

Friday, 26th May, 1995

MINUTES OF CONVOCATION

Friday, 26th May, 1995
9:30 a.m.

PRESENT:

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

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The reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

As a result of the Bencher election a number of Committees were without Chairs. With the approval of Convocation the Treasurer appointed the following Benchers as Acting Chairs until the next Regular Convocation in June:

Professional Standards	-	Ross Murray
Equity in Legal Education and Practice	-	Stephen Goudge
Professional Conduct	-	Neil Finkelstein
Unauthorized Practice	-	Neil Finkelstein

In the event that Mr. Finkelstein is unable to chair the Professional Conduct and Unauthorized Practice Committees the Treasurer was authorized to appoint a replacement.

The Treasurer further appointed Tom Carey and Heather Ross as members to the Legal Aid Committee until the June Regular Convocation.

The Treasurer agreed to write a letter on behalf of the new Benchers who wished to express their appreciation to the previous Bench for their assistance since the election.

ELECTION OF BENCHERS

Pursuant to Rule 15 of the Rules made pursuant to the Law Society Act, the Secretary filed with Convocation the results of the 1995 Bencher Election.

Certification of Results of the 1995 Bencher Election

Pursuant to Rule 14(1) of the Rules made pursuant to the Law Society the Secretary certified the following candidates had been elected:

In Metropolitan Toronto:

Eberts, Mary
Ruby, Clayton C.
Cronk, Eleanore A.
Backhouse, Nancy
Epstein, Philip M.
Sachs, Harriet
Aaron, Robert (Bob)
Curtis, Carole
Copeland, Paul
Marrocco, Frank N., Q.C.
Armstrong, Robert P., Q.C.
Harvey, Jane
Bellamy, Denise
Finkelstein, Neil
Banack, Larry
Gottlieb, Gary Lloyd, Q.C.
Manes, Ronald D.
Goudge, Stephen T., Q.C.
Millar, W. A. Derry
Lax, Joan L.

Outside of Metropolitan Toronto:

MacKenzie, Gavin
Scott, David W., Q.C.
Murphy, Daniel J., Q.C.
Elliott, E. Susan
Carpenter-Gunn, Kim A.
Cole, Thomas E.
Ross, Heather J.
Adams, W. Michael
Feinstein, Abraham
Stomp, Tamara
Wright, Bradley H.
Topp, Robert C.
Wilson, Richmond C. E.
Strosberg, Harvey T.
Carey, Thomas J. P.
Swaye, Gerald A., Q.C.
Puccini, Helene Bruce
Bobesich, Gordon Z.
Krishna, Vern, Q.C.
Murray, Ross W., Q.C.

It was moved by Mr. Strosberg, seconded by Ms. Bellamy that the ballots be destroyed.

Carried

NOMINATIONS FOR TREASURER

The Secretary filed the following nominations for Treasurer:

E. Susan Elliott	-	nominated by Philip Epstein and Abraham Feinstein
David W. Scott	-	nominated by Hope Sealy, Stephen T. Goudge and Denise Bellamy

AGENDA - Committee Reports Taken as Read

It was moved by Ms. Curtis, seconded by Mr. Goudge 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
Communications
Discipline Policy
Draft Minutes - April 1995
Equity in Legal Education and Practice
French Language Services
Investment
Legal Education
Libraries and Reporting
Professional Conduct
Specialist Certification Board
Unauthorized Practice
Women in the Legal Profession

COMMITTEE REPORTS

ADMISSIONS AND MEMBERSHIP COMMITTEE

Meetings of May 11 and 25, 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 11th of May, 1995 at 9:30 a.m., the following members being present: Mr. Campbell (Chair), Mr. Lamont (Vice-Chair), Mrs. Weaver, Ms. Moliner and Mr. Farquharson.

Also present: M. Angevine and P. Gyulay.

B.
ADMINISTRATION

B.1. READMISSION FOLLOWING RESIGNATION AT OWN REQUEST

B.1.1. Robert Israel Blanshay was called to the Bar on February 7th, 1992. He resigned his membership at his own request on September 23rd, 1994. Mr. Blanshay now applies for readmission to the Law Society of Upper Canada.

B.1.2. In his letter of application dated April 6th, 1995, Mr. Blanshay explains that without a full understanding of categories of membership he resigned his membership to pursue a transfer to the Quebec Bar. He states that it had always been his intention to be readmitted upon being called to the Quebec Bar. Recently he has been offered the opportunity of working for a Toronto law firm while in Montreal.

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B.4.3. The petitioner's approved LL.B. degree is 13 years old. In her letter of May 2nd, 1995, she requests an exemption from the Common Law examination. The applicant states that she has kept consistently in touch with common law and in particular, Ontario commercial law, throughout her 11 years of practice.

B.4.4. The applicant's letter was before the Committee for consideration. Your Committee is of the view that the applicant be required to complete the Common Law examination in keeping with the current policy.

B.5. APPLICATION FOR TEMPORARY MEMBERSHIP UNDER SECTION 28.1

B.5.1. Lynne Roseanne Kohm was called to the Bar of the Province of Manitoba on the 26th of June, 1986. Ms. Kohm seeks permission to be admitted to temporary membership in the Law Society of Upper Canada in accordance with Sec. 28.1 of Regulation 708 made under the Law Society Act.

B.5.2. Ms. Kohm seeks a temporary call to the Bar of Ontario to enable her to act as an Assistant Crown Attorney in Ontario. She has been approved by the Ministry of the Attorney General for Ontario to participate in a one year job "exchange" with an Ontario Crown Attorney.

B.5.3. Ms. Kohm has submitted a Certificate of Good Standing and copies of letters exchanged by the offices of the respective provincial Attorneys General confirming the job exchange and setting out the nature and term of the employment.

Your Committee recommends that her application be approved.

B.6. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.6.1. Bar Admission Course

B.6.2. 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, May 26th, 1995:

John Hannaford
Courtney Akinwale Kazembe
Sharon Lyne Layton
Paul Thomas Quinlan
Mitchell Hart Rose
Anna Zachariah

Approved

B.6.3. The following candidate expect to have successfully completed the 36th Bar Admission Course by the week of May 22nd, 1995 and asks to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on Friday, May 26th, 1995:

Susan Margaret Maunsell

Approved

B.6.4. Transfer from another Province - Section 4(2)

B.6.5. 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, May 26th, 1995:

Elisabeth Jane Eid

Province of Quebec

Approved

B.7. MEMBERSHIP UNDER RULE 50

B.7.1. (a) Retired Members

B.7.2. The following members who are sixty-five years of age and fully retired from the practice of law, have requested permission to continue their memberships in the Society without payment of annual fees:

Bruce Harrison Grose
John Thomas Dutton Holmes
James William Snider McOuat
Albert Smith

Toronto
Mississauga
Collingwood
North York

B.7.3. (b) Incapacitated Members

B.7.4. The following member is incapacitated and unable to practise law and has requested permission to continue her membership in the Society without payment of annual fees:

Sandra Margaret Todd

Nepean

Approved

B.8. RESIGNATION - REGULATION 12

B.8.1. 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) Robert Daniel Dunn of Bedford Nova Scotia, was called to the Bar on April 9, 1987. His rights and privileges as a member were suspended on November 1, 1994 for non-payment of the annual fee. The 1994/95 annual fee is owing. He is currently a member of the Nova Scotia Barristers Society. His annual filings are up to date.

(b) Grant Monck, of Vancouver, British Columbia was called to the Bar on March 27, 1992. He declares that he has never practised law in Ontario. The 1994/95 annual fee is owing. His annual filings are up to date.

- (c) Jennifer Ann Mealey of Toronto, was called to the Bar on February 5, 1993. She declares that she has never practised law in Ontario. The 1994/95 annual fee is owing. Her annual filings are up to date.
- (d) Zenovi Taras Salmers of Oshawa, was called to the Bar on September 16, 1948. He declares that he ceased practising law on December 31, 1994. His annual filings are up to date.
- (e) Joseph Lawrence Samuel Cappe of Etobicoke, was called to the Bar on March 23, 1973. He ceased practising law on September 30, 1994 and no longer wishes to be affiliated with the Society. His annual filings are up to date.
- (f) Harold Douglas Munro of Brampton, was called to the Bar on April 19, 1963. He ceased practising law on October 31, 1991. The 1994/95 annual fee is owing. His annual filings are up to date.

Approved

C.
INFORMATION

C.1. CHANGES OF NAME

C.1.1. From To

Amanda Jane Burgess <u>Boggs</u>	Amanda Jane <u>Burgess</u> (Birth Certificate)
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Noted

C.2. ROLLS AND RECORDS

C.2.1. (a) Deaths

The following members have died:

John Latimer Crozier Sutton West, ON	Called October 21, 1937 Died April 1, 1980
Morris Pomer Willowdale, ON	Called February 21, 1935 Died June 2, 1993
Henry Patrick Marck Hamilton, ON	Called November 18, 1926 Died September 19, 1994
Peter Gerald Hopperton Markham, ON	Called June 21, 1951 Died November 1, 1994
Joseph Oliver Simpson Toronto, ON	Called June 25, 1959 Died December 5, 1994
Gordon MacKinnon Kitchener, ON	Called March 24, 1972 Died December 9, 1994
Thomas Herbert Baker Huntsville, ON	Called September 15, 1938 Died December 28, 1994

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Edmund Hugh McVitty
Willowdale, ON

Called June 29, 1949
Died February 27, 1995

Nancy Winnifred Schryburt
Ottawa, ON

Called March 20, 1991
Died March 20, 1995

Francis Joseph Keenan
St. Catharines, ON

Called October 16, 1947
Died April 9, 1995

John Cyril Carson
Toronto, ON

Called June 27, 1957
Died April 12, 1995

John Douglas Ferguson
Mitchell, ON

Called June 25, 1959
Died April 26, 1995

Noted

C.2.2. (b) Permission to Resign

C.2.3. The following member was permitted to resign his membership in the Society and his name has been removed from the rolls and records of the Society:

Stephen John Kennedy
Mississauga

Called April 11, 1979
Permitted to Resign - Convocation
April 27, 1995

Noted

C.2.4. (c) Disbarments

C.2.5. The following members have been disbarred and their names have been removed from the rolls and records of the Society:

Ansis Semenovs
Toronto, ON

Called March 19, 1970
Disbarred - Convocation
April 27, 1995

John Melville Hartley
Willowdale, ON

Called April 13, 1978
Disbarred - Convocation
April 27, 1995

Noted

C.2.6. (d) Memberships in Abeyance

C.2.7. 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:

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Herve Pierre Brownstone
Etobicoke, ON

Called April 7, 1983
Appointed to Ontario Court
of Justice
(Provincial Division)
March 13, 1995

Faith Maureen Finnestad
Toronto, ON

Called April 7, 1983
Appointed to Ontario Court of
Justice
(Provincial Division)
April 30, 1995

Noted

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

C. Campbell
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS AND MEMBERSHIP COMMITTEE begs leave to report:

Your Committee met on Thursday, the 25th of May, 1995, the following members being present: Mr. Lamont (V. Chair) and Messrs. Campbell and Goudge.

Also present: P. Gyulay

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, May 26th, 1995:

Friday, 26th May, 1995

Jill Elizabeth Fitzmaurice
Paul Ianni
Diana Frances Ottosen
Marie Françoise Brigitte Roy

Approved

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

C. Campbell
Chair

THE REPORTS WERE ADOPTED

CLINIC FUNDING COMMITTEE

Meetings of May 1 and 11, 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 May 1, 1995. Present were: Joan Lax, Chair, Ian Blue, Mark Leach. Pam Mountenay-Giffin participated by conference call. Also present: Joana Kuras, Clinic Funding Manager.

The Committee also met on May 11, 1995. Present were: Joan Lax, Chair, Gordon Wolfe, Mark Leach, Pamela Mountenay-Giffin. Also present: Joana Kuras, Clinic Funding Manager.

A.
POLICY

A.1 Advisory Group

The Clinic Funding Committee has established an Advisory Group to clinic funding staff composed of persons nominated by community legal clinic staff and Boards of Directors. The Group's first task is to recommend a strategic planning process for the community legal clinic system. Extensive consultation with clinics is being planned in order to provide the Clinic Funding Committee with current information about the competing demands for services and resources in the clinic system.

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A.2 Legal Aid Committee - Potential Service Cuts

The Chair was invited to attend the Legal Aid Committee meeting on May 11, 1995 and was given an opportunity to advise the Legal Aid Committee that possible service cuts in landlord and tenant and workers' compensation matters will cause grave concern. The Clinic Funding Committee is strongly opposed to the elimination of legal aid certificates for poverty law matters. The Clinic Funding Committee has informed clinics of the possibility of service cuts and will closely monitor for further developments.

B.
ADMINISTRATION

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

B.1 Court Costs

Pursuant to s.10 of the Regulation on clinic funding, the Clinic Funding Committee has approved an application for the payment of court costs from the following clinics:

Metro Tenants Legal Services - up to \$6,686.40
McQuesten Legal & Community Services - up to \$1,000

C.
INFORMATION

C.1 Meeting with Clinic Staff

Ian Blue attended the annual regional training conference in Kingston on May 5, 1995, met with clinic staff and led a workshop "Evidence in Administrative Law".

ALL OF WHICH is respectfully submitted

Joan Lax
Chair

May 17, 1995

THE REPORT WAS ADOPTED

COMMUNICATIONS COMMITTEE

Meeting of May 11, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Friday, 26th May, 1995

Your Committee met on Thursday, the 11th of May, 1995, the following members being present: Denise Bellamy (Chair), Hope Sealy (Vice-Chair), Lloyd Brennan, Carole Curtis, Allan Lawrence, Ross Murray and Julaine Palmer. Newly elected benchers to take office May 26: Michael Adams, Larry Banack, Gavin MacKenzie and W.A. Derry Miller. The following staff were also present: Nancy Bath, Gemma Zecchini.

C.
INFORMATION

1. *Program Inventory*

The Communications Committee has approved the document outlining the inventory of programs and activities undertaken by the Communications Department. The inventory has been forwarded to the Research & Planning Committee as requested.

2. *Lawyer Referral Service (LRS) Program Review*

As part of an overall program review, the Communications Committee requested that ABA-PAR (American Bar Association - Program of Assistance & Review) conduct an on-site operational audit of the LRS last fall. Site visits are available free of charge for all ABA-LRS members, of which the Law Society's LRS is one. On December 9, 1994, three members of the ABA Lawyer Referral Division attended at the Law Society and conducted their audit. Specifically, they were asked to address the issues of funding, public relations and general operating procedures.

The audit team met with LRS program staff (both management and front-line staff) in the morning and then proceeded to a luncheon meeting with several members of the Communications Committee including the Chair, Denise Bellamy.

The PAR consultants identified the chief areas of concern as follows: defining the purpose of the Society's LRS program, given that it is not a core mandate of the Society; enhancing the benefits to the public who use the LRS to find a lawyer, and effectively publicizing these benefits; funding; and, appropriate staffing.

A full copy of the ABA-PAR report is attached at A1.

An inventory of the recommendations contained within the report appears below. Members of the Communications Committee will be reviewing these recommendations over the next few months and will be requesting Convocation's approval to implement those recommendations that require amendments to existing Lawyer Referral Service policies.

The following recommendations are presented at this time for information purposes only:

1. The Communications Committee should consider ways to better inform current and prospective Law Society members of the benefits of LRS participation. (pg. 27)
2. The LRS should publicize referrals which result in a substantial recovery. (pg.27)
3. Experience panels should be established. Such panels ensure that the service can match clients with lawyers who have actual experience in the appropriate area of law.

4. In order to avoid eliminating the participation of newer lawyers, services with experience panels may also maintain a "general" panel, covering relatively uncomplicated areas of law. In order to help newer lawyers gain the experience which may be required to qualify for the LRS, the LSUC may want to consider a mentor program, whereby less experienced lawyers are matched with experienced lawyers who have agreed to provide advice to newer colleagues. (pg. 29)
5. In order to monitor the quality of services provided by both the LRS and panel lawyers, the use of client questionnaires is strongly recommended. (pg.29)
6. Members of the Communications Committee should consider additional public relations efforts to publicize the LRS. The distribution list for the LRS brochure should be expanded to include any place where it would reach middle-income consumers ie. real estate offices, EAPs, banks, credit unions, courts and other public offices. (pg.30)
7. Committee members might consider asking local radio stations to air free public service announcements. (pg.31)
8. Press releases highlighting any new aspect of the service, a change in operation, an old aspect not widely known, or program statistics, can be released to newspapers.
9. Local newspapers might be persuaded to start a regular legal column. Such a column could be written by a member of the Communications Committee and would focus on a different legal issue of interest each day, week or month. Whenever appropriate, the column can refer readers to the LRS for referral to a lawyer. (pg.31)
10. The LSUC may wish to consider placards (posters) to advertise the LRS in public offices. (pg.31)
11. As a means of assessing the effectiveness of various public relations activities, it is recommended that callers be asked how they learned of the LRS.
12. A particularly successful method of generating revenue, used by many lawyer referral services, is to require that a percentage of the fee generated by the referral be returned to the service. A typical arrangement is to require the lawyer to remit 10 per cent of any fee over \$100.
13. The Communications Committee may want to explore ways to effectively screen frivolous calls. This would involve training staff so that they would be able to distinguish situations which clearly do not warrant a referral to a lawyer. (pg. 34)
14. The Communications Committee might also consider limiting the number of referrals which will be made to an individual for any particular legal problem. (pg. 34)
15. The Law Society of Upper Canada might consider establishing a "legal advice clinic" to accommodate those people whose problem may be solved with a minimum of guidance from an attorney. Not only would such a program be a significant service to the public, but panel attorneys would be spared referrals that amount to nothing more than a few minutes worth of free advice. (pg. 34)

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16. The PAR consultants were informed that the LRS suffers from absenteeism and high staff turnover. LRS telephone staff are in the forefront of the sponsoring bar association's relations with the public. Their work requires them constantly to respond to callers' problems and this type of work has a high potential for "burn-out." The Communications Committee should investigate ways to minimize this effect and to acknowledge the important work of the staff. (pg. 35)
17. Another way to improve staff morale would be to allow more discretion for phone counsellors to screen calls and make referrals to appropriate social service and governmental agencies, rather than routinely referring each caller to a lawyer. (pg. 35)
3. *Law Society Correspondence*

At its April meeting, the Communications Committee considered the issue of Law Society correspondence with members of the public. Considering the wide disparities in levels of English-language proficiency, literacy and education among Ontario residents, the Committee was of the view that all Law Society staff whose employment requires that they correspond regularly with the public be required to undertake plain language training.

In addition, the Committee has asked that plain language guidelines be applied to all standard-form letters and written materials issued to the public.

To this end, the following measures have been taken:

- plain-language workshops are being arranged for staff in the Complaints Department which is the most correspondence-intensive unit of the Law Society
- standard form correspondence from the Complaints Department targeted at the general public will be reviewed and revised according to plain language guidelines

Once the training process has taken place, the Communications Committee will consider the need to draft plain language guidelines to apply to all Law Society correspondence.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May 1995

Denise Bellamy
Chair

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

Item C.-2. - Copy of the Par Report dated March 30, 1995. (pages 25 - 37)

THE REPORT WAS ADOPTED

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DISCIPLINE POLICY COMMITTEE

Meeting of May 11, 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 Thursday, the 11th of May, 1995 at 1:30 in the afternoon, the following members being present:

D. O'Connor (Acting Chair), D. Bellamy, R. Carter, K. Howie, S. Lerner, M. McPhadden, S. Thom, R. Topp and M. Weaver were present.

L. Banack, G. Bobesich, C. Curtis, G. Gottlieb, F. Marrocco, G. Mackenzie, D. Millar, T. Stomp and B. Wright also attended.

N. Perrier, J. Yakimovich, S. Kerr, M. Vear and J. Brooks also attended.

A.
POLICY

No items.

B.
ADMINISTRATION

No items.

B.
INFORMATION

B.1. REVIEW OF LAW SOCIETY PROGRAMS AND ACTIVITIES

B.1.1. The Law Society's Role Statement, adopted in October 1994, reads as follows:

The Law Society of Upper Canada exists to govern the legal profession in the public interest by,

- ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and
- upholding the independence, integrity and honour of the legal profession,

for the purpose of advancing the cause of justice and the rule of law.

- B.1.2. When Convocation adopted the Role Statement, it decided to direct all Committees to review their "activities, programs, and proposals" in light of the Role Statement, the Commentary and the Report of the Subcommittee on the Role of the Law Society.
- B.1.3. As the first step in the process, your Committee considered Program Evaluation Reports prepared by the Audit & Investigation, Complaints and Discipline Departments. The Reports outlined the activities of the departments and addressed the following questions:
1. What is the mandate of the program?
 2. What are the components of the program as currently implemented?
 3. Who is the program intended to serve? (e.g. the profession, certain segments of the profession, the public)
 4. What are the costs to the Law Society of operating the program?
 5. Does the program recover any of its costs?
- B.1.4. Jim Yakimovich presented the Report of the Audit & Investigation Department. Scott Kerr presented the Report of the Complaints Department. Neil Perrier presented the Report of the Discipline Department.
- B.1.5. Your Committee considered and approved the list of existing activities as outlined in the Program Evaluation Reports of the three Departments.
- B.2. RULE 28 - EDUCATIONAL MATERIAL
- B.2.1. The Chair of the Equity in Legal Education and Practice Committee requested asked your Committee consider its draft educational material regarding Rule 28. The members of your Committee had no comments on the substantive issues raised in the educational material.
- B.3. AUTHORIZATION OF DISCIPLINE CHARGES
- B.3.1. Once a month, the Chair and Vice-Chairs of your Committee meet with staff to consider requests for formal disciplinary action against members. The following table provides a summary of Complaints authorized to date in 1995.

Total number of charges authorized to date in 1995	
January	30
February	45
March	45
April	36
TOTAL	156

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

D. Scott
Chair

THE REPORT WAS ADOPTED

DRAFT MINUTES - APRIL 27 and 28, 1995

(see draft Minutes in Convocation file)

THE DRAFT MINUTES WERE ADOPTED

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of May 11, 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 11th of May, 1995, the following persons being present: Marie Moliner (Chair), Nora Richardson, Patricia Hennessy, Judith Keene, Brigid Luke, Ramneek Pooni, Michele Williams, Jocelyn Churchill, Mimi Hart and Alexis Singer. Larry Banack was also in attendance.

C.
INFORMATION

C.1 Review of Law Society Programs

C.1.1 The committee approved the Equity Committee's submission. This represents the first stage of the Review of Law Society Programs with respect to the Equity in Legal Education and Practice Committee.

C.2 Rule 28

C.2.1 "QUICKFACTS" Background: Judith Keene provided a context for the "QUICKFACTS" portions of the educational bulletins on Rule 28 and indicated that she had made some small modifications to ensure absolute accuracy of any statements appearing in those sections.

C.2.2 It is anticipated that the bulletins on "Overview of Law Relevant to Rule 28" and "Employment Within Law Firms" will be put into bulletin format and, pursuant to Convocation's directions, presented to Convocation for information purposes at the May Convocation after having gone through approval by the Communications, Discipline Policy, Legal Education, Professional Conduct, Professional Standards, Research and Planning and Women in the Legal Profession Committees. It is anticipated that the first three bulletins ("Overview of Law Relevant to Rule 28", "Recruitment and Hiring" and "Employment Within Law Firms") will be distributed to the profession in early June 1995.

C.2.3 Committee members will add to the distribution list prepared by staff and a complete mailing list will then be prepared. The committee approved the idea of having a notice appear in the *Ontario Reports* announcing to the profession that the bulletins designed to assist members with respect to their obligations under Rule 28 will be forthcoming.

C.2.4 All staff who come in contact with members of the profession asking questions about the material in the Rule 28 bulletins will have to be provided with the names of the people to whom these questions should be referred.

C.2.5 The committee agreed that staff should track the nature and number of inquiries received with respect to the bulletins and Rule 28 in general. Discussions with the Complaints and Discipline Departments will be necessary to ensure proper tracking. If the persons making inquiries wish to identify themselves, they will be asked if they wish to be on the mailing list. To the extent possible, personnel dealing with the inquiries will attempt to determine whether the member is in government, private practice as a sole practitioner or with a firm.

C.3 Law Society Employment Equity Initiatives

Staff reported that an information session had been held in late April 1995 and that the staff present had been asked to complete a self-identification questionnaire (attached to this report). The self-identification questionnaire had been provided to the Law Society by Omnibus Consulting Inc., the consultants to the Law Society on the development of its Employment Equity Plan and reviewed by Senior Management. Senior Management, through the Secretary of the Law Society, sent a memorandum to all staff advising them of their required presence at the information sessions.

C.3.1 Staff are waiting for the return of all surveys (anticipated within the next month) at which point staff will analyze the data. All staff must sign and return the survey although completion of it is voluntary.

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C.3.2 Over the course of the summer it is anticipated the employment systems review will be conducted. An attitude survey will most likely form a part of the data on the employment systems review.

C.3.3 Senior Management must approve each step of the process in the development of the Employment Equity Plan prior to any action being taken. The Employment Equity Consultation Group (a staff group) meets monthly to provide ideas for the best methods of carrying out the steps required under the *Employment Equity Act* and then Jocelyn Churchill of the Human Resources Department seeks Senior Management's approval.

C.4 Other Business

The committee was advised that the Black Law Students' Association of Canada was holding a Visions of Justice Banquet and Awards Night on June 3, 1995 at St. Lawrence Hall. Three African Americans (Professor Akua Benjamin of Ryerson, Ms. April Burey of the Ministry of the Attorney General and Mr. Charles Roach an Activist Lawyer) will be honoured. Tickets are \$50. People who are unable to attend can contribute by sponsoring the attendance of a student who has been identified as being interested in a career in law.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

M. Moliner
Chair

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

Item C.-C.3 - Copy of questionnaire entitled Employment Equity Inventory.

Three bulletins were distributed to Convocation relating to Rule 28: Non-discrimination.

THE REPORT WAS ADOPTED

FRENCH LANGUAGE SERVICES COMMITTEE

Meeting of May 11, 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 11th of May, 1995, the following members being present: Vern Krishna, Q.C. (Chair), Tony Keith (CBAO) and Michel Landry (AJEFO). Staff representation: Dominique Picouet.

A.
POLICY

1. Quorum

The Chair raised the issue of the absence of quorum which has paralyzed the work of the Committee for the past year. The Committee is a standing Committee of the Law Society, established by Rule 46 G. The Chair stressed the need for a fully-functioning Committee, and wondered whether the Committee could make recommendations and seek approval directly from Convocation.

The Committee considered, in particular, the issue of the French translation of Amendments to the Rules, that have been increasingly delayed due to the lack of quorum.

2. Review of FLS Programme

The Committee reviewed the Draft Review of the French Language Services Programme and supports it. Due to the above-mentioned problem, the Committee was unable to approve it.

C.
INFORMATION

The Committee suggested that items B.1 (Report on the use of French within the Ontario judicial system) and B.2 (10th anniversary of legal bilingualism in Ontario) be submitted to the May Convocation for information with the request that any comments be addressed to the French Language Services Committee for its June meeting. (B-1 & B-2)

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

ALL OF WHICH is respectfully submitted

DATED this 26 day of May, 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^c Vern Krishna, c.r. (président), M^c Tony Keith (ABCO), M^c Michel Landry et, en qualité de membre du personnel, M^{me} Dominique Picouet.

A.
POLITIQUE

1. Quorum

Le président a soulevé la question de l'absence de quorum qui a paralysé les travaux du Comité cette année. Le Comité est un comité permanent du Barreau, créé en vertu de l'article 46G des Règles. Le président a rappelé qu'il était indispensable que le Comité soit en état de fonctionner et il s'est demandé s'il serait possible d'obtenir directement l'approbation du Conseil au moyen de recommandations.

Le Comité s'est penché notamment sur le problème de la traduction des modifications aux Règles, de plus en plus en retard en raison de l'absence de quorum.

2 Révision du Programme des services en français

Le Comité a examiné le projet de révision du Programme des services en français et l'appuie. En raison du problème précité, il n'a pu l'approuver.

C.
INFORMATION

Le Comité a suggéré de porter devant le Conseil de mai les points B.1 (Rapport sur l'emploi du français dans le système judiciaire de l'Ontario) et B.2 (10^e anniversaire du bilinguisme juridique en Ontario) et lui demande d'adresser tout commentaire au Comité des services en français d'ici sa réunion de juin. (B-1 & B-2)

La séance a été levée à 13 h.

Fait le 26 mai 1995

LE PRÉSIDENT,

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

- Item B. - Copy of the Report on the use of French within the Ontario judicial system. (marked B - 1)
- Item B. - Copy of letter from Mr. Paul Lamek, Treasurer to Mr. Cousineau dated January 5, 1995. (marked B - 2)

THE REPORT WAS ADOPTED

Friday, 26th May, 1995

INVESTMENT COMMITTEE

Meeting of May 11, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of May, 1995 at nine-thirty in the morning, the following member being present: Mr. Wardlaw (Chair). Other benchers present: Ms. Stomp. Staff members present were David Crack and David Carey.

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee the investment report summaries for the various Law Society Funds together with supporting documentation as at April 30th, 1995 (Schedule A).

Approved

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

J. Wardlaw
Chair

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

Item B.-1. - Copy of the Investment Report summaries for the various Law Society Fund as at April 30, 1995.

(Schedule A)

THE REPORT WAS ADOPTED

LEGAL EDUCATION COMMITTEE

Meeting of May 11, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

REPORT TO CONVOCATION

THE LEGAL EDUCATION COMMITTEE requests leave to report:

The Committee met on Thursday, the 11th of May, 1995, at 10:30 a.m.

The following members attended: Philip Epstein (Chair), Susan Elliott (Vice-chair), Colin McKinnon (Vice-chair), Lloyd Brennan, Dean Donald Carter (Queen's University), Vern Krishna, Allan Lawrence, Joan Lax and Marc Rosenberg (non-Bencher member). Bencher Stephen Goudge also attended. The following Benchers-elect attended: Robert Aaron, Michael Adams, Larry Banack, Gary Gottlieb, Derry Millar, Tamara Stomp, Richmond Wilson and Bradley Wright. The following staff attended: Erika Abner, Marilyn Bode, Katherine Corrick, Brenda Duncan, Mimi Hart, Ian Lebane, Alexandra Rookes, Alexis Singer, Sophia Sperdakos and Alan Treleven.

A.
POLICY

There are no policy recommendations to report this month.

B.
ADMINISTRATION

B.1 SUPPLEMENTAL EXAMINATION SCHEDULE

B.1.1 There continue to be students in the examination system from Phase Three 1994. Three complete sets of supplemental examinations have already been scheduled in 1995: in January, in February-March, and in May.

B.1.2 There will be some students entitled to write either supplemental or special examinations after the grading of the May examinations. Some students may be pressing the Bar Admission Course administration for the opportunity to write those examinations at an early date so that their Call to the Bar will not be delayed. The Director of Education strongly prefers, however, to minimize the scheduling of further supplemental and special examinations in 1995 because of the considerable time that is required by members of the profession and staff to draft, administer and grade examinations.

B.1.3 The Director has recently published the examination schedule, so that students would be aware on a timely basis of the consequence of not successfully completing all examinations by the conclusion of the May sitting. This schedule was placed on the April agenda of the Legal Education Committee, but time did not permit its discussion and approval by the Committee before publication.

B.1.4 Recommendation: It is recommended that, following completion of the May supplemental-special examination schedule, the remaining supplemental-special examination dates in 1995 be confined to the following schedule:

- 1) Business Law: September 11 (also Transfer Examination), and December 14 (also B.A.C. 1995 examination),
- 2) Estate Planning: September 12 (also Transfer Examination), and October 30 (also B.A.C. 1995 examination),
- 3) Real Estate: September 13 (also Transfer Examination), and November 27 (also B.A.C. 1995 examination),
- 4) Family Law: September 14 (also Transfer Examination), and October 19 (also B.A.C. 1995 examination),
- 5) Professional Responsibility: September 15 (also Transfer Examination), and November 13 (also B.A.C. 1995 examination),

- 6) Civil Litigation: September 18 only (also Transfer Examination and B.A.C. 1995 examination),
- 7) Criminal Procedure: October 2 only (also B.A.C. 1995 examination),
- 8) Public Law: November 10 only (also B.A.C. 1995 examination).

C.
INFORMATION

C.1 BEQUEST OF THE HONOURABLE WILLIAM HOWLAND ESTATE

C.1.1 The Law Society Foundation is named as a beneficiary in the Will of the late Honourable William Howland. (Note: The Law Society Foundation is not the "Law Foundation".) The Foundation is to receive a bequest described in the Will as follows: "...to be used for the purposes of furthering legal education".

C.1.2 The Trustees of the Law Society Foundation are asking for a recommendation as to the appropriate disposition of the bequest by the Law Society Foundation.

C.1.3 The Legal Education Committee has struck a special subcommittee, chaired by Joan Lax, to consider the issues and report back to the Committee.

C.1.4 The special subcommittee has been meeting, and prefers to have the Foundation invest the capital and make use of interest earned on the investment for the purposes of furthering legal education.

C.1.5 The special subcommittee is exploring the potential for development of special educational programs or projects at the continuing legal education and bar admission levels. In the area of continuing legal education, the special subcommittee continues to consider a number of possibilities, including an advocacy education initiative, videos and other technology based education. In developing any special legal education programs or projects, essential features would include ready access at a reasonable cost throughout the province.

C.2 MANDATORY CONTINUING LEGAL EDUCATION SUBCOMMITTEE

C.2.1 On April 13, 1995, the M.C.L.E. Subcommittee, chaired by Susan Elliott, presented its M.C.L.E. Discussion Paper and Executive Summary to the Legal Education Committee. On April 28, 1995 the Legal Education Committee recommended that Convocation approve

- 1) the circulation of the M.C.L.E. Discussion Paper and Executive Summary to the profession, and
- 2) the consultation process recommended in Section VII of the Discussion Paper.

C.2.2 Convocation approved the recommendation.

C.2.3 The Subcommittee will undertake the consultation process as follows:

- 1) The Discussion Paper and the Executive Summary will be available to the profession.

- 2) Meetings will be arranged in a number of locations throughout the province to discuss the issues. It is hoped that the C.B.A.O., the County and District Law Presidents' Association and other groups will assist in the coordination of the meetings to ensure that a wide consultation is achieved.
- 3) In addition to consulting throughout the province, the Subcommittee will attempt to target specific groups, such as recently-called lawyers, clinic lawyers, and government lawyers.
- 4) If appropriate the Subcommittee will consider soliciting written views on specific issues.

C.2.4 Subcommittee members are planning the details of the consultation process including

- 1) Circulation of Executive Summary and Discussion Paper,
- 2) Translation,
- 3) Nature and number of consultation sites,
- 4) Focus groups,
- 5) Proposed number of Subcommittee members at each meeting,
- 6) Philosophy-Structure-Goals of meetings,
- 7) Preparation for meetings,
- 8) Method of information gathering and recording from meetings,
- 9) Background materials and information package for meetings,
- 10) Request for additional written comments,
- 11) Possible design of information surveys, and
- 12) Cost issues.

C.2.5 The Subcommittee Working Groups will be meeting throughout the consultation process to continue their research and analysis.

C.2.6 The Subcommittee's anticipated schedule for the completion of its work is as follows:

- 1) Consultation Process and Ongoing Research
May-October, 1995
- 2) Analysis and Discussion of Results of Research and Consultation
October 1995 - January 1996
- 3) Preparation of Report and Submission to the Legal Education Committee
January - March, 1996
- 4) Circulation of Report to the Profession
April - May, 1996
- 5) Final Report
June 1996.

C.3 CONTINUING LEGAL EDUCATION REPORT ON COURSES

C.3.1 The Continuing Legal Education Report, prepared by the Director of Continuing Legal Education, Brenda Duncan, is attached. (pages 1 - 5)

C.4 BAR ADMISSION COURSE REVIEW SUBCOMMITTEE

C.4.1 Convocation, on April 28, 1995, approved the report of the Bar Admission Course Review Subcommittee entitled: "Bar Admission Course Review Subcommittee Report." The report was approved by Convocation on the basis that

- 1) the Bar Admission Course Review Subcommittee Report be provided to the profession, law schools, law students and law related organizations,
- 2) the Bar Admission Course Review Subcommittee consult widely on the recommendations in the Report, and
- 3) the Bar Admission Course Review Subcommittee report further to the Legal Education Committee and Convocation with a fully detailed proposal and budget.

C.4.2 A summary of the report is being prepared for inclusion in an upcoming mailing to the profession, either as a part of or accompanying the Benchers' Bulletin. Members will be invited to submit their questions or comments, and to request a full copy of the report. The report, in addition to being circulated to interested members of the profession, will be circulated automatically to the law schools, members of the Federation of Law Societies, the Canadian Bar Association Ontario Academic Legal Education Committee, the County and District Law Presidents' Association, and other law-related organizations. The Subcommittee intends to consult with these organizations and interested persons before finalizing a proposal for the Legal Education Committee and Convocation in the Fall of 1995.

C.5 BAR ADMISSION COURSE 1995: PHASE THREE REQUIREMENTS FOR STANDING

C.5.1 Phase Three of the Bar Admission Course begins its fifth term on September 5, 1995, which is the first day of the Civil Litigation course, and runs to December 14, 1995, the day of the Business Law examination. The Legal Education Committee and Convocation annually settle and approve the Requirements for Standing that govern Phase Three.

C.5.2 The Committee has decided to review the mandatory attendance requirement, keeping in mind the importance of maintaining the effectiveness of the Bar Admission Course in producing newly called lawyers who are competent to provide legal services, and issues of access for some students, related principally to family responsibility, financial and geographic disadvantages.

C.5.3 The Committee appointed Benchers-elect Derry Millar to chair a special subcommittee to consider the mandatory attendance policy on an expedited basis, and to report to the Legal Education Committee with a proposal.

C.5.4 The Legal Education Committee must then approve Requirements for Standing for Phase Three of the 1995 Bar Admission Course, including provisions relating to the attendance requirement, and refer the matter to Convocation in June.

C.6 ARTICLING PLACEMENT UPDATE REPORT FOR THE 1995-1996 TERM

C.6.1 As of May 10, 1995, 1190 applications for Phase One 1995 had been received. If enrolment reaches 1200, applications on file represent 99% of the incoming class.

- C.6.2 1011 students representing 85% of the class have secured an articling position. 115 students representing 10% of the class continue to seek articles, and 54 students representing 5% of the class (all of whom were unplaced when surveyed in January 1995) have not responded to requests from the Law Society for up-to-date information on their articling placement status.
- C.6.3 The number of students seeking placement in May of 1995 is fewer than in 1994. On May 1, 1994, 222 students representing 15% of the class were without articles. By December of 1994, 97% of students seeking articles in the 1994-1995 term had commenced articling while 31 students (including out-of-province students claiming to be seeking articles in Ontario) remained on record with the Law Society as seeking placement.
- C.6.4 Up-to-date statistics will be distributed at the May 26, 1995 meeting of Convocation.
- C.7 ARTICLING SUBCOMMITTEE
- C.7.1 The Subcommittee met at 8:00 a.m. on April 28th. In attendance were Marc Rosenberg (Chair), Philip Epstein, Mohan Prabhu, Jay Rudolph, and Susan So. Staff members attending were Marilyn Bode, Mimi Hart, Lynn Silkauskas, and Alan Treleven.
- C.7.2 The Subcommittee gave conditional approval to a further 26 applications from prospective articling principals for the 1994-95 articling term. To April, approximately 1628 members have been approved to serve as principals for the 1994-95 articling term. One member was denied approval based on unsatisfactory participation in the Practice Review Program. Another individual of that member's firm was invited to apply to serve as an articling principal.
- C.7.3 The Subcommittee also gave conditional approval to 17 applications from prospective articling principals for the 1995-96 articling term. To April, approximately 750 members have been approved to serve as principals for the 1995-96 articling term.
- C.7.4 The Subcommittee gave special consideration to the applications of one member applying for the 1994-95 articling term and four members applying for the 1995-96 articling term. All five applications were approved.
- C.7.5 The Subcommittee considered a number of policy items. One policy item was the consideration of corporations employing articling students. As the Committee has been informed, a Corporate Articling Advisory Committee (the "Advisory Committee") was created to explore the creation of additional articling positions with corporations. The Chair of the Subcommittee and the Articling Director met with Dorothy Quann, Senior Counsel of Xerox Corporation, and other senior corporate counsel on November 23, 1994 to discuss how to proceed. It was agreed that the first step would be to conduct a telephone survey of corporations that might employ articling students or employ them in greater numbers. A survey of approximately 180 corporate counsel was conducted by a member of the Articling Director's staff.
- C.7.6 The Advisory Committee met for the second time on April 5, 1995. Mimi Hart and Marilyn Bode attended the meeting. The second meeting of the Advisory Committee lacked some focus. The Advisory Committee requested the direction of the Articling Subcommittee.

- C.7.7 The Articling Director provided a brief report on the meeting. The Advisory Committee reviewed the results of the survey, and considered short and long term initiatives that could be undertaken to increase the number of articling positions with in-house corporate legal departments.
- C.7.8 In the short term, members of the Advisory Committee are telephoning the approximately 25 corporations that agreed to discuss creating an articling position with their legal departments for the 1995-96 articling term. The Director of Placement developed a placement pitch to assist all members of the Committee in their telephone campaign. The Advisory Committee hopes that some additional articling placements of three or more months will result from the telephone campaign. (Since the meeting, some additional positions have already been created.)
- C.7.9 The Articling Director agreed to develop a draft education plan for a corporate legal environment. The Placement Director informed members of the Advisory Committee of the existing service offered by the Placement Office of matching three or four month rotations for students wishing to article with in-house corporate legal departments as well in other environments. The Placement Director agreed to create a database from the information collected on the survey of the corporate counsel.
- C.7.10 The Advisory Committee also considered some long term initiatives. The Advisory Committee discussed targeted notices to in-house counsel, suggesting they consider hiring students. A special mailing to in-house counsel was also considered. There was a suggestion by the Advisory Committee that the educational requirements of the Law Society and the articling recruitment procedures be eliminated for in-house corporate legal departments. Staff declined that suggestion.
- C.7.11 The Articling Director made several recommendations to the Articling Subcommittee, which were adopted with minor modifications. The amended recommendations were 1) the mandate for the Advisory Committee is "to explore the creation of additional articling positions with in-house corporate legal departments"; 2) agendas for the meetings should be set in advance, either by the Advisory Committee or the Chair of the Articling Subcommittee with input from the Advisory Committee; 3) meetings of the Advisory Committee may be chaired by the Chair of the Articling Subcommittee or designate; 4) the outcome of the Advisory Committee's meetings would be reported to the Articling Subcommittee at its next monthly meeting; and 5) the Advisory Committee will be invited to suggest areas where the Law Society could assist corporate counsel in creating articling positions, applying for approval or administering articling positions. Such suggestions would be made to the Articling Subcommittee, which could then consider and approve any recommendations it deems advisable.
- C.7.12 A second policy item was the consideration of a third draft of a script for the Articling Education Video. The Subcommittee had a useful discussion and made additional suggestions for improvements or additions to the script, particularly in the area of workload. It is expected that a final draft of a script for the video will be considered at the May meeting of the Subcommittee.

- C.7.13 A third policy item related to Rights of Appearance Before Courts and Tribunals for Articling Students. The Committee approved the Rights of Appearance Before Courts and Tribunals for Articling Students at its November 10, 1994 meeting. Convocation approved the Rights of Appearance, with one modification. On November 25, 1994 it eliminated rights of appearance for students on Crown Wardship applications. It was subsequently suggested by the Legislation and Rules Committee that the Legal Education Committee consider whether to incorporate the Rights in the *Law Society Act*, as has been done by some other law societies in Canada. The Articling Director wrote to the law societies across Canada requesting a copy of their current rights of appearance for articling students. Virtually all law societies responded.
- C.7.14 A review of provinces across Canada shows that Ontario is the only jurisdiction that characterizes the Rights of Appearance as a matter of policy. All other provinces have included the rights of appearance as part of their legislation, or in a regulation under their Acts, or in the rules under their Acts. In some provinces, the rights of appearance are much less extensive than in Ontario. In other provinces, the rights of appearance are generally more extensive than in Ontario. This is particularly true in the criminal law area. For example, in the Yukon under its Rule 72, students may appear for the purpose of "having an election put to an accused person pursuant to the provisions of Section 464(2) or Section 484(2) of the *Criminal Code of Canada*."
- C.7.15 The Articling Subcommittee reviewed the Rights of Appearance. At this time it believes no further changes should be made. The Subcommittee believes the Rights of Appearance should be made rules under the *Law Society Act*, pursuant to section 62(20), which provides Convocation with rule making powers "defining and governing the employment of student members while under articles." The Subcommittee believes that any enhancement to the Rights of Appearance of Ontario students and inclusion of the Rights of Appearance in the *Law Society Act* should be reviewed at a subsequent time by the Articling Subcommittee. Therefore, the Rights of Appearance approved in November by the Legal Education Committee, as amended and approved as a policy statement by Convocation, will be referred to the Legislation and Rules Committee with a request to draft rules under the *Law Society Act*.
- C.8 REVIEW OF LAW SOCIETY PROGRAMS AND ACTIVITIES
- C.8.1 The Research and Planning Committee and the Priorities and Planning Subcommittee (of the Finance and Administration Committee) have requested that the Legal Education Committee and all other Law Society committees review their programs, activities and proposals in light of the Law Society's Role Statement, which was adopted by Convocation on October 27, 1994. It is intended that the review be the first step in a strategic planning exercise for establishing priorities and objectives for the Law Society.
- C.8.2 Through the Secretary, Richard Tinsley, all committees were asked to complete their work on the first part of the report, entitled "1. A List of Existing Activities and Programs." The Secretary indicated that the first section of the report, in a form approved by each committee, would be referred initially to the Research and Planning Committee, rather than to Convocation.

C.8.3 The draft of the section entitled "List of Existing Activities and Programs" was approved and referred to the Research and Planning Committee, together with a more detailed version relating to the Articling Program, approved by the Articling Subcommittee on April 28, 1995 (forming a part of the section as Appendix A).

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

P. Epstein
Chair

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

Item C.-C.3.1 - Copy of the Continuing Legal Education Report. (pages 1 - 5)

THE REPORT WAS ADOPTED

LIBRARIES AND REPORTING COMMITTEE

Meeting of May 11, 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 11th of May, 1995, at 8:45 a.m., the following members being present:

S. Elliott (Chair), R. Topp, M. Cullity, G. Farquharson, B. Pepper and M. Hennessy.

New Benchers, Michael Adams, Tamara Stomp, Heather Ross, and Larry Banack also attended.

G. Howell also attended.

A.
POLICY

(no items)

B.
ADMINISTRATION

1. County Libraries - Ontario Realty Corporation - Rent?

The Committee reviewed a two page memorandum from Harrison Arrell, Chair of the County and District Law Presidents' Association (CDLPA) along with two documents from the Crown Attorneys' Association regarding Use of County and District Law Association Library facilities by Crown Attorneys. The Committee also noted a front-page article in the May 8-14th Law Times issue, on the Ontario Government's apparent intent to charge rent for the space inhabited by county law libraries in the 47 courthouses across the province.

The Committee has asked one of its members (Dino DiGiuseppe, a member of the CDLPA's executive) to form a subcommittee on this matter, which (in cooperation with CDLPA and the County of York Law Association) would formulate a position on the "rent" issue and the issue of access for Crown Attorneys.

C.
INFORMATION

1. Meeting of Library Committee of the CDLPA

There was insufficient time for the Committee to reach this item. However minutes of the CDLPA Library Committee meeting will be available shortly. Several resolutions (one on a pilot project for technology utilization, along with other resolutions expected on the "rent" issue) will be put to the CDLPA Plenary Session on May 11/12, and these will be circulated later to the Libraries & Reporting Committee.

ALL OF WHICH is respectfully submitted

Dated this 26th day of May, 1995

S. Elliott
Chair

THE REPORT WAS ADOPTED

PROFESSIONAL CONDUCT COMMITTEE

Meeting of May 11, 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 11th of May, 1995 at three o'clock in the afternoon, the following members being present: C. Campbell (in the Chair), T. Carey, M. Cullity, N. Finkelstein and K. Braid. Newly elected benchers to take office May 26: L. Banack, G. Gottlieb, G. MacKenzie, F. Marrocco, D. Millar and G. Swaye. The following staff were present: M. Devlin, D. Godden, J. Varro and S. Traviss.

A.
POLICY

1. NEED TO REVISE PARAGRAPH 10 OF THE COMMENTARY TO RULE 9 TO REFLECT ALLOWANCE FOR CONTINGENCY FEES UNDER THE CLASS PROCEEDINGS ACT, 1992 AND THE LAW SOCIETY AMENDMENT ACT (CLASS PROCEEDINGS FUNDING), 1992

Paragraph 10 of the Commentary to Rule 9 reads as follows:

Champerty and Contingent Fees

A lawyer should not, except as by law expressly sanctioned, acquire by purchase or otherwise any interest in the subject matter of litigation being conducted by the lawyer. It is improper for the lawyer to enter into an arrangement with the client for a contingent fee except in accordance with the provisions of the *Solicitors Act*.

The *Class Proceedings Act, 1992* and the *Law Society Amendment Act (Class Proceedings Funding), 1992* were proclaimed in force by the Ontario government on January 1, 1993. The *Class Proceedings Act* allows lawyers to enter into a modified form of contingency fee arrangement with their clients whereby the lawyer agrees to be paid his or her fees only in the event of success. The Act allows a lawyer to apply to the court to have his or her base fee (hourly rate multiplied by number of hours worked) increased by a multiplier to compensate for the risk of agreeing to be paid only in the event of success.

The Committee decided that paragraph 10 of Rule 9 should be amended to reflect this fact:

A lawyer should not, except as by law expressly sanctioned, acquire by purchase or otherwise any interest in the subject matter of litigation being conducted by the lawyer. It is improper for the lawyer to enter into an arrangement with the client for a contingent fee except in accordance with the provisions of the *Solicitors Act* or in accordance with the *Class Proceedings Act, 1992*.

The Committee asks Convocation to agree to this amendment of Rule 9.

2. LAWYERS PARTICIPATING IN AN ARRANGEMENT WHERE A REAL ESTATE AGENT PAYS THE WHOLE OR PART OF THEIR FEES - REQUEST FOR ADVICE

A number of real estate agents as an inducement to obtaining business have offered to pay the legal fees in whole or in part of purchasers in real estate transactions.

A lawyer has asked if he could participate in such a scheme whereby the real estate agent would pay the legal fees of the purchaser in whole or in part.

The Committee concluded that as a matter of principle such an arrangement would have the effect of creating the appearance of a conflict and therefore compromise the lawyer's independence.

The Committee asks Convocation to adopt this position.

Friday, 26th May, 1995

3. RULE 28 - EDUCATIONAL MATERIAL

The Chair of the Equity in Legal Education and Practice Committee requested that educational material on Rule 28 be circulated to a number of committees including the Professional Conduct Committee. The Committee had reviewed this material at its February meeting. The Chair invited those present to communicate their views to the Chair before Convocation on the 26th.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

M. Somerville
Chair

THE REPORT WAS ADOPTED

SPECIALIST CERTIFICATION BOARD

Meeting of May 11, 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 11th of May 1995 at nine o'clock in the morning, the following members being present: C. McKinnon (acted as Chair), J. Callwood, and G. Sadvari. Also attending as a guest was newly-elected Bencher, Bradley Wright. C. Giffin, of the Law Society, was also present.

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

The Workers' Compensation Law Specialty Committee met on Thursday, the 27th day of April 1995 at five-fifteen in the afternoon.

The Criminal Law Specialty Committee met (conference call) on Friday, the 28th day of April 1995 at one o'clock in the afternoon.

The Civil Litigation Specialty Committee met on Tuesday, the 9th day of May 1995 at eight-thirty in the morning.

A.
POLICY

No items.

B.
ADMINISTRATION

B.1. SIX-MONTH CERTIFICATE EXTENSIONS

B.1.1. The Board extended for up to six months those certificates which have expired on February 27, 1995 and April 17, 1995 to allow time for the proper processing of the recertification applications.

B.2. IMMIGRATION LAW SPECIALTY COMMITTEE MEMBERSHIP - 1995

B.2.1. Your Board approved the appointment of two new members, Urszula Kaczmarczyk and Lorne Waldman, to sit on the Immigration Law Specialty Committee. Membership for 1995 will be composed as follows:

Mendel M. Green (Chair) (of Toronto)
Professor William H. Angus (of North York)
Marshall E. Drukarsh (of Toronto)
Howard D. Greenberg (of Toronto)
Carter C. Hoppe (of Toronto)
Urszula Kaczmarczyk (of Toronto)
Roderick H. McDowell (of Fort Erie)
Cecil L. Rotenberg (of Don Mills)
Lorne Waldman (of Toronto)

C.
INFORMATION

C.1. CERTIFICATION OF SPECIALISTS

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

Jennifer Treloar (of Mississauga)

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:

Thomas Clemenhagen (of Toronto)
Raymond Colautti (of Windsor)
Gregory Kelly (of Ottawa)
Frank Gomberg (of Toronto)
G. Alexander Macklin (of Ottawa)
Robert Nelson (of Ottawa)
Donald Posluns (of Toronto)
Moishe Reiter (of Toronto)
John Soule (of Hamilton)
Paul Vogel (of London)

C.3. ENVIRONMENTAL LAW SPECIALTY

C.3.1. Environmental Law was approved as a Specialty area by Convocation on September 28, 1990. The Specialist Certification Board approved in principle (June 1992) the implementation of the Environmental Law Specialty and the proposed Standards as prepared by the Committee. This was adopted by Convocation on June 25, 1993.

C.3.2. With concerns that the current standards would result in lawyers outside Metropolitan Toronto being unable to meet the criteria of a 50% practice time requirement, the Board recommended (meeting of August 24, 1993) that the implementation of the program and the consideration of applications for certification be deferred until the development of a Specialist Training Program in Environmental Law be made available to lawyers outside of Toronto and having lower practice percentage times.

C.3.3. Due to lack of funding in the development of Specialist Training Programs and the resulting delays in the implementation of this specialty area, the Board reconsidered the relevant issues and recommend that changes be made to the standards to improve accessibility to specialization for lawyers outside of the Toronto area and to move forward with the active implementation of certification in the area of Environmental Law:

C.3.4. Standards for Environmental Law would read as follows:

3.ii.(b) Averaged over those five (5) years, applicants must have devoted at least 50% of professional time to environmental law.

For those applicants whose practice does not meet the 50% requirement, but who can demonstrate a broadly based special ability in the field, combined with sufficient knowledge and experience in the area of Environmental Law, an interview with the Specialty Committee will be required before any recommendation for certification will be made.

C.3.5. The Board will continue to encourage the development of advanced law school programs that would assist lawyers to satisfy the requirements of Specialist Certification through training and testing.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

R. Yachetti
Chair

THE REPORT WAS ADOPTED

Friday, 26th May, 1995

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of May 11, 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 11th of May, 1995 at 9:30 a.m., the following members being present: P. Peters (Chair), N. Finkelstein (Vice Chair), R. Aaron, R. Carter, G. Gotlieb, S. Lerner and R. Wilson. Staff in attendance was: A. John (Secretary).

B.
ADMINISTRATION

1. IMMIGRATION CONSULTANTS

The Unauthorized Practice Department has received a request from a subcommittee of the Department of Citizenship and Immigration, which is examining the role of immigration consultants. The Subcommittee on Immigration Consultants has asked the Law Society for a submission. Your Committee intends to discuss this matter at the June 8, 1995.

ALL OF WHICH is respectfully submitted

DATED the 26th day of May, 1995

P. Peters
Chair

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

List of Prosecutions.

(page 2)

THE REPORT WAS ADOPTED

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Meeting of May 11, 1995

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 11th of May, 1995, at 9:45 a.m., the following members being present: N. Angeles-Richardson (Acting Chair), P. Copeland, P. Hennessy, J. Lax, B. Luke, C. Ruby.

Also present: A. Singer, E. Spears, L. Talbot.

A.
POLICY

Nothing to report.

A.
ADMINISTRATION

A.1. REVIEW OF LAW SOCIETY PROGRAMS

A.1.1. Your Committee approved a list of its programs for submission to the Secretary for distribution to benchers.

A.2. ADOPTION OF STATEMENT OF VALUES

A.2.1. On April 28, 1995, Convocation adopted the following Statement of Values (as recommended in the Wilson Task Force Report):

A.2.1.1. "The Law Society of Upper Canada declares that the legal profession in Ontario is enormously enriched by and values deeply, the full participation of men and women in our profession regardless of age, disability, race, religion, marital or family status or sexual orientation."

A.2.1.2. In order to inform members of the profession of the adoption of the Statement of Values, your Committee has requested that the statement be included in the May edition of *The Benchers' Bulletin*. It has also instructed that staff write to the Canadian Bar Association informing it that the recommendation set out in the Wilson Task Force Report has been implemented.

B.
INFORMATION

B.1. FOLLOW-UP TO THE TRANSITIONS REPORT

B.1.1. Your Committee discussed arrangements for its planned meeting with Dr. Fiona Kay of the Department of Sociology and Anthropology of the University of British Columbia. The Committee is considering retaining Dr. Kay to complete a research project in follow-up to the Transitions Report.

B.1.2. Your Committee will be unable to determine the extent of the research project, however, until it learns the outcome of its request to the Finance and Administration Committee to carry forward the \$25,000 allocated to it for "Research Projects" for fiscal year 1994-1995 in order to provide a total of \$50,000 for the anticipated research costs of the follow-up survey.

Friday, 26th May, 1995

B.2. POSSIBILITY OF INVITING REPRESENTATIVES FROM VARIOUS ORGANIZATIONS CONCERNED WITH GENDER ISSUES

B.2.1. Your Committee discussed the possibility of inviting representatives from various organizations concerned with gender issues to attend the Women in the Legal Profession Committee as is done with the Equity in Legal Education and Practice Committee.

B.2.2. Your Committee considers it expedient, particularly with respect to the issue of Legal Aid tariff rates and the impact of insurance levies on female lawyers to invite representatives of other organizations to attend its meeting on June 8, 1995.

B.3. DIFFERENTIAL LEGAL AID TARIFF RATES

B.3.1. Your Committee considered the question of the effects of differential legal aid tariff rates for lawyers practising in the areas of criminal and family law and the particular effects such rates have on the practice of female lawyers.

B.3.2. In order to be able to address this issue effectively, your Committee recognized the need for research to be conducted.

B.3.3. The staff have been instructed to carry out research on legal aid tariff rates in various jurisdictions.

B.3.4. It is hoped that with a body of comparative knowledge at its disposal, your Committee will be able to address this issue more effectively and take practical and reasonable steps to addressing any perceived inequities.

B.4. IMPACT OF INSURANCE LEVIES ON FEMALE LAWYERS

B.4.1. Your Committee considered the impact of insurance levies on female lawyers and how information particular to women in practice may be best communicated to LPIC in its ongoing deliberations, thereby ensuring that the needs of women lawyers have been fully canvassed and considered.

B.4.2. In order to address this issue effectively, your Committee considers it essential that it have a proper body of knowledge on which to base any decisions. It has, therefore, instructed staff to undertake research into this question.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

P. Copeland
Chair

THE REPORT WAS ADOPTED

CALL TO THE BAR

The following candidates were presented to the Treasurer and Convocation and the degree of Barrister-at-Law was conferred upon each of them. They were then taken by Mr. Lamont before Mr. Justice Day to sign the Rolls and take the necessary oaths.

- Jill Elizabeth Fitzmaurice 36th Bar Admission Course
- John Hannaford 36th Bar Admission Course
- Paul Ianni 36th Bar Admission Course
- Courtney Akinwale Kazembe 36th Bar Admission Course
- Susan Margaret Maunsell 36th Bar Admission Course
- Diana Frances Ottosen 36th Bar Admission Course
- Mitchell Hart Rose 36th Bar Admission Course
- Paul Thomas Quinlan 36th Bar Admission Course
- Marie Françoise Brigitte Roy 36th Bar Admission Course
- Anna Zachariah 36th Bar Admission Course
- Elisabeth Jane Eid Special, Transfer, Province of Quebec

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IN CAMERA

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

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Meeting of May 11, 1995

Mr. Ruby presented Item A.-2. re: Caution and Acknowledgement on Forms 4 and 5, for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 11th of May, 1995, at 10:30 a.m., the following members being present: C. Ruby (Chair), S. Lerner, S. Thom and R. Wise; J. Yakimovich, J. Brooks, S. Hickling, H. Werry and D. McKillop (secretary) also attended.

A.
POLICY

1. REVIEW OF LAW SOCIETY PROGRAMS AND ACTIVITIES

When Convocation adopted the Role Statement in October 1994, it directed all committees to review their activities, programs and proposals in light of the Statement. It is intended that the review will be the first step in a strategic planning exercise leading to the establishment of priorities and objectives for the Law Society as a whole, for the next quadrennial term (1995-1999).

As a first step in the process, a Program Evaluation Report was prepared by the Committee secretary for the Lawyers Fund for Client Compensation. The report was tabled and approved by the Committee. The next step in the process, which is to occur in September, is a critical analysis of the programs.

Approved

2. CAUTION AND ACKNOWLEDGEMENT ON FORMS 4 AND 5

At its April meeting the Committee considered complaints from members who had received the new Forms 4 and 5 in the mail and were concerned that the caution and acknowledgements which appear on the forms were misleading to clients. The members were of the opinion that it was not necessarily correct there would be no insurance coverage on the mortgage investment if the member did not act as an intermediary or mortgage broker with respect to the investment.

The Caution, as it currently appears on the Form 4, reads as follows:

"Losses on this mortgage investment will not be covered by the lawyer's negligence/malpractice insurance policy"

The Committee recommended that members be advised that if they were satisfied they did not act as an intermediary or mortgage broker, the following amendment to the Caution be permitted:

"Losses on this mortgage investment may not be covered by the lawyer's negligence/malpractice insurance policy"

The Acknowledgement on the Forms 4 and 5 currently reads:

"I/we have been advised by my/our lawyer that any losses incurred by myself/ourselves as a result of investing in this mortgage, regardless of the cause, are not covered by my/our lawyer's negligence/malpractice insurance policy."

Friday, 26th May, 1995

Again, the Committee recommended that if members are satisfied they did not act as an intermediary or mortgage broker with respect to the investment, the following amendment to the Acknowledgement be permitted:

"I/we have been advised by my/our lawyer that any losses incurred by myself/ourselves as a result of investing in this mortgage, regardless of the cause, may not be covered by my/our lawyer's negligence/malpractice insurance policy."

Prior to the matter going before Convocation, Malcolm Heins, President of the Lawyers' Professional Indemnity Company, wrote to the secretary of the Committee and suggested the Caution and Acknowledgement be combined into one. Mr. Heins' suggestion is as follows:

Losses on this mortgage investment will not be covered under the lawyer's professional liability policy if the lawyer has acted either as a mortgage broker or as an intermediary in arranging this mortgage investment.

I/We acknowledge having read and understood this disclaimer.

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

At April Convocation the Chair withdrew the section of the Committee report dealing with the wording of the Caution and Acknowledgement in order that the issue might be reviewed by the Committee once again. The Committee considered the matter and decided to adopt Malcolm Heins' disclaimer. However, the Committee was of the view that as the statement was directed at the investing public, it should be clear, concise and in plain language to ensure comprehension. Wherever possible, legal terms and unfamiliar phraseology which would typically require explanation by the lawyer should be avoided. With these principles in mind, the Committee decided upon the following wording to be incorporated in Forms 4 and 5:

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

I/We acknowledge having read and understood this warning.

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

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

Approved

Note: Motion, see page 42

B.
ADMINISTRATION

1. Each budget year a facilities recharge to the Lawyers Fund For Client Compensation is made. In recent years the amount of the recharge has been \$100,000. The Chair requested a breakdown of the recharge. This was supplied by the Finance Department and distributed at the meeting. The Committee was of the opinion that in view of the space allocated to the Fund in order to hold Committee meetings and Referee hearings, for which no charge is made, the facilities recharge of \$100,000 was a fair reflection of the value of the services supplied by the Law Society to the Compensation Fund.

Noted

C.
INFORMATION

1. STAFF MEMORANDA

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

Approved

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

Noted

3. Accounts approved by staff in April amounted to \$22,670.

Noted

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

C. Ruby
Chair

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

Item C.-1. - Copy of Schedule "A" - Grants approved by the Review Committee and by the Lawyers Fund for Client Compensation Committee, Thursday, May 11, 1995. (page 4)

Item C.-2. - Copy of the Financial Summary as of March 1995. (marked C1 - C2)

It was moved by Mr. Ruby, seconded by Mr. MacKenzie that Item A.-2. be adopted.

Not Put

It was moved by Mr. Aaron, seconded by Mr. O'Brien that Item A.-2. be sent back to Committee for further review on the wording of the new Forms 4 and 5.

Carried

It was moved by Mr. Ruby, seconded by Mr. MacKenzie that the balance of the Report be adopted.

Carried

THE REPORT AS AMENDED WAS ADOPTED

Convocation took a brief recess at 10:55 a.m. and resumed at 11:10 a.m.

LEGAL AID COMMITTEE

Meeting of May 11, 1995

Mr. Goudge spoke to Item A.-A.1 re: Cost Saving Measures.

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 11th of May, 1995, the following members being present: Stephen Goudge, Chair, M. Buist, H. Burroughs, S. Cooney, P. Copeland, C. Curtis, D. Fox, P. Peters, M. Stanowski and B. Sullivan.

The following benchers were also in attendance: Joan Lax, Chair, Clinic Funding Committee, Nancy Backhouse, Heather Ross and Tamara Stomp.

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

A.
POLICY

B.1 COST SAVING MEASURES

A.1.1 A discussion was held concerning various measures that might be utilized to address the Plan's projected deficit. Please see SCHEDULE A for the list of proposals considered, SCHEDULE B for a historical analysis of account costs and SCHEDULE C for a notice that was enclosed with Legal Aid cheques.

B.
ADMINISTRATION

B.1 APPOINTMENT OF NEW AREA DIRECTOR IN ESSEX COUNTY

James Lawrenson recently retired as Area Director for Essex after serving the Plan for over 25 years. It is recommended that Mary Anne Stevens be appointed Area Director to replace Mr. Lawrenson. Ms. Stevens' curriculum vitae is attached hereto as SCHEDULE D.

B.2 STATEMENT OF INCOME AND EXPENDITURE FOR THE TWELVE MONTHS ENDED MARCH 31, 1995

B.2.1 The Legal Aid Committee received the Statement of Income and Expenditure for the Twelve Months ended March 31, 1995 which is attached hereto and marked as SCHEDULE E.

B.3 REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTH OF APRIL, 1995

B.3.1 The Legal Aid Committee received the Report on the Payment of Solicitors Accounts for April, 1995 which is attached hereto and marked as SCHEDULE F.

B.4 REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPT. FOR THE MONTH OF APRIL, 1995

B.4.1 The Legal Aid Committee received the Report on the Status of Reviews in the Legal Accounts Department for April, 1995 which is attached hereto and marked as SCHEDULE G.

B.5 AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS

Lambton County
William Minifie, solicitor

Peel
Donald LeFeuvre, solicitor
Walker Dalzell, solicitor

RESIGNATIONS

Ottawa/Carlton
Kevin Mullington
Nancy Johnson
Henri St. Jacques
Michael Edelson

Peel
Brian Watson

C.
INFORMATION

C.1 REPORT OF THE NATIONAL COUNCIL OF WELFARE

C.1.1 The Legal Aid Committee received for its information a copy of a letter from Stephen Goudge, Chair of the Legal Aid Committee to the Acting Director of the National Council of Welfare requesting a meeting with the author of the report. A copy of the letter is attached hereto as SCHEDULE H.

ALL OF WHICH is respectfully submitted

Stephen Goudge
Chair

May 26, 1995

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

- Item A.-A.1 - Copy of the list of proposals - Ontario Legal Aid Plan, Memorandum of Understanding Additional Cost Saving Measures. (Schedule A)

- Item A.-A.1 - Copy of an historical analysis of account costs. (Schedule B)
- Item A.-A.1 - Copy of the Notice to the Profession. (Schedule C)
- Item B.-B.1 - Curriculum vitae of Mary-Anne R. Stevens. (Schedule D)
- Item B.-B.2. - Statement of Income Expenditure for the Twelve Months ended March 31, 1995. (Schedule E)
- Item B.-B.3 - Report on the Payment of Solicitors Accounts for April, 1995. (Schedule F)
- Item B.-B.4 - Report on the Status of Reviews in the Legal Accounts Department for April, 1995. (Schedule G)
- Item C.-C.1 - Copy of letter from Mr. Stephen Goudge, Q.C. to Mr. Steve Herstetter, Acting Director, National Council of Welfare dated April 20, 1995. (Schedule H)

It was moved by Mr. Goudge, seconded by Mr. Copeland that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

RESEARCH AND PLANNING COMMITTEE

Meeting of May 11, 1995

Ms. Sealy presented Item B.-B.1. re: Program Review: General, for Convocation's approval.

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 11th of May, 1995, at 8 a.m, the following members being present: L. Brennan (Chair), F. Carnerie, The Hon. A. Lawrence, R. Murray, J. Palmer, H. Sealy, M. Somers.

Also present: A. Brockett, E. Spears, L. Talbot

Benchers - Elect: M. Eberts, H. Ross, G. Swaye, T. Stomp

A.

POLICY

Nothing to report.

B.
ADMINISTRATION

B.1. PROGRAM REVIEW: GENERAL

- B.1.1. Your Committee plans to send a letter to every committee secretary emphasizing that the second stage of the program review is to be completed by September 21, 1995.
- B.1.2. Your Committee recognizes that the second stage of the review process (determining which programs should be continued, discontinued and what new initiatives should be proposed) is an activity which cannot appropriately be left to staff alone. Benchers involvement is essential.
- B.1.3. Since the second stage of the program review is to be carried out during the course of the summer and completed by September 21, 1995, your Committee expresses the hope that the necessary committee appointments will be made as early as possible in the summer to permit benchers participation in the review.

C.
INFORMATION

C.1. OBJECTIVES AND GOALS CONFERENCE

- C.1.1. On April 28, 1995, Convocation approved the proposal to proceed with plans for holding an Objectives and Goals Conference no later than November 1995.
- C.1.2. Convocation approved a budget of \$50,000 for the conference.
- C.1.3. Your Committee has authorized a subcommittee to meet with facilitators and develop plans for the conference.
- C.1.4. The subcommittee has also been asked to make a decision as to whether persons other than benchers and members of committees should be invited to participate in the conference.

C.2. LAWYERS' LIAISON COMMITTEE

- C.2.1. Your Committee discussed the progress of the Lawyers' Liaison Committee whose Steering Group originally met at Osgoode Hall on February 2, 1995. The Steering Committee members included representatives of the Law Society, the County and District Law Presidents' Association and the Canadian Bar Association (Ontario).
- C.2.2. The role of the Law Society is to govern the legal profession in the public interest. One of the principal aims of the Lawyers' Liaison Committee is to consider the profession in a context distinct from the duties lawyers owe to the public.
- C.2.3. Your Committee has asked for a report concerning the work of the Steering Group by the next Committee Meeting Day.

C.3. PROGRAM REVIEW - RESEARCH AND PLANNING COMMITTEE

C.3.1. Your Committee approved a list of programs and activities of the Research and Planning Committee.

C.3.2. The list will be forwarded to the Secretary for distribution to benchers.

C.4. REVIEW OF RESEARCH AND PLANNING COMMITTEE'S TERMS OF REFERENCE

C.4.1. Your Committee considered a first draft of proposed revised terms of reference.

C.4.2. The Committee intends to continue to discuss this matter in the future.

C.5. SUBCOMMITTEE ON PROFESSIONALISM

C.5.1. When your Committee met on April 13, 1995, it adopted recommendations which set out the terms of reference for a Subcommittee on Professionalism to study the impact of commercialism on professionalism among lawyers.

C.5.2. Your Committee intends at a future meeting to appoint a subcommittee to commence the study.

C.6. DISPUTE RESOLUTION IMPLEMENTATION SUBCOMMITTEE

C.6.1. On April 28, 1995, Convocation adopted recommendations from the Dispute Resolution Implementation Subcommittee concerning proposed revisions to the Rules of Professional Conduct. The matter has now been referred to the Professional Conduct Committee.

C.6.2. Your Committee recognized that there are a number of on-going issues which need to be considered in the future in fulfilment of the recommended goals set out in the Report of the Dispute Resolution Subcommittee approved by Convocation in February 1993 entitled *Alternatives*.

C.6.3. Your Committee intends to discuss at a future meeting the continuing mandate of the subcommittee.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

L. Brennan
Chair

It was moved by Ms. Sealy, seconded by Mr. Murray that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

Friday, 26th May, 1995

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of May 11, 1995

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 11th of May, 1995 at 10:30 a.m., the following members being present: T.G. Bastedo (Chair), R.W. Murray (Vice Chair), J.J. Wardlaw (Vice Chair), R.W. Cass, C. Curtis, N. Finkelstein, M. Weaver, K. Howie, B. Pepper, D. Lamont, and M. Moliner. Benchers elect by invitation were T. Stomp, M. Eberts, G. MacKenzie and H. Ross. Staff in attendance were R. Tinsley, M. Angevine, D. Crack, D. Carey, and L. Johnstone.

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director of Finance presented the highlights memorandum for the General Fund and the Lawyers Fund for Client Compensation for the nine months ended March 31, 1995. (pages 4 - 9)

Approved

2. BANKING RESOLUTION - ERRORS AND OMISSIONS INSURANCE FUND

A proposed banking resolution for the operations of the Errors and Omissions Insurance Fund bank account was before the meeting. The account is to be operated on an "agency" basis under an agreement to be signed between LPIC and LSUC. The Banking Resolution recommended was in the form approved by the Board of Directors of LPIC for the operation of LPIC bank accounts.

It was resolved to defer to the next meeting the consideration of the banking resolution until more information could be obtained from Malcolm Heins, President of LPIC, concerning authorization limits as set out in the draft resolution.

Noted

3. REPORT OF SUBCOMMITTEES

- (a) *Administration Subcommittee* [No Report]
- (b) *Report of the Priorities and Planning Subcommittee* [No Report]
- (c) *Report of the Facilities Subcommittee* [No Report]

4. REQUEST FOR CARRY-FORWARD OF FUNDS

Requests were before the meeting from two committees seeking authority to carry forward funds not used in prior years budgets for use in the 1995/96 financial year as follows:

Friday, 26th May, 1995

- i) Women in the Legal Profession Committee \$25,000
Deferred until June meeting
- ii) Joint Action Committee on Gender Equality (pages 10 - 12) \$7,000

Approved

5. POLICY OF THE SPECIAL COMMITTEE ON RELIEF AND ASSISTANCE

A motion was made that there be no appeal from decisions of the Special Committee on Relief and Assistance in respect of applications to waive or defer payment of members' Errors and Omissions levies or defer payment of the annual fee.

Approved

6. SUSPENSION OF MEMBERS - LATE FILING FEE

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

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

The Committee was asked to recommend that the rights and privileges of these members be suspended on May 26, 1995 if the late filing fee remains unpaid on that date.

Approved

Note: Item deleted

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

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

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on May 26, 1995 if the fees or levies remain unpaid on that date.

Approved

Note: Item deleted

C.
INFORMATION

1. REVENUE CANADA NOTICE OF APPEAL

The Director of Finance reported that the Society has been assessed and had paid a penalty for late remittance of its deductions for the payroll dated March 17, 1995. Immediate contact was made with Appeals section of Revenue Canada which was apprised of circumstances surrounding the late filing. Revenue Canada has agreed to refund the amount paid.

Noted

Friday, 26th May, 1995

2. ACKNOWLEDGEMENT OF CHAIR OF COMMITTEE

The Committee wished the minutes to reflect the acknowledgment and thanks of Committee members for the outstanding contribution made by Mr. Tom Bastedo both in his capacity as Chair of the Committee for the current year, and as Chair of the Subcommittee/Special Committee on Priorities and Planning in prior years.

Noted

3. 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:

May 10, 1995	Medico-Legal Dinner Barristers' Lounge and Convocation Hall
May 15 - May 18, 1995	Lawyers' Art Exhibit Small Dining Room
May 17, 1995	Lawyers' Club Barristers' Lounge and Convocation Hall
May 18, 1995	Lawyers' Art Exhibit Convocation Hall
May 26, 1995	Osgoode Law School Conference Dinner Convocation Hall
June 3, 1995	Osgoode Law School Law and Society Association Conference Convocation Hall/Great Library Reception and Tour of Osgoode Hall for Delegates
June 15, 1995	Pollution Probe of Canada Reception For Book Launch

Noted

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 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 May 5, 1995 re: March 1995 Financial Statement Highlights - March 31, 1995. (pages 4 - 9)

- Item B.-4. - Memorandum to Mr. Tom Bastedo from Ms. Susan Elliott dated April 28, 1995 re: Request for \$7,000 from Contingency Fund for Joint Action Committee on Gender Equality. (page 10)
- Item B.-4. - Memorandum to Ms. Susan Elliott from Mr. Andrew Brockett dated April 28, 1995 re: \$7,000 earmarked for but not paid to Joint Action Committee in 1992 - 1993. (pages 11 - 12)

Mr. Murray asked that Item B.-6. and 7. re: Suspensions be deleted.

It was moved by Mr. Murray, seconded by Mr. Feinstein that the balance of the Report be adopted.

Carried

THE REPORT AS AMENDED WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of May 11, 1995

Mr. Wardlaw spoke to Item A.-A.1. re: Request to amend Rule 50 to include reference to unpaid deductibles.

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 11th of May, 1995, at 11:30 a.m., the following members being present: M. Cullity (Chair), S. Lerner, S. Thom, J. Wardlaw.

Also present: R. Carter, G. Gottlieb, D. Millar, R. Wilson.

Staff: A. Brockett, E. Spears.

A.

POLICY

A.1. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 50: REQUEST TO AMEND TO INCLUDE REFERENCE TO UNPAID DEDUCTIBLES

A.1.1. Section 61 of the *Law Society Act* gives power to the Law Society to prescribe levies as part of its insurance arrangements. These levies are currently prescribed in Rule 50 (extracts from Rule 50 are at Attachment A).

A.1.2. In March 1995, the President of LPIC asked the Legislation and Rules Committee to draft an amendment to Rule 50, for consideration by Convocation, which would prescribe as one of the levies payable under that rule "any unpaid deductible under the Society's policy of professional liability insurance".

- A.1.3. The matter was discussed at length at the March meeting of the Legislation and Rules Committee. Doubts were expressed as to whether an unpaid deductible may properly be categorized as a "levy". It was decided that a legal opinion on the matter should be sought. It was also suggested that a legal opinion might already have been received by the Society.
- A.1.4. Following the meeting, a legal opinion from Brendan O'Brien, dated April 2, 1987, was located. Mr. O'Brien had concluded that the Law Society did not have the authority to make rules providing for the imposition of a levy to recover from members unpaid deductibles.
- A.1.5. Richard Steinecke of Porter, Posluns and Harris was asked to give his legal opinion on the matter. Mr. Steinecke concluded that it would be an improper exercise of its rule making powers for Convocation to prescribe as a levy an unpaid deductible.
- A.1.6. Mr. Steinecke's legal opinion was considered by the Committee at its April meeting. Malcolm Heins (President of LPIC) attended the meeting and expressed the view that Mr. Steinecke may have based his opinion on information which was not complete. In particular, Mr. Heins felt it was important that Mr. Steinecke have a complete understanding of "unpaid deductibles" and their relation to insurance premiums. The Committee decided to ask Mr. Steinecke for a supplementary legal opinion based on additional information to be provided to Mr. Steinecke directly by Mr. Heins.
- A.1.7. In his supplementary legal opinion, Mr. Steinecke confirmed his earlier view that it would be an improper exercise of its rule making powers for Convocation to prescribe as a levy an unpaid deductible.
- A.1.8. The Treasurer has agreed that the legal opinions of Mr. O'Brien and Mr. Steinecke should be provided to Convocation *in camera* pursuant to clause 2 (d) of the *in camera* guidelines for Convocation ("at the instance of the Treasurer, any other matters shall be dealt with *in camera* subject to the Treasurer being overruled by a majority vote of Convocation taken *in camera* that the matter be heard in open Convocation").
- A.1.9. In view of the legal opinions of Mr. O'Brien and Mr. Steinecke, the Committee does not propose to draft amendments to Rule 50 which would prescribe as one of the levies payable under that rule "any unpaid deductible under the Society's policy of professional liability insurance".

B.
ADMINISTRATION

No items to report.

C.
INFORMATION

C.1. REGULATION 708: APPROVAL OF AMENDMENTS BY LIEUTENANT GOVERNOR IN COUNCIL

C.1.1. Staff of the Legislation and Rules Committee have been advised by counsel at the Ministry of the Attorney General that the Lieutenant Governor in Council will not be meeting to approve regulations until further notice. This means that the Law Society cannot expect the following amendments to Regulation 708 to be approved in the near future:

1. Amendment of section 9 to provide for single bench discipline hearing panels. (Approved by Convocation on February 24, 1995.)
2. Revocation and replacement of section 4 to provide for a uniform set of requirements to be met by applicants seeking admission to membership in the Law Society by transfer from any Canadian jurisdiction. (Approved by Convocation on March 24, 1995.)
3. Revocation and replacement of section 15.2. (Section 15.2 stipulates a member's obligation to maintain certain records, including Forms 4 and 5, when arranging mortgages for clients.) (Approved by Convocation on April 28, 1995.)
4. Amendment of subsection 14(1) to permit members to deposit money received in trust for a client in a credit union or a league. (Approved by Convocation on February 24, 1995.)
5. Amendment of subsection 3(2) of the French version of Regulation 708 to correct an error in the translation of the words "Admissions and Membership Committee". (Approved by Convocation on June 24, 1994.)

C.2. REVIEW OF PROGRAMS AND ACTIVITIES OF THE LEGISLATION AND RULES COMMITTEE

C.2.1. In a letter dated December 10, 1994, directed to all the Chairs of Standing Committees of Convocation, Lloyd Brennan, then Chair of the Research and Planning Committee, and Abraham Feinstein, Chair of the Priorities and Planning Subcommittee of the Finance and Administration Committee, directed all Committees to review their "activities, programs and proposals" in light of the Role Statement.

C.2.2. In February 1995, the Secretary of the Law Society directed Committee secretaries as a first objective to prepare a comprehensive description of all programs and activities for which their Committees are responsible. Committee secretaries were asked to have this description ready for the May 11 Committee Meeting Day.

C.2.3. The Committee received from the staff, and approved, a description of the activities of the Legislation and Rules Committee.

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 1995

M. Cullity
Chair

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

Item A.-A.1.1. - Copy of Rule 50: Indemnity for Professional Liability.
(Attachment A - A-2)

It was moved by Mr. Strosberg, seconded by Mr. Millar that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of May 11, 1995

Mr. Murray presented Item A.-A.2. re: Competence Standards and the Ontario Legal Aid Plan, 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 Thursday, the 11th of May, at 3:00 p.m., the following members being present: C. McKinnon (Chair), R. Carter, R.W. Cass, R.W. Murray, Mary P. Weaver.

Also Present: R. Aaron, B. Durno, M. Eberts, S. Gale, S. Kerr, S. McCaffrey, P. Rogerson, B. Wright

A.
POLICY

A.1. Review of Law Society Programs and Activities

A.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, pursuant to a recommendation made by the Research and Planning Committee. It is intended that the review will be the first step in a strategic planning exercise leading to the establishment of priorities and objectives for the Law Society as a whole, for the next quadrennial term (1995-1999).

A.1.2. As a first step in the process, a list of existing activities and programs was to be presented to each committee for approval, together with answers to the following questions:

1. What is the mandate of the program?
2. What are the components of the program as currently implemented?
3. Who is the program intended to serve? (public, profession, certain segments of the profession)
4. What are the costs to the Law Society of operating the program?
5. Does the program recover any of its costs?

A.1.3. The definition of "program" is drawn from the *AARP Evaluation Handbook* (distributed at an evaluation workshop in February):

"Programs are organized activities designed to achieve an intended purpose. A program may be small and involve only one activity . . . "

Functions which fail to fit this definition are to be listed as separate activities.

A.1.4. Evaluation reports were provided by the Professional Standards Department and the Practice Advisory Service. The Committee approved the lists of existing activities and programs as outlined in the evaluation reports.

A.2. Competence Standards and the Ontario Legal Aid Plan

A.2.1. In 1992, a sub-committee of the Legal Aid Committee was established, to consider standards for lawyers acting as duty counsel and lawyers on the Legal Aid panels. The profession raised concerns about the propriety of this task being undertaken by the Legal Aid Plan, rather than the Law Society, as a result of which Convocation approved the creation of joint committees of the Legal Aid and Professional Standards Committees, to address the feasibility of standards in the areas of criminal law, family law and immigration/refugee law.

A.2.2. The Professional Standards Committee reported to Convocation in March, 1993 about the creation of standards, and the following recommendations, as amended by Convocation, were approved:

1. That the Legal Aid Committee consider drafting competency regulations establishing the basis upon which a member's admission to or retention on a Legal Aid panel would be denied;
2. That the Legal Aid Committee consider instituting a procedure whereby the names of applicants for duty counsel or legal aid panels would be vetted through the various departments of the Law Society so as to gather information as to whether a member violates the competency regulations proposed;
3. That the Professional Standards Committee, in reviewing Rule 2 of the Rules of Professional Conduct, define competence in terms of a general standard of acceptable practice, taking into consideration the legislative amendments proposed with respect to professional standards as a result of the Reform Implementation Committee's report;

4. That the Professional Standards Committee undertake this initiative as part of its mandate in reviewing Rule 2 of the Rules of Professional Conduct.

A.2.3. In response to this report, the Ontario Legal Aid Plan established a committee to consider the recommendations made. The Professional Standards Committee, in accordance with recommendations 3 and 4 of the report, prepared a draft version of Rule 2 for consideration by the Special Committee to Review the Rules of Professional Conduct. The review of the Rules has been in abeyance since approximately that time.

A.2.4. The Civil Justice Review Task Force has made several recommendations, particularly regarding family law practitioners and the Ontario Legal Aid Plan. The Legal Aid Plan has recently enunciated concern about the quality of legal representation being provided when members on the Legal Aid panel, particularly in the field of criminal law, accept retainers on matters beyond their level of experience and competence, and has again sought the assistance of this Committee in addressing this issue. These problems led to the establishment of the joint sub-committee two years ago, and they remain unresolved.

A.2.5. The creation, maintenance and enforcement of standards of competence is becoming an increasingly urgent priority for the Law Society. Members of the public who retain lawyers by means of a Legal Aid certificate may have less choice of representation available to them, and therefore may be potentially more vulnerable if represented inadequately. These members of the public may also, for a variety of reasons, be less willing, or less able, to complain to the Law Society about incompetent representation. The Legal Aid Plan also has a degree of public accountability, because of its funding sources, that may require greater safeguards than are necessary where lawyers are retained privately. Rule 2, in its draft form, may not suffice to address these issues.

A.2.6. Your Committee therefore recommends that a special committee be established to review the issue of competency standards, and re-examine Rule 2 in its draft form to determine whether more specific provisions should be included. It is further recommended that the special committee examine the issue of whether separate standards should be established for lawyers retained pursuant to a Legal Aid certificate, as opposed to those retained privately. It is further suggested that the Special Committee consider whether the reforms to Standards approved by Convocation in November 1991, might adequately deal with the issues raised by the Legal Aid Plan. It is suggested that the special committee should consist of representatives from the Legal Aid Committee, the Professional Standards Committee, and members of the profession who practise criminal and family law.

Note: Amendment, see page 60

B.
ADMINISTRATION

- B.1. Requests for Reinstatement on Lawyer Referral Service
- B.1.1. Two members submitted requests to the Committee for reinstatement on the Lawyer Referral Service.
- B.1.2. The first solicitor entered the Programme in October 1994. At the time of authorization, the solicitor had accumulated 7 complaints and 2 potential LPIC claims. No additional complaints or claims have been received since 1993.
- B.1.3. The latest staff report indicates that the solicitor has not had a client complaint or LPIC claim arising out of work which he has performed since establishing his own practice on October 4, 1993. It appears that the solicitor is taking active measures to maintain good communications with his clients. The solicitor's complaints arose when he was with a firm; as a sole practitioner, he appears better able to control his practice.
- B.1.4. The solicitor stated that the financial viability of his practice is heavily dependent upon the Lawyer Referral Service: one third of his clients are referred by the service.
- B.1.5. The Committee granted the solicitor's request for reinstatement on the Lawyer Referral Service.
- B.1.6. The second solicitor was authorized to participate in the Practice Review Programme in March, 1995. Despite having been called to the Bar in only 1991, he had 2 complaints made against him, and had reported 2 potential claims, both of which were closed without a claim payment having been made, although \$1,192. was expended in defending the claims. The Local Area Director for the Ontario Legal Aid Plan, who contacted the Law Society at the solicitor's request, felt that the solicitor could benefit from participation in the Programme. She indicated that opinion letters submitted by him were poorly written in content and form, and it was her opinion that the solicitor did not know how to run a practice.
- B.1.7. The solicitor sought reinstatement on the Lawyer Referral Service, in written submissions considered by this Committee in March 1995. The Committee granted reinstatement subject to certain constraints.
- B.1.8. A review of the solicitor's practice was conducted on April 18, 1995, and the reviewer's report was received by the Law Society on May 1, 1995. The report identified several deficiencies in the solicitor's practice ranging from a complete lack of file organization to inadequate (or nonexistent) office systems, to deficient loss prevention measures.
- B.1.9. Statistics from both the Complaints Department and LPIC indicate that the issues highlighted by the reviewer are underlying causes of complaints and claims. The experience of the Practice Review Programme to date confirms that these problems, and generally not the technical competence of the lawyer, are responsible for the majority of complaints and claims received by the Law Society.

- B.1.10. The Communications Department, which administers the Lawyer Referral Service, advised that, in April, a complaint was received against the solicitor by a client referred to him by the Service, alleging loss of the client's file, rudeness and a failure to respond. The Communications Department received, in May 1995, a complaint from a family law client who alleged that the solicitor had been very rude to her and had made inappropriate comments of a sexual nature to her. The Communications Department advised that it has received similar complaints about the solicitor in the past and felt that the solicitor should be removed from the Lawyer Referral Service roster altogether.
- B.1.11. In light of the reviewer's observations regarding the solicitor's practice, and the recommendation from the Communications Department, the solicitor's request for reinstatement was denied; the Committee agreed that the solicitor be removed entirely from the Lawyer Referral Service roster.
- B.2. Request for Reconsideration of Authorization
- B.2.1. A solicitor was authorized to participate in the Programme in April 1995, identified by LPIC as a potential candidate. At the time of authorization, the solicitor had received 13 complaints and 11 potential LPIC claims since 1990. The solicitor provided detailed submissions outlining the changes he has made in his practice to avoid future complaints or claims.
- B.2.2. Given the efforts described by the solicitor to address the deficiencies in his practice, the Committee agreed that the solicitor's file be put in abeyance for 1 year and his complaints and claims history be monitored during that time. His request will be reconsidered at the end of that period.
- B.3. File Closures - Practice Review Programme
- B.3.1. Three files were closed on the basis that the solicitors were unwilling to participate in or to cooperate with the Programme.
- B.3.2. The first solicitor was authorized to participate in the Practice Review Programme in November 1994 based on a referral from the Complaints department. At the time of authorization, the solicitor had 7 complaints and 8 potential LPIC claims since 1990.
- B.3.3. The Director wrote to the solicitor inviting him to participate in the Programme; an exchange of correspondence ensued. By fax dated April 25, 1995, the solicitor advised that he does not feel participation in the Programme is warranted, and he declines to do so.
- B.3.4. The second solicitor was authorized to participate in the Programme in November 1994. At the time of authorization, the solicitor had received 36 complaints and 8 potential LPIC claims since 1990. The solicitor advised that he was willing to participate in the Programme, but the reviewer was unable to contact the solicitor despite numerous attempts. Other departments in the Law Society are also unable to contact the solicitor. The solicitor is currently suspended.

- B.3.5. The third solicitor was authorized to participate in the Programme in January 1995, based on a referral from the Complaints department. At the time of authorization, the solicitor had received 4 complaints and 2 potential LPIC claims since 1990. In February 1995, the solicitor declined to participate in the Programme. After considering the question further, he again declined to participate in April 1995.
- B.3.6. The Committee referred the three matters to the Staff Committee to consider what alternative action, if any, should be pursued by the Law Society.
- B.3.7. One file was closed based on the fact that the solicitor is currently suspended. He was authorized to participate in the Programme in September 1991, based on a referral from the Complaints department. At the time of authorization, the solicitor had 4 complaints and 3 potential LPIC claims. The claims date from 1982 and the complaints from 1987. In March 1994, the solicitor was found guilty of professional misconduct and was suspended. The suspension remains in effect.
- B.3.8. The solicitor's status is to be monitored twice annually, in the event that he returns to practice and it becomes appropriate to reactivate his file.

C.
INFORMATION

- C.1. Rule 28 Educational Material
- C.1.1. The Chair of the Equity in Legal Education and Practice Committee, Marie Moliner, has forwarded draft bulletins addressing "What lawyers need to know about Rule 28"; it is intended that these bulletins will be reviewed in Convocation and, thereafter, circulated to members of the profession. Committee members were requested to provide their comments on the substantive issues raised by the bulletins directly to the Chair.
- C.2. File Closure
- C.2.1. A solicitor who was authorized to participate in the Practice Review Programme in September 1993 was disbarred on April 27, 1995. His file has therefore been closed.
- C.3. Professional Standards Departmental Report
- C.3.1. In April 1995, 9 members, and 1 firm, were authorized to participate in the Practice Review Programme; 11 files were closed, bringing the total number of open files to 150. Two of the members whose files were closed have now written to the Department, asking that their files be reopened. Benchers Ian Blue, Ronald Cass and Earl Levy sat as review panellists. Their assistance is greatly appreciated. Department staff conducted 9 attendances across the province.

Friday, 26th May, 1995

- C.3.2. The Director and the Systems Adviser were asked to speak at the Technology for Lawyers Conference, on the topic of "Using Technology to Avoid Complaints and Insurance Claims". Various computer programs were demonstrated; more common technology was also recommended, such as the telephone, photocopier and FAX machine, all of which benefit greatly in avoiding complaints about failure to communicate, and claims arising from failing to follow client instructions.
- C.3.3. Several members of the profession have been contacting the Law Society with enquiries about their qualification status, and the steps they can take either to requalify, or to maintain that status. Members are advised that the Requalification Committee will be meeting to address these issues, and that these members, as well as the membership as a whole, will be advised when the Committee is in a position to provide specific responses regarding their individual status.

ALL OF WHICH is respectfully submitted.

DATED this 26th day of May, 1995.

C. McKinnon
Chair

It was moved by Mr. Murray, seconded by Ms. Eberts that the Report be adopted.

An amendment to Item A.2.6. by Mr. Goudge was accepted by Mr. Murray and Ms. Eberts that the reference to the issue of whether separate standards should be established for lawyers retained pursuant to a Legal Aid certificate be deleted to allow time for consultation.

The Report as amended was adopted.

THE REPORT AS AMENDED WAS ADOPTED

ORDERS

The following Orders were filed with Convocation.

Friday, 26th May, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Stanley David Goldberg, 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 6th day of January, 1995, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Stanley David Goldberg be reprimanded in Convocation and that he pay costs in the amount of \$1,000.00.

DATED this 23rd day of March, 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 Brian Page, of the Town of Halton Hills, 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 31st day of January, 1995, in the presence of Counsel for the Society, neither the Solicitor nor counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that David Brian Page be suspended for a period of one year, to be followed by a continuing indefinite suspension until the Solicitor has fulfilled Undertakings made to the Society in June 1994 as follows:

1. that he release custody and control over all clients files presently under his control to the Society upon request by the Society;

Friday, 26th May, 1995

2. that he co-operate with the Staff Trustee in the winding up of his practice and the disbursement of any monies now held in trust in relation to his practice;
3. that he immediately release to Faith Ardron, Karen Fraser and David Fraser the contents of their file with respect to the sale of 12 Mary Street, Guelph;
5. that he account to Faith Ardron for the proceeds of the sale of 41 Melchior Drive, Scarborough, and in particular, that he account to Faith Ardron with respect to the sum of \$892.96 held back from the proceeds of that sale;
6. that he account to Faith Ardron for the proceeds of sale of 2 Brian Avenue, Scarborough, and in particular, that he account to Faith Ardron with respect to the sum of \$782.36 held back from the proceeds of that sale;
7. that he file with the Society his Forms 2 and 3 for the fiscal years ended September 30, 1992 and September 30, 1993 and that he continue to file Forms 2 and 3 until those monies now held in trust are properly disbursed to the satisfaction of the Society.
8. that he produce the books and records of his practice to the Society for examination for the period from October 1, 1991 to the present as follows:
 - (1) with respect to trust journals, fee billings, and client ledgers entries regarding trust monies, that he produce complete and up-to-date books and records;
 - (2) with respect to his general account and client ledgers regarding general receipts and disbursements, that he produce those books and records now in existence; and
 - (3) that at the Law Society's request, he provide his irrevocable direction and authorization to any Bank at which he has maintained or now maintains a trust or general account to provide the Law Society with any and all records for any general and trust accounts of his practice.

DATED this 23rd day of March, 1995

"C. McKinnon"
Acting 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 Glenn Edward Joseph Sandberg, 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 Committee dated the 19th day of January, 1995, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Glenn Edward Joseph Sandberg be suspended for a period of six months, such suspension to commence one month from today's date.

DATED this 23rd day of March, 1995

"C. McKinnon"
Acting 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 Dave Allen Klaiman, of the Town of Thornhill, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 14th day of December, 1993, in the presence of Counsel for the Society and Duty Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

Friday, 26th May, 1995

CONVOCATION HEREBY ORDERS that Dave Allen Klaiman 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 23rd day of March, 1995

"C. McKinnon"
Acting 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 Ross Hainsworth,
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 5th day of August, 1993, 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 Ross Hainsworth 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 23rd day of March, 1995

"C. McKinnon"
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Friday, 26th May, 1995

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF David Mayer
Rovan, 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 15th day of February, 1995, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that David Mayer Rovan be reprimanded in Convocation.

DATED this 23rd day of March, 1995

"C. McKinnon"
Acting 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 Gabriele Monika
Hauser, 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 17th day of February, 1995, in the presence of Counsel for the Society, the Solicitor and Duty Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

Friday, 26th May, 1995

CONVOCATION HEREBY ORDERS that Gabriele Monika Hauser be suspended for a period of three months, such suspension to commence 15 days from today's date and that she pay costs in the amount of \$1,500.00.

DATED this 23rd day of March, 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 Raymond Vincent Donohue, of the City of Sarnia, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of December, 1993, in the presence of Counsel for the Society and Duty 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 Raymond Vincent Donohue be reprimanded in Convocation and unless he appears on April 27, 1995 Special Convocation to be reprimanded he be suspended until such time as he appears to be reprimanded.

DATED this 23rd day of March, 1995

"P. Lamek"
Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

