

MINUTES OF CONVOCATION

Friday, 27th September, 1991

9:30 a.m.

PRESENT:

The Treasurer (James M. Spence, Q.C.), Bastedo, Bellamy, Bragagnolo, Campbell, Cass, Curtis, Elliott, Epstein, Feinstein, Ferrier, Furlong, Ground, Hickey, Howie, Howland, Jarvis, Kiteley, Lamek, Lax, Lerner, Levy, McKinnon, Manes, Mohideen, Murphy, D. O'Connor, Palmer, Pepper, Peters, Rock, Ruby, Scott, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.

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IN CAMERA Content Has Been Removed

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"IN PUBLIC"

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DRAFT MINUTES

It was moved by Mr. Rock, seconded by Mr. Lamek that the draft Minutes of May 31st, June 20th, June 21st and September 11th, 1991 be approved.

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Approved

MOTION

It was moved by Mr. Feinstein, seconded by Mr. Yachetti THAT Earl Levy be appointed Chair of the Admissions Committee and Stephen Goudge be appointed Vice-Chair.

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Carried

LEGAL EDUCATION COMMITTEE

Mr. Lamek presented the Report of the Legal Education Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991. The following members were present: Marc Somerville (Acting Chair), Maurice Cullity (Vice-Chair), Denise Bellamy, Lloyd Brennan, Sandra Chapnik, Carole Curtis, Philip Epstein, Vern Krishna, Laura Legge, Colin McKinnon. Representing the Bar Admission Advisory Committee was: John Lewis. Representing the law schools was: Jeffrey Berryman. Staff in attendance were: Marilyn Bode, Brenda Duncan, Holly Harris, Mimi Hart, Pamela Lawrence, Alexandra Rookes and Alan Treleven.

B.
ADMINISTRATION

1. BAR ADMISSION COURSE COMPLETION: THE "TEN YEAR RULE"

Paramdeep Singh

Mr. Paramdeep Singh requests permission to begin the Ontario Bar Admission Course. Mr. Singh received his LL.B. from the University of Saskatchewan in 1980.

Regulation 573 section 22(5) stipulates: "Every student-at-law must complete the Bar Admission Course within the ten-year period commencing at graduation from a law course in a University in Canada approved by Convocation". Section 22(6) authorizes the Legal Education Committee to modify the ten-year requirement "in any case involving exceptional circumstances". The "ten-year rule" has been in place since May 16, 1983, prior to which it was a "five-year rule".

The legislation does not provide any guidance for modifying the application of the ten-year requirement.

The rationale for the ten-year requirement is presumably that the applicant's law-related background should be so sufficiently recent that the applicant's law school education has meaningful connection to the Ontario Bar Admission process. Mr. Singh has no law-related experience since receiving his LL.B.

The Director has reviewed applications to the Legal Education Committee for exemption from the ten-year requirement from May, 1983 to date and from the previous five-year requirement back to January of 1976.

Since January, 1976, almost all applications were from persons who had spent some amount of time in practice elsewhere or in some law-related position and all but two were approved.

The first denial appears to be anomalous in that the request for an extension from the five-year requirement was denied in a 1978 application on a basis which does not appear to be consistent with many other successful applications.

The second denial of a request was made by the Legal Education Committee and Convocation in January of 1991. In that case the applicant had received his Canadian LL.B. in 1978 and had at best a marginal connection to the study and practice of law since that time. The applicant was permitted to write the Joint Committee on Accreditation administered examinations as a means of updating his legal qualifications. On successful completion of the examinations, the applicant was to be permitted to enter the Ontario Bar Admission Course.

It is recommended that Mr. Singh be required to write and pass the Joint Committee on Accreditation administered examinations in order to gain admission to the Ontario Bar Admission Course.

Approved

C.
INFORMATION

1. BAR ADMISSION COURSE HEAD OF SECTION: GARY SHIFF

Gary Shiff of Blake, Cassels and Graydon is the new Head of Section in Business Law. Mr. Shiff brings to his new duties as Head of Section a distinguished record of service to the profession and to the Bar Admission Course as an instructor. Mr. Shiff replaces Steven Clark, who recently retired as Head of Section in Business Law.

There continue to be vacancies in the positions of Assistant Head of Section: Tax and Assistant Head of Section: Creditors' and Debtors' Rights. Pending the filling of these vacancies, Mr. Shiff and the Bar Admission Course Faculty have been generously assisted by Ms. Deen Olsen, the Senior Instructor in Tax in Ottawa and Mr. Frank Bennett, the former Head of Section in Creditors' and Debtors' Rights (a course which has been merged with Business Law). Ms. Olsen practises law with the firm of Ogilvy, Renault, and, Mr. Bennett, practices with Winch and Gasee.

2. CONTINUING LEGAL EDUCATION PLANNING LAWYER: PAMELA C. LAWRENCE

Pamela Lawrence joined the Continuing Legal Education Department on August 14, 1991.

Prior to joining the Continuing Legal Education Department Ms. Lawrence had extensive experience in organizing legal and business conferences first as a Conference Producer with The Canadian Institute and then as President of her own firm, Lexium Inc.

Ms. Lawrence received her LL.B., with Honours, from the University of Toronto Faculty of Law in 1983. Following her admission to the Bar Ms. Lawrence served as Law Clerk to the Chief Justice of the High Court and then was employed as a lawyer and consultant with William M. Mercer Ltd.

3. BAR ADMISSION COURSE FACULTY: KATHERINE CORRICK

Katherine Corrick re-joined the Toronto Bar Admission Course Faculty on July 29, 1991.

Ms. Corrick had been a member of the Toronto Bar Admission Course Faculty from May, 1990 to August 31, 1990. From September of 1990 to June of 1991 Ms. Corrick resided and studied in France.

Before joining the Bar Admission Course Faculty, Ms. Corrick was in the private practice of law as a criminal lawyer. Ms. Corrick received her LL.B. from Osgoode Hall Law School in 1979 and was admitted to the Ontario Bar in 1981. In addition to practising law, Ms. Corrick had served as an instructor in the Bar Admission Course in Criminal Procedure and in Criminal Trial Advocacy.

Ms. Corrick replaces Christine Medycky, who is now studying international law in Brussels.

4. 33RD BAR ADMISSION COURSE PHASE THREE: TIMETABLE

Phase Three of the 33rd Bar Admission Course began on September 16, 1991. This is the first running of Phase Three of the new Bar Admission Course. Students who successfully complete Phase Three and who meet all other requirements will be the first candidates who qualify for admission to the Ontario Bar on the basis of completing the reformed Bar Admission Course. A copy of the 33rd Bar Admission Course Phase Three timetable is attached. (page 1)

5. CONTINUING LEGAL EDUCATION: SPECIAL LECTURES

The 1991 Special Lectures were held in Ottawa on September 19 and 20, 1991, and were chaired by Patricia Peters and Colin McKinnon.

The title of the program was: "Applying The Law of Evidence: Tactics and Techniques for the 90's". The Special Lectures explored the effects of the Charter on the law of evidence and suggested innovative ways to use the Charter to advantage. The Special Lectures also probed the use of computer technology in marshalling evidence at trial and the latest evidentiary tools in litigating complex issues such as those found in aboriginal litigation, family law and criminal law. Special distinguished speakers included The Honourable Kim Campbell, Minister of Justice, and the Honourable Clyde Wells, Premier of Newfoundland. The program included a Thursday, September 19 dinner hosted by the Treasurer.

6. CONTINUING LEGAL EDUCATION REPORT ON COURSES

The Report is attached. (pages 2 - 4)

7. DEPARTMENTAL BUDGET

Pursuant to the direction of the Treasurer, the Director reported on the 1991-92 Department of Education budgets to date.

All of the Department of Education budgets are on track to date. The Continuing Legal Education Department is taking vigorous initiatives to minimize the approved 1991-92 budget deficit. Reports will be made on a monthly basis.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"P. Lamek"
Chair

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

- C-Item 4 - Copy of the 33rd Bar Admission Course Phase Three Timetable. (Page 1)
- C-Item 6 - Copy of the Continuing Legal Education: Report on Courses, Toronto Programs. (Pages 2 - 4)

THE REPORT WAS ADOPTED

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ADMISSIONS COMMITTEE

Mr. Howie presented that portion of the Admissions Committee Report which dealt with the Call to the Bar.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at 9:30 a.m., the following members being present: Ms. Chapnik (Chair), Mr. Levy (Vice-Chair) and Messrs. Brennan and Howie.

B.
ADMINISTRATION

1. QUEBEC APPLICANTS FOR OCCASIONAL APPEARANCE AND INSURANCE COVERAGE

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

Quebec applicants usually have no more than \$500,000.00 per occurrence of liability and are finding it extremely difficult to secure the additional insurance. The Committee was asked whether an exception could be made in the case of Quebec applicants as long as the Secretary is satisfied that the application is otherwise in good order.

Your Committee recommends that a general exception be made for Quebec applicants as long as the Secretary is satisfied that the application is otherwise in good order.

2. REQUEST TO BE CALLED ON UNDERTAKING TO BECOME PERMANENT RESIDENT

A Bar Admission student, who successfully completed the 32nd Bar Admission Course in February this year, has not yet been called to the Bar because he is not a Canadian citizen nor does he have permanent residency status. He is married to a Canadian citizen, has filed for permanent residency status and expects to receive that status in the near future.

In April this year "upon approval ... in progress" he was given an employment authorization by Immigration to enable him to work in Canada.

The Committee was asked to consider whether the student would be permitted to be called to the Ontario Bar on an undertaking to continue with his application for permanent residency status. The Society took this approach when the Skapinker case was pending before the Supreme Court of Canada. Non-citizens were permitted to be called to the Bar on their undertaking to obtain Canadian citizenship as soon as possible if the Supreme Court of Canada decided against Skapinker.

The student's letter of the 28th August was before the Committee for consideration.

Your Committee was of the view that the matter should stand until the policy regarding permanent residency status is reconsidered.

3. REQUEST FOR READMISSION AFTER RESIGNATION UNDER NORMAL CIRCUMSTANCES

An application for readmission has been received from Jeffrey David Schofield. Mr. Schofield was called to the Bar in Ontario on the 23rd of March, 1973 and resigned his membership at his own request on the 28th of November, 1986.

The applicant is not in any arrears of fees and asks that he be readmitted

upon filing all necessary documents with the Finance Department.

He is within the five year period and is not required to sit requalification examinations.

Mr. Schofield has paid the \$300.00 readmission fee.

Approved

4. REQUEST FOR CONDITION ON READMISSION TO BE WAIVED

This item was before the Committee at the June 1991 meeting and made to stand until further information could be obtained concerning a member's plans to practice:

The member, called to the Bar on the 24th of June, 1954, was disbarred in 1962 for trust shortages in the amount of \$20,000.00, which was more a mismanagement of funds rather than dishonesty relating to funds.

He was readmitted on the 23rd of March, 1973 with the restriction that he practise only as an employee of a corporation or government department.

In 1982 he was reprimanded in Committee for breach of the restriction.

In the late spring of 1987 he came to the Law Society saying that he had an offer of employment by a corporation, one of whose officers and principals was a disbarred lawyer. The Discipline Policy Committee and Convocation had a request from the member wherein he sought permission, under Rule 20, to work with a disbarred lawyer. The Law Society supported his request and he took a position with the corporation.

More recently, in a letter dated the 8th April, 1991, the member requests a waiver of the restriction which keeps him from entering private practice and asks to be permitted to operate a trust account. It is his intention to practise out of his home.

The member is in his sixties and is on a limited Government income. It is a case of financial need. He says that if approved to proceed with private practice, his wife will be assisting him.

The member's wife was a witness at the discipline proceedings and Law Society counsel found her to be an impressive witness.

Sue McCaffrey of the Practice Advisory Service has recently met with the member and has prepared a report which was before the Committee for consideration.

Your Committee recommends that the member be granted a waiver of the restriction that he practise only as an employee of a corporation or government department. Your Committee also recommends that the following conditions be placed on his practice:

- (a) that restrictions are placed on his trust account
- (b) that the Law Society be kept up-to-date with his accounting processes
- (c) that the Practice Advisory Service reviews his office arrangements
- (d) that a regular reporting system be put in place between the member and the Professional Standards Department

5. DIRECT TRANSFERS - COMMON LAW - REGULATION 4(1)

The following have met all the requirements to transfer under Regulation 4(1):

Del William Atwood

Approved

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

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

(a) A member of the Quebec Bar (LL.B. 1987 from the University of Montreal) was called to the Bar of Province of Quebec on the 9th day of November, 1988 and practised in that province from the 10th November 1988 to the 21st September 1989. Since that time she has worked in a legal capacity, in Ontario, with the Office of Legislative Counsel, Ministry of the Attorney General.

On the anniversary of her call to the Quebec Bar she would like to make formal application to be permitted to proceed under Regulation 4(2). As she has only practised for 11 months in Quebec, however, she will not have the necessary three years in practice in that province. With her letter dated the 5th of September, 1991, she asks if she were to formally apply after the anniversary of her call, whether she would be found to satisfy the requirements of Regulation

4(2) on the basis of both the work she performed in Quebec as well as the nature of the work she has described as being engaged with while in the employ of the Ministry of the Attorney General in Ontario. If approved to proceed under Regulation 4(2) she would begin to prepare for the common law examination.

The applicant presents a Certificate of Good Standing.

Her letter together with the accompanying affidavit were before the Committee for consideration.

Your Committee was of the view that the matter should be referred to the Joint Committee for an assessment of what would be expected of the applicant if her application for transfer under Regulation 4(2) is denied and she is expected to apply to the Joint Committee.

(b) A lawyer qualified in Quebec (B.C.L 1970 McGill) was called to the Bar of the Province of Quebec in 1973 and has practised continuously in that province from the date of his call to the present.

The applicant presents a Certificate of Good Standing and seeks to proceed under Regulation 4(2). He makes special petition to be granted an exemption from the common law examination on the basis of common law courses completed for admission to the Alberta Bar in 1979, 1980 and 1981, and on the strength of his practice which has been primarily with federal law, statutes and procedure in the areas of corporate law, commercial law and trade marks.

His affidavit and letter of the 31st July, 1991 were before the Committee for information.

After reviewing the material before it your Committee felt the matter should stand until additional information, both on the content the common law courses taken by the applicant and on the nature of his practice over the last few years, has been received.

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

The following members of approved law faculties ask to be called to the Bar and admitted as solicitors without examination under Regulation 5 respecting full-time members of approved law faculties in Ontario:

Brian John Slattery B.A. 1968 Loyola College; B.C.L.
Faculty of Law, 1963 McGill University
Osgoode Hall,
York University

Darlene Mary Johnston B.A. 1983 Queen's University;
Faculty of Law, LL.B. 1986 University of Toronto;
Common Law Section, Called to Saskatchewan Bar
The University of Ottawa. February 1988.

Approved

8. EXAMINATION RESULTS - STATUTES AND PROCEDURE

The results of the examination on Statutes and Procedure in Ontario held in July 1991 were before the Committee. Three candidates sat the examination:

The following candidates passed:

Christopher Dickie
Emrys Michael Power

One candidate failed.

Noted

9. EXAMINATION RESULTS - COMMON LAW EXAMINATION

The following candidates were approved by the Committee to proceed under Regulation 4(2). The candidates sat the common law examination at the offices of the Law Society in May 1991. The candidates were identified by number only and the report of the examiners is as follows:

<u>Candidate No.</u>	<u>Paper No.</u>	<u>Marks</u>
326	4A	42 out of 100
	4B.3	51 out of 100
333	4A	41 out of 60*
	4B.3	51 out of 100

Candidate 326 Province of Quebec
According to our records this was the candidate's second attempt.

Candidate 333 Caroline Coderre Province of Quebec
* (candidate was excused certain examinations)

Noted

10. CALL TO THE BAR AND CERTIFICATE OF FITNESS

(a) Bar Admission Course

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

Vera Marianne Araj
Deborah Ann Barrington
Richard Edmund Evans
Roger Edwin Holland
Marie Denise Johanne Laperriere
Andrew Jonathan Orkin
Pretam Kaur Prewal
Neil Philip Tipton-Gill

Approved

The following candidate having successfully completed the Twenty-Eighth Bar Admission Course, filed the necessary documents and paid the required fee now applies for call to the Bar and to be granted a Certificate of Fitness:

Virgilio Wolfango Da Re

Approved

Transfer from another province - Regulation 4(1)

The following candidates having successfully completed the Statutes and Procedure in Ontario Examination, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted a Certificates of Fitness:

Christopher Dickie Province of Nova Scotia
Emrys Michael Power Province of Nova Scotia

Approved

Full-Time Members of Faculties of Approved Law Schools

The following candidates, having filed the necessary documents and complied with the requirements of the Society in their particular cases, are now entitled to be called to the Bar of Ontario and to be granted Certificates of Fitness:

Darlene Mary Johnston Faculty of Law,
Common Law Section,
The University of Ottawa.

Fee: \$200.00

Brian John Slattery Faculty of Law,
Osgoode Hall Law School,
York University.

Fee: \$200.00

Approved

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"K. Howie"
for Chair

B-ITEM 10(a) WAS ADOPTED

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CALL TO THE BAR

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

The Committee was asked to recommend that the rights and privileges of this member be suspended by Convocation on 27th September 1991 if the annual fees remain unpaid on that date.

Approved

Note: Motion, see page 72

4. MEMBERSHIP UNDER RULE 50

Retired Members

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

George William Goetz	Puslinch
James Robert Tyrrell	Simcoe
Lowell Archibald Allen	Toronto
Charles Joseph Seagram	Barrie
Hugh Francis Gibson	Kingston

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

Approved

5. RESIGNATION - REGULATION 12

(a) Robert Irving Goldin of Toronto has applied for permission to resign his membership in the Society and has submitted a Statutory Declaration in support. Notice of his application for permission to resign appeared in the issue of the Ontario Reports of 30th August 1991. Mr. Goldin's rights and privileges with the Society were suspended on the 28th March 1991 for non-payment of annual fees.

(b) Donat Pharand of Ottawa has applied for permission to resign his membership in the Society. He was engaged in private practice for only two years following his call to the Bar on 27th June 1957. His rights and privileges as a member of the Society were suspended on 19th April 1968 for non-payment of annual fees. Arrears of fees now total \$9002.98. Mr. Pharand is now 69 years old and no longer wishes to comply with the requirement respecting annual filing, but the regulation waiving that requirement applies only to members in good standing. The member has requested that he be relieved of publication in the Ontario Reports.

(c) Jean Chrétien of Ottawa has applied for permission to resign his membership in the Society and has submitted a Statutory Declaration in support. He worked with the firm Lang Michener Lawrence and Shaw as firm Counsel from 1984 to 1990 and left the practice of law when elected Leader of the Liberal Party of Canada.

Their applications are in order and the Committee was asked to approve their resignations.

Approved

C. INFORMATION

1. LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of 18th September 1991:

Simon Mackie Adams	Vancouver, BC
Arthur Lorne Binkley	Brantford
James John Black	Toronto
John William Blain	Toronto
Samual David Borins	Toronto
Wallace Dunning Cox	Toronto
Frederick Harry Ganz	Toronto
Sidney Maxwill Halpern	Hamilton
Douglas Leeds Hardtman	Kingston
William Stanley Jamieson	Willowdale
William Dennis Jordan	Toronto
Arthur William Mulock Kirkpatrick	Toronto
George Kenneth Langford	Toronto
Joseph Antoine Legris	Islington
Cecil Levy	Hamilton
George Angus McNabb	St. Thomas

Donald Raymond Morand	Etobicoke
Thomas Charles Odette Jr.	Tilbury
Rickson Andrew Outhet	Mississauga
Fergus Patrick Walsh	Toronto
John Nelson Weekes	London
Rolfe Nelson Weekes	London

Noted

2. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Jacques Beauchamp	<u>John Royer McLaren</u> (Change of Name Certificate)
Carolyn Ann Malaniuk	Carolyn Ann <u>Prypasniak</u> (Change of Name Certificate)
Yvette Kadanka	Yvette <u>Kapoor</u> (Married Name)
Christine Anne O'Rourke	Christine Anne <u>Riley</u> (Married Name)
Susan Jennifer Day	Susan Jennifer <u>Maidment</u> (Married Name)
Elizabeth Joy Noonan-Bayne	Elizabeth Joy <u>Noonan</u> (Maiden Name)

Noted

3. MEMBERSHIP RESTORED

The following members gave notice under section 31 of The Law Society Act that they had ceased to hold judicial offices and wished to be restored to the Rolls and records of the Society.

	<u>Effective Date</u>
Ilvio Anthony Vannini (Ontario Court General Division)	16th August 1991
Roy B. Mitchell (Ontario Court Provincial Division)	14th July 1991

Noted

4. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Donald Milner Treadgold Toronto	Called June 20th 1940 Died March 17, 1991
William Walter Gilbert Scarborough	Called April 13th 1978 Died April 2nd 1991
George Francis Gray Pooley Pointe-Claire, PQ	Called March 22nd 1968 Died April 21st 1991
David Peters Toronto	Called June 18th 1936 May 8th 1991
George Alfred Southee Mississauga	Called September 18th 1947 Died May 10th 1991
Adrian Yi Syn Lee Toronto	Called April 10th 1984 Died May 23rd 1991
Sally Frances Norych Toronto	Called January 27 1984 Died June 3rd 1991
Thomas Arthur Collingwood West Vancouver, BC	Called June 19th 1964 Died June 7th 1991
David Arnold Croll Toronto	Called November 20th 1924 Died June 11th 1991
Thomas D'Arcy Morris Tillsonberg	Called March 21st 1969 Died June 16th 1991

William Arthur Sutherland Toronto	Called September 19th 1940 Died June 22nd 1991
George Kelman Murray Toronto	Called March 24th 1972 Died June 23rd 1991
Patricia Fay Doty Reed Toronto	Called April 6th 1979 Died June 24th 1991
Andrew Matthew Lang Sarnia	Called March 26 1971 Died July 2 1991
John Frederick Sullivan Hamilton	Called June 19th 1947 Died July 9 1991
Barry Norman Signer Richmond Hill	Called March 19th 1970 Died July 13 1991
Leonard Stephan Hamilton	Called March 23rd 1973 Died July 21, 1991
Ronald Alfred Furness Don Mills	Called April 19th 1963 Died July 22nd 1991
William Kenneth Robinson Toronto	Called January 20th 1955 Died July 25th 1991
Paul Andrew Henry Hess Don Mills	Called June 15th 1944 Died August 2nd 1991
Daniel Roland Michener Toronto	Called March 20th 1924 Died August 6th 1991
Bruce Carr McDonald Toronto	Called November 18th 1966 Died August 9th 1991

Noted

(b) 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:

Donald Richard Mantz London	Called April 11th 1979 Permitted to Resign - Convocation June 20th 1991
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Noted

(c) The following member has been disbarred and struck off the rolls and his name has been removed from the rolls and records of the Society:

Thomas James Grace Ottawa	Called April 6th 1984 Disbarred - Convocation June 20th 1991
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Noted

(d) Membership in Abeyance

Upon their appointments to the offices shown below the membership of the following members has been placed in abeyance under section 31 of The Law Society Act:

William Joseph Morrison Brampton	Called April 19th 1963 Appointed to the Ontario Court of Justice, General Division March 28th 1991
Patrick Andrewes Sheppard Newmarket	Called March 24th 1972 Appointed to the Ontario Court, Provincial Division June 1st 1991
Peter Hryn Toronto	Called April 8th 1976 Appointed to the Ontario Court, Provincial Division June 1st 1991
Stephen John Hunter Ottawa	Called April 9th 1976 Appointed to the Ontario Court, Provincial Division June 1st 1991
Dianne Marguerite Nicholas Ottawa	Called April 16th 1980 Appointed to the Ontario Court, Provincial Division June 1st 1991

Raymond Peter Vincent Taillon Oshawa	Called March 26th 1971 Appointed to the Ontario Court, Provincial Division July 1st 1991
William Brian Stead Simcoe	Called March 23rd 1973 Appointed to the Ontario Court, Provincial Division July 1st 1991
Ralph Edward William Carr Sudbury	Called April 6th 1979 Appointed to the Ontario Court, Provincial Division July 1st 1991
Karen Eileen Johnston Oshawa	Called April 11th 1980 Appointed to the Ontario Court, Provincial Division July 1st 1991
Ian McDougall Gordon Sudbury	Called April 19th 1963 Appointed to the Ontario Court of Justice, General Division July 11th 1991
John Conway Kennedy London	Called March 19th 1970 Appointed to the Ontario Court of Justice, General Division July 11th 1991
Erwin Waldemar Stach Kenora	Called March 23rd 1973 Appointed to the Ontario Court of Justice, General Division July 11th 1991
Penny Joanne Jones Toronto	Called March 20th 1975 Appointed to the Ontario Court, Provincial Division July 15th 1991
Mary Elizabeth Marshman Windsor	Called March 28th 1977 Appointed to the Ontario Court, Provincial Division July 15th 1991
Sherrill Madith Rogers Newmarket	Called March 29th 1977 Appointed to the Ontario Court, Provincial Division July 15th 1991
Robert Howie Hawkes Toronto	Called June 23rd 1955 Appointed to the Ontario Municipal Board July 18th 1991

Noted

5. LEGAL MEETINGS AND ENTERTAINMENT

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

September 3, 1991	Osgoode Law School Convocation Hall
September 5, 1991	Official Guardian Barristers Lounge Red Mass Dinner Convocation Hall
September 12, 1991	Provincial Judges Convocation Hall
September 19, 1991	Lawyers Club Convocation Hall
September 25, 1991	WLA Dinner Convocation Hall
September 28, 1991	Class of '51 Reunion Convocation Hall
October 10, 1991	Legal Aid Dinner Benchers Reception

October 11, 1991 Official Guardian
 Barristers Lounge

October 16, 1991 Medico Legal Dinner
 Convocation Hall

October 17, 1991 Lawyers Club Dinner
 Convocation Hall

Noted

6. STAFF CHANGES

The Director reports that 14 employees have left the employ of the Law Society and 20 have joined. No new positions have been created and staff complement is now at 327 for the three months ended August 31 1991.

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of September 1991

"K. Howie"
Chair

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

B-Item 1 - Memorandum from Mr. David Crack to the Finance Committee dated September 12, 1991 re: Financial Statements - Year ended June 30th, 1991. (Marked B1, Pages 1 - 13)

It was moved by Mr. Howie, seconded by Mr. Wardlaw that the Financial Statements be approved.

Carried

Mr. Howie asked that Item 5(c) under Administration re: resignation of Jean Chretien be deleted.

THE REPORT WITH THE EXCEPTION OF B-ITEM 5(C) WAS ADOPTED

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MOTION TO SUSPEND: FAILURE TO PAY ANNUAL FEES

It was moved by Mr. Howie, seconded by Mr. Wardlaw THAT, having not paid his annual fees for the period July 1st, 1990 to June 30th, 1991, the rights and privileges of Michael Eisenstein be suspended for a period of one year from September 27th, 1991 and from year to year thereafter, or until his fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

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

It was moved by Mr. Howie, seconded by Mr. Wardlaw THAT, the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from September 27th, 1991 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(See List in Convocation file)

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LEGAL AID COMMITTEE

Ms. Kiteley presented the Reports of the Legal Aid Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at 3:00 p.m., the following members being present: Frances P. Kiteley, Chair, Messrs. Ally, Brennan, Carter, Ms. Curtis, Mr. Durno, Ms. Fuerst, Messrs. Koenig and Lalande, Ms. Weir.

A.
POLICY

1. REPORT OF THE GROUP APPLICATIONS AND TEST CASES SUB-COMMITTEE

The Legal Aid Committee recommends the adoption of the Report of the Group Application and Test Cases Sub-Committee which is attached hereto as SCHEDULE (A).

ALL OF WHICH is respectfully submitted

"F. Kiteley"
Chair

September 27, 1991

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

A-Item 1 - Report regarding environmental cases to the Legal Aid Committee by the group Applications and test cases sub-committee.
(Schedule (A), pages 1 - 13)

It was moved by Mr. Ruby, seconded by Ms. Peters that the Report of the Group Applications, be deferred pending receipt of information on the effect of the decision on environment groups and whether alternate sources of funding are available.

Lost

It was moved by Mr. Furlong, seconded by Ms. Weaver that the words "the Law Society and" be deleted from paragraph 2 of the Recommendations under Environmental Cases.

Carried

THE REPORT AS AMENDED WAS ADOPTED
.....

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 12th of September, 1991 at 3 p.m., the following members being present: Frances P. Kiteley, Chair, Messrs. Ally, Brennan, Carter, Ms. Curtis, Mr. Durno, Ms. Fuerst, Messrs. Koenig and Lalande, Ms. Weir.

A.
POLICY

1. RESOLUTION OF THE ASSOCIATION OF LEGAL AID PLANS OF CANADA

The Legal Aid Committee recommends the adoption of the Resolution of the Association of Legal Aid Plans of Canada which the Association adopted at its meeting in Winnipeg in August, 1991 with respect to the delivery of legal services to aboriginal peoples. The Resolution is attached hereto and marked as SCHEDULE (A).

B.
ADMINISTRATION

1. (a) REPORT TO THE PROVINCIAL AUDITOR DATED MARCH 31, 1991

The Report of BDO Ward Mallette, Chartered Accountants, to the Provincial

Auditor of the Statement of Fund of the Legal Aid Fund dated March 31, 1991 is attached hereto and marked as SCHEDULE (B).

(b) REPORT OF THE DEPUTY DIRECTOR, FINANCE
FOR THE FOUR MONTHS ENDED JULY 31, 1991

The Director's report pursuant to Section 88 (2) of the Regulation for the four months ended July 31, 1991 takes the form of the following financial statement:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Four Months Ended July 31, 1991 (\$000)

	<u>Actual</u> <u>July 31</u> <u>1990</u>	<u>Actual</u> <u>July 31</u> <u>1991</u>	<u>Forecast</u> <u>1991/92</u>	<u>Budget</u> <u>1991/92</u>
<u>Opening Balance</u>	\$ 6,925.8	\$ 2,022.1	\$ 2,022.1	\$ -
<u>Income</u>				
Treasurer of Ontario	47,175.9	68,896.0	161,963.5	208,890.5
Northern Legal Services	450.0	650.0	1,300.0	1,300.0
Family Violence Grant	100.0	84.0	210.0	250.0
Refugee Claimant Grant	1,443.1	6,288.5	9,500.0	8,800.0
Law Foundation	8,980.6	6,596.9	24,000.0	24,000.0
Client Contributions	3,075.8	3,884.8	11,500.0	10,000.0
Client Recoveries	682.5	658.8	1,900.0	2,200.0
Research Sales	73.3	49.3	150.0	210.0
The Law Society	226.7	-	5,672.0	5,672.0
Miscellaneous	1,134.8	673.6	2,500.0	2,500.0
	<u>70,268.5</u>	<u>89,804.0</u>	<u>220,717.6</u>	<u>263,822.5</u>
<u>Expenditures</u>				
Certificate Accounts	32,025.1	49,633.4	198,533.6	186,540.0
Refugee Accounts	1,043.4	2,776.5	9,200.0	8,000.0
Duty Counsel Fees & Disbursements	2,268.7	2,360.5	8,000.0	9,200.0
Salaried Duty Counsel	457.1	588.1	2,000.0	2,000.0
Northern Legal Services	525.0	550.5	1,300.0	1,300.0
Community Clinics	7,956.1	9,973.4	29,525.5	30,000.0
Student Legal Aid Societies	1,339.5	1,406.5	1,473.5	1,473.5
Research Facility	578.1	752.8	1,970.0	1,970.0
Area Office Administration	3,511.5	4,176.4	13,268.0	13,268.0
Provincial Office Admin.	2,319.4	2,972.0	9,471.0	9,471.0
Refugee Administration	85.4	110.0	300.0	300.0
Public Information/Education			300.00	300.0
	<u>52,109.3</u>	<u>75,300.1</u>	<u>275,341.6</u>	<u>263,822.5</u>
<u>Closing Balance (Deficit)</u>	<u>18,159.2</u>	<u>14,503.9</u>	<u>(54,624.0)</u>	<u>0</u>

Statistics

The following tables compares reported activity for the four months ended July 31, 1991 with activity for the previous fiscal year:

	<u>July 31, 1990</u>	<u>July 31, 1991</u>	<u>% Change</u>
Summary Legal Advice	18,400	21,528	17.0%
Referrals to Other Agencies	41,580	49,429	18.9%
Applications for Certificates	61,417	83,050	35.2%
Refusals	11,266	12,508	11.0%
As a Percentage of Applications	18.3%	15.1%	
Certificates issued	50,151	70,542	40.7%
Persons Assisted by Duty Counsel:			
Fee for Service	72,643	74,269	2.2%
Salaried	28,579	38,749	35.6%
Telephone Advice	5,132	6,615	28.9%

(c) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS
FOR THE MONTHS OF JUNE, JULY & AUGUST, 1991

The Reports on the Payment of Solicitors Accounts for the Months of June, July and August, 1991 are attached hereto and marked as SCHEDULE (C).

(d) REPORT ON THE STATUS OF REVIEWS FOR
THE MONTHS OF JUNE, JULY & AUGUST, 1991

The Reports on the Status of Reviews in the Legal Accounts Department for the Months of June, July and August, 1991 are attached hereto as SCHEDULE (D).

(e) AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS:

Cochrane District

Gordon George Conley, solicitor
Ronald A. Minard, solicitor
Susan T. McGrath, solicitor

Dufferin District:

Richard H.K. Schwarzl, solicitor

Peterborough District:

Robert W. Beninger, solicitor
Brenda Elizabeth Couch, Executive Director, United Way

Simcoe District:

Thomas N. Bryson, solicitor

York Region:

Lilly Pliakes, leasing & property manager (self employed)
Janet M. Mather, real estate sales representative
George D. van Hoogenhuize, solicitor
Christopher C. Sorley, solicitor
Katherin A. Still, solicitor
Mark Henry, solicitor
Lorne C. Baker, solicitor

RESIGNATIONS:

Peterborough District

Raymond Taillon

Simcoe District:

Bradford J. Kelneck

Stormont, Dundas & Glengarry District:

Harry Follon
Sephen Ault

York Region:

K. Wayne Kitchen

DECEASED:

Stormont, Dundas & Glengarry District:

Alex MacNeil

C.
INFORMATION

1. (a) DATA DEMONSTRATING THE GROWTH AND DEMAND FOR
LEGAL AID CERTIFICATES IN THE LAST THREE YEARS

A Report has been prepared on the data demonstrating the growth and demand for Legal Aid certificates in the last three years and is attached for Convocation's information as SCHEDULE (E).

(b) ABT STUDY OF ONTARIO LEGAL AID PLAN

Chapter X, the Conclusions and Summary of the Abt Study on Ontario Legal Aid Plan is attached for Convocation's information as SCHEDULE (F).

ALL OF WHICH is respectfully submitted

"F. Kiteley"
Frances P. Kiteley
Chair

September 12, 1991

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

- A-Item 1 - The Association of Legal Aid Plans of Canada, August 30, 1991, Resolution passed by representatives of each of the Legal Aid Plans listed below to be approved by the respective boards/commissions. (Schedule (A), 2 pages)
- B-Item 1(a) Report of BDO Ward Mallette, The Law Society of Upper Canada, Legal Aid Fund, Statement of Fund, March 31, 1991. (Schedule (B), 8 pages)
- B-Item 1(c) Report on the payment of solicitors accounts for June, July and August, 1991. (Schedule (C), 6 pages)
- B-Item 1(d) Report on the status of reviews for the months of June, July and August, 1991. (Schedule (D), 3 pages)
- C-Item 1(a) Ontario Legal Aid Plan - Number of New Certificates. (Schedule (E), 1 page)
- C-Item 1(b) ABT Study of Ontario Legal Aid Plan, Chapter X, Conclusion and Summary of Recommendations. (Schedule (F), 6 pages)

THE REPORT WAS ADOPTED

.....

Ms. Bellamy did not participate or vote.

.....

COMMUNICATIONS COMMITTEE

Mr. McKinnon presented the Report of the Communications Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991, the following members were present: Colin McKinnon (Chair), Robert Carter, Robert Kemp-Welch, Fran Kiteley, Julaine Palmer, and Ross Murray. Also in attendance: Donald Crosbie, Theresa Starkes, and Gemma Zecchini.

A.
POLICY

1. Communications Audit

Purpose and Objectives

In May 1991 the Communications Committee authorized an audit of Law Society of Upper Canada communications vehicles. The audit is comprised of two phases, internal and external. It is being conducted in support of the following goals:

- * to identify strengths, deficiencies and opportunities in our communications with members, general public, and the media
- * to assist benchers and senior management to create a mandate for the public relations function of the Society that will support the overall strategic goals and objectives of the organization

- * to identify means of rationalizing Law Society communications by eliminating duplication of activities and making use of possible economies of scale
- * to assist the Communications Committee and management to set communications goals for 1992/93

Phase I: Internal Audit

The internal audit, comprised of a listing and description of Law Society communications with its key audiences, namely, members, general public, and media has been completed. Interviews were conducted with the person(s) responsible for designated communications vehicles in various capacities: writers, editors, reviewers, printers, distributors. The objective of this exercise was to obtain as comprehensive an inventory as possible of the communications activities of the Society, together with their related costs.

Phase II: External Audit

The second phase of the audit will consist of an evaluation of existing communications projects with a view towards effecting improvements and efficiencies in the delivery of communications programs and vehicles in the future.

Prior to launching costly new advertising or communications initiatives the Committee proposes to survey its major audiences (members, public) to determine which activities should be continued because they are judged effective, which should be discontinued and which should be added.

The Communications Committee recommends the adoption of the following initiatives in Phase II:

1. A telephone survey to ascertain views on the efficiency of Law Society communications initiatives and to determine how the Society can better communicate with its members.

Cost: \$18,000

2. Province-wide consultation with the membership. Communications would like to hold a "discussion group" at the County and District Law Association Presidents' meeting in mid-November to identify issues of specific concern to the membership in each area. This information would be used to plan consultations with the membership in each area.

Cost: \$10,000

3. Public opinion survey to gauge usage, awareness and opinion of both Law Society public programs and legal services provided to the general public.

Cost: \$30,000

Total Cost: \$58,000

Funds for these items will be obtained from the Communications Department's advertising budget for 1991/92. Additional funds will not be required.

B.
ADMINISTRATION

1. Expanded Disk Drive for the Ottawa Dial-A-Law System

The Ottawa Dial-A-Law system has reached its maximum capacity and can no longer accommodate new tapes. Therefore, Convocation is asked to approve a \$15,000 expenditure for the purchase of a 300 MegaByte hard drive and one DB/41 Dialogic Board. This will allow Dial-A-Law an additional thirty hours of voice storage (approximately 130 additional taped messages). In addition, the update will allow the system's telephone capacity to expand to eight lines from four.

C.
INFORMATION

1. Media Activity

A summary of media activity for the months of June, July and August is attached (A-1 to A-2).

2. News Canada Placements

A summary of News Canada articles placement is attached (B-1 to B-9).

3. Call Statistics

A summary of call statistics for the Dial-A-Law and Lawyer Referral Service is attached (C-1 to C-2).

4. Dial-A-Law Transcript and Pamphlets Updating

The Communications Department would like to thank the volunteer lawyers who volunteered to review and revise the Dial-A-Law transcripts and our general legal education pamphlets. Each of these lawyers donated an average of four hours of their time to this endeavour. A token of the Committee's appreciation will be sent to each volunteer lawyer. In addition, a "Thank You" notice from the Law Society will be placed in the Ontario Reports as a token of public acknowledgement.

5. Law Foundation Omnibus Grant Application

The Communications Department's annual grant application to the Law Foundation is attached (D-1 to D-2).

ALL OF WHICH is respectfully submitted

DATED this 25th day of September, 1991

"C. McKinnon"
Chair

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

- C-Item 1 - Summary of media activity for the months of June, July and August, 1991. (Marked A-1 - A-2)
- C-Item 2 - Summary of News Canada articles placement. (Marked B-1 - B-9)
- C-Item 3 - Summary of call statistics for Dial-A-Law and Lawyer Referral Service. (Marked C-1 - C-2)
- C-Item 4 - Law Foundation Omnibus Application, Communications Department. (Marked D-1 - D-2)

It was moved by Mr. Ground, seconded by Mr. Bragagnolo that the external audit item be limited to Item 2 and be done at a minimal cost.

Not Put

It was moved by Mr. Rock, seconded by Mr. Lamek that the matter go back to the Committee for consideration in light of the discussion in Convocation.

Mr. Rock's motion was accepted by Mr. McKinnon.

THE REPORT WITH THE EXCEPTION OF THE ITEMS UNDER A (POLICY) WAS ADOPTED
.....

MOTION

It was moved by Mr. Ferrier, seconded by Mr. Howland THAT His Royal Highness the Prince of Wales be elected an Honorary Bencher of the Law Society such election to be effective on confirmation by the Treasurer in Convocation on October 25th, 1991 and that the Prince of Wales be invited to award the Law Society's Legal Education Equity Awards.

Carried

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PROFESSIONAL STANDARDS COMMITTEE

Mr. Yachetti presented the Report of the Professional Standards Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at eleven thirty in the morning the following members being present: Mr. Wardlaw (Acting Chair), Mrs. Weaver (Vice-Chair), Ms. Graham, Mrs. Legge and Mr. Manes.

Also present were Ms. Ashby, Ms. Ferguson, Ms. McCaffrey, Ms. Poworoznyk and Mr. Kerr.

Also in attendance was John Grieve, Q.C., who was recently appointed as Director of the Practice Advisory Service.

A.
POLICY

1. PROFESSIONAL STANDARDS AND THE PRACTICE REVIEW PROGRAMME
POLICY ISSUES

The Committee considered a number of policy issues formulated by staff in an effort to establish clearer guidelines with respect to Standards and in particular, the Practice Review Programme.

Attached as A1 - A6 are the policy issues together with the Committee's recommendations.

B.
ADMINISTRATION

1. REPRODUCTION OF RESIDENTIAL REAL ESTATE CHECKLIST

Staff have received a request from a Queen's University Faculty of Law Professor to reproduce the Real Estate checklist for distribution to his law students. As well, staff received a similar request from an instructor who teaches the Real Estate course for Law Clerks at Humber College.

The Committee considered whether checklists should be made available and on what terms to law students and students enrolled in various types of law courses at education facilities.

The Committee concluded that law schools should be given the right to reproduce the checklist so long as they preserve the Law Society's copyright.

With respect to the request from the instructor at Humber College, the Committee requested that staff develop a policy as to the conditions of availability of the checklist to non-members other than Faculty of Law students for the Committee's consideration at its next meeting.

2. PROFESSIONAL STANDARDS - PRACTICE REVIEW PROGRAMME - DEPARTMENTAL
UPDATE

The Committee approved the format of a report prepared by staff which is intended to update the Committee on developments within the Professional Standards Department and the Practice Review Programme. Henceforth, this report will appear as a regular information item on all Agendas.

C.
INFORMATION

1. SUB-COMMITTEE FAMILY LAW

Pursuant to the Committee's recommendation at the June, 1991 Committee meeting, the draft Family Law Checklist was forwarded to representatives of the County and District Law Presidents' Executive.

The checklist has now been reviewed by the Executive and their response regarding possible amendments to the checklist has been received.

It is anticipated that the sub-committee will meet in the near future to address the concerns expressed by the Executive and staff will keep the Committee advised of developments in this regard.

2. PRACTICE ADVISORY SERVICE - STATUS REPORT

Attached as C1 - C3 is a copy of the Practice Advisory Service monthly status report.

3. LINK - LAWYERS' ASSISTANCE PROGRAMME

Ms. Ashby updated the Committee on recent developments with regard to the LINK programme.

Attached as C4 - C10 is a copy of the quarterly report.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"R. Yachetti"
Chair

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

A-Item 1 - Professional Standards and Practice Review Programme - Policy Issues.

(Marked A1 - A-6)

C-Item 2 - Practice Advisory Service - Report to Professional Standards Committee, Meeting of September 12, 1991.

(Marked C1 -C3)

C-Item 3 - LINK, The Lawyers' Assistance Program, Statistical Report, April 1, 1991 to June 30, 1991.

(Marked C4 - C10)

THE REPORT WAS ADOPTED
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CLINIC FUNDING COMMITTEE

Mr. Epstein presented the Report of the Clinic Funding Committee of its meetings on July 4th and August 26th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of Legal Aid begs leave to report:

CLINIC FUNDING

The CLINIC FUNDING COMMITTEE submitted a report to the Director recommending funding for various projects.

The Director recommends to Convocation that the report of the Clinic Funding Committee dated September 19, 1991 be adopted.

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

ALL OF WHICH is respectfully submitted

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

September 19, 1991

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

The Clinic Funding Committee met on July 4th, 1991. Present were: Colin Campbell, Q.C., Chair, Paul Copeland, Thea Herman, Jim Fraumau. The Committee met again on August 26th, 1991. Present were: Philip Epstein, Q.C., Chair, Jim Frumau, Thea Herman.

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Court costs

(i) Metro Tenants Legal Services

Pursuant to s.10 of the Regulation on clinic funding, the Committee has reviewed and approved an application for the payment of court costs from Metro Tenants Legal Services, in an amount up to \$7,800.

b. Supplementary legal disbursements

Pursuant to s.6(1)(m) of the Regulation on clinic funding, the Committee has reviewed and approved an application for supplementary legal disbursements from Flemingdon Community Legal Services, in an amount up to \$3,000.

2. Northumberland Community Legal Centre

The Northumberland Community Legal Centre is now providing services in the County of Northumberland. The Committee therefore recommends Convocation's approval of an allocation for legal disbursements, in an amount up to \$3,000, for 1991/92.

3. TWHS LC re. Special Outreach/Publicity Funds

The Clinic Funding Committee is recommending that supplementary funds in an amount up to \$4,000 be provided to the Toronto Workers' Health and Safety Legal Clinic for a 12-month period. These funds are required for outreach and publicity to assist the Korean outreach worker in reaching the targeted community.

4. Waterloo re. Move

The Clinic Funding Committee is recommending that an amount up to \$28,345 be allocated to Waterloo Community Legal Services in connection with its move to new premises. This amount includes increased rent from September, 1991 to March, 1992, capital purchases and the purchase of a new telephone system.

5. MTLS re. Law Reform Initiative

The Clinic Funding Committee has approved an allocation of \$6,325 to Metro Tenants Legal Services which will enable a clinic worker to monitor the Bill 121 hearings and coordinate clinic submissions to the Standing Committee. The Committee is therefore recommending Convocation's approval of this supplementary funding.

ALL OF WHICH is respectfully submitted

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

September 19, 1991

THE REPORT WAS ADOPTED

.....

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

.....

The Treasurer and Benchers had as their guest for luncheon The Honourable J. Albert Brule.

.....

CONVOCATION RECONVENED AT 2:30 P.M.

.....

PRESENT:

The Treasurer, Bastedo, Bellamy, Bragagnolo, Campbell, Cass, Cullity, Curtis, Elliott, Epstein, Feinstein Goudge, Ground, Hickey, Howie, Howland, Jarvis, Kiteley, Lamek, Lax, Lerner, Levy, McKinnon, Manes, Mohideen, Murphy, D. O'Connor, Palmer, Peters, Rock, Scott, Somerville, Topp, Wardlaw and Weaver.

.....

RESEARCH AND PLANNING COMMITTEE

Mr. Bastedo presented the Report of the Research and Planning Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991, at 8:00 a.m, the following members being present: T. Bastedo (Chair), L. Brennan, S. Chapnik, C. Curtis, S. Elliott, A. Feinstein, the Hon. A. Lawrence, C. McKinnon, F. Mohideen, D. Scott.

Also present: M. Angevine, A. Brockett, R. Tinsley.

A.
POLICY

1. AMENDMENT OF THE RULES: VOTING RIGHTS OF NON-BENCHERS ON LAW SOCIETY COMMITTEES

In accordance with the notice given at the meeting of Convocation on June 21, 1991, your Committee recommends that the Rules made under s. 62(1) of the Law Society Act be amended by the addition of the following new rule:

32A. A member of a committee, other than the Discipline Committee, who is not a bencher has the same voting rights on the committee as a member of the committee who is a bencher.

It is understood that the Legislation and Rules Committee has approved this wording.

B.
ADMINISTRATION

1. TRANSCRIPT OF THE PROCEEDINGS OF CONVOCATION: COPIES TO COUNTY LAW LIBRARIES

Commencing in September 1991, a verbatim transcript of the proceedings of Convocation is to be produced. The original proposal, as adopted by Convocation in February 1991, was that a copy of the transcript should be made available in each of the County Law Libraries. It was subsequently suggested that it might be sufficient if the transcript were to be sent only to the Law Libraries in the 8 Judicial Regional Centres and to 6 other "Sub-Regional" Centres.

Your Committee is of the view that the original proposal should be implemented and that a paper copy of the transcript should be sent to every County and District Law Library. In addition, the transcript will be made available on computer diskette.

County and District Law Associations and Libraries will be asked to monitor the use made of the transcript. Your Committee proposes to evaluate the distribution scheme in three years' time.

2. DOCKETING HOURS SPENT BY BENCHERS ON LAW SOCIETY BUSINESS

In June 1991, Convocation adopted a recommendation that all benchers be asked to docket the hours they spend on Law Society business during a three or four-month period. It was left to the Committee to decide when the proposal should be implemented.

Your Committee proposes that benchers be asked to docket their Law Society hours over the period January 1 to April 30, 1992.

A standard reporting form is being prepared for consideration by the Committee.

3. PRO BONO LAWYER REFERRAL SERVICE: SELECTION OF COUNTIES FOR PILOT PROJECT

In March 1991, Convocation adopted a recommendation to conduct a 12-month "Pro Bono Lawyer Referral Service" pilot project in a selected county. By means of the existing Lawyer Referral Service (with its toll-free number) non-profit organizations needing legal services but unable to afford legal fees are to be given the names of lawyers who have offered their services on a pro bono basis.

Although the proposal was to run the pilot project in one county only, the County and District Law Presidents Association has ascertained that two County Law Associations (Hamilton and Middlesex) are interested in participating in the pilot scheme. (It is noted that the County of Carleton Law Association already has a similar scheme in operation).

For an additional expenditure of \$1,000 (which can be met from the Committee's existing budget) the pilot project could be run in a second county. Your Committee has therefore approved a proposal to conduct the Pro Bono Lawyer Referral Service pilot project in Hamilton-Wentworth and Middlesex.

C.
INFORMATION

1. VOLUNTARY PRO BONO SUBCOMMITTEE

The Voluntary Pro Bono Subcommittee is continuing its work with a view to determining the feasibility of a province-wide pro bono delivery system. Details of the Subcommittee's terms of reference and membership are set out in Attachment A.

2. ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE

The Alternative Dispute Resolution Subcommittee is continuing its review of the role of the Law Society in relation to dispute resolution methods. Details of the Subcommittee's terms of reference and membership are set out in Attachment B.

3. DETERMINATION OF LAW SOCIETY PRIORITIES

The opinion has been expressed that Convocation lacks the means of determining priorities as between proposals which involve significant new expenditures. Your Committee intends to study this matter.

4. SPECIAL CONVOCATION TO PREPARE A STRATEGIC PLAN

Your Committee is considering a proposal to hold a special one-or two-day meeting of Convocation to prepare a strategic plan for the Law Society. It has been suggested that the meeting should be elsewhere than at Osgoode Hall. The following agenda was suggested:

- a. An overview of all current activities of the Law Society and the structures by which it operates.
- b. A discussion of the mandate and role of the Law Society.
- c. The adoption of a strategic plan for the current four-year term.

The cost of holding a Special Convocation of this nature is being investigated.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"T. Bastedo"
Chair

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

C-Item 1 - Voluntary Pro Bono Subcommittee - terms of reference and membership.
(A - A-2)

C-Item 2 - Alternative Dispute Resolution Subcommittee - terms of reference and membership.
(B - B-2)

It was moved by Mr. Ground, seconded by Mr. Murphy that Item 1 under Administration be sent back to the Committee for details on cost implications.

Lost

It was moved by Mr. Howie that Item 1 under Administration be postponed until the Finance and Administration Committee have an opportunity to review it.

Withdrawn

It was moved by Mr. Cullity, seconded by Ms. Kiteley that the wording under Item 1 under Policy be amended by adding the word "elected" before "bencher" in Rule 32A so that the rule now reads: "A member of a committee, other than the Discipline Committee, who is not a bencher has the same voting rights on the committee as a member of the committee who is an elected bencher."

Lost

It was moved by Mr. Lerner but failed for want of a seconder that Item 1 under Policy be referred back to the Committee.

It was moved by Mr. Bragagnolo, seconded by Mr. McKinnon that the Report be accepted.

Carried

THE REPORT WAS ADOPTED
.....

DISCIPLINE COMMITTEE

Mr. Rock presented the Report of the Discipline Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs to leave report:

Your Committee met on Thursday, the 12th of September, 1991 at one thirty in the afternoon, the following members being present:

Mr. Rock (Chair), Ms. Peters, Ms. Bellamy, Ms. Graham, Messrs. McKinnon, Murphy, Murray, Scott and Thom.

Also in attendance were Ms. Elliott and Mr. Feinstein and Messrs. Jenkins, Kerr, and MacKenzie, Ms. Robertson, Messrs. Varro and Yakimovich.

A.
POLICY

1A. Negotiated Resolution Procedures

As a result of questions raised by a panel of Benchers at a Discipline Hearing last March, Gavin MacKenzie, Senior Counsel - Discipline, after discussing the matter with discipline counsel, suggested that it may be desirable to advise Benchers of the current guidelines adopted by Convocation on negotiated resolution procedures and to determine whether the subject should be revisited. Discipline counsel also felt it would be appropriate to place in the hearing rooms binders containing all of the hearing guidelines.

Your Committee reviewed the guidelines adopted by Convocation on June 26, 1986, attached at pages A-1 to A-11, and agreed to defer consideration of this matter to its October 1991 meeting pending a more thorough review of the guidelines, and receipt of any further material from Mr. MacKenzie or comments from other Benchers submitted to Committee members prior to the October meeting.

B.
ADMINISTRATION

1B. Henry Katz - Request for Permission to Employ Him as a Law Clerk

Mr. Stanley Kazman, Q.C. has requested permission pursuant to Rule 20 to employ Mr. Henry Katz, a disbarred lawyer, as a law clerk in his office, if a position becomes available.

Mr. Katz was disbarred in February, 1980 after he was found guilty of professional misconduct, the particulars of which included misappropriation, failure to maintain sufficient balances in his trust account, filing a false Form 2 and borrowing from clients in contravention of then Rule 18 (now Rule 7). He is currently employed as a broker/courier with gross earnings of \$500 per week.

In his written request, Mr. Kazman indicated that if hired, Mr. Katz would assist in drawing Small Claims Court pleadings, deliver and file documents in court offices and attend at Land Registry offices. He would not be handling any trust funds and would not deal with banks or banking or directly with clients. Mr. Kazman also indicated that his letter should not be construed as an acknowledgment that there is a job available, and that if the Society permits Mr. Katz to be employed and the volume of business means that Mr. Kazman's office would require Mr. Katz' services, only then would the question of hiring him in this capacity be considered.

Gavin MacKenzie, Senior Counsel - Discipline invited Mr. Kazman to supply further information for the Committee's consideration. To date, no further information has been received.

Based on the material before it, your Committee recommends that permission to employ Mr. Katz be denied on the basis that, as no position currently exists, Mr. Kazman's proposal is hypothetical, but that Mr. Kazman be at liberty to make further application with more specific information about Mr. Katz' actual duties and proposed supervision.

2B. Kevin John Mahan -
Continued Employment with Paul H. Ennis, Q.C.

In February, 1991, Convocation approved the request of Mr. Ennis to employ Mr. Mahan, a former member who in 1990 was permitted to resign, as a law clerk for a period of six months, provided that:

- a) Mr. Ennis propose a specific plan for the employment and supervision of Mr. Mahan, and
- b) Mr. Mahan propose a plan to satisfactorily resolve all outstanding obligations to the Society, which shall include compliance with all outstanding undertakings and orders of Convocation,

both of which plans shall be acceptable to Senior Counsel - Discipline, or his designate in the Discipline Department, and shall be implemented during the six-month period.

The six months have now run and Mr. Ennis is requesting that Mr. Mahan be permitted to work for a further period of six months on the same terms and conditions.

After reviewing Mr. Mahan's discipline history with the Committee, Stanley Jenkins, Audit Counsel, advised that Mr. Ennis' plan of supervision has been successful. Mr. Ennis has indicated that Mr. Mahan has carried out all of his duties to Mr. Ennis' complete satisfaction. Mr. Jenkins opined that it would be appropriate that a time limit be placed on Mr. Ennis' application for continued employment of Mr. Mahan as it provides Mr. Mahan with time deadlines for fulfilling his outstanding obligations, and that there is no apparent need to alter Mr. Ennis' plan of supervision as it appears to be operating effectively.

Your Committee, after review and consideration of the information before it, recommends that Convocation permit Mr. Ennis to employ Mr. Mahan for a further six months on the same terms and conditions.

C.
INFORMATION

1C. New Members of Staff

Attached at page B-1 is a list of the members of the professional staff who have joined the Discipline, Complaints and Audit Departments since the last meeting of the Committee.

2C. Matters to be Considered at Future Meetings

The Chair, in consultation with staff, has identified several matters which he proposes your Committee address at forthcoming meetings. They are as follows:

1. Drafting for the Benchers a brief description of the Invitation to Attend procedure with reference to the statutory provision.

2. Consideration of a policy respecting investigation and prosecution of sexual assault complaints, with discussion of "zero-tolerance" position.
3. Consideration of a policy respecting Benchers involvement in complaints investigations.
4. Consideration of the proposal of the Federation of Law Societies of Canada to establish a central discipline registry.
5. Consideration of a policy respecting prosecution of complaints involving failure of solicitors to honour financial obligations.
6. Discussion of a proposal to institute pre-hearing conferences before a single Benchers for specified disciplinary matters.
7. Consideration of a policy respecting withdrawal of complaints.
8. Discussion of the assistance which may be offered by the Ontario Bar Alcoholism Program in relevant disciplinary cases.
9. Consideration of a policy on the issue of bias of Benchers at discipline hearings or Convocation (previously considered by the Committee in June, 1991 and referred back to the Committee by Convocation).
10. Review of the scope of the authority accorded to lay Benchers sitting as Complaints Commissioners.

Your Committee also raised for discussion, delays occasioned by adjournments and guidelines for disclosure by Society counsel at hearings.

3C. Authorization of Discipline Charges

Once each month, the Chair and/or one or both of the Vice-Chairs of the Discipline Committee meet with Complaints and Discipline staff to consider requests for formal disciplinary action against individual lawyers.

The following table shows the number of requests made by Discipline, Complaints and Audit staff for the months of June, July and August, 1991.

June

	<u>Sought</u>	<u>Obtained</u>
Discipline	5	5
Complaints	6	4
Audit	0	0

July

Discipline	4	3
Complaints	21	18
Audit	0	0

August

Discipline	25	25
Complaints	16	13
Audit	0	0

Total Number of Charges Authorized to Date for 1991

January	11
February	12
March	14

April	21	
May	22	
June	9	
July	21	
August	<u>38</u>	(14 of the August authorizations were for failure to file Forms 2/3)
Total:	148	

ALL OF WHICH is respectfully submitted
 DATED this 27th day of September, 1991

"A. Rock"
 Chair

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

- A-Item 1A. - Hearing guidelines adopted by Convocation on June 26, 1986.
 (Marked A-1 - A-11)
- C-Item 1C. - List of members of professional staff who have joined the Discipline, Complaints and Audit Departments dated September 12, 1991.
 (Marked B-1)

THE REPORT WAS ADOPTED

ORDERS

Ten Orders were filed with Convocation and recorded in the Minutes.

Re: WOLF VON TECHMAN, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;
 AND IN THE MATTER OF Wolf Von Teichman,
 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 8th day of April, 1991, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Wolf Von Teichman be suspended for a period of three (3) months, such suspension to commence on June 20th, 1991.

DATED this 20th day of June, 1991

"James M. Spence"
 Treasurer

Friday, 27th September, 1991

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: MICHAEL FRANK STOYKA, Windsor

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Michael Frank Stoyka,
of the City of Windsor, a
Barrister and Solicitor (hereinafter
referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 2nd day of April, 1991, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Michael Frank Stoyka be Reprimanded in Convocation along with a \$10,000.00 fine in lieu of a suspension and to compensate for costs of the Law Society, such fine to be paid forthwith.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: WILLIAM DAVID KEYS, Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF William David Keys,
of the City of Ottawa, a Barrister and
Solicitor (hereinafter referred to as "the
Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of May, 1991, 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 conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said William David Keys be suspended for a period of three (3) months, such suspension to commence on the 20th day of June, 1991.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

Friday, 27th September, 1991

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: DONALD RICHARD MANTZ, London

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Donald Richard Mantz,
of the City of London, a Barrister and
Solicitor (hereinafter referred to as "the
Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 27th day of May, 1991, in the presence of Counsel for the Society, Counsel for the Solicitor nor the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel for the Society aforesaid;

CONVOCATION HEREBY ORDERS that the said Donald Richard Mantz be granted permission to resign his membership in the Law Society of Upper Canada.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: THOMAS JAMES GRACE, Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Thomas James Grace,
of the City of Ottawa, a Barrister and
Solicitor (hereinafter referred to as "the
Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 24th day of May, 1991, in the presence of Counsel for the Society, Counsel for the Solicitor nor the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and conduct unbecoming and having heard Counsel for the Society aforesaid;

CONVOCATION HEREBY ORDERS that the said Thomas James Grace 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 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: PAUL HUBERT WATSON, Carleton-Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Paul Hubert Watson,
of the Regional Municipality of
Carleton-Ottawa, a Barrister and Solicitor
(hereinafter referred to as "the
Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 22nd day of May, 1991, 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 the said Paul Hubert Watson be reprimanded in Convocation.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: BRIAN ALLEN SHERMAN, Richmond Hill

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Brian Allen Sherman, of the Town of Richmond Hill, 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 28th day of May, 1991, 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 the said Brian Allen Sherman be reprimanded in Convocation and that he:

Friday, 27th September, 1991

1. pay a fine in the sum of \$3,000.00 with twenty one (21) days to pay such fine from date of Convocation, and
2. that he co-operate with the Professional Standards Practice Review by implementing the recommendations made.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: PATRICK ANTHONY COCCIMIGLIO, Thunder Bay

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Patrick Anthony Coccimiglio, of the City of Thunder Bay, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 23rd day of May, 1991, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Patrick Anthony Coccimiglio be suspended for a period of twelve (12) months, such suspension to take effect August 1, 1991.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: BRADFORD WILMOT MORSE, Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Bradford Wilmot Morse, of the City of Ottawa, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 23rd day of May, 1991, in the

presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Bradford Wilmot Morse be Reprimanded in Convocation.

DATED this 20th day of June, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: CALUM DONALD GRAHAM, Mississauga

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Calum Donald Graham, of the City of Mississauga, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 28th day of March, 1991, in the presence of Counsel for the Society, and the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Calum Donald Graham be suspended on September 1st, 1991, if the Solicitor's Forms 2/3 are not filed and his books and records are not in order in the judgment of the Secretary of the Law Society. The suspension to continue until the Solicitor's Books and Records are in a form satisfactory to the Secretary.

DATED this 25th day of April, 1991

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

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PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented the Report of the Professional Conduct Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at three o'clock in the afternoon, the following members being present: Mr. Somerville (Chair), Ms. Chapnik, Mr. Cullity, Ms. Elliott and Ms. Mohideen.

A.
POLICY

1. LAWYERS PAYING INTEREST ON OVERDUE ACCOUNTS

The Complaints Office has asked for the Committee's direction as to whether the lawyer's duty to pay certain accounts also includes the duty to pay interest. Set out below is the request from the Complaints Office:

Further to our discussion, the Complaints Department is receiving an increasing number of complaints involving disputes between lawyers and providers of services to lawyers in connection with their practices.

The problem I am writing to you about deals with the lawyer's responsibility to pay the "creditor" interest which has accrued on an outstanding account. While the lawyer's responsibility for interest in some cases is fairly clear (i.e. on invoices for the provision of office supplies), it is less so in others. The best example of the latter occurs when a lawyer gives a doctor a personal undertaking to pay the doctor's fee for preparing a medico-legal report out of the proceeds of an ongoing personal injury action. In many cases, the doctor's fee is substantial and the settlement occurs years after the report was prepared. The doctor usually indicates on the account that interest accrues. Substantial interest has accumulated. At the time of settlement, the lawyer will often pay only the face value of the doctor's account and a dispute ensues over the lawyer's responsibility for the interest.

Our staff would appreciate some guidance from the Professional Conduct Committee on whether the lawyer's undertaking in these circumstances would extend to accumulated interest.

Paragraph 6 of the Commentary under Rule 13 addresses "The Duty to meet Financial Obligations":

In order to maintain the honour of the Bar, lawyers have a professional duty (quite apart from any legal liability) to meet financial obligations incurred, assumed or undertaken on behalf of clients unless, before incurring such an obligation the lawyer clearly indicates in writing that the obligation is not to be a personal one.

Lawyers have a professional duty generally to meet financial obligations in relation to their practice, including prompt payment of the deductible under the Society's Errors and Omissions Plan when properly called upon to do so.

The Committee concluded that it was a question of law whether interest was payable or not. The facts of each case would determine whether the lawyer was or was not responsible for the payment of interest. The term "financial obligations" would include within its meaning any interest that might be due and owing. Hence it was unnecessary to amend the existing Commentary.

The Committee requests Convocation to adopt its interpretation.

2. SUB-COMMITTEE ON THE ADEQUACY OF PARAGRAPH 1 OF THE COMMENTARY TO RULE 13 (REPORTING OF MISCONDUCT TO THE LAW SOCIETY)

Paragraph 1 of the present Commentary reads:

Unless the lawyer who tends to depart from proper professional conduct is checked at an early stage, loss or damage to clients or others may ensue. Evidence of minor breaches may, on investigation, disclose a more serious situation or may indicate the commencement of a course of conduct which would lead to serious breaches in the future. It is, therefore, proper (unless it be privileged or otherwise unlawful) for a lawyer to report to the Society any instance involving a breach of these Rules. Where, however, there is a reasonable likelihood that someone will suffer serious damage as a consequence of an apparent breach, for example where a shortage of trust funds is involved, the lawyer has an obligation to report the matter unless it is privileged or otherwise unlawful to do so. In all cases the report must be made bona fide without malice or ulterior motive.

The sub-committee has deliberated for the past year and has come up with a draft amendment to this paragraph which it believes will give greater direction to the profession as to when they should report. Set out below is a draft Paragraph 1:

Unless the lawyer who tends to depart from proper professional conduct is checked at an early stage, loss or damage to clients or others may ensue. Evidence of minor breaches may, on investigation, disclose a more serious situation or may indicate a course of conduct leading to serious breaches. A lawyer has a discretion whether to report minor breaches to the Law Society.

A lawyer having knowledge that another lawyer has committed a breach of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall make a report to the Law Society unless it is privileged or otherwise unlawful to do so. Nothing in this paragraph is meant to interfere with or override the traditional solicitor-client relationship. Should a lawyer consider making a report, but is uncertain whether such a report is mandatory, the lawyer should first consult with the Law Society on a no-names basis. In all cases the report must be bona fide without malice or ulterior motive.

The sub-committee recommended that an announcement be published in the Ontario Reports advising that a rule change is being contemplated and that the profession is welcome to comment on the proposed draft. The Law Society has had a policy in the past decade of inviting the comments of the profession before enacting significant changes to existing rules or the addition of a new rule.

Once responses have been received a further report will be made to the Committee.

The Committee agreed with the approach recommended by the sub-committee.

Since no rule change is contemplated at this time it is not necessary for the Committee to obtain approval of Convocation. Given the concern in the profession it was thought appropriate to highlight this item on the Committee's agenda by putting it in the Policy Section of this report.

3. DUTY OF A LAWYER TO A CLIENT -
SHOULD THAT LAWYER CROSS A PICKET
LINE TO ATTEND A HEARING WHERE THE
RIGHTS OF A CLIENT ARE BEING DECIDED?

The strike by some members of Public Service Alliance of Canada has meant that lawyers representing clients before the Immigration and Refugee Board would have to cross a picket line in order to get to their client's hearing.

One lawyer is upset with this state of affairs because he, from time to time, represents unions and employees in labour relations matters. It has been suggested to him that he may owe a higher duty to advance his client's interests by attending the hearing. He has suggested that in some instances it might be in his client's best interest for him not to be there.

This dilemma has been complicated by a fax he received from the Executive Director of the Board containing the following statement:

Each of the provincial law societies has been contacted and the consensus of opinion (sic) is that counsel has a professional obligation to provide representation to his/her client regardless of personal views about the labour situation.

The Committee's Secretary has been endeavouring to find out who at the Law Society was canvassed for an opinion. A telephone call to the Executive Director was met with a tape recorded message that the office was closed. A fax to the office has yet to be answered.

The Committee is of the opinion that a lawyer's highest duty is to the client. If a lawyer in good conscience does not cross a picket line to attend a hearing (or for that matter a trial) the lawyer must take all steps necessary to ensure that the client's interests are not prejudiced and that the client is now represented by competent new counsel.

The Committee notes that paragraph 7 of the Commentary under Rule 8 (Withdrawal of Services) addresses these requirements:

No hard and fast rules can be laid down as to what will constitute reasonable notice prior to withdrawal. Where the matter is covered by statutory provisions or rules of court, these will govern. In other situations the governing principle is that the lawyer should protect the client's interests to the best of the lawyer's ability and should not desert the client at a critical stage of a matter or at a time when withdrawal would put the client in a position of disadvantage or peril.

The Committee asks Convocation to adopt this opinion.

4. PROPOSAL BY A LAWYER PRESENTLY DOING TAX PLANNING IN AN ACCOUNTING FIRM TO OPEN A LAW PRACTICE COMPLETELY SEPARATE FROM THE ACCOUNTING FIRM

A lawyer has directed the following inquiry to the Professional Conduct Committee:

1. He is working in a national accounting firm as a tax planner. He is scrupulous to make sure that he expresses no legal opinion and is not held out as a lawyer. Clients of the accounting firm whom he services are told that they must consult their lawyer for information as to compliance with the law in any tax scheme.
2. The lawyer would like to open up a law practice devoted exclusively to the handling of tax cases before the Tax Court of Canada. The firm would be in premises separate from the accounting firm. The clients would be billed directly by him. There would be no financial arrangement between him in his capacity as a lawyer and the accounting firm that hires him.
3. If a client of the accounting firm had a Tax Court matter, the accounting firm would tell the client that he should hire a lawyer (as of January 1, 1991 only lawyers can handle Tax Court matters of \$7,000 or more). If the client asked for the name of a lawyer, the accounting firm would tell the client that one of its tax planners carried on a separate law practice focused on Tax Court cases. This disclosure would be evidenced in writing. There would be no steering.
4. If the Professional Conduct Committee is sufficiently concerned, the lawyer is prepared to give an undertaking to the Law Society that he will not take as a client of his law practice any client of the existing accounting firm.

The Committee concluded that the proposal was in order. The law practice would be separate and distinct from the accounting firm's operations.

The Committee is of the opinion that the accounting firm should in referring persons to lawyers in Tax Court cases give the names of at least three practitioners doing this type of litigation, one of whom would be the lawyer who also works as a tax planner in the accounting firm. It should also be explained that this lawyer has a relationship with the accounting firm and the client is completely free to see another lawyer on that list. It would be unnecessary to give the type of undertaking set out in number 4 above.

The Committee asks Convocation to adopt its position that the proposal is in order.

C. INFORMATION

1. SUB-COMMITTEE ON THE MARTIN V. GRAY CASE (CONFLICT OF INTEREST)

The sub-committee held an afternoon seminar on June 12th with representatives from the CBA Task Force, the CBA Quebec and the CBAO's Business Section. Professor Hazard of Yale University gave a very useful address and chaired a stimulating question and answer session.

The sub-committee is working on a set of guidelines to assist the profession. These guidelines should be published for comment by the profession within the next two months.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"M. Somerville"
Chair

THE REPORT WAS ADOPTED

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LIBRARIES AND REPORTING COMMITTEE

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at 9:00 a.m., the following members being present:

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

A.
POLICY

NO ITEMS

B.
ADMINISTRATION

1. ONTARIO REPORTS - CROWN
COPYRIGHT IN REASONS FOR JUDGMENT

It was reported that the question of Crown copyright was discussed at a CLIC forum in Ottawa on May 31st, 1991. Benchers present were Gordon Henderson and the Law Society's representative to CLIC, Samuel Lerner and Glen Howell, Chief Librarian, and Fraser Mann, the Society's counsel, also attended. The Committee asked that the Law Society's position paper on Crown copyright (first drafted in 1985 and submitted to a Federal Parliamentary Committee) be reviewed and possibly up-dated in light of current events. Mr. Henderson will be available for the October meeting of the Committee and will speak to the Law Society's position on Crown copyright in reasons for judgment.

NOTED

2. AN AMENDMENT TO REGULATION 573, SUB-SECTION 20(4) TO
PERMIT MEMBERS TO ADVERTISE IN THE ONTARIO REPORTS IF
THEY ARE CERTIFIED BY THE CERTIFICATION BOARD

It was reported that since lawyers may advertise that they are certified by the Society as a specialist in a particular area of law, Sub-Section 20(4) prohibiting the mention of special qualifications, should be updated.

IT IS RECOMMENDED that Subsection 20(4) be deleted from Regulation 573 because the Rules of Professional Conduct contain the rules concerning members advertising not only in the Ontario Reports but in other publications.

3. GREAT LIBRARY - USAGE OF CLE MATERIALS

At the June meeting of the Committee the Chief Librarian was asked to conduct a survey of the usage of CLE materials in the Great Library over the summer period. The Chief Librarian reported to the Committee on the results of the survey that was done between July 22nd and August 19th, 1991. He emphasized the usage by patrons of CLE materials such as CBA-O, Insight and Canadian Institute was substantial. It is the opinion of library staff that these materials are very important acquisitions for the patrons of the Great Library.

4. COUNTY AND DISTRICT LAW LIBRARIES

The Chief Librarian advised the Committee that the Research and Planning Committee has recommended that transcripts of Convocation proceedings should be sent to each of the 47 County Law Libraries. The Committee discussed whether the expense was justified and whether it might not be sufficient to only send the transcript to the Regional Libraries.

RECOMMENDATION: Your Committee recommends that the Research and Planning Committee revisit the matter of sending a transcript of Convocation proceedings to each of the 47 County Law Libraries.

C.
INFORMATION

1. ONTARIO REPORTS - BUTTERWORTHS - PAPER PARTS

It was reported that the new agreement with Butterworths was signed on July 31st, 1991. Arrangements have been made to courier copies of weekly parts to each of the 47 County Law Libraries during the postal interruption.

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

It was reported that negotiations to finalize the above contract continued over the summer. It is anticipated that the new contract will be signed by the end of September.

3. LEXIS DATA BASE OF ONTARIO UNREPORTED REASONS FOR JUDGMENT

It was announced at the recent Canadian Bar Association Convention in August that Lexis has an agreement with the Ontario Court of Justice to offer an unreported judgment data base for the period 1975 to date. The data base will be commencing in November 1991.

4. ONTARIO REPORTS - CONSOLIDATED INDEX TO THE ONTARIO REPORTS (SECOND SERIES)

Butterworths commenced publication of the Third Series earlier this year and closed off publication of the Second Series with Volume 75. A new Consolidated Index to the ORs Second Series is being prepared for publication.

5. COUNTY LIBRARIES - 1992 BUDGETS

The Chief Librarian has requested financial documents for 1991 and 1992 budgets from the 47 County Law Associations. The deadline for submission of these documents is September 17th, 1991, and the Chief Librarian will present consolidated budget estimates for 1992 to the October meeting of the Committee.

6. RIDDELL COLLECTION

The Great Library and the Archives branch of the Law Society of Upper Canada are participating in the presentation of an exhibition celebrating the 75th anniversary of the Riddell Canadian Library at Osgoode Hall. Chief Justice Dubin has given the Law Society permission to display the exhibit for one month in the Rotunda of Osgoode Hall, starting September 13th.

7. FINANCIAL REPORT

The Chief Librarian reported to the Committee on the Financial Report of Revenue and Expenses for the twelve months ending June 30th, 1991.

8. BOOK LIST

The Great Library will be adding 76 new titles to its book collection for July, August and September 1991.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"D. Murphy"
Chair

THE REPORT WAS ADOPTED
.....

UNAUTHORIZED PRACTICE COMMITTEE

Mr. Cass presented the Report of the Unauthorized Practice Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991, at 10:30 a.m., the following members were present: Mr. Carter (Chair), Messrs. Cass, Farquharson, Ms. Graham, Mr. Lawrence, Ms. Mohideen, Mr. Scott and Ms. Weaver. Also in attendance was: Ms. West (Secretary).

B.
ADMINISTRATION

1. INVESTIGATIONS

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

2. IMMIGRATION CONSULTANTS

Your Committee has authorized the Secretary to cooperate with the Royal Canadian Mounted Police and with the Metropolitan Toronto Police in connection with complaints against immigration consultants.

Your Committee has further authorized the Secretary to refer the question of public education in connection with immigration consultants to the Communications Committee.

Approved

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"R. Cass"
for Chair

THE REPORT WAS ADOPTED

.....

LEGISLATION AND RULES COMMITTEE

Mr. Cullity presented the Report of the Legislation and Rules Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991, at 11:15 a.m. the following members being present:

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

A.
POLICY

No items

B.
ADMINISTRATION

1. AMENDMENT TO THE LAW SOCIETY ACT TO PROVIDE FOR
SUSPENSION FOR NON-PAYMENT OF FEES AND LEVIES
IN THIRTY DAYS INSTEAD OF FOUR MONTHS

It was reported that on June 13th 1991, the Finance and Administration Committee approved, and on June 21st, 1991, Convocation adopted a proposal to amend Section 36 of the Law Society Act by striking out "four months" in the second line and inserting "thirty days". The amendment to the Act is to come into force on July 1st, 1992. Counsel has drafted an amendment to Section 36 of the Act.

IT IS RECOMMENDED that:-

1. Section 36 of the Law Society Act, being chapter 233 of the Revised Statutes of Ontario, 1980, be amended by striking out "four months" in the second line and inserting in lieu thereof "thirty days" so that Section 36 will read as follows:-

36. If a member fails to pay any fee or levy payable by him or her to the Society within thirty days after the day on which payment is due, Convocation may by order suspend his or her rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. R.S.O. 1970, c. 238, s. 36.

2. This amendment comes into force on the 1st day of July, 1992.

2. AMENDMENT TO THE LAW SOCIETY ACT RE LIFE BENCHERS

It was reported that as a result of a motion that was approved by Convocation on February 15, 1991 it is necessary to amend subsection 12(1) of the Law Society Act. The resolution of Convocation was as follows:

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

After consideration of the implications of the resolution and the terms of alternative draft amendments, this matter was referred back to counsel for further attention.

3. AMENDMENT OF THE RULES UNDER THE LAW SOCIETY ACT
TO PROVIDE VOTING RIGHTS FOR NON-BENCHERS
ON LAW SOCIETY COMMITTEES

It was reported that on June 13th, 1991, the Research and Planning Committee approved and on June 21st, 1991, Convocation adopted the recommendation that non-Bencher members of Law Society Committees (except the Discipline Committee) have voting rights. Counsel has drafted an amendment to the Rules.

IT IS RECOMMENDED that the Rules made under the Law Society Act, being Chapter 233 of the Revised Statutes of Ontario, 1980, are amended by adding thereto the following rule:-

32A. A member of a committee, other than the Discipline Committee, who is not a bencher has the same voting rights on the committee as a member of the committee who is a bencher.

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

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

RECOMMENDATION: It is recommended that the Women in the Legal Profession Committee be advised that the Rules under the Law Society Act were approved by Convocation on January 25, 1991, in gender neutral form and that the Committee will give further consideration to the recommendations in the Transitions report.

C.
INFORMATION

1. AGENTS OF OCCASIONAL APPEARANCE MEMBERS

It was reported that Counsel for the Society has finalized with Legislative Counsel the wording of the amendment of Regulation 573 Subsection 6(2) concerning agents of occasional appearance members.

2. DISCIPLINING STUDENT MEMBERS OF THE SOCIETY

It was reported that Counsel for the Society has finalized with Legislative Counsel the wording of the amendment of Regulation 573 Subsections 22(8), (9) and (10).

3. TRANSLATION OF AMENDMENTS TO THE
RULES UNDER THE LAW SOCIETY ACT

It was reported that all of the amendments to the Rules under the Law Society Act adopted by Convocation between March and June 1991 have now been translated into French.

4. The financial report for the Committee's activities for the fiscal year ending June 30th, 1991, shows that the total expenses were \$9,190. under budget.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"M. Cullity"
Chair

THE REPORT WAS ADOPTED
.....

INSURANCE COMMITTEE

Mr. Howie presented the Reports of the Insurance Committee of its meetings on September 12th and 25th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September, 1991 at 1:30 in the afternoon, the following members being present: Messrs. Bragagnolo (Chair), Cass, Epstein, Howie, Scace, Strosberg, Wardlaw and Ms. Palmer.

Also in attendance were Messrs. Whitman and O'Toole.

ITEM

1. DIRECTOR'S FINANCIAL REPORT

The Director has been requested to present a comprehensive financial report on the status of the E & O Fund. So that the appropriate amount of time can be devoted to this important subject, a special meeting of the Committee is being arranged for 5:00 p.m., Wednesday, September 25, 1991.

2. E & O ADMINISTRATION FINANCIAL REPORT

The Director's Monthly Errors and Omissions General Expense Budget Report is attached as Appendix "A".

3. BILL 70

Bill 70, as originally proposed by the Provincial Government would have had a significant impact on Directors and Officers with respect to payment of employee salaries in the event of the collapse of an employer. Pursuant to a query on the impact of Bill 70 on Benchers your Committee has been advised that subsequent changes to the proposed legislation have dispelled any concern in this regard.

4. ERRORS AND OMISSIONS LEVY - PART-TIME
LAWYERS/EXEMPTIONS/REBATES

In its Report to Convocation, the Women in the Legal Profession Committee recommended that the Society investigate the possibility of reduced insurance levies for members who practice part-time. A Sub-Committee was created to review the current levy program, and to consider implementing reduced levy rates for part-time lawyers, as well as considering levy exemptions for members on maternity leave and those unable to practice due to illness. Your Committee has approved the Sub-Committee's recommendations and has created a new Sub-Committee to consider expanding the entitlement to an exemption/rebate to include leaves for reasons other than pregnancy and illness. See Appendix "B".

5. RULE REQUIRING MINIMUM COVERAGE FOR INTER-JURISDICTIONAL
PRACTICES

At the June 1991 Federation Meeting of Insurance Committee Chairpersons and Directors of Insurance, a request was made that the LSUC consider a rule requiring members engaged in Inter-Jurisdictional practice to maintain excess liability coverage in an amount sufficient to alleviate any concerns on the part of other Canadian jurisdictions arising out of the implementation of the \$2,000,000 Annual Aggregate Limit of Liability under the LSUC E & O Program. Appendix "C" is a copy of the draft rule being considered by The Law Society of

British Columbia. Your Committee has postponed discussion of this subject requesting that the Director first communicate with the Compensation Fund Committee which is also addressing concerns arising out of the Inter-Jurisdictional practice of law.

6. NATIONAL ASSOCIATION OF BAR-RELATED INSURANCE COMPANIES (NABRICO)

The Director has sought your Committee's advice on participating in the above U.S. based association, a move that has been highly recommended by the Director of Insurance for The Law Society of British Columbia. Your Committee has approved the Director's request who will be attending a meeting of the association in early October.

7. OUTSTANDING ITEMS

(a) E & O Loss Prevention Booklet - The Director reported to your Committee that as a more economical, responsive alternative to the publication of a formal Loss Prevention Book, the existing "Errors" periodical has been revamped and that future editions will be issued bi-monthly.

(b) LPIC Policy Wording - The Director reported to your Committee that the new LPIC policy wording has been printed and is currently in the process of being sent to all practising members.

(c) American Home Assurance Company - Due to time constraints presentation of the Director's oral report on the latest developments involving the above noted Insurer has been postponed until the next Committee meeting.

(d) E & O Levy Exemption/Pro Bono Work for Charitable Organizations A Subcommittee of the Research and Planning Committee is addressing the subject of pro bono services including discussions on how the Society can assist with the payment of the E & O levy on behalf of exempt members who provide pro bono services for charitable organizations. The Director advises that there is no additional information available at this time.

ALL OF WHICH is respectfully submitted

DATED this 13th day of September, 1991

"K. Howie"
for Chair

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

- Item 2 - Errors & Omissions General Expense Budget, The Twelve Month Period Ending June 30, 1991. (Appendix "A")
- Item 4 - Memorandum from Mr. G. Kevin O'Toole to the levy file dated September 4, 1991 re: E & O Levy - Part-time Lawyers/Exemptions\Rebate. (Appendix "B", 4 pages)
- Item 5 - Draft of Rule re: Minimum Insurance Coverage for Interjurisdictional Practices. (Appendix "C")

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Wednesday, the 25th of September, 1991 at 5:00 in the afternoon, the following members being present: Messrs. Campbell (Chair), Howie, Cass, Wardlaw, Strosberg, Epstein, and Ms. Palmer.

Also in attendance were Messrs. Spence, Crosbie, Tinsley, Whitman, Crack, Carey, Fowler, O'Toole, Ms. Wishart and Ms. Zecchini.

ITEM

1. DIRECTOR'S FINANCIAL REPORT

Pursuant to a request that the Director present a comprehensive report on the status of the E & O Fund in light of the increase in both claim frequency and severity for the twelve month period ending June 30, 1991, your Committee met to

consider the Director's report and the impact of this increase in claim costs. The claims paid and reserved in 1990-1991 exceed revenues and surplus by \$1.4 million dollars as at June 30, 1991.

The Director advised your Committee that the surplus accumulated in previous years has substantially cushioned the impact of the recent increase in claims. It is anticipated that a satisfactory surplus position can be restored over the next few years. Your Committee is taking steps to deal with the impact the July 90-91 claims experience will have on future Errors and Omissions levies, including a review of a wide variety of considerations on levy rates and structure. Steps are also underway to review, and develop future Loss Prevention Programs and to enhance those already in existence.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"K. Howie"
for Chair

THE REPORTS WERE ADOPTED

.....

FRENCH LANGUAGE SERVICES COMMITTEE

Ms. Peters presented the Report of the French Language Services Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th September, 1991 at 11:30 a.m. The following members attended the meeting: Bencher representation: Ms. P.J. Peters (Chair), Ms. K.J. Palmer and Mr. R.C. Bragagnolo. Staff representation: Mr. A. Treleaven, Ms. H. Harris and Ms. D. Paquet (Secretary). Special representation: Ms. G. Cortis, Legal Aid.

C.
INFORMATION

1. French Language Services Implementation Plan

Your Committee reviewed the September 1991 Update of the French Language Services Implementation Plan. Questions and concerns were raised and further reporting will be made at the October meeting, particularly on bilingual staffing requirements. Your Committee is satisfied that actual expenditures for fiscal year 1991 are in line with agreed upon budgetary plans and estimates.

2. French Language Services Survey Report

A French Language Services Survey was circulated in July 1991 to management and key Law Society staff to determine the level of understanding of the French Language Services Policy and Programme, to assess the level and frequency of French language services currently offered and to further identify current and future needs.

Fifteen percent of respondents, mostly in a support capacity, indicated their unfamiliarity with many or some parts of the French Language Services Policy and/or Programme. Your Committee recommends that the French Language Services Implementation Plan be distributed to key staff members, as determined by the French Language Services Office. It further recommends that other awareness building programmes, such as an article in the Law Society's newsletter and a staff briefing session, be implemented.

The meeting was adjourned at 12:55 p.m.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"P. Peters"
Chair

THE REPORT WAS ADOPTED

.....

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Bellamy presented the Report of the Women in the Legal Profession Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 12th of September, 1991, at 11:30 a.m, the following members being present: D. Bellamy (Chair), S. Chapnik, J. Lax, F. Mohideen, D. Scott.

Also present: F. Kiteley, M. Angevine, A. Brockett, L. Johnstone, H. Sava, S. Traviss.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

1. SEXUAL HARASSMENT: MODEL POLICY

Your Committee discussed a revised draft of the Model Policy on Sexual Harassment in the Workplace, a document intended to be for the information of law firms. Further revisions will be considered at the next meeting of the Committee.

2. SEXUAL HARASSMENT: RULES OF PROFESSIONAL CONDUCT

In accordance with a recommendation previously adopted by Convocation, Stephen Traviss, Senior Counsel Professional Conduct, has been asked to draft a rule on sexual harassment for initial consideration by the Women in the Legal Profession Committee and subsequent recommendation to the Professional Conduct Committee.

3. TRANSITIONS REPORT: REQUEST FOR ACCESS TO DATA

A request had been received, from an independent researcher, for access to the anonymous data collected in the 1990 survey of "Transitions in the Ontario Legal Profession."

Your Committee anticipates that, over the next two years, further analysis of the data will be undertaken for Law Society purposes. The Committee has therefore decided that requests for independent access to the data cannot be considered until the Law Society has completed its analysis. The applicant has been informed that access to the data cannot be granted at this time.

4. TRANSITIONS REPORT: DISTRIBUTION

Over the course of the summer, the Transitions Report (adopted by Convocation on April 26, 1991) has been widely distributed. Copies have been

sent to all law societies in Canada, to law schools, to each County and District Law Association and Library and to all participants in the National Symposium on Women, Law and the Administration of Justice. Summary versions have been distributed to all sole practitioners and managing partners of law firms in the province, and to all first-year law students in Ontario law schools.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"D. Bellamy"
Chair

THE REPORT WAS ADOPTED
.....

INVESTMENT COMMITTEE

Mr. Wardlaw presented the Report of the Investment Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of September 1991 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair) and Feinstein.

B.
ADMINISTRATION

1. INVESTMENT REPORT

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

Approved

2. INVESTMENT ACTIVITY - ERRORS AND OMISSIONS INSURANCE FUND

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$1,000,000 9.25% Gov't of Cda. Bonds due December 15, 1994	Burns Fry	99.40	9.46%
\$500,000 9.25% Gov't of Cda. Bonds due December 15, 1994	Scotia McLeod	99.40	9.46%
\$1,000,000 9.25% Gov't of Cda. Bonds due October 1, 1996	Burns Fry	98.40	9.64%
\$500,000 9.25% Gov't of Cda. Bonds due October 1, 1996	Scotia McLeod	98.40	9.64%

These investments were made on the advice of Martin, Lucas and Seagram, our independent investment counsel, and with the Chair's approval. The Committee was asked to ratify the purchase of these investments.

Ratified

3. INVESTMENT ACTIVITY - COMPENSATION FUND

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$400,000 9.25% Gov't of Cda. Bonds due December 15, 1994	Nesbitt Thompson	99.40	9.46%

\$400,000 9.25% Gov't
of Cda. Bonds due
October 1, 1996

Nesbitt
Thompson

99.40

9.64%

These investments were made on the advice of Martin, Lucas and Seagram and with the Chair's approval. The Committee was asked to ratify the purchase of these investments.

Ratified

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"J. Wardlaw"
Chair

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

B-Item 1 - Investment Report summary for various Law Society Funds for the month ending August 31, 1991.

THE REPORT WAS ADOPTED

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LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Mr. Howie presented the Report of the Lawyers Fund for Client Compensation Committee of its meeting on September 12th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 12th of September, 1991 at 11:45 a.m. the following members being present:

R. Murray (Vice-Chair in the Chair), S. Lerner, K. Howie, M. Somerville and S. Thom, P. Bell and H.A. Werry also attended.

A.
POLICY

No items

B.
ADMINISTRATION

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

The Secretary reported that the Transitions report was adopted by Convocation on April 26th, 1991. The report compares the experience of men and women in the profession of law and addresses matters such as career histories, positions currently held, professional duties and satisfaction in the practice of law. One of the recommendations was that the Standing Committees of the Society consider the report and its recommendations.

RECOMMENDATION: It is recommended that the Women in the Legal Profession Committee be advised that this Committee has redrafted all of its documents in gender neutral language and will consider further improvements in its procedures in order to give effect to the recommendations in the Transitions report.

C.
INFORMATION

1. REFEREES' REPORTS AND MEMORANDA OF ASSISTANT SECRETARIES

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

2. REDUCING SOLICITORS' DEFALCATIONS

The Secretary reported that as a result of an increasing number of lawyers' mortgage frauds the Law Society in England has passed some guidelines that would help spot a mortgage fraud. It was also reported that the Errors & Omissions levy in England is to be increased by 34% for 1991/1992 in part because of a surge in large claims arising from dishonesty in mortgage fraud cases.

3. Accounts approved by Assistant Secretaries in June, July and August amounted to \$25,044.66.

4. Copies of the Financial Summary and the Activity Report for the twelve months ending June 30th, 1991 are attached. Since June 30th, 1991, \$4,088,351 new claims have been filed. The total face amount of claims to be processed as at August 31st, 1991 is \$25,163,719. (Pgs. C1 - C3)

5. The Secretary reported that at June 30th, 1991, the Outside Counsel fees account was \$36,100 over budget. As mentioned in a previous report this is due to the Society's legal costs in a case tried in January 1991 and to counsel fees on an injunction matter.

6. SPECIAL POLICY MEETING

The first two Special Policy Dinner Meetings were held June 10th and July 16th, 1991. The next Special Dinner Meeting will be Tuesday, October 1st, 1991, at 6:00 p.m. with dinner at 7:00 p.m.

ALL OF WHICH is respectfully submitted

DATED this 27th day of September, 1991

"K. Howie"
for Chair

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

C-Item 1 - Schedule "A" - grants approved by the Review Committee and by the Lawyers Fund for Client Compensation Committee - September 12, 1991.

(Schedule "A")

C-Item 4 - Financial Summary for the period July 1, 1990 to June 30, 1991 and Activity Report, June 30, 1991.

(Marked C1 - C3)

THE REPORT WAS ADOPTED

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SPECIAL COMMITTEE ON REQUALIFICATION

The Report on the Special Committee on Requalification was deferred.

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CONVOCATION ADJOURNED AT 3:45 P.M.

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Confirmed in Convocation this *22nd* day of *November* 1991.


Treasurer