995

CONVOCATION HEREBY ORDERS that Stephen Lorne McDonald be granted permission to resign.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Frederick Bernard Sussmann, of the City of Ottawa, 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 8th day of September, 1994, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Frederick Bernard Sussmann be suspended for a period of one (1) month, such suspension to commence on the 1st day of June, 1995.

DATED this 27th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Lee Edward Ward, of the Town of Carleton Place, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

24th March, 1995

O R D E R

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

CONVOCATION HEREBY ORDERS that Lee Edward Ward be suspended for a period of twelve (12) months, such suspension to commence the 1st day of May, 1995, and that he:

- be required to pay the expenses incurred by Bernard Lee for his two trips to Ottawa from Cape Breton in order to sign releases which were useless;
- upon his reinstatement, the Solicitor restrict his practice to the areas of criminal defence litigation, uncontested divorces and residential real estate; and
- pay costs of the Law Society in the amount of \$5,000.00.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Brian David Woodley, of the Town of Grimsby, 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 12th day of December, 1994, in the presence of Counsel for the Society, neither the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

24th March, 1995

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

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Bert Jacques, of
the City of Markham, 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 27th day of October, 1994 and 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 Bert Jacques be suspended for a period of three (3) months.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

24th March, 1995

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 29th day of November, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Edward John Brogden be suspended for a period of two (2) months, such suspension to commence on the 1st day of February, 1995 and that he pay costs in the amount of \$2,000.00.

DATED this 26th day of January, 1995.

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Congratulations were extended to the Treasurer on his forthcoming marriage in April.

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CONVOCATION ROSE AT 4:40 P.M.

Confirmed in Convocation this day of , 1995.

Treasurer