

MINUTES OF CONVOCATION

Friday, 29th January, 1993  
9:00 a.m.

PRESENT:

The Treasurer, (Allan M. Rock), Bastedo, Bragagnolo, Brennan, Campbell, R. Cass, Copeland, Curtis, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Goudge, Graham, Hill, Howie, Howland, Jarvis, Kiteley, Krishna, Lamek, Lamont, Lawrence, Lax, Legge, Levy, McKinnon, Mohideen, Murray, O'Brien, Palmer, Pepper, Peters, Richardson, Scace, Scott, Sealy, Somerville, Spence, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.

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PUBLIC

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The Treasurer paid tribute to Mr. Justice John Hoolihan who passed away on Monday, January 25th, 1993.

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MOTIONS

It was moved by Robert Topp, seconded by Harvey Strosberg -

THAT Vern Krishna be added as a member of the French Language Services Committee.

THAT Hope Sealy be added as a member of the Special Committee on Requalification.

THAT Robert Carter and Carole Curtis be added as members of the Special Committee to Review the Rules of Professional Conduct.

NOTE: On November 27, 1992, Convocation appointed the following persons to be members of the Special Committee:

Marc Somerville (Chair)  
Denise Bellamy  
Colin Campbell  
Susan Elliott  
Laura Legge  
Colin McKinnon

Fatima Mohideen  
Dennis O'Connor  
David Scott  
Hope Sealy  
James Wardlaw

THAT the Special Committee on Court Reform be comprised of the following persons: Fran Kiteley (Chair), Ken Howie, (Vice-Chair), Tom Bastedo, Lloyd Brennan, Casey Hill, Colin McKinnon, Daniel Murphy, Dennis O'Connor, Marc Somerville and Jim Spence.

Carried

29th January, 1993

It was moved by Patricia Peters, seconded by Ross Murray THAT a representative of the Canadian Bar Association and the Crown Attorney's Association be added to the Special Committee on Benchers Elections.

Carried

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ORDERS

The following discipline ORDERS were filed with Convocation.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Francis James Altimas,  
of the City of Orleans, a Barrister and  
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 29th day of May, 1992, 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 Francis James Altimas be suspended for a period of one month, such suspension to commence on the 1st day of December, 1992.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

29th January, 1993

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Bruce John Daley, of  
the City of Toronto, a Barrister and  
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 7th day of October, 1992, 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 Bruce John Daley be suspended for a period of four months, such suspension to commence the 1st day of January, 1993 and that he pay costs in the amount of \$10,000.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Peter Sanderson Mann,  
of the Town of Niagara-on-the-Lake, a  
Barrister and Solicitor.

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 30th day of October, 1992, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

29th January, 1993

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

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF David John Fraser, of  
the Town of Parry Sound, a Barrister and  
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 10th day of November, 1992, in the presence of Counsel for the Society, and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that David John Fraser be granted permission to resign.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

29th January, 1993

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Richard Ian Kesten, of  
the City of Toronto, a Barrister and  
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 October, 1992, in the presence of Counsel for the Society, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Richard Ian Kesten be suspended until such time as the following conditions have been met to the satisfaction of the Senior Discipline Counsel or in the event that Senior Discipline Counsel and the Solicitor are unable to agree with respect to compliance with the conditions set out below, a committee of three benchers shall be appointed by Convocation with authority to conduct a hearing and to report to Convocation as to the means by which any disagreement should be resolved. If the conditions are satisfied, the Solicitor may resume the practice of law, restricted to practice of criminal law and administrative law, subject to any further order that Convocation may make.

- (a) The Solicitor shall provide a satisfactory psychiatric report from a psychiatrist approved by the Law Society indicating that the Solicitor is fit to practice law;
- (b) The Solicitor shall provide full and complete responses to all complaints requiring replies that are set out in the subparagraphs under paragraph 2 of each of the complaints D32/92 and D82/92;
- (c) The Solicitor shall provide the Law Society with full and complete responses to the complaints of Frank L. Liebeck, file number 92-1341, Francis Wu, file number 92-2150, Enio Zeppieri, file number 92-1865.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

29th January, 1993

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Peter Robert Ramsay,  
of the Town of New Liskeard, a Barrister  
and Solicitor.

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 5th day of October, 1992, 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 Peter Robert Ramsay be Reprimanded in Convocation in public.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada

"Richard F. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF James Robert Axler, of  
the City of Kitchener, a Barrister and  
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 October, 1992, in the presence of Counsel for the Society, and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

29th January, 1993

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

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Bruno Mario Toneguzzi,  
of the City of Nepean, a Barrister and  
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 9th day of November, 1992, 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 Bruno Mario Toneguzzi be suspended for a period of one month and indefinitely thereafter until his filings for the years 1988, 1989, 1990 and 1991 are completed and he pay costs to the Law Society in the amount of \$350.00, such suspension to commence on the 1st day of December, 1992.

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

29th January, 1993

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF William Walter Kay, of  
the City of Toronto, a Barrister and  
Solicitor.

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 30th day of October, 1992, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

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

DATED this 26th day of November, 1992.

"Allan M. Rock"  
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"  
Secretary

Filed

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COMMITTEE REPORTS TO BE TAKEN AS READ

It was moved by Don Lamont, seconded by Brendan O'Brien THAT the Reports listed in paragraph 4 except for County & District Liaison (Reports to be taken as read) of the Agenda be adopted.

Carried

The following Reports were adopted except for specific items in certain of the Reports noted as requiring separate debate and consideration by Convocation.

Admissions  
Bicentennial  
Certification  
Clinic Funding  
Communications  
Discipline Policy  
Equity in Legal Education and Practice  
Finance and Administration  
French Language Services  
Insurance (in camera)  
Investment  
Lawyers Fund for Clients Compensation  
Legal Aid



Legal Education  
Legislation and Rules  
Libraries and Reporting  
November Convocation Minutes  
Professional Conduct  
Professional Standards  
Research and Planning  
Unauthorized Practice  
Women in the Legal Profession  
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ADMISSIONS COMMITTEE

Meetings of January 14th and January 28th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at 9:30 a.m., the following members being present: Mr. Brennan (Chair), Ms. Curtis, and Messrs. Goudge and Lamont.

Also present: R.F. Tinsley, D. Cushing and P. Gyulay.

A.  
POLICY

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A.1.        TRANSFER EXAMINATIONS

- A.1.1.      Your Committee had before it a copy of the decision of the Québec Superior Court in Richards v. Barreau du Québec for its information and review. This decision deals with the question of whether the requirement of three years' practice in another Canadian jurisdiction in order to be eligible to transfer to Québec is unconstitutional.
- A.1.2.      Your Committee was advised that counsel has been retained to provide an opinion as to the validity of the requirement of three years practice to be eligible to transfer to Ontario from another Canadian jurisdiction.
- A.1.3.      This item will be on a future agenda when counsel's opinion is received.

Noted

B.  
ADMINISTRATION

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B.1.        REINSTATEMENT AFTER SUSPENSION - PETITION EXAMS WAIVED

B.1.1.     Benjamin Franklin Kennerly was called to the Ontario Bar on the 25th of June, 1959. He was suspended for non-payment of the annual fee on the 27th of February, 1987. Mr. Kennerly requested reinstatement on the payment of fees owing and exemption from the requalification examinations.

B.1.2.     Mr. Kennerly practised law in Ontario from 1959 to 1973. He has been engaged in the active practice of law in the state of California since 1977.

B.1.3.     In light of the information contained in his affidavit, dated the 30th of October, 1992, that he has continued to actively practise law and the fact that the five years of grace expired only eight months prior to his request, it was recommended that he be reinstated without examination and that his reinstatement be conditional upon:

(a)    his undertaking to comply with the policy adopted by Convocation following the report of the Special Committee on Payment of Arrears of Fees; and

(b)    payment of the current year's fees.

Approved

B.2.        REINSTATEMENT AFTER SUSPENSION

B.2.1.     William Alexander Brock Myles was called to the Bar on April 6th, 1982 and suspended on February 24th, 1984 for non payment of the annual fee. Having now completed the necessary requalification examinations, Mr. Myles asked your Committee for permission to be reinstated upon payment of all back fees and levies or upon making suitable arrangements with the Finance Department.

B.2.2.     It was recommended that he be reinstated conditional upon:

(a)    his undertaking to comply with the policy adopted by Convocation following the report of the Special Committee on Payment of Arrears of Fees; and

(b)    payment of the current year's fees.

Approved

B.3.        REINSTATEMENT AFTER SUSPENSION - REQUALIFICATION NECESSARY

B.3.1.     Manabharana Lakshman Marasinghe was called to the Bar on March 16th, 1973 without examination, being a full time professor with the Faculty of Law, the University of Windsor.

29th January, 1993

- B.3.2. On February 25th, 1983 he was suspended for non-payment of the annual fee. In a letter to the Treasurer dated January 5th, 1992 (likely intended "1993") he indicated that he is considering reinstatement and inquired what would be required of him to make that possible.
- B.3.3. Your Committee was asked whether, in addition to paying his arrears of fees, he would be required to sit any requalification examinations. The regulation under which he was called (Regulation 9 at that time - now Regulation 5) allows for law professors to be called without examination. Those that receive this special call must indicate, prior to being called, that they do not expect to enter the full-time practice of law.
- B.3.4. Since his suspension in 1983, Dr. Marasinghe has been a member of the Faculty of Law, University of Windsor.
- B.3.5. Should Dr. Marasinghe proceed with his application for reinstatement your Committee recommends that he be reinstated without examination upon his confirming that he does not intend to engage in the practice of law full-time for the following reasons:
- (i) he was admitted initially by virtue of his status as a full-time law professor;
  - (ii) he has throughout his suspension continued as a full-time member of the Faculty of Law, University of Windsor.
- B.4. DIRECT TRANSFER - COMMON LAW - REGULATION 4(1)
- B.4.1. The following candidates have met all the requirements to transfer under Regulation 4(1):
- B.4.2. Darcia Ann Colleen Kohuch  
Margaret Jean Valiant
- Approved
- B.5. DIRECT TRANSFER - QUEBEC - REGULATION 4(2)
- B.5.1. The following candidate has met all the requirements to transfer under Regulation 4(2):
- B.5.2. Gregory Michael Cornelius Orleski
- Approved
- B.6. APPLICATION - FOREIGN LEGAL CONSULTANTS
- B.6.1. Norwood Pierson Beveridge III has applied to become licensed as a foreign legal consultant in the Toronto office of Shearman & Sterling.
- B.6.2. Mr. Beveridge was called to the Bar of the State of New York on the 23rd day of March, 1992. From August 1991 to the present Mr. Beveridge has been an associate attorney with the firm Shearman & Sterling.

29th January, 1993

- B.6.3. As Mr. Beveridge has engaged in the practice of law in his home jurisdiction for less than three of the five preceding years, he applies for status as a foreign legal consultant pursuant to the paragraph of the policy which provides that applicants who have been actively engaged in the practice of law in their home jurisdiction for less than three years may be licensed provided they are under the supervision of a foreign legal consultant and the supervisory arrangement has been approved by the Committee.
- B.6.4. Included in the materials from Shearman & Sterling was a letter from Pamela M. Gibson, a registered foreign legal consultant, setting out the nature of the supervision Mr. Beveridge will be subject to in the Toronto office.
- B.6.5. Mr. Beveridge's application is complete and both he and the firm have filed all necessary undertakings.
- B.6.6. The application and supporting material were available at the request of the Committee.

Approved

B.7. EXAMINATION RESULTS - STATUTES & PROCEDURE

- B.7.1. The results of the examination on Statutes and Procedure in Ontario held in December, 1992 were before the Committee. Six transfer candidates and one requalification candidate sat the examination:
- B.7.2. The following candidates passed:
- Paul Joseph Brett  
Shawn Harold Terry Denstedt  
Peter Frederick Hoffmann  
Kenneth David Klein  
William Alexander Brock Myles (requalification)
- B.7.3. Two candidates failed the examination.
- B.7.4. The candidates who failed the examination have been given permission by your Committee to sit the new Transfer Examination expected to be in place by May, 1993.

Noted

B.8. EXAMINATION RESULTS - COMMON LAW

- B.8.1. The results of the Common Law examinations held in September, 1992 were before the Committee:
- B.8.2. The following candidate passed:
- Gerard Guay

Noted

B.9. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.9.1. Transfer from Another Province - Regulation 4(1)

B.9.2. The following candidates having successfully completed the Statutes and Procedure in Ontario examination, filed the necessary documents and paid the required fee apply to be called to the Bar and to be granted Certificates of Fitness at Regular Convocation on January 29th, 1993:

Paul Joseph Brett  
Shawn Harold Terry Denstedt

Province of Manitoba  
Province of Alberta

Approved

B.10. Transfer from Quebec - Regulation 4(2)

B.10.1. The following candidate having successfully completed the Statutes and Procedure in Ontario examination, filed the necessary documents and paid the required fee applies to be called to the Bar and to be granted a Certificate of Fitness at Regular Convocation on January 29th, 1993:

Peter Frederick Hoffmann

Province of Quebec

Approved

B.11. READMISSION AFTER RESIGNATION AT OWN REQUEST

B.11.1. An application for readmission has been received from Wendy Lynn Bernfeld. Ms. Bernfeld was called to the Bar on the 6th of April, 1982 and resigned her membership at her own request on the 27th of March, 1992.

B.11.2. The applicant is not in arrears of fees nor is she required to take the requalification examinations. Ms. Bernfeld asks to be readmitted upon filing all the necessary documents with the Finance Department.

B.11.4. Your Committee recommends that she be readmitted conditional upon:

(a) payment of the readmission fee of \$321.00; and

(b) payment of the pro rated annual fee for the current year plus any levies that may apply.

C.  
INFORMATION

C.1. REPORT OF ADMISSIONS HEARING

C.1.1. A panel of Benchers representing the Admissions Committee met on October 9th, 1992, the following being present: Clayton C. Ruby (Chair), Netty Graham and Daniel J. Murphy. This was a hearing under Section 46 of the Law Society Act in respect of the application of John Richard Cirillo for readmission to the Society.

29th January, 1993

- C.1.2. The Committee, upon hearing the evidence, reading the exhibits filed, and hearing the submissions of Counsel for the Society and for the applicant, recommended that he be readmitted. The report of the Committee will be before Special Convocation on Thursday, January 28th, 1993.

Noted

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"R. Carter"  
Chair

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 28th of January, 1993, the following members being present: Mr. R. Carter (Chair), Ms. F. Mohideen, and Mr. L. Brennan.

Also present: M.J. Angevine

B.  
ADMINISTRATION

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

B.1.1. Bar Admission Course

A list of candidates who have successfully completed the thirty-fourth Bar Admission Course or one of the earlier Bar Admission Courses, filed the necessary documents and paid the required fee, or who have successfully completed Phase 3 of the Bar Admission Course in lieu of writing the transfer examinations, paid the required fee and fulfilled all other requirements, was before the Committee. These candidates now apply to be called to the Bar and to be granted Certificates of Fitness. The Special Calls to the Bar will take place on the following dates:

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- B.1.2.      Ottawa      Friday, February 5, 1993  
                         National Arts Centre, Ottawa
- London      Monday, February 8, 1993  
                         Radisson Hotel
- Toronto      Tuesday, February 9, 1993  
                         Roy Thompson Hall

Approved

B.2.      SPECIAL PETITION TO BE CALLED TO THE BAR IN FEBRUARY 1993 ON UNDERTAKING TO PURSUE PERMANENT RESIDENCY STATUS

B.2.1.      Anthony John Devir has completed the 34th Bar Admission Course and is academically qualified to be called to the Bar in February 1993.

B.2.2      Mr. Devir is not a Canadian citizen. He is married to a Canadian and has applied for permanent residency status. He understands from the Department of Employment and Immigration that his application has been approved in principle, but the earliest date his immigration papers would be available is March 1, 1993.

B.2.3.      Mr. Devir requests permission to be called to the Bar with his classmates on February 9, 1993. In his letter of petition Mr. Devir states that if permitted to be called he will undertake to pursue his application to attain permanent residency status in Canada and is willing to satisfy any conditions the Law Society might attach to granting him permission to be called. He also states that he will keep the Law Society advised of the status of his application and if it is denied will resign his membership in the Law Society of Upper Canada.

B.2.4.      Mr. Devir's affidavit, dated January 22, 1993 as well as confirmation from Immigration Canada that he has made application for permanent residency status, were before the Committee for consideration.

B.2.5.      Your Committee has approved similar requests in the past and accordingly it recommends that Mr. Devir be permitted to proceed providing he give an undertaking stating:

- (a)      that he will continue to diligently pursue his permanent residency status application;
- (b)      that he will report to the Law Society quarterly on the status of his application; and
- (c)      that he will resign his membership in the Law Society forthwith if his permanent residency status is not approved.

Approved

B.3.      READMISSION AFTER RESIGNATION AT OWN REQUEST

B.3.1.      An application for readmission has been received from Sydney Jack Steiner. Mr. Steiner was called to the Bar on 25th June, 1959 and resigned his membership at his own request on 25th January, 1985.

29th January, 1993

- B.3.2. He respectfully petitioned your Committee to be readmitted to the Society and to have the required requalification examinations waived on the ground that he will not be returning to private practice.
- B.3.3. Since 1985 Mr. Steiner has been a permanent resident of the United States, living in Dallas, Texas. He is employed as President of College Capital, Inc., a Texas corporation engaged in real estate acquisitions and management and corporate and real estate financing.
- B.3.4. As part of its corporate business, College Capital deals with many Canadian citizens and residents of Toronto. Accordingly it is necessary that he spend considerable time in Toronto.
- B.3.5. Part of his duties are to engage and instruct lawyers, both in the United States and Canada. He has been actively involved with legal issues and ramifications, including corporate law, tax law and real estate law and litigation implications.
- B.3.6 In light of the information provided by Mr. Steiner your Committee recommends that he be readmitted without requalification conditional upon:
- (a) The member signing an Undertaking that he will advise the Society should he wish to return to private practice and that, in the Society's discretion, he may be required to complete some form of requalification at that time;
  - (b) Payment of the readmission fee of \$321.00; and
  - (c) Payment of arrears of fees.

Approved

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"R. Carter"  
Chair

THE REPORT WAS ADOPTED

SPECIAL COMMITTEE ON THE BICENTENNIAL

Mr. Wardlaw gave a brief review of the Committee's activities to date including plans for a history of the Law Society.



29th January, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON THE BICENTENNIAL begs leave to report:

The Committee is composed of Wardlaw (Chair), Kiteley, O'Brien, Pepper, Scace and Spence. Mr. Stephen Traviss acts as the Committee's Secretary and Dr. Susan Binnie of the Society's Archives Department serves as an important resource to the Committee. Mr. Ramsay Derry, who is a well known consultant in the publishing world, has provided significant guidance to the Committee respecting the writing of a history of the Law Society.

C.  
INFORMATION

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Brief History

The Special Committee held its first meeting almost four years ago. It was created by the then Treasurer, Lee Ferrier, Q.C. Several meetings have been held in the intervening period. The Committee thinks it important at this stage of the process to give Convocation a current report and to invite input.

Objectives

The Committee has identified the commissioning of a serious history of the Law Society as its most pressing task in view of the fact that the Bicentennial is now only four years away.

The Committee would like to see other projects undertaken and invites suggestions from the Bench. Discussions with officials at Canada Post have been ongoing with respect to the possibility of a commemorative stamp. The same possibility with respect to a commemorative coin has led to inquiries being made to the Canadian Mint.

The Committee would like to see other public oriented projects. These might include: an equity initiative; a public lecture series on law related topics; and an exhibition on the law that would tour the province.

A History of the Law Society

The Committee has been discussing for almost a year the type of history book that should be written. Mr. Ramsay Derry has been of inestimable assistance in guiding the Committee in this exercise.

In the Committee's view the book should be a serious history. It was thought that having an historian undertake the project who was well known beyond the boundaries of the legal profession would enhance public interest in the book. Four well respected Canadian historians were approached to see if they might undertake the project. None of the four were available.

The Committee upon further reflection concluded that it probably made more sense to have the work undertaken by an historian working in the field of Canadian legal history, which field is now burgeoning. Overtures have been made to a number of such historians.

No binding commitment will be made by the Law Society until Convocation has given the go ahead to the Committee.

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The Cost of a History

Since 1989 the Finance Committee has been reserving \$100,000.00 a year towards the Bicentennial projects. The cost of the history is going to be in the vicinity of \$300,000.00 and this cost will be spread over a couple of years.

The accumulated reserve of \$300,000.00 should provide sufficient funds to cover the cost of the history.

Conclusion

The Committee will be reporting further to Convocation during 1993.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"J. Wardlaw"  
Chair

THE REPORT WAS ADOPTED

CERTIFICATION BOARD

Meetings of January 14th and 29th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Thursday, the 14th of January, 1993 at twelve o'clock noon, the following members being present: R.D. Yachetti (Chair), R.D. Manes (Vice-Chair) and D.W. Scott. S. Thomson, of the Law Society, was also present.

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

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 13th of October, 1992 at eight-thirty in the morning.

The Intellectual Property Law Specialty Committee met on Wednesday, the 18th of November, 1992 at four-thirty in the afternoon.

The Immigration Law Specialty Committee met on Tuesday, the 24th of November, 1992 at four-thirty in the afternoon.

The Criminal Litigation Specialty Committee met on Friday, the 27th of November, 1992 at one o'clock in the afternoon.

The Bankruptcy and Insolvency Law Specialty Committee met on Monday, the 30th of November, 1992 at five-thirty in the afternoon.

29th January, 1993

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 8th of December, 1992 at eight-thirty in the morning.

On behalf of the Family Law Specialty Committee, the Committee Chair met with the Certification Program Administrator on Thursday, the 17th of December, 1992 at nine o'clock in the morning.

The Labour Law Specialty Committee met on Monday, the 21st of December, 1992 at five o'clock in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 22nd of December, 1992 at eight-thirty in the morning.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 12th of January, 1993 at eight-thirty in the morning.

The Board noted that there were a total of 41 Specialty Committee meetings in 1992.

A.

POLICY

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No items.

B.

ADMINISTRATION

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1. Specialty Committees - 1993 Memberships

(a) "Active" Specialty Committees

Your Board recommends that Specialty Committee membership for 1993 be approved as follows:

Criminal Litigation Specialty Committee

CHAIR:	Alan D. Gold (of Toronto)
VICE-CHAIR:	Jeffrey R. Manishen (of Hamilton)
	Michael J. Neville (of Ottawa)
	Patrick J. Ducharme (of Windsor)
	Norman A. Peel (of London)
	Susan Ficek (of Toronto)
	Diana L. Fuller (of Sudbury)
	Michael Anne MacDonald (of Bracebridge)

Family Law Specialty Committee

CHAIR:	Nancy M. Mossip (of Mississauga) - NEW CHAIR
VICE-CHAIR:	Evlyn L. McGivney (of Toronto) - NEW V-CHAIR
	Ian R. Fisher (of Windsor)
	Ruth E. Mesbur (of Toronto)
	Stephen M. Grant (of Toronto)
	David R. Aston (of London) - NEW MEMBER
	Catherine Aitken (of Ottawa) - NEW MEMBER
	Terrence W. Caskie (of Toronto) - NEW MEMBER

29th January, 1993

Immigration Law Specialty Committee

CHAIR: Mendel M. Green (of Toronto)  
William H. Angus (of Toronto)  
Kathryn E. Barnard (of Ottawa)  
Marshall E. Drukarsh (of Toronto)  
Nancy Goodman (of Toronto)  
Howard D. Greenberg (of Toronto)  
Carter C. Hoppe (of Toronto)  
Roderick H. McDowell (of Fort Erie)  
Cecil L. Rotenberg (of Don Mills)  
Marlene I. Thomas (of Toronto)

Intellectual Property Law Specialty Committee

CHAIR: Ronald E. Dimock (of Toronto)  
Joseph A. Day (recently of St. John, N.B.)  
Carol V.E. Hitchman (of Toronto)  
Malcolm S. Johnston (of Toronto)  
Charles Kent (of Ottawa)  
John S. Macera (of Ottawa)  
A. David Morrow (of Ottawa)  
Cynthia Rowden (of Toronto)  
Colleen Spring Zimmerman (of Toronto)

(b) "New" Specialty Committees

Your Board recommends that Specialty Committee membership for 1993 be approved as follows:

Bankruptcy and Insolvency Law Specialty Committee

CHAIR: Ronald N. Robertson (of Toronto)  
VICE-CHAIR: John D. Honsberger (of Toronto)  
David E. Baird (of Toronto)  
Jules N. Berman (of Toronto)  
Christopher A. Fournier (of Ottawa)  
Frank A. Highley (of London)  
Carl H. Morawetz (of Toronto)  
Gale Rubenstein (of Toronto)  
H. Diane Winters (of Toronto)

Entertainment Law Specialty Committee

CHAIR: Peter E. Steinmetz (of Toronto)  
Doug Barrett (of Toronto)  
Peter S. Grant (of Toronto)  
Eric W. Gross (of Toronto)  
Alexandra Hoy (of Toronto)  
Gordon I. Kirke (of Toronto)  
Heather Mitchell (of Toronto)  
Susan Peacock (of Toronto)  
Stephen Stohn (of Toronto)

Labour Law Specialty Committee

CHAIR: Roy C. Fillion (of Toronto)  
VICE-CHAIR: Alan Minsky (of Toronto)  
Janice Baker (of Toronto)  
Jacques Emond (of Ottawa)  
Leonard Kavanaugh (of Windsor)  
Elizabeth McIntyre (of Toronto)  
Chris Paliare (of Toronto)  
Paula Rusak (of Toronto)  
Jeffrey Sack (of Toronto)  
John West (of Toronto)

Workers' Compensation Law Specialty Committee

CHAIR: David W. Brady (of Toronto)  
David J. Cameletti (of Sault Ste. Marie)  
David P. Craig (of Brampton)  
Pauline M. Dietrich (of Sudbury)  
Douglas G. Gilbert (of Toronto)  
Michael S. Green (of Toronto)  
Perry R. McCuaig (of Ottawa)  
Roslyn Pauker (of Toronto)  
Daniel S. Revington (of Toronto)

2. Civil and Criminal Litigation Specialty Committee

Your Board recommends the establishment of a new Civil and Criminal Litigation Specialty Committee. Committee composition, to include two certified Civil Litigation Specialists, two certified Criminal Litigation Specialists and two dually-certified Civil and Criminal Litigation Specialists, will be recommended to Convocation in February.

The mandate of the Committee will be to assess dual Civil and Criminal Litigation recertification and first-time applications, to make recommendations to the Certification Board regarding the viability of the dual certification in the future, and to consider other matters pertaining to the dual Specialty including what message the dual certification is giving to the public.

The Civil and/or Criminal Litigation Specialist Standards will remain unchanged at this time.

C.  

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INFORMATION

1. CERTIFICATION OF SPECIALISTS

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

William A. Garay (of Ottawa)  
Lyon Gilbert (of Ottawa)  
Michael L. Lamont (of Hamilton)  
Francis J. Murphy (of London)

29th January, 1993

The Board is pleased to report the certification of the following lawyer as a Criminal Litigation Specialist:

Robert B. Carew (of Ottawa)

The Board is pleased to report the certification of the following lawyer as a Family Law Specialist:

Monique Metivier (of Ottawa)

2. Promotion of the Certification Program to the Profession

The Administrator operated a promotional booth at the following programs:

October 28/92:	Toronto Patent and Trademark Group Dinner Meeting
November 11/92:	Law Society of Upper Canada Family Law Program
November 20,21/92:	Criminal Lawyers' Association Annual Convention
November 26/92:	Canadian Bar Association - Ontario, Intellectual Property Law Program
January 15/93:	Law Society of Upper Canada Immigration Law Program

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"R. Yachetti"  
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

CERTIFICATION BOARD REPORT

January 29, 1993

- A D D E N D U M -

A.  
POLICY

1. Civil Litigation Specialty Standards

It is the view of the Civil Litigation Specialty Committee and the Certification Board that some qualified counsel may have difficulty in complying

29th January, 1993

strictly with the "acting as lead counsel in at least 20 contested hearings" requirement of the Civil Litigation Specialty Standards. Some lawyers have the principle responsibility for proceedings until trial, at which time they take the role of assisting lead counsel.

Your Board therefore recommends that paragraph 4.i. of the Civil Litigation Specialty Standards be amended as follows [underlining indicates revision]:

"4. As a general rule, the Board will expect that during the five years of recent experience defined in guideline 2.ii(a) above, applicants for certification as Specialists in Civil Litigation will have:

- i. acted as lead counsel or actively have participated as associate counsel in at least 20 contested hearings, such as at trial, before administrative tribunals or appellate courts; ..."

Your Board also recommends a corresponding amendment to question 12.iii.(b) of the Civil/Criminal application form as follows [underlining indicates revision]:

"12.iii.(b) Please provide the citation of no more than five reported cases in which you have been involved as counsel or actively involved as associate counsel."

#### B.

##### ADMINISTRATION

#### 1. Civil and Criminal Litigation Specialty Committee

Further to item 2. under Administration in the Board's Report, the Certification Board Chair may make specific recommendations regarding membership for the new Civil and Criminal Litigation Specialty Committee.

THE REPORT WAS ADOPTED

#### CLINIC FUNDING COMMITTEE

Meetings of December 17th, 1992 and January 20th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION 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 January 25, 1993, be adopted.

29th January, 1993

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

ALL OF WHICH is respectfully submitted

Robert L. Holden,  
Director,  
Legal Aid.

January 25, 1993

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

The Clinic Funding Committee met on December 17, 1992 via conference call. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin. The Committee met again on January 20, 1993, via conference call. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin.

A. DECISIONS

1. Supplementary Legal Disbursements

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

Downsview Community Legal Services - up to \$3,000  
Jane Finch Community Legal Services - up to \$2,000  
Waterloo Region Community Legal Services - up to \$4,000

2. Court costs

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

Dundurn Community Legal Services - up to \$350

3. ACE re. Salary Adjustment

The Committee has approved an amount up to \$4,319.64 to cover additional personnel funds from December, 1992 to March, 1993.

4. Keewaytinok Native Legal Services re. Renovations

The Committee approved the allocation of up to \$5,000 to Keewaytinok Native Legal Services in connection with renovations to the house purchased for staff accommodation. Extensive damage to the house has been caused by inadequate insulation and a damaged roof.



29th January, 1993

5. Training

The Clinic Funding Committee reviewed the initial decision of the clinic funding staff in the allocation of funds for clinic staff training. Outside Toronto, three regional associations coordinate regular training sessions attended by staff from across the region, which requires significant travel and accommodation funds. The Metropolitan Toronto Association of Legal Clinics (MTALC) coordinates training sessions for Toronto clinics. The Workers' Compensation Network and Steering Committee on Social Assistance include clinic representatives from clinics across the province with a special interest in these areas of law. The Clinic Funding Committee recommends approval of funding for training, as follows:

Northern region training	- up to \$59,691
Eastern region training	- up to \$41,462
Southwest region training	- up to \$35,908
Metro Toronto training	- up to \$ 9,491
WCB Network	- up to \$10,000
Social Assistance	
Steering Committee	- up to \$ 2,984

ALL OF WHICH is respectfully submitted

"Philip Epstein"  
Chair  
Clinic Funding Committee

January 25, 1993

THE REPORT WAS ADOPTED

COUNTY AND DISTRICT LIAISON COMMITTEE

Meeting of January 14th, 1993

Mr. Wardlaw spoke to Item 1 re: Resolutions of the County and District Presidents.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January 1993 at 11:30 a.m., the following members being present: A. Feinstein (Chair). The following members of the County and District Presidents' Law Association Executive were also in attendance: H. Arrell, N. Di Giuseppe, S. Foley, R. Gates, M. Hebert, M. Hennessy, M. Hornseth and M. O'Dea. Staff in attendance were: G. Howell and A. John (Secretary).

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1. RESOLUTIONS PASSED AT THE COUNTY AND DISTRICT LAW PRESIDENTS' ASSOCIATION PLENARY IN NOVEMBER 1992

A number of Resolutions were passed at the most recent Plenary held in November 1992 which are briefly summarized below:

(a) Legal Aid

That representation be made to both the government and the Law Society to ensure that the County and District Law Presidents' Association be provided with permanent representation on the Legal Aid Committee.

(b) Legal Aid

That the County and District Law Presidents' Association opposes the pilot projects proposed by the Attorney General in the areas of family, refugee, young offender and criminal law, and urges the Law Society of Upper Canada not to participate in the development, administration or funding of any of the pilot projects.

(c) Legal Aid

That the general levies for the Ontario Legal Aid Plan and the administrative levies be frozen at the December 31, 1991 level until the government implements the outstanding Recommendations of the McKechnie Report, and that the Government of Ontario assume total responsibility for the deficit of the Ontario Legal Aid Plan. It should not encroach on the general fund of the Law Foundation of Ontario beyond the 74% limit.

The County and District Law Presidents' Association also recommends that the Law Society of Upper Canada review its commitment to administering and sharing the cost of the Legal Aid Plan and recommends withdrawal from any further participation.

(d) Benchers Elections

(i) that all benchers elected outside Metropolitan Toronto should be elected regionally;

(ii) that each region should have proportional representation based on the number of lawyers within that region;

(iii) that each region shall be entitled to elect a minimum of one representative;

(iv) that the regions presently established for the purposes of court administration shall continue to elect benchers from the regions;

(v) that lawyers must conduct their primary practice within a defined region in order to be entitled to stand for election within the region and to be entitled to vote; and

(vi) that the Northwest Region elect two representatives.

(e) Libraries

That the Law Society be asked to increase the Library levy to reflect the inflationary cost increases and reductions in funding from the Law Foundation.

(f) Crown Copyright

That the County and District Law Presidents' Association endorse the Law Society's position on Crown Copyright and allow the copying of law reports and text of judgments for use in judicial proceedings.

(g) Access to Justice

That the Government of Ontario refrain from imposing a Provincial Sales Tax on legal fees and that the County and District Law Presidents' Association support the CBAO Resolution to question the imposition of the Employers' Health Tax.

(h) Court Centralization

That the Attorney General be advised that centralization of the court system implemented in 1990, is having a prejudicial effect on the delivery of legal services in rural Ontario and that measures should be taken to remedy the situation as soon as possible.

That at least one judge reside in each county, district or regional municipality.

That a Committee of seven practitioners, one from each region outside Metropolitan Toronto be struck to deal with the problems associated with centralization of the court system in rural areas and to make appropriate changes in the Rules of Practice.

(i) Legal Assistant Plans

That the Law Society be asked to oppose the CIBC Legal Assistance Plan on the basis that it constitutes steering; misleading advertising and predatory pricing.

(j) Rules of Professional Conduct

That the Law Society amend the Rules of Professional Conduct to prevent a solicitor from acting for two or more parties whose interests conflict except:

(i) when dealing with financial institution mortgages and vender takeback mortgages.

29th January, 1993

(ii) Other exceptions to the Rule as defined by the Law Society Subcommittee.

The full text of each Resolution set out above, and the background reports prepared in support of each Resolution can be obtained through the office of the Deputy Secretary.

Your Committee recommends that the Treasurer send the background reports to the appropriate Committees of the Law Society.

## 2. LIBRARIES

The Committee was advised by Glen Howell, the Society's Librarian, that letters will be sent to major legal publishers expressing deep concern about the steep rise in costs for legal digests and other research tools.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"R. Bragagnolo"  
Chair

It was moved by James Wardlaw, seconded by Abraham Feinstein that the Report be received.

Carried

THE REPORT WAS RECEIVED

## COMMUNICATIONS COMMITTEE

Meeting of January 18th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Monday, the 18th of January, 1993, the following members were present: Denise Bellamy (Chair), Tom Bastedo, and Susan Elliott. Also in attendance: Richard Tinsley, Theresa Starkes, and Gemma Zecchini.

## C. INFORMATION

### 1. Media Activity

A summary of the media activity for the months of November and December indicates the following list of popular media issues in order of priority: discipline, legal clinics, legal aid, professional conduct, access to justice, women in the legal profession, Ontario government, alternative dispute resolution, mortgage brokering, Canadian justice/government, Law Society self government, paralegals, POINTTS, miscellaneous issues.

29th January, 1993

## 2. Call Statistics

Dial-A-Law call statistics from January 1, 1992 to December 31, 1992 totalled 327,743 or 896 calls per day.

The Lawyer Referral Service experienced a 6% increase in calls. Calls to the service from January 1, 1992 to December 31, 1992 totalled 179,327 or 721 calls per day.

## 3. Dial-A-Law Options Paper

The Communications Department is preparing an options paper concerning the future operations of Dial-A-Law for consideration by Convocation. The paper will outline the various options available for making Dial-A-Law (DAL) a partial cost-recovery, cost-neutral or profit program. In addition, the paper will explore the impact these options will have on the issues of access and advertising. The first draft of the options paper was discussed at this meeting. A more detailed paper will be presented to the Committee in February.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"D. Bellamy"  
Chair

THE REPORT WAS ADOPTED

## DISCIPLINE COMMITTEE

### Meeting of January 14th, 1993

Mr. Strosberg spoke to Item A-A.1. of the Report re: Discipline Management Procedures and reviewed the submissions made to the Discipline Policy Committee.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at three o'clock in the afternoon, the following members being present:

H. Strosberg (Chair), N. Finkelstein, C. Hill, J. Lax, J. Klotz, R. Murray, D. O'Connor, J. Palmer, P. Peters, C. Ruby, D. Scott, S. Thom, R. Topp and R. Yachetti.

P. Copeland, S. Kerr, G. MacKenzie, G. Macri, J. Yakimovich and S. Hodgett also attended.

A.  
POLICY

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A.1.        DISCIPLINE MANAGEMENT PROCEDURES

A.1.1.        On October 23, 1992, Convocation approved in principle most of the recommendations (pars. 1-51) in a report prepared by Harvey Strosberg and Dennis O'Connor proposing procedural reforms to the Society's discipline process. The approval was on the basis that the views of the bench and the profession would be sought before implementation. The memorandum is at Attachment A to this Report.

A.1.2.        The balance of the report (pars. 52-54) was withdrawn from consideration pending the receipt of a legal opinion as to whether Convocation had the legislative authority to adopt and implement the reforms outlined in those paragraphs.

A.1.3.        In furtherance of the consultation, the Committee sent copies of the new procedures, as approved by Convocation, and invited comment from the following individuals:

- lawyers who have appeared as counsel for solicitors or the Society before discipline hearing panels and Convocation;
- members of the Law Society who were dealt with by the discipline process in 1990-1991;
- a number of complainants as selected by the staff of Discipline, Complaints and Audit departments;
- Lay Benchers who have served within the last five years.

A.1.4.        In response to this call for submissions the Committee received 17 responses offering comments on the proposed discipline changes. These responses were before the Committee. The points raised by the submissions included the following:

1.        Several of the lawyers who have significant experience acting as counsel before discipline hearing panels and Convocation expressed concerns about the proposals for reforming proceedings in Convocation. A recurring suggestion was that to require records and factums in every contested case will add to the expense of the proceedings, as well as contributing to delays and increasing the volume of material that benchers will be required to read. One experienced counsel pointed out that many solicitors who become involved in the discipline process have serious financial difficulties, and argued that an effect of the reforms may well be to make it impractical for many members to retain counsel.

2.        A second point made had to do with the limited jurisdiction of Convocation as proposed in the report. One senior counsel expressed the view that to require a solicitor to discharge the heavy burden of showing that the report of a discipline hearing panel is "manifestly wrong" would make the proceedings before Convocation "largely illusory". He questioned whether this change could be made consistently with the scheme contemplated by the statute.

3. Three former discipline counsel and one former lay benchers disagreed with the proposal that the Society be represented at hearings by litigation clerks. They argued that even matters that at first blush seem simple and minor are often the "tip of the iceberg", and that discipline counsel are better equipped to determine whether the solicitor has an underlying problem and whether the complaint is indicative of a competence or psychological problem or unprofessional conduct. These respondents questioned whether most litigation clerks would be able to distinguish between routine slip-ups and more serious problems. One of the lawyers who responded wondered whether this proposal was consistent with the Society's efforts to prevent unauthorized practice.

4. The responses to the proposal that the Society implement a system for "tracking" complaints met with widespread approval. Some who responded suggested that some of the matters on the "fast track" are sufficiently serious that they should not be equated with such regulatory offences as failing to reply and failing to file forms. Practising while under suspension and breaching undertakings were particularly identified.

5. One former discipline counsel suggested that the proposal calling for solicitors who disagree with a decision to deliver a written notice to that effect within thirty days of the issuance of the report seems to be inconsistent with section 9 (7) (b) of regulation 573, which provides that any dispute with a report of a discipline hearing panel must be delivered not later than the day before Convocation hears the matter. This issue will be addressed in Convocation by the Chair.

6. Another former discipline counsel pointed out that the proposal that minor complaints be "batched" and heard on the same day had been attempted previously. At that time very few cases were completed on the first day. In cases involving failures to file forms, for example, both the Society's counsel and the discipline hearing panel wanted to know whether the delay in filing was due to procrastination or reasons beyond the lawyer's control, or whether it was part of a deliberate attempt to suppress defalcations. Similar considerations were relevant in cases involving failures to respond to communications from the Society. The differences in the time required to complete outstanding matters made rescheduling difficult. Some benchers did not want to be seized of twenty adjourned cases.

- A.1.5. Following discussion of the submissions, the Committee was of the view that the reforms in pars. 1 to 51 of the memorandum as approved by Convocation on October 23 should proceed.
- A.1.6. The Committee considered the reforms proposed in pars. 52 to 54 of the memorandum. An opinion has been received from the Honourable Robert Reid, Q.C.. The Committee considered the opinion and discussed practical problems with the implementation of the reforms found in pars. 52 to 54.
- A.1.7. The Committee resolved to withdraw paragraphs 52 to 54 of the memorandum from consideration by Convocation.

B.  
ADMINISTRATION

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No matters to report.

C.  
INFORMATION

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C.1.        STRATEGY TO DISCOURAGE COMPLAINTS OF PRACTISING WHILE SUSPENDED AND FAILURE TO REPLY

C.1.1.      The Chair raised this issue before the Committee. The resources of the Society are expended disproportionately on the offences of practising while under suspension and failure to reply to the Law Society. The Committee considered ways in which the Society could deter these offences.

C.1.2.      After some discussion, the Committee requested that the staff consider ways to reduce the number of these offences and report back to the Committee.

C.2        STAFF REPORT ON RECOMMENDATIONS OF THE TRANSITIONS REPORT

C.2.1      In May, 1992 a Subcommittee struck to review the recommendations of the *Transitions Report* reported to the Discipline Policy Committee. The Subcommittee was composed of Patricia Peters and David Scott. Following the Subcommittee's report, the Committee requested that the staff review the findings and submit a report.

C.1.3.      Attachment B is a report from Scott Kerr to the Discipline Policy Committee regarding the *Transitions Report* and the Subcommittee's report. Mr. Kerr also reported orally to the Committee.

C.2        AUTHORIZATION OF DISCIPLINE CHARGES

C.2.1.      Once a month, the Chair and/or one or both of the Vice-Chairs of your Committee meet with the Complaints and Discipline staff to consider requests for formal disciplinary action against individual lawyers.

C.2.2.      The following table shows the number of requests made by Discipline, Complaints and Audit staff for the months of December, 1992 and January, 1993.

	<u>Sought</u>	<u>Obtained</u>
<u>December</u>		
Discipline	20	19
Complaints	19	19
Audit	5	5
Total:	43	



29th January, 1993

January

Discipline	15	15
Complaints	11	11
Audit	13	13
Total	39	

Total number of charges authorized for 1992:

January	20
February	16
March	31
April	19
May	37
June	30
August	34
September	20
October	27
November	43
December	43

Total: 320

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"H. Strosberg"  
Chair

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

- A-Item A.1. - Memorandum from Messrs. Strosberg and O'Connor to Discipline Policy dated October 13, 1992 re: Discipline Procedure.  
(Marked A-1 - A-13)
- C-Item C.1.3. - Memorandum from Mr. Scott Kerr to the Discipline Policy Committee dated October 30, 1992 re: Transitions Report - Staff's Response to Subcommittee Report. (Marked B-1 - B-11)

29th January, 1993

It was moved by James Wardlaw, seconded by Patricia Peters that whatever rules are required to implement procedures in Item A-1.4. re: submissions, be referred back to the Committee for further consideration.

Not Put

The Treasurer put the question, should implementation of reforms be delayed pending further study or should they proceed on February 1st, 1993. The vote was 19 to 6 in favour of proceeding with implementation on February 1st, 1993.

THE REPORT WAS ADOPTED

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.

Paul Joseph Brett	Special, Transfer, Manitoba
Shawn Harold Terry Denstedt	Special, Transfer, Alberta
Peter Frederick Hoffman	Special, Transfer, Quebec

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EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of January 14th, 1993

Mr. Goudge spoke to the Equity in Legal Education and Practice Committee Report.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 14th of January 1993, the following persons being present: Stephen Goudge (Chair), Shirley O'Connor, David Scott, Stien Lal, Andrew Ranachan, Donald Crosbie, Mimi Hart and Alexis Singer.

A.  
POLICY

No items.

B.  
ADMINISTRATION

No items.

C.  
INFORMATION

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1. Law Society's Employment Equity Plan as Employer

- 1.1 The development of an Employment Equity Plan for the Law Society was put on hold pending the public release of the second reading draft of the Provincial legislation and the proposed regulations. This was done to ensure that the Society did not complete a survey which would prove inadequate in light of changes to the legislation. Stien Lal advised the committee that a number of employers were proceeding with their surveys at this time and he thought that the legislation would contain provisions that would protect employers from having to redo the surveys should there be minor changes required by the legislation. He, therefore, urged that we proceed immediately with our survey. The committee has agreed to proceed and will contact representatives of the Attorney General's ministry to get as much information as possible about the requirements of the surveys.
- 1.2 In the absence of a formal Employment Equity Plan, an interim policy designed to encourage minorities to apply for jobs with the Law Society has been adopted. A copy of the statement of this policy is attached and will be circulated to all staff of the Law Society.

2. Proposed Professional Conduct Rule on Employment Equity

- 2.1 The Chair emphasized the importance of proceeding with the development of proposals for a professional conduct rule to deal with employment equity along the lines of the rule developed in respect of sexual harassment. The committee was advised that a student having just completed the B.A.C. has been hired to research the law relating to employment equity with a view to preparing a document, again similar to the document prepared in respect of sexual harassment. Barriers to employment equity will be identified and where available judicial comments on employment equity issues will be noted. The preliminary report on this work should be presented to the committee in March with a view to having a report before Convocation in April or May 1993.

3. Access to Legal Education

- 3.1 The Chair reviewed the work of the Subcommittee on Access to Legal Education which is developing proposals for an educational program to assist foreign trained lawyers to qualify in Ontario.
- 3.2 The committee discussed the issues surrounding the choice of the program being carried out by the Law Society in Law Society facilities or in the alternative, being carried out by the law schools in their facilities. It was pointed out that if the law schools were to do it, it would require a \$6,000 to \$7,000 grant per student and possibly support for the tuition. However, even with such support, the student would be faced with full-time attendance at law school which for many of the applicants who are currently working full-time to support their families, might be an impossible condition. It was also noted that the greatest number of foreign trained lawyers seeking to qualify in Ontario reside in the Metropolitan Toronto area and that, therefore, the most logical site for their training would be in the Metropolitan area. It was suggested that the two law schools in Metropolitan Toronto could not accommodate the numbers involved. Stien Lal expressed a preference for and thought there might be government financial support for a program carried out by the Law Society. He also suggested that there should be greater reliance on challenge exams as opposed to the Joint Committee on Accreditation's

assessment of qualifications. It was noted that the current requirements for entry into the Bar Admission Course are a Canadian LL.B. or Joint Committee accreditation and that, therefore, the Law Society could not unilaterally establish alternative criteria. The two courses of action appeared to be either to have an amendment to the legislation to broaden the basis for qualification or an amendment to the procedures or criteria applied by the Joint Committee. In regard to the latter, it was noted that the Joint Committee is a national body and that any changes to be proposed in this regard should be put before the Federation of Law Societies. The next meeting of the Federation will be in Toronto in February 1993 and will provide an excellent opportunity for a discussion of this issue. It was agreed that work would proceed immediately on preparing a position for presentation to the Federation.

4. Initiative to Make More Places Available to Minority Students and Lawyers

4.1 The committee considered the New York City Bar Association initiative in which law firms were solicited to commit themselves to increasing the opportunities for minority students and minority lawyers. Mimi Hart reported on the subcommittee's plans for the establishment of focus groups of representatives from Ontario law firms to develop a better understanding of the issues involved in developing a comparable policy for application in Ontario. It was agreed that it would be useful to have a series of these meetings with the articling chairs not only in Toronto but also in some of the other centres such as Ottawa. In meeting with these groups, it would be necessary to develop a program which would outline not only the employment equity aspects of this initiative but also the business sense behind an initiative to improve the capacity of a law firm to deal with the changing demographics of the province.

4.2 Stien Lal indicated that the Employment Equity Commissioner was about to launch a major educational program and it was suggested that it would be useful to the Law Society to have a meeting with the Commissioner. It was agreed that the Chair and the Subcommittee on Employment Equity would meet with the Employment Equity Commissioner to seek her input on the Society's initiatives.

5. Law Society Education Equity Awards

5.1 Attached is an information sheet on the purpose and criteria for the awarding of the Education Equity Awards in 1993. This document has been forwarded to all the law deans for immediate use. The Under Treasurer will follow-up with the law schools and with Butterworths Canada Ltd. to ensure that the funding for the program is in place.

6. Survey of Black Law Students, Black Articling Students and Recent Called Black Lawyers

6.1 During the past summer, a questionnaire was sent out to Black law students and lawyers concerning their experience in their legal training and practice. The results of that questionnaire have been compiled in a report. As the survey was conducted in cooperation with the Black Law Students' Association of Canada, the report on the survey has been referred to it for comment prior to release. It also has been referred to Felix Weekes, the Black law student responsible for the survey.

7. 1992 B.A.C. Students Seeking Articles

- 7.1 Mimi Hart reported that currently there are eight law students who completed Phase I of the Bar Admission Course and who have not yet been able to find an articling position. Of the eight, four are minority students. In addition, there are two minority students who have articles but are not being paid. The Chair will be writing to the Benchers members of the committee forwarding C.V.'s of the minority students and seeking the advice and assistance of the Benchers in approaching law firms which might provide articles to these students. Stien Lal undertook to follow-up on one student who is handicapped.

8. Urban Alliance and Race Relations Conference - March 26 & 27, 1993

- 8.1 The committee was advised of an earlier meeting of the Chair and the Under Treasurer with representatives of the Urban Alliance to discuss how the Law Society might assist the Urban Alliance in organizing a conference to provide information about our legal system to representatives of minority groups in Metropolitan Toronto. The committee has undertaken to obtain the assistance of C.L.E. staff and to assist in contacting potential speakers.
- 8.2 The committee was advised that the Urban Alliance was still facing difficulty in meeting all of the costs involved in the conference. The committee agreed to assist the conference by covering the cost of meeting rooms and the coffee breaks.
- 8.3 The Chair and the Under Treasurer will have a further meeting with representatives of the Urban Alliance to discuss the ongoing cooperation.

9. The Toronto Mayor's Committee on Community and Race Relations

- 9.1 The Under Treasurer reported on his attendance at the December 1, 1992 meeting of the Toronto Mayor's Committee on Community and Race Relations. This meeting dealt largely with the representations by the National Council of Canadian Filipino Associations concerning the difficulty of Filipino trained lawyers in obtaining accreditation in Ontario. The Mayor's Committee decided that it would strike a subcommittee to pursue this matter and the Under Treasurer expressed to the Mayor's Committee the willingness of the Law Society to cooperate with such a subcommittee. There have been no developments on this front since the December 1, 1992 meeting.
- 9.2 Related to the presentation of the National Council of Canadian Filipino Associations was a request from that association to meet with the Equity Committee. It was agreed that it would be more appropriate for a subcommittee of the Equity Committee to meet with the association and the Under Treasurer was requested to set up such a meeting.

10. Committee Budget

- 10.1 It was noted that at the half-year mark, the committee had spent approximately half of its budget. There did not appear to be any budget concerns in the second half of the year in as much as the activity of the committee will be geared to the use of the funds available.
- 10.2 The Chair will meet with the Under Treasurer to develop proposals for the budget required by the committee in 1993/94.

29th January, 1993

11. Quadriplegic Student Entering the Bar Admission Course

- 11.1 Alexis Singer reported on the request of a quadriplegic law student to enter the Bar Admission Course. This student had commenced his Bar Admission Course some years ago while in a healthy state. He was involved in an accident which rendered him quadriplegic and he is only now feeling capable of undertaking renewal of his studies. However, due to his extreme disability, he may be able to function only with the assistance of a voice-activated computer. Andrew Ranachan advised the committee that Osgoode Hall Law School had dealt with a similar case and had leased a voice-activated computer for use by the student. Alexis Singer will follow up on a more detailed assessment of the student's needs.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January 1993-

"S. Goudge"  
Chair

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

C-Item 1.2 - Policy Statement on Employment Equity.

C-Item 5.1 - Information on Law Society Education Equity Awards.

THE REPORT WAS ADOPTED

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of January 14th, 1993

Mr. Howie reported that the Law Foundation had given a three year commitment at \$2.2 million per year provided its revenues remained at a level to allow the grant.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 14th of January, 1993 at three o'clock in the afternoon, the following members being present: J.J. Wardlaw (Vice-Chair in the Chair), A. Feinstein (Vice Chair), T.G. Bastedo, P.G. Furlong, D.H.L. Lamont, R.D. Manes, D.J. Murphy, R.W. Murray, P.B.C. Pepper, M.J. Somerville, and M.P. Weaver. Also in attendance were D.A. Crosbie, R.F. Tinsley, D.E. Crack, A. Brockett and D.N. Carey.

A.  
POLICY

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1. BENCHER AND STAFF EXPENDITURES

Correspondence between the Chair and the Secretary was before the meeting confirming the following policies with respect to bencher and staff expenditures:

Bencher Expenses

- i. All expenses approved by either the Secretary or Deputy Secretary.
- ii. There are no written guidelines as to per diem rates, hotel rates, meal rates, etc.
- iii. The guideline is "reasonableness" and the basis of determining what is reasonable has been that the benchers, because they donate such a large amount of time, are entitled to travel business class and stay in executive level accommodation. Meal expenses are viewed in the same light.
- iv. If there is a questionable expense either in amount or nature the Secretary will contact the bencher to determine if there were special circumstances. If there is any doubt the matter will be referred to the Chair of Finance. In most cases benchers will call beforehand to determine if a charge is one that would be permitted and, in the opinion of staff, is acceptable.

Staff Expenses

- i. Expense accounts of senior management (Secretary, Directors of Finance, Education and Insurance and Chief Librarian) are reviewed and approved by the Under-Treasurer. The expenses of the Deputy Secretary are reviewed by the Secretary.
- ii. Each of the senior managers is responsible for approving expenses of those staff reporting to them. The only department which has guidelines on per diem room rates, etc. is the Audit Department. Audit has developed these standards because of the large volume of travel by the auditors, examiners, and staff trustees. Basically, they allow \$45 per day for meals plus \$60-\$90 for hotel depending on locale. In many smaller centres the average cost of hotel accommodation is about \$50.
- iii. Expenses related to courses and attendant travel and hotel costs at least in the Secretariat must be pre-cleared by the Secretary or Deputy-Secretary. There is no per diem rate for meals while on courses but staff are told that costs must be reasonable and all accounts are reviewed prior to payment by the Secretary or Deputy Secretary.

Special Events

In past years there was no budget for special events which arose during the course of a year. There is a budget of \$25,000 for the current year which has been reduced to \$20,000 for 1993/94. This together with the requirement to have function budgets approved by Finance before the fact will give a greater degree of control.

The Committee was asked to consider these policies.

Approved

29th January, 1993

2. CLASSES OF MEMBERSHIP - LAW CLERKS

The Committee's direction was sought in November 1988 in regard to the question of whether law clerks to the Supreme Court and District Court of Ontario fall into category I (full fee paying member) or category II (50% fee paying member). It was the committee's view that since law clerks must be members of the Bar in order to hold that position they fall into category I and therefore should pay the full fee.

Further to that, a member currently a law clerk at the Supreme Court of Canada points out that not all law clerk positions require individuals to have membership in the Law Society of Upper Canada. Copies of letters dated September 24 and October 8, 1992 between the member and Joan Lax were before the Committee.

The Committee was asked to consider whether those law clerks whose positions do not require membership in the Society be classified as category II (50% of full fee) members. The significant issue is whether or not law clerks are, in fact, practising law.

The Committee resolved that, because law clerks are providing legal services, they should fall into Category I (full fee paying members). In addition because of concern that some of the definitions of categories of membership are unclear, the Director of Finance was asked to revise those definitions and report back to the Committee.

Denied

B.  
ADMINISTRATION

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1. FINANCIAL REPORT

A highlights memorandum for the three Law Society Funds for the five months ended November 30, 1992 is attached. [pages 12 - 13]

Approved

2. REPORT OF THE PRIORITIES AND PLANNING SUBCOMMITTEE

(i) RECOMMENDATIONS AS TO BUDGET GUIDELINES AND FEES FOR 1993/94

The report of the Subcommittee dated January 7 (along with the previous report dated November 5) was before the Committee outlining further savings of up to \$51 per full fee paying member. [pages 14 - 18]

The Committee was asked to consider this report.

(ii) BUDGET TIME TABLE

Further to the report of the Priorities and Planning Subcommittee, it is further proposed that the budget timetable be set this year in order that the Annual Fees be struck at April Convocation rather than in May as has previously been the case.

The timetable is recommended to be:

January - Finance Committee and Convocation approve the report of the Priorities and Planning Subcommittee as a working document for the start of the budget process.



29th January, 1993

- Committees to be informed and asked to prepare budgets for discussion at their February Committee meetings.
- February - Budgets to be forwarded to the Priorities and Planning Subcommittee no later than March 1, 1993.
- March - Finance Committee to consider a preliminary draft of the budget. Any matters requiring further deliberation to be sent back to the various committees and re-submitted no later than April 1, 1993.
- April - Finance Committee to approve final budget for submission to Convocation.

Approved

3. BUDGET PROPOSAL FROM SPECIAL COMMITTEE TO REVIEW THE RULES OF PROFESSIONAL CONDUCT

The Special Committee to Review the Rules of Professional Conduct has asked the Finance and Administration Committee to consider its initial budget for 1992/93.

A memorandum detailing the request was before the Committee. [pages 19 - 20]

It was recommended that the request for funding be deferred for 6 - 8 weeks or until the committee had further information about anticipated costs for this project for 1993/94 and beyond. The Committee wanted to wait until it had an opportunity to consider requests which may be made by other committees. Once this is done the Committee suggests that an appropriation may be considered in the current year to commence the project.

Approved

4. FEDERATION OF LAW SOCIETIES - SELECTION OF DELEGATES AND BUDGET GUIDELINE

The issue of the Society's commitment to the Federation and its policy regarding sending delegates to Federation conferences has been raised.

Currently the Federation contributes toward the costs for three delegates, which includes the Treasurer. In addition the Federation pays for the attendance of our Director of Education who acts as Director of Education for the Federation.

It was recommended that the Society continue this policy and in addition the Treasurer select such staff as considered necessary to attend.

As part of the budget review by the Priorities and Planning Subcommittee, it is also suggested that the Society recommend to the Federation that the number of meetings be reduced from two per year to one per year and that the per capita grant to the Federation for the 1994/95 year be reduced.

The Committee was asked to consider this policy.

Approved

5. COMMONWEALTH LAW CONFERENCE - NICOSIA, CYPRUS

The Society has been invited to attend the above conference. A letter from the Treasurer setting out his view was before the Committee. [pages 21 - 22]

The Committee was asked to consider this request.

Denied

29th January, 1993

6. FEES PAYABLE BY LAW CORPORATIONS

The Report of the Special Committee on the Incorporation of Law Practices was adopted by Convocation on May 29, 1992. The Legislation and Rules Committee has asked the Finance and Administration Committee to consider the fees and levies which might be paid by law corporations.

The Director of Finance has reviewed the matter with the Research Director, the Director of Audit and Investigations and the Deputy Secretary and proposes the following fee schedule:

- (i) A fee to be paid upon making application for a certificate of authorization.

*\$250 + G.S.T.*

- (ii) A fee to be paid upon making application for a replacement certificate of authorization.

*To be determined.*

- (iii) A fee to be paid upon making application for a new certificate of authorization in the name of an amalgamated corporation.

*To be determined.*

- (iv) A fee to be paid upon filing notice of change in the articles of a corporation.

*To be determined.*

- (v) An annual corporate filing fee to be paid upon filing the annual certificate of compliance. The annual fee might include, if appropriate, a Legal Aid levy, a Lawyers' Fund for Client Compensation levy and a County Library fee.

*\$125 + G.S.T. It is recommended that this fee not include a Legal Aid levy, a Lawyers' Fund for Client Compensation levy or a County Library fee as individual members already pay these.*

- (vi) A penalty payable for failure to file a certificate of compliance within the time prescribed by the regulations.

*To be determined.*

- (vii) A penalty payable for failure to file a Form 2 or Form 3 within the time prescribed by the regulations.

*\$10 per day.*

Because of uncertainty about the number of firms who may apply for incorporation, a fee in the range of those charged in Alberta and British Columbia is recommended.

Memoranda from Andrew Brockett, the Society's Research Director, summarizing the issue and the related costs of implementation were before the Committee.

The Committee was asked to make recommendations as to fees for Law Corporations.

Approved

7. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 24 members who have not complied with the requirements respecting annual filing and who have not paid their late filing fee.

In all 24 cases all or part of the late filing fee has been outstanding four months or more. The 24 members owe \$28,170 of which \$10,580 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of these members be suspended on January 29, 1993 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: Motion, see page 146

8. SUSPENSION OF MEMBERS - N.S.F. CHEQUE - ANNUAL FEES

There are 18 members who paid their annual fees with a cheque which was subsequently dishonoured by the bank.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on January 29, 1993 if the annual fees remain unpaid on that date.

Approved

Note: Motion, see page 146

9. SUSPENSION OF MEMBERS - N.S.F. CHEQUE - ERRORS AND OMISSIONS INSURANCE LEVY

There are 21 members who paid their Errors and Omissions Insurance levy with a cheque which was subsequently dishonoured by the bank.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on January 29, 1993 if the Errors and Omissions Insurance levy remains unpaid on that date.

Approved

Note: Motion, see page 146

10. SUSPENSION OF MEMBERS - ARREARS OF ANNUAL FEES

The following members have not paid the first instalment of the 1992-93 annual fees which were due September 1, 1992.

Anita Szigeti	Toronto
Carmel Anne Whelton	Ottawa

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on January 29, 1993.

Approved

29th January, 1993

11. MEMBERSHIP UNDER RULE 50

(a) Retired Members

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

William James Blainey	Markham
Albert Joseph Bourassa	Ottawa
Jack Sol Climans	Toronto
John Bedford Gillespie	Toronto
David Robert Goeden	Toronto
Joan Elizabeth Heath	Guelph
Mike Hlinka	Toronto
George Albert Kerr	Burlington
James Rudolf Kreppner	Toronto
Eric Richard Lovekin	Newcastle
Fraser William MacDonald	Paris
John Ross Matheson	Rideau Ferry
Thomas Howard Murphy	Toronto
William James Stirling	Cobourg

(b) Incapacitated Members

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

Lois Allyson Campbell	Nepean
William John MacLeod	Toronto
Andrew Millidge Wynne Roberts	Kingston
Elizabeth Patrick Scott	Toronto
Linda Margaret Wallbaum	Toronto

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

Approved

12. RESIGNATION - REGULATION 12

(a) The following members have applied for permission to resign their membership in the Society and have submitted a Statutory Declaration in support. None of these members have ever been engaged in the practice of law in Ontario and for this reason request that they be relieved of publication in the Ontario Reports.

Moiria Reid Calderwood	Toronto
Maureen Elizabeth Murdoch	Jasper, Alberta
Richard Alexander Janda	Outremont, PQ
Marie Louise Madeleine Comtois	Outremont, PQ

(b) Lorraine Audrey Elizabeth Morreale of Hamilton, has applied for permission to resign her membership in the Society and has submitted a Statutory Declaration in support. She was called to the Bar on April 6, 1979. She was in private practice from March to November 1979 with the firm Coombs, Woolcott and Startek and from July 1988 to February 1989 with the firm Evans, Philp. During employment with the law firms, she declares that she did not handle trust funds or clients' property. Her employment as a lawyer has been primarily as counsel for the Children's Aid Society. Since March 1989 she has not practised law in any capacity. Her annual filings are up to date and she requests that she be relieved of publication in the Ontario Reports.

29th January, 1993

(c) Thomas Frederick William Allen of Newcastle Upon Tyne, Great Britain has applied for permission to resign his membership in the Society and has submitted an affidavit in support. He was called to the Bar on the March 31, 1989 and practised with the firm Allen and Phelan until August 31, 1990. He states in his affidavit that he did not handle trust funds or other clients' property and that all his clients' matters were completed before he left and all books and records relating to clients' remain in the possession of the firm. He is not aware of any claims against him. For this reason he asks that he be relieved of publication in the Ontario Reports.

(d) Clare Bernadette Hauer of Victoria, British Columbia was called to the Bar on March 22, 1991 and practised only until August 1991 with the firm Winkler, Fillion & Wakely. She declares that she did not handle trust funds or clients' property and that all clients' matters remain with the firm. She is not aware of any claims against her. For this reason she requests that she be relieved of publication in the Ontario report.

Their Declarations/Affidavits are in order and the Committee was asked to approve them.

Approved

C.  
INFORMATION

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1. PRELIMINARY SALARY RECOMMENDATIONS

The Salary and Benefits Subcommittee met with the Under Treasurer and the Director of Finance to consider preliminary proposals for salary budgets for the 1993/94 fiscal year.

Based on the material which was before the Committee it is recommended that an amount of \$400,000 be provided in the General Fund budget for salary adjustments for 1993/94. The Planning and Priorities Committee has been notified of this amount for use as a planning number in their budget deliberations. The Under Treasurer and Director of Finance are to report back to the Salary Subcommittee as to the way in which these funds are to be used in making salary adjustments under the Society's salary administration and performance appraisal program.

Noted

2. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Edith Pearl <u>Meisels</u>	Edith Pearl <u>Dover</u> (Married Name)
Judith Anne <u>Bell</u>	Judith Anne <u>Bell Shuckett</u> (Married Name)
Mary Margaret <u>Murphy</u>	Mary Margaret <u>Childs</u> (Married Name)
Arlene Antoinette <u>Walker</u>	Arlene Antoinette <u>Minott</u> (Married Name)
Joseph Benoit Eugene Pierre <u>Séguin</u>	Joseph Benoit Eugene Pierre <u>Gauthier</u> (Change of Name Certificate)

29th January, 1993

Lynne Anne Saunders

Lynne Anne Saunders-Gartner  
(Married Name)

Marie Sylvie Helene Sheedy

Marie Sylvie Helene Sheedy Gosselin

Ann Cameron McDonald

Ann Cameron Dinnert  
(Married Name)

Sheila Marie Quigley

Sheila Marie MacKinnon  
(Maiden Name)

Agnes Segolene Lefas Daub

Agnes Segolene Lefas  
(Maiden Name)

Noted

3. RETURN TO ACTIVE PRACTICE

The following members, who had previously retired under Rule 50, have notified the Society that they have returned to active practice.

John Louis Agro      Hamilton  
Fred Stasuik        Etobicoke

Noted

4. MEMBERSHIP RESTORED

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

Effective Date:

Eric Richard Lovekin  
(Ontario Court of Justice General Division)

December 31, 1992

Noted

5. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Sidney Isabella Fraser Murray  
Toronto

Called March 24, 1972  
Died December 25, 1991

Darrell Draper  
Toronto

Called June 19, 1947  
Died January 24, 1992

Eibhlin Blatna Hodgson  
Ottawa

Called March 25, 1966  
Died April 17, 1992

William Ralph Lederman  
Kingston

Called June 25, 1959  
Died July 26, 1992

David Charles Ross  
Toronto

Called March 20, 1964  
Died August 9, 1992

John Alexander Grant MacDonald  
Burlington

Called September 16, 1948  
Died September 13, 1992

Crozier Robert Bigelow Don Mills	Called September 18, 1930 Died October 31, 1992
Colin Michael Berry Toronto	Called May 14, 1981 Died November 8, 1992
Philip Geevarghese Kopparath Scarborough	Called April 5, 1979 Died November 17, 1992
John Henry Stratton Stratford	Called June 29, 1948 Died November 22, 1992
Charles Stewart McCormack Thorold	Called June 25, 1959 Died November 24, 1992
Hugh Fairbairn McKerracher Hamilton	Called June 29, 1949 Died November 30, 1992

(b) Permission to Resign

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:

David John Fraser Parry Sound	Called April 9, 1976 Permitted to Resign - Convocation November 26, 1992
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(c) Disbarments

The following members have been disbarred and struck off the rolls and their names have been removed from the rolls and records of the Society:

Peter Sanderson Mann Niagara-On-The-Lake	Called March 24, 1972 Disbarred - Convocation November 26, 1992
James Robert Axler Kitchener	Called March 23, 1973 Disbarred - Convocation November 26, 1992
William Walter Kay Ottawa	Called March 31, 1989 Disbarred - Convocation November 26, 1992

(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:

Jean-Marc Belleau Noel Ottawa	Called February 20, 1981 Appointed to Federal Court of Canada Trial Division June 23, 1992
Micheline Ava Rawlins Windsor	Called April 13, 1982 Appointed to Ontario Court Provincial Division October 29, 1992





29th January, 1993

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

It was moved by Kenneth Howie, seconded by James 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 January 29, 1993 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)

MOTION TO SUSPEND: N.S.F. CHEQUES - ANNUAL FEES

It was moved by Kenneth Howie, seconded by James Wardlaw THAT the rights and privileges of the following members who paid the first instalment of their Annual Fees for the period July 1st, 1992 to June 30th, 1993 with cheques which were subsequently dishonoured by the bank be suspended from January 29, 1993 for one year and from year to year thereafter until the necessary fees have been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

James Keith Deroux  
Jesse Kingsley Van Nest  
Robert Gary McLister  
Frank Thomas Leo Hughes  
Leonard Allan Wise  
Joseph Markin  
Frederick Mark Holterman  
Nan Ellen Brooks  
Gerald Ambrose Amell  
Ronald Steven Minken  
Angelina Marie Codina

Douglas Edward Rollo  
Sharon Annette Ffolkes-Abrahmas  
Fay Arlene Fuerst  
David Kenneth Ford  
William Edward Horman  
Peter Daniel Lawson  
William Ernest Duce  
Richard Llewellyn

Carried

MOTION TO SUSPEND: N.S.F. CHEQUE - ERRORS AND OMISSIONS INSURANCE LEVY

It was moved by Kenneth Howie, seconded by James Wardlaw THAT the rights and privileges of the following members who paid their Errors and Omissions Insurance Levy for the period July 1, 1992 to December 31, 1992 with cheques which were subsequently dishonoured by the bank be suspended from January 29, 1993 for one year and from year to year thereafter until the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Frederick Allan Yack  
Peter Edward Heslin  
Elliot Laurence Noss  
John Calvin Bracewell  
Moshe Teller  
Jairus Maus  
Thomas Kelly  
Francis Reilly

Douglas Rollo  
James De Roux  
Kathleen Grimes  
Peter Guy Martin  
Steven Jay Carr  
Chico Korbee  
Arnold Ian Kostman  
Joseph Paul Robert Doyle

Carried

29th January, 1993

FRENCH LANGUAGE SERVICES COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at 11:30 a.m. The following members attended the meeting: Benchers representation: Ms. P.J. Peters (Chair), Ms. K.J. Palmer (Vice-Chair), Mr. R.C. Topp (Vice-Chair). Staff representation: Ms. H. Harris, and Ms. D. Paquet (Secretary). Special representation: Mr. T. Keith, CBAO, Mr. R. Paquette, AJEFO and Ms. G. Cortis, Legal Aid.

B.

ADMINISTRATION

1. Bilingual Staffing - Designated Bilingual Positions

The Report on Bilingual Staffing which was due as at December 30, 1992 from the Human Resources Department is outstanding. Your Committee was therefore not in a position to review the progress made in the last quarter of 1992, particularly with regards to the filling of designated bilingual positions. This matter will be discussed with the Under Treasurer.

2. Lawyer Referral Service - Bilingual Status of Participating Lawyers

Following a complaint from a member of the public on the fluency in French of lawyers listed as bilingual with the Lawyer Referral Service, the Communications Department was asked by your Committee to review the matter in December 1992.

Recently, a notice from the Communications Department was sent to the profession requesting that lawyers wishing to join the Lawyer Referral Service in a bilingual capacity certify their ability to serve and represent clients in French.

Since bilingualism is perceived differently by different people, your Committee is concerned that this initiative may not be sufficient to solve the problem, and is considering other ways of ensuring that these lawyers are fluent in French.

C.  
INFORMATION

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1. Departure of our French Language Services Coordinator

Your Committee notes with regret the departure of Ms. Dominique Paquet, French Language Services Coordinator, who has served the Law Society of Upper Canada with dedication and integrity. Her efforts have resulted in the development and implementation of the French Language Services Program, the expansion and promotion of French language services and their inclusion as an integral part of the mandate of the Law Society in serving both the public and the profession.

2. French Language Skills Upgrading Program

The Fall/Winter Session of the French Language Skills Upgrading Program, which consisted of 29 participants and four instructors in Toronto and Ottawa, concluded on December 17, 1992. In anticipation of the Christmas Holidays, a Francophone Dinner was held in Toronto on November 26 which all program participants and instructors were welcome to join at their own expense. The dinner was a success with 12 people in attendance.

The Winter/Spring Session recommenced on January 18 with 25 staff members registered, including one benchner in Toronto and three benchers in Ottawa. The five-month program will run until May 26, 1993, at which time it will be reassessed, as well as budget prerogatives, to determine whether it should continue or not.

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

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"P. Peters"  
Chair

AUX MEMBRES DU CONSEIL DU BARREAU DU HAUT-CANADA

RÉUNIS EN ASSEMBLÉE

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

Votre Comité s'est réuni le jeudi 14 janvier 1993 à 11 h 30. Étaient présents, en qualité de membres du Conseil, M<sup>e</sup> P.J. Peters (présidente), M<sup>e</sup> K.J. Palmer (vice-présidente) et M<sup>e</sup> R.C. Topp (vice-président), en qualité de membres du personnel, M<sup>e</sup> H. Harris et M<sup>me</sup> D. Paquet (secrétaire) et, à titre d'invités spéciaux, M<sup>e</sup> T. Keith de l'ABCO, M<sup>e</sup> R. Paquette de l'AJEFO et M<sup>e</sup> G. Cortis du Régime d'aide juridique de l'Ontario.

B.  
ADMINISTRATION

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1. Dotation en personnel bilingue - postes désignés bilingues

N'ayant pas reçu le rapport sur la dotation en personnel bilingue du Service des ressources humaines au 30 décembre de 1992, votre Comité n'a pu déterminer la nature des progrès accomplis au cours du dernier trimestre de 1992, notamment en ce qui concerne les postes désignés bilingues. Cette question sera discutée avec le trésorier adjoint.

2. Service de référence - avocates et avocats bilingues

En décembre 1992, votre Comité a chargé le Service des communications d'examiner le dossier d'un membre du public qui s'était plaint du fait que les avocates et avocats qualifiés de bilingues au Service de référence avaient une connaissance limitée du français.

Dans l'avis qu'il a récemment envoyé à la profession, le Service des communications a demandé aux membres désireux de participer au Service de référence à titre bilingue de signer une attestation déclarant qu'ils sont capables de représenter des clients et clientes en français.

Le niveau de bilinguisme n'étant pas le même d'une personne à l'autre, votre Comité craint que cette initiative ne suffise pas et il envisage de prendre des mesures additionnelles pour s'assurer que les membres bilingues maîtrisent véritablement le français.

C.  
INFORMATION

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1. Départ de la coordinatrice des services en français

C'est avec regret que votre Comité a appris le départ de la coordinatrice des services en français, M<sup>me</sup> Dominique Paquet, qui a servi le Barreau du Haut-Canada avec dévouement et intégrité. Ses efforts se sont traduits par l'élaboration et la mise en oeuvre du programme des services en français, ainsi que l'essor et la promotion des services en français, qui font désormais partie intégrante du mandat du Barreau du Haut-Canada envers les membres du public et de la profession.

2. Programme de formation linguistique en français

La session automne-hiver du programme de formation linguistique en français, qui comptait 29 participantes et participants ainsi que quatre professeures et professeurs à Toronto et à Ottawa, s'est terminée le 17 décembre 1992. Toute l'équipe avait été conviée à un souper de Noël organisé à Toronto le 26 novembre. Ce souper payant a remporté un franc succès auprès des 12 personnes qui avaient accepté l'invitation.

29th January, 1993

La session hiver-printemps, qui a commencé le 18 janvier, compte 25 participantes et participants, dont un membre du Conseil à Toronto et trois à Ottawa. Les cours dureront cinq mois et se termineront le 26 mai 1993, date à laquelle le programme sera réévalué, ainsi que le budget qui lui est consacré, pour décider de son avenir.

La séance a été levée à 12 h 45.

FAIT le 29 janvier 1993

La présidente,

THE REPORT WAS ADOPTED

INSURANCE COMMITTEE

Meeting of January 14th, 1993 (in camera Report)

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

Meeting of January 14th, 1993 (public Report)

Mr. Campbell presented the Report of the Insurance Committee.

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 14th of January, 1993 at 1:30 in the afternoon, the following members being present: Messrs. Campbell (Chair), Epstein, Cass, Wardlaw, Somerville, Feinstein, and Ms. Elliott.

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

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ITEM

1. DIRECTOR'S MONTHLY REPORT

The Director reports a decrease in both the number and cost of new claims reported during the twelve-month period ending December 31, 1992 compared to the same period for 1991. There were 3,621 claims reported during 1992 at a cost of \$54,157,020. For the same period in 1991, 3,924 claims were reported at a cost of \$67,526,259. The result is 303 fewer claims for 1992 resulting in a reduction of \$13,369,239 in the cost of new claims. While there are no assurances that the decrease in claim frequency and cost will be sustained through 1993, the Director is cautiously optimistic that this pattern will continue.

29th January, 1993

2. INSURANCE COVERAGE FOR CORPORATE COUNSEL

Members employed by entities which are neither law firms nor lawyers and who do not engage in practice outside of such employment qualify for an exemption from the E & O levy. Such members can participate in the Society's professional liability insurance program by electing to pay the levy but, a claim or suit against such an employee by the employer is specifically excluded under the LPIC policy. Several members employed as corporate counsel have requested that this exclusion be deleted from the LPIC policy on the basis that the solicitor-client relationship between a lawyer employee and the employer is fundamentally the same as the solicitor-client relationship involving members engaged in private practice. Your Committee is of the view that the relationship between the employer and corporate counsel is generally not reflective of the solicitor-client relationship in private practice and does not recommend deleting the exclusion.

3. LEVY EXEMPTION: PRO BONO WORK FOR NON-PROFIT ORGANIZATIONS

Currently, members who are exempt from the E & O levy, cease to qualify for an exemption if they engage in the performance of professional services for a non-profit organization on a pro bono basis. It has been suggested that members who are exempt from the levy, and who perform pro bono services for non-profit organizations should continue to qualify for an exemption. Claims against such members however, would be covered under the Society's professional liability insurance program. Exempt members wishing to perform pro bono services on behalf of non-profit organizations and who wish to continue to qualify for an exemption would be required to apply for a continuing exemption by submitting an executed form detailing the entity on whose behalf the member would be acting, the nature of the professional services to be performed and the time frame for completion of the services. Your Committee supports this recommendation.

4. LEVY EXEMPTION: CONTRACT LAWYERS

Currently, members who work exclusively as contract lawyers for government and private sector entities do not qualify for an exemption from the E & O levy as the levy exemption rules require that they be employees of such entities. Several members working exclusively as contract lawyers have requested that the rules governing levy exemptions be amended to qualify them for an exemption on the basis that their responsibilities are identical to those of in-house counsel who currently qualify for an exemption. Your Committee is of the view that the employee/employer relationship is distinctly different from the relationship between an independent contractor and the contractor's client, and as such, does not recommend any change to the rules for levy exemption along these lines.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"C. Campbell"  
Chair

Mr. Bastedo suggested that a sample form for the guidance of the profession be drawn up in regard to Item 3 re: Levy exemption - Pro Bono work for non-profit organizations.

THE REPORT WAS ADOPTED

29th January, 1993

Convocation adjourned for a brief recess.

Convocation resumed at 11:00 a.m.

INVESTMENT COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair), and Furlong. Staff members present were David Crack and David Carey.

R. \_\_\_\_\_  
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 December 31, 1992 (Schedule A).

Approved

2. Investment Activity - Errors and Omissions Investment Fund

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Cost</u>	<u>Yield</u>
\$500,000 6.25% Gov't of Canada Bonds due Feb. 1/98	Scotia McLeod	95.650	\$478,250	7.27%
\$500,000 8.625% Ontario Hydro Bonds due Feb. 6/2002	Scotia McLeod	99.400	\$497,000	8.72%
\$500,000 8.75% Prov. of Ont. Bonds due April 22/2003	TD Bank	99.25	\$496,250	8.86%
\$500,000 8.75% Prov. of Ont. Bonds due April 22/2003	Scotia McLeod	99.25%	\$496,250	8.86%



29th January, 1993

3. Investment Activity - Lawyers' Fund for Client Compensation

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Cost</u>	<u>Yield</u>
\$500,000 8.625% Ontario Hydro Bonds due Feb. 6/2002	Midland Walwyn	99.75	\$498,750	8.66%

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

Ratified

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"J. Wardlaw"  
Chair

THE REPORT WAS ADOPTED

LAWYERS FUND FOR CLIENTS COMPENSATION COMMITTEE

Meeting of January 14th, 1993

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 14th of January, 1993, at 11:45 a.m. the following members being present: C. Ruby (Chair), N. Finkelstein (Vice-Chair) V. Krishna (Vice-Chair), L. Brennan, C. Chouinard, T. McClenaghan and S. Thom; D. Murphy, J. Yakimovich, J. Brooks, and H. Werry also attended.

A.  
POLICY

1. FORMS 4 AND 5

Convocation of March 1992 adopted this Committee's Special Report on Reducing Defalcations with respect to the requirement that solicitors arranging mortgages for clients complete Forms 4 and 5. The forms were mailed to the profession in October 1992 and printed in the Ontario Reports in November 1992. Questions about the forms were to be sent to the Audit Department. There have been numerous enquiries about the forms. The Director of Audit & Investigation, Mr. Yakimovich, summarized the three main concerns:

29th January, 1993

- (a) the Regulation is too broad covering lenders such as loan companies, pension funds, large corporate investment funds;
- (b) there is duplication with similar forms required under the Mortgage Brokers Act - are both really necessary?; and
- (c) there are concerns with respect to the actual wording on the forms.

Mr. Murphy questioned the need for forms at all where the dollar value of the transaction was small and the lawyer did not "arrange" or introduce the parties to the loan transaction. It was agreed that some exceptions may be warranted provided they can be worded so as not to defeat the purpose of the forms in the first place. Mr. Yakimovich will suggest revisions to the forms and possible exceptions at another meeting.

B.  
ADMINISTRATION

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No items

C.  
INFORMATION

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1. REPORTS OF REFEREES AND MEMORANDA OF AN ASSISTANT SECRETARY

The Reports of Referees and memoranda of an Assistant Secretary that were approved by the Review Sub-Committee were before the Committee for information purposes only with the grants to be paid from the Fund shown on Schedule "A" of this report.

2. A copy of the Financial Summary and Activity Report for October and November 1992 are attached. (Pgs. C1 - C6)

3. Accounts approved by Assistant Secretaries in November and December amounted to \$33,984.78 and \$47,155.41 respectively.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"C. Ruby"  
Chair

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

C-Item 1 - Reports of Referees and memoranda of an Assistant Secretary.  
(Schedule "A")

C-Item 2 - Financial Summary and Activity Report for October and November 1992.  
(Marked C1 - C6)

THE REPORT WAS ADOPTED

29th January, 1993

LEGAL AID COMMITTEE

Ms. Kiteley presented the Report of the Legal Aid Committee. Item A-1(c) in the January 14th Report concerning discussions between the Law Society and government was superseded by the Legal Aid Report of its meeting on January 25th, 1993.

Meeting of January 14th, 1993

The Chair advised that Item A-1(d) re: Budget - Standards in Criminal Law, be deferred.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at three o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Ally, Brennan, Bond, Ms. Cohen, Ms. Curtis, Messrs. Copeland, Durno, Ms. Fuerst, Ms. Kehoe, Messrs. Koenig, Lalande, Panico and Petiquan.

A.  
POLICY

1.(a) REPORT OF THE STUDENT LEGAL AID SOCIETIES SUB-COMMITTEE

The Student Legal Aid Societies Sub-Committee was established as a result of concern being expressed over the relationship between the Legal Aid Plan and the Student Legal Aid Societies. It was felt that the structure of the Societies, their reporting and accountability to the Plan should be reviewed. The Committee met on five occasions and each committee member visited at least one Student Legal Aid Society.

The Legal Aid Committee recommends the adoption of the Report of the Student Legal Aid Societies Sub-Committee which is attached hereto as SCHEDULE (A).

Note: Motion, see page 159

(b) RESPONSE TO THE ABT REPORT

The Legal Aid Committee received the Response to the Abt Report but due to the lengthy debate on other items on the Agenda, the Response to the Abt Report was deferred to the February, 1993 meeting.

(c) ORAL REPORT OF CHAIR

The Chair gave a report concerning various discussions between the Law Society and the government and distributed copies of letters which are attached hereto as SCHEDULE (B). A discussion ensued and the Committee passed a resolution concernng further Law Society involvement with the government. Ten members of the Legal Aid Committee voted to pass the resolution, two voted against the resolution and one abstained. The resolution is attached hereto as SCHEDULE (C).

29th January, 1993

(d) BUDGET FOR SUB-COMMITTEE TO EXPLORE THE FEASIBILITY OF STANDARDS IN CRIMINAL LAW

In November, Convocation approved the establishment of the Sub-Committee to Explore the Feasibility of Standards in Criminal Law which is a Joint Sub-Committee of the Legal Aid Committee and the Professional Standards Committee, with 28 members 14 of whom are from outside Toronto. The average cost per meeting is approximately \$5,000 with five meetings having been scheduled.

Since other jurisdictions (in particular the U.S.A.) have studied the question of standards at great length, the Sub-Committee proposes to set aside \$5,000 for research and consultation with those other jurisdictions. The total expenditure for this Sub-Committee is estimated at \$77,750 with Legal Aid and Professional Standards sharing the cost equally.

The Legal Aid Committee recommends the Adoption of the Budget of the Sub-Committee to Explore the Feasibility of Standards in Criminal Law, which is attached hereto and marked as SCHEDULE (D).

Note: Item deferred

(e) FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY POLICY FOR THE ONTARIO LEGAL AID PLAN

The Committee received the Freedom of Information and Protection of Privacy Policy for the Ontario Legal Aid Plan, but due to the lengthy debate on the family law tariff, the Policy was deferred to the February, 1993 meeting.

B.  
ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE FOR THE EIGHT MONTHS ENDED NOVEMBER 30, 1992

The Report of the Deputy Director, Finance for the Eight Months Ended November 30, 1992 is attached hereto and marked as SCHEDULE (E).

(b) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTH OF DECEMBER, 1992

The Legal Aid Committee reviewed the Report on the Payment of Solicitors Accounts for the month of December, 1992 which was presented by the Deputy Director, Legal. The Report is attached hereto and marked as SCHEDULE (F).

(c) REPORTS ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT, NOVEMBER & DECEMBER, 1992

The Deputy Director Legal presented the Reports on the Status of Reviews in the Legal Accounts Department for the months of November and December, 1992. The Reports are attached hereto and marked as SCHEDULE (G).

(d) AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS

DURHAM

Lisa M. Daw, solicitor

29th January, 1993

HALDIMAND

Joanne Ferguson, solicitor

RESIGNATIONS

DURHAM

Mandy Crawford

YORK COUNTY

Michael P. Zaduk  
Darlene Lawson  
Barbara Hardy  
Carisse Gafni

ALL OF WHICH is respectfully submitted

"F. Kiteley"  
Chair

January 14, 1993

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

- A-Item 1.(a) - Report of the Sub Committee on Student Legal Aid Societies - June 1992. (Schedule (A), Pages (12))
- A-Item 1.(c) - Letter from Mr. Allan Rock to Mr. George Thomson, Deputy Attorney-General dated December 4, 1992 re: Legal Aid. Reply from Mr. George Thomson to Mr. Allan Rock, Treasurer dated January 5, 1993. (Schedule (B), Pages (5))
- A-Item 1.(c) - Copy of the Resolution of Legal Aid Committee - January 14, 1993. (Schedule (C))
- A-Item 1.(d) - Budget of Standards SubCommittees. (Schedule (D))
- B-Item 1.(a) - Report of the Deputy Director, Finance - Statement of Income and Expenditures Eight Months Ended November 30, 1992. (Schedule (E), Pages (2))
- B-Item 1.(b) - Report of the payment of solicitors accounts for month of December, 1992. (Schedule (F), Pages (2))
- B-Item 1.(c) - Reports on the status of reviews in the Legal Accounts Department, November and December, 1992. (Schedule (G), Pages (2))

29th January, 1993

It was moved by Marc Somerville, seconded by David Scott that the Report of the Student Legal Aid Societies Sub-committee be referred back to the Committee for further consideration. After a roll call vote the motion was carried 21-15.

Carried

ROLL-CALL VOTE

Bastedo	Against
Bragagnolo	For
Brennan	Against
Campbell	For
Copeland	Against
Curtis	Against
Elliott	Against
Epstein	Against
Feinstein	For
Finkelstein	For
Goudge	Against
Graham	Against
Howie	Against
Howland	For
Kiteley	Against
Krishna	For
Lamek	For
Lamont	For
Lax	Against
Legge	For
Levy	For
McKinnon	Against
Murray	For
O'Brien	Against
Palmer	Against
Peters	For
Scace	Against
Scott	For
Sealy	For
Somerville	For
Strosberg	For
Thom	For
Topp	For
Wardlaw	For
Weaver	For
Yachetti	For

THE REPORT AS AMENDED WAS ADOPTED

Meeting of January 25th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

29th January, 1993

Your Committee met, at the request of the Treasurer of the Law Society of Upper Canada, on Monday, the 25th of January, 1993 at two o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Brennan, Bond, Ms. Campbell, Ms. Cohen, Mr. Copeland, Ms. Curtis, Mr. Durno, Ms. Fuerst, Ms. Kehoe and Mr. Lalande. Also present by conference call, Mr. Koenig.

Also present, Mr. Allan Rock, Treasurer of the Law Society of Upper Canada.

A.  
POLICY

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The Report of the Legal Aid Committee dated January 14, 1993 records in Schedule (C) that the following motion was passed:

That the Legal Aid Committee recommends to the Law Society that it withdraw from any further involvement in the Pilot Project Steering Committee and Family Law Design Committee until such time as there is a significant increase in the civil tariff.

On January 14, 1993 the Chair notified all members of the Committee that an additional meeting of the Legal Aid Committee would be held on Monday, January 25, 1993. On January 19, 1993 a memorandum was circulated to all members of the Legal Aid Committee advising as to the purpose of the meeting, namely that it was at the request of the Treasurer and that a motion to reconsider the above motion would be made.

The Treasurer addressed the Committee at length, outlining his reasons for requesting this special meeting, commenting on legal aid in other provinces of Canada and asking the Committee to reconsider its resolution.

MOTION #1 - Moved by Mr. Bond and seconded by Ms. Campbell

"That the Legal Aid Committee reconsider the motion passed on January 14, 1993." (see above)

After extensive debate the motion was passed by a vote of 8:3.

MOTION #2 - Moved by Mr. Copeland and seconded by Mr. Bond.

"That the Legal Aid Committee recommends to the Law Society that it withdraw from any further involvement in the Pilot Project Steering Committee and Family Law Design Committee until such time as there is a significant increase in the civil tariff."

Motion #2 was defeated by a vote of 8:3.

MOTION #3 - Moved by Mr. Bond and seconded by Mr. Durno.

"The Legal Aid Committee is frustrated and concerned over the Government's failure to implement a civil tariff increase.

The Legal Aid Committee encourages the Treasurer to remain firm with the position that a satisfactory response to the request for a civil tariff increase is imperative in the immediate future.

29th January, 1993

The effective evaluation of the pilot projects in family law also requires an increase in the civil law tariff. The pilot projects cannot be funded at the expense of the tariff.

The Legal Aid Committee will review its position at its normal April meeting date or earlier if Government budget discussions are completed for the next fiscal year commencing April, 1993."

Motion #3 was passed 10 in favour. One member did not vote.

ALL OF WHICH is respectfully submitted

"F. Kiteley"  
Chair

January 25, 1993

THE REPORT WAS ADOPTED

LEGAL EDUCATION COMMITTEE

Meeting of January 14th, 1993

Mr. Lamek spoke to Item C-C.1 re: Bar Admission Course Finance Issues Subcommittee.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE LEGAL EDUCATION COMMITTEE asks leave to report:

The Committee met on Thursday, the 14th of January, 1993, at 10:30 a.m.

The following members were in attendance: Paul Lamek (Chair), Philip Epstein (Vice-chair), Donald Lamont (Vice-chair), Thomas Bastedo, Lloyd Brennan, Stephen Goudge, Casey Hill, Vern Krishna, Colin McKinnon, Ross Murray, Louis Radomsky (non-Bencher member), Marc Somerville. Other Benchers attending were: Ronald Manes and Robert Topp. An invited guest was: Peter Clausi. Representing the law schools was: Dean Donald McRae. Representing the Bar Admission Advisory Committee was: Jan Divok. Staff in attendance were: Marilyn Bode, Brenda Duncan, Holly Harris, Mimi Hart, Jacqueline Huston, Nicolas Joly, Margaret McSorley, Alexandra Rookes, Alan Treleaven.

A.  
POLICY

No items to report this month.



B.  
ADMINISTRATION

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No items to report this month.

C.  
INFORMATION

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C.1           BAR ADMISSION COURSE FINANCIAL ISSUES SUBCOMMITTEE

- C.1.1       The Bar Admission Course Financial Issues Subcommittee met for the second time on December 15, 1992. The following members were in attendance: Paul Lamek (Chair), Lloyd Brennan, Dean Donald McRae (University of Ottawa), Ross Murray and Louis Radomsky. The following staff were in attendance: Erika Abner, Marilyn Bode, Deborah Brown, David Carey, David Crack, Holly Harris, Margaret McSorley and Alan Treleaven.
- C.1.2       The Subcommittee reviewed preliminary draft budget figures for the Bar Admission Course 1993 (July 1) to 1994 (June 30) budget year. The discussion focused on ways to increase self-generated revenue by approximately \$315,000.00, and ways to reduce expenditures by approximately \$340,000.00 without significantly altering the educational program of the current Bar Admission Course. Possible means of making more substantial budget cuts, which would involve significant alterations to the educational program, were also discussed.
- C.1.3       The third meeting took place on January 15, 1993. The following members were in attendance: Paul Lamek (Chair), Thomas Bastedo, Lloyd Brennan, Dean Donald McRae (University of Ottawa), Ross Murray and Louis Radomsky. The following staff were in attendance: Erika Abner, Marilyn Bode, Deborah Brown, David Crack, Donald Crosbie, Holly Harris, Margaret McSorley and Alan Treleaven.
- C.1.4       For the 1993-4 budget year the Subcommittee decided to recommend self-generated revenue increases in the approximate amount of \$230,000, together with expenditure reductions in the approximate amount of \$343,000. Discussions on procuring additional self-generated revenue and further reducing expenditures were deferred until consultation with the Law Foundation on January 21, 1993.
- C.1.5       The Subcommittee decided to appoint a sub-group to investigate means of generating further revenue to support the Bar Admission Course. The Subcommittee expressed its commitment to the current model of Bar Admission Course, and its hope that significant change to the current model of Bar Admission Course could be avoided. The Subcommittee recognized that it must be prepared to re-examine the current model of Bar Admission Course in light of potential budget restrictions while taking into account the Law Society's mandate to provide effective education to student members.
- C.1.6       The next meeting of the Subcommittee is scheduled at 8:00 a.m. on Thursday, January 28, 1993.
- C.1.7       The Chair will be prepared to provide up-to-date information orally to Convocation at its meeting of January 29, 1993.

C.2 CONTINUING LEGAL EDUCATION SUBCOMMITTEE

- C.2.1 The Continuing Legal Education Subcommittee met on December 1, 1992. The following members were in attendance: Colin McKinnon (Chair), Marc Bode, Susan Elliott, Vern Krishna, Paul Lamek and Paul Perell. The following staff were in attendance: Brenda Duncan, Cheryl Keech and Alan Treleaven.
- C.2.2 The Subcommittee discussed a proposal of the Treasurer that the Subcommittee focus on developing a more extensive regularized curriculum of continuing legal education courses and on programming outside of Toronto. The Subcommittee will focus on the Treasurer's suggestion at upcoming meetings.
- C.2.3 The Subcommittee spent considerable time discussing the possibility of implementing mandatory continuing legal education in Ontario, and resolved at least for the short term not to recommend the implementation of mandatory continuing legal education. The Subcommittee will present its written report at an upcoming meeting.
- C.2.4 The Subcommittee concluded its meeting by thanking Cheryl Keech, the Continuing Legal Education Department Manager, for her services and wishing her well on her January, 1993 move to Edmonton.

C.3 ARTICLING SUBCOMMITTEE

- C.3.1 The Subcommittee met on November 27, 1992. In attendance were Marc Somerville (Chair), Maurice Cullity, Stephen Goudge, Janne Burton, Jay Rudolph, and Victoria Colby. Staff members in attendance were Marilyn Bode, Deborah Brown, Barbara Dickie and Mimi Hart.
- C.3.2 The Subcommittee considered several items not reached at its October 23 meeting. The types of enquiries received by the Articling Director's office were reviewed by the Subcommittee. The types of concerns expressed by members of the profession about their articling students, and concerns raised by articling students about their articling principals were also reviewed. There was a general discussion about how the concerns are dealt with and whether they might serve as information when considering a particular member's application to serve as an articling principal. The Subcommittee intends to discuss this topic further at a future meeting.
- C.3.3 Mimi Hart advised there were still 10 students as of the date of the meeting seeking positions for the 1992/93 articling year. The Equity Committee was taking action to assist in the placement of students who are part of a minority group. The remaining students are being assisted by the Placement Office's efforts to locate additional positions.
- C.3.4 The Subcommittee gave conditional approval to a further 26 applications from prospective articling principals for the 1992/93 articling year. To that date, approximately 1188 members of the profession have applied.
- C.3.5 The Subcommittee also considered several policy issues. The Subcommittee considered one application for an abridgment. The individual had passed the examinations of the Bar Admission Course in another province but had not been called to the bar. Further information was required from the applicant before making a decision.

- C.3.6 The Subcommittee considered whether an articling student who is only required to work 35 hours per week could accumulate his over-time beyond 35 hours and apply that time toward an extended leave of absence to be taken during the articling term. The members unanimously agreed that this should not be permitted.
- C.3.7 The Subcommittee also considered the confidentiality of the Evaluation Forms of the quality of the articling experience. The Subcommittee does not want to discourage a discussion between a principal and student about the quality of the educational experience. Having said that, if a student is uncomfortable with discussing the evaluation with a principal, it may be submitted confidentially to the Law Society.
- C.3.8 The next meeting of the Subcommittee took place at 12:00 noon on January 14, 1993, following the meeting of the Legal Education Committee. The Subcommittee will report to the Legal Education Committee in February.
- C.4 SEXUAL HARASSMENT SUBCOMMITTEE
- C.4.1 The Joint Subcommittee on Sexual Harassment met on November 4 and December 10, 1992. Members of the Subcommittee are Stephen Goudge, Neil Finkelstein and Joan Lax. All members were present at both meetings. Staff in attendance included Alan Treleaven (November 4 only), Marilyn Bode and Barbara Dickie. Issues discussed at the meetings included: who owns the complaint (the complainant or the Law Society), how should the complaints be handled when received by the Articling Director's office including advice to the complainant about options available, and when matters might be referred to the Discipline Department and the Articling Subcommittee.
- C.4.2 The Joint Subcommittee welcomed Gavin MacKenzie, Senior Counsel Discipline, and Scott Kerr, Assistant Secretary, Complaints Department, to its December meeting. The Subcommittee required information on the general discipline and complaints processes to assist in the development of discretionary procedures for handling a sexual harassment complaint received by the Articling Director's office.
- C.4.3 The Joint Subcommittee on Sexual Harassment is currently working on its Report and expects to be able to report to the Legal Education Committee in February.
- C.5 CONTINUING LEGAL EDUCATION REPORT ON COURSES
- C.5.1 See Report attached. (pages 1 - 4)
- C.6. COMPUTER EDUCATION FACILITY
- C.6.1 The Law Society's Computer Education Facility, located in the Law Society premises in Toronto and in the University of Ottawa premises in Ottawa, offers computer education programming for both lawyers and Bar Admission Course students.
- C.6.2 The Computer Education Facility, under the auspices of the Law Society's Continuing Legal Education Department, in attempting to offer programming on a break-even basis, faces a number of significant obstacles, including the following:

29th January, 1993

- 1) out-dated equipment which requires replacement,
  - 2) ongoing revision of the curriculum to keep programming current with new developments,
  - 3) competition from private education offerors, and
  - 4) the recession.
- C.6.3 A decision must be made as to the investment of the money and time necessary to update the equipment and revise the curriculum on an ongoing basis.
- C.6.4 The Committee will consider the matter in greater detail at its February meeting.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"P. Lamek"  
Chair

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

C-Item C.5.1 - Reporting on Courses - Continuing Legal Education.  
(pages 1 - 4)

THE REPORT WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993, at 10:30 a.m., the following members being present: J. Palmer (in the Chair), S. Thom.

Also present: S. Elliott (Bencher), A. Brockett (Staff).

A.  
POLICY

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A.1 RULES MADE UNDER s. 62(1) OF THE LAW SOCIETY ACT: AMENDMENT OF RULE 50:  
FEES: ANNUAL

A.1.1 Recommendation

A.1.1.1 That the part of Rule 50 headed "ANNUAL" be amended so as to read as follows (amendments underlined):

ANNUAL

Unless otherwise exempted every member of the Society shall pay an annual fee, to include a Lawyers Fund for Client Compensation levy, a Legal Aid levy and a County Library levy for each financial year of the Society in an amount to be determined by Convocation. The annual fee shall be due and payable on the 1st day of July in each financial year or, if a member is admitted, readmitted or restored to membership on a date subsequent to the 1st day of July, the annual fee is due and payable on the date on which the member is admitted, readmitted or restored. Student members who are admitted during the financial year in which they complete the Bar Admission Course are not required to pay the annual fee for the financial year in which they are called to the bar and admitted as a Solicitor.

A.1.1.2 That the French Language Services Committee be asked to submit a French translation of the amended Rule to Convocation for amendment of the French version of the Rules.

A.1.2 Explanation

A.1.2.1 The rule currently states that the annual fee shall be due and payable on the 1st day of August in each financial year. The proposed amendment would change "August" to "July".

A.1.3 Reasons

A.1.3.1 The rule originally specified October 1 as the date on which the annual fee was due and payable. A recommendation from the May 14, 1992, meeting the Finance and Administration Committee reads as follows:

That the billing date for the annual fee be changed to coincide with the beginning of the fiscal year, July 1st .... This change to the billing date would be made in two stages. The annual billing this year would be due August 1st rather than October 1st and for the 1993/94 fiscal year it would be due July 1st.

A.1.3.2 The recommendation was adopted by Convocation on May 29, 1992.

A.1.3.3 On September 24, 1992, on the recommendation of the Legislation and Rules Committee, Convocation amended the rule to provide that the annual fee is due and payable on the 1st day of August. The recommendation now to amend the date to the 1st day of July will implement the second stage of the recommendation adopted by Convocation on May 29, 1992.

A.2 RULES MADE UNDER s. 62(1) OF THE LAW SOCIETY ACT: AMENDMENT OF RULE 50A:  
PAYMENT OF COSTS OF INVESTIGATION

A.2.1 Recommendations

A.2.1.1 That in Rule 50A, the reference to Regulation 573 be changed to a reference to Regulation 708, this amendment to come into force immediately.

A.2.1.2 That Rule 50A be amended by the addition of three references to a law corporation, so that the amended Rule will read as follows, the amendments to come into force on the day that Part II of the *Law Society Act* is proclaimed in force (amendments underlined):

50A Where an investigation of a member or members, or of a law corporation, required by the Chair or Vice-Chair, pursuant to section 18 of Regulation 708, R.R.O. 1990, takes more than ten hours to complete, the Chair or a Vice-Chair, may require that a member or members, or a law corporation, pay the costs of the investigation for the period in excess of ten hours, at \$50.00 per hour up to a maximum of \$2,500.00 together with any tax that is required by law to be paid by the member or members, or the law corporation, in respect of such costs and collected by the Society.

A.2.1.3 That the French Language Services Committee be asked to submit a French translation of the amended Rule to Convocation for amendment of the French version of the Rules.

A.2.1.4 That Convocation rescind its resolution of October 23, 1992, providing for an amendment of Rule 50A on the day when the Part II amendments of the *Law Society Act* are proclaimed in force.

A.2.2 Explanation

A.2.2.1 Regulation 573 of the R.R.O 1980 was revoked on November 16, 1992 and was replaced by Regulation 708 of the R.R.O 1990. The reference to section 18 of the regulation continues to be correct.

A.2.2.2 As has been done in the case of other rules, it is necessary to make Rule 50A applicable to law corporations.

A.2.2.3 At its meeting on October 8, 1992, the Legislation and Rules Committee adopted a recommendation to add the three references to law corporations as proposed above. By oversight, the recommendation which went forward to Convocation on October 23, 1992, omitted the final words: "together with any tax that is required by law to be paid by the member or members, or the law corporation, in respect of such costs and collected by the Society". Convocation adopted the recommendation and thereby adopted a version of Rule 50A which lacked the final words. By rescinding the resolution of October 23, 1992 and adopting the recommendation above, Convocation will restore the words that were omitted and will also include the references to a law corporation.

- A.2.2.4 The power to make rules providing for the payment by a law corporation of the cost of any examination or audit of its books, records and accounts, will be conferred on Convocation by s. 72(2) of the *Law Society Act*, a provision of Part II which has not yet been proclaimed in force. It is therefore proposed that the coming into force of the amendments extending Rule 50A to law corporations be delayed until Part II of the act is proclaimed in force.

B.  
ADMINISTRATION

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B.1 LAW SOCIETY ACT: PROPOSED GOVERNMENT AMENDMENT TO s. 50

B.1.1 Recommendation

That Convocation request the Government of Ontario to amend Bill 115 so that the proposal to employ the word "themselves" in s. 50 of the *Law Society Act* is replaced by use of the formulation "himself, herself or itself".

B.1.2 Explanation

- B.1.2.1 Section 5 of Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will amend clause 50 (1) (a) of the *Law Society Act*.

- B.1.2.2 Clause 50 (1) (a) of the *Law Society Act* currently reads as follows:

50. - (1) Except where otherwise provided by law,

- (a) no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold himself or herself out as or represent himself or herself to be a barrister or solicitor or practise as a barrister or solicitor; and

- B.1.2.3 Section 5 of Bill 115 will replace the two instances of "himself or herself" by "themselves" so that the clause would read:

50. - (1) Except where otherwise provided by law,

- (a) no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold themselves out as or represent themselves to be a barrister or solicitor or practise as a barrister or solicitor; and

- B.1.2.4 In the Revised Statutes of Ontario, 1990, the subsection originally read:

"...no person...shall...hold himself, herself or itself out as or represent himself, herself or itself to be...."

It is assumed that "itself" was included in recognition of the fact that corporations will be able to practise law when Part II of the act comes into force. However, subsection 50(1) was repealed by the *Law Society Amendment Act (Temporary Members)*, S.O. 1991, c. 41, and the subsection which replaced it overlooked the possibility of practice by corporations. The revised subsection merely stated:

"...no person...shall...hold himself or herself out as or represent himself or herself to be...."

That is how the subsection reads at present. The Government's proposal to substitute the word "themselves" for "himself or herself" appears to be intended to rectify the omission of reference to corporations.

- B.1.2.5 Your Committee considers the neologism "themselves" to be an undesirable addition to the *Law Society Act* and suggests that the formulation "himself, herself or itself", as originally used in the R.S.O. 1990, is to be preferred.

B.2 LAW SOCIETY ACT: PROPOSED GOVERNMENT AMENDMENT TO s. 35

B.2.1 Recommendation

That Convocation request the Government of Ontario to amend Bill 115 so that the proposal to substitute the words "the person's" for "any" in section 35 is replaced by a proposal to use the words "the member's".

B.2.2 Explanation

- B.2.2.1 The schedule to Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will amend s. 35 of the *Law Society Act*.

- B.2.2.2 Section 35 of the *Law Society Act* currently reads as follows:

35. If a member has been found pursuant to any Act to be mentally incompetent or mentally ill, or has been found after due inquiry by a committee of Convocation incapable of practising law as a barrister and solicitor by reason of physical or mental illness including addiction to alcohol or drugs, or any other cause, Convocation may by order limit or suspend any rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. [Underlining added.]

- B.2.2.3 The schedule to Bill 115 will strike out "any" in the fifth line above and substitute "the person's".

- B.2.2.4 Your Committee is of the view that the words "the member's" would be a more suitable substitute for "any" than "the person's".



C.  
INFORMATION

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C.1            LAW SOCIETY ACT: AMENDMENTS IN FORCE JANUARY 1, 1993

C.1.1            On January 1, 1993, the *Law Society Amendment Act (Class Proceedings Funding)*, 1992, S.O. 1992, c. 7, was proclaimed in force. The act was a Government bill, part of the new class proceedings legislation.

C.1.2            The effect of the amendments is to establish the Class Proceedings Fund. The only sections of the *Law Society Act* affected are those sections dealing with the Law Foundation of Ontario. Sections 52 and 55 have been amended and sections 59.1, 59.2, 59.3, 59.4 and 59.5 have been added.

C.2            LAW SOCIETY ACT: PROPOSED GOVERNMENT AMENDMENT TO FRENCH TEXT OF s. 72

C.2.1            The French text of the *Law Society Act* renders the English words "law corporation" as "société juridique professionnelle". In s. 72(1) the word "professionnelles" has been omitted and in s. 72(2) the word "professionnelle" has been omitted. It is assumed these omissions were inadvertent. The schedule to Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will add the omitted words.

C.2.2            Your Committee notes that Bill 115 misspells the word "professionnelle". The mistake will be drawn to the attention of Legislative Counsel. Subject to this correction, your Committee supports the proposed amendment.

C.3            SOLICITORS ACT: PENDING AMENDMENT TO s. 26

C.3.1            Section 26 of the *Solicitors Act* is under the heading "Agreements between solicitors and clients". It reads:

26 Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person whose estate or property will be chargeable with the amount or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before an assessment officer who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. [Underlining added.]

C.3.2            Section 25 of Bill 110 (*An Act to amend certain Statutes of Ontario consequent upon the enactment of the Advocacy Act, 1992, the Consent to Treatment Act, 1992 and the Substitute Decisions Act, 1992*) (Royal Assent, December 10, 1992; to come into force on proclamation), will amend s. 26 of the *Solicitors Act* by striking out "or of committee of any person whose estate or property will be chargeable" and substitute "or in the capacity of guardian of property that will be chargeable".

C.3.3 Your Committee is satisfied that this amendment does not require any action on the part of the Law Society.

C.4 SOLICITORS ACT: PROPOSED GOVERNMENT AMENDMENT TO FRENCH TEXT OF s. 8

C.4.1 Part of the English text of s. 8 of the *Solicitors Act* reads:

A judge of the Ontario Court (General Division), ... may authorize a solicitor to commence an action for the recovery of his or her fees....

C.4.2 The French text begins:

Un juge de la Cour de l'Ontario (Division générale) ou d'une cour de comté ou de district peut ....  
[Underlining added.]

C.4.3 The schedule to Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will delete the words "ou d'une cour de comté ou de district".

C.4.4 Your Committee supports the proposed amendment.

C.5 SOLICITORS ACT: PROPOSED GOVERNMENT AMENDMENT TO FRENCH TEXT OF s. 33(5)

C.5.1 The English text of s. 33 (5) of the *Solicitors Act* reads:

(5) On the assessment of a solicitor's bill, the assessment officer may, where he or she considers it to be just to do so in all the circumstances,

(a) disallow interest; or

(b) fix a rate of interest that is less than the maximum rate authorized by this section,

in respect of the whole or any part of the amount allowed on the assessment. [Underlining added.]

C.5.2 The French text of clause (b) reads:

b) soit fixer un taux d'intérêt inférieur au taux minimal autorisé par le présent article. [Underlining added.]

C.5.3 The schedule to Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will replace "minimal" with "maximal".

C.5.4 Your Committee supports the proposed amendment.

29th January, 1993

C.6 LEGAL AID ACT: PROPOSED GOVERNMENT AMENDMENT TO s. 22(2)

C.6.1 Section 22(2) of the *Legal Aid Act* (dealing with payment to barristers and solicitors from the Legal Aid Fund) reads:

(2) An appeal lies in accordance with the regulations to an assessment officer from the certificate of a person designated for the purposes of clause 27 (1) (n).

[Clause 27 (1) (n) empowers the Law Society to make regulations providing for the settlement of accounts for professional services.]

C.6.2 The schedule to Bill 115 (*An Act to confirm and correct the Statutes of Ontario as revised by the Statute Revision Commissioners*) (First Reading December 10, 1992), will insert the words "under section 90 of the *Courts of Justice Act*" after "assessment officer".

C.6.3 Your Committee will draw this proposed amendment to the attention of the Director of the Ontario Legal Aid Plan.

C.7 REVISED VERSION OF THE LAW SOCIETY ACT (ENGLISH TEXT)

C.7.1 Copies of a revised, consolidated version of the *Law Society Act*, as at January 4, 1993, (incorporating the Class Proceedings Fund amendments referred to in item C.1 above), will be available in Convocation Room on January 29, 1993. Copies are also available on request from the Society's Research Director.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"M. Cullity"  
Chair

THE REPORT WAS ADOPTED

LIBRARIES AND REPORTING COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993, at 9:00 a.m., the following members being present:

R. Topp (Vice-Chair in the Chair), G. Farquharson, A. Feinstein, B. Pepper, P. Peters, M. Weaver, R. Lalande, and K. Golish. G. Howell also attended.

A.  
POLICY

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No items

B.  
ADMINISTRATION

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1. County Libraries - Cost of Books

The Committee reviewed two lists prepared by the Chief Librarian, as follows:

- a) Cost increases on basic subscriptions for 1992 over 1991, and
- b) Cost reductions for 1993 negotiated with Carswell on Canadian Abridgment, four law reports and basic loose-leaf texts.

The first list indicated that the 1992 cost of basic subscriptions had increased 11% over the 1991 cost. The second list depicted cost reductions negotiated by the Chief Librarian with Carswell for 1993.

However, the Committee remained concerned at the high cost of several titles (particularly the Canadian Abridgment).

The seven titles are as follows:

- |                            |                                |
|----------------------------|--------------------------------|
| a) Canadian Abridgment     | d) Carswell Practice Cases     |
| b) Canadian Current Law    | e) Criminal Reports            |
| c) Canadian Case Citations | f) All Canada Weekly Summaries |
|                            | g) Canadian Rights Reporter    |

The Committee instructed the Chief Librarian to send letters to Carswell, Canada Law Book and Butterworth on these titles, expressing the Committee's intention to recommend to Convocation the withdrawal of funding for these titles unless substantial cost reductions were received in response. The Committee will review the publishers' responses at the next Committee meeting in February.

2. Ontario Reports - Database - Q.L. price increase

The Committee reviewed two documents from QL Systems relating to QL's proposed price increase for access to its databases, including the Law Society's Ontario Reports Database. The documents were as follows:

- a) Q.L. Systems letter dated January 11, 1993 requesting Law Society approval of a \$10 increase on the present \$140 hourly charge for QL access, and
- b) Q.L. Systems extract from last year's financial statements.

The Law Society's contract with QL stipulates a price increase not in excess of the current CPI (3%). The \$10 increase would be a 7.1% increase.

29th January, 1993

The Committee instructed the Chief Librarian to send a letter to QL stating that the Law Society remains concerned with high cost increases for access to legal information, and therefore is not prepared to approve an increase of more than \$5 in the hourly charge (3.5% increase), in the absence of more information from QL Systems. The Committee will further review the matter at its February meeting.

3. Ontario Reports - Database - free access for visually impaired lawyers

The Committee reviewed a letter from David Lepofsky, counsel in the Attorney General's Ministry, asking on behalf of himself and 20 other lawyers across Canada for a Law Society waiver of royalty charges on the Ontario Reports database on QL Systems. The waiver would apply only to their reading and "current awareness" activities, not to search retrieval activities on behalf of clients.

The Committee unanimously recommends that the Law Society approve Mr. Lepofsky's request on the basis the Law Society would be foregoing minuscule revenue on its Ontario Reports Database while promoting equality of access for a class of persons with disabilities.

C.  
INFORMATION

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1. Financial Report

The Chief Librarian reported that the Committee's expenses were within budget to date.

2. Great Library Booklist

The Committee approved the Great Library's booklist for January.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"D. Murphy"  
Chair

THE REPORT WAS ADOPTED

NOVEMBER CONVOCATION MINUTES

Draft Minutes - November 26th and November 27th, 1992

adopted

29th January, 1993

PROFESSIONAL CONDUCT COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993 at three o'clock in the afternoon, the following members being present: Somerville (Chair), Campbell, Curtis, Elliott, McKinnon, D. O'Connor, Scott and Spence.

A.  
POLICY

1. BELL CANADA LETTERHEAD - WHAT  
DIRECTION SHOULD NOW BE GIVEN  
TO OTHER CORPORATE LAW DEPARTMENTS?

Convocation in November adopted the Committee's recommendation. Set out below is a copy of what the Committee said:

CORPORATE LAW DEPARTMENT LETTERHEAD -  
BELL CANADA LAW DEPARTMENT LETTERHEAD  
LOOKS LIKE PRIVATE LAW FIRM WHEN  
COLLECTION LETTERS SENT OUT

In April 1983 the Professional Conduct Committee gave the lawyers in the law department at Bell Canada permission to use their names in a fashion that would resemble those of a private law firm.

Set out below is the item as it was reported to Convocation:  
(Convocation adopted the Committee's position.)

CORPORATE LAW DEPARTMENT LETTERHEAD

Mr. H. P. Eccles, one of the lawyers in the law department of Bell Canada has asked if it would be proper for there to be a separate letterhead in the same fashion as the letterhead of a firm in private practice. Mr. Eccles' letter is attached together with a sample letterhead.

The Committee was of the opinion that this would not be improper in that a number of corporate law departments already have separate letterhead for their lawyers collectively or for individual lawyers which is normally used when corresponding on behalf of an individual employee or a subsidiary corporation.

There has been a complaint made that collection letters are being sent from an office other than that of the Bell law department and it would appear to the recipients that the department is a private law firm.

29th January, 1993

The Committee's Secretary has suggested to one of the lawyers at Bell Canada that a change to the letterhead should be made whereby the words "Bell Law Department" would appear. Mr. James Varro of the Complaints Office has made the same suggestion.

Attached are two copies of the letterhead used by the lawyers at Bell Canada. One is used for day to day correspondence. The other is sent out for collection purposes from an office of Bell Canada that is located in a building several miles from the building housing the law department.

Also attached is the most recent letter from Bell Canada's law department.

The Committee, after much discussion, concluded that a corporate law department should not be permitted to have a letterhead similar to that of a private law firm because it was misleading. In reaching this conclusion the Committee was mindful that it was repudiating a position taken 9 years ago by the Committee.

The Committee asks Convocation to adopt its position.

In view of Convocation's position the Committee recommends that all law departments of corporations that have letterheads that appear to be that of a private law firm should within a reasonable time discontinue the use of such letterheads.

The Committee asks Convocation to adopt this position.

C.  
INFORMATION

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1. WORK OF THE SPECIAL COMMITTEE TO  
REVIEW THE RULES OF PROFESSIONAL  
CONDUCT - UPDATE FROM THE CHAIR

The Chair gave an update on the work of the Special Committee to review the Rules of Professional Conduct. Attached is a copy of the Minutes of the last meeting and a list of the working groups (numbered 1 - 14).

2. WORK OF THE FEDERATION OF LAW SOCIETIES  
COMMITTEE STUDYING THE MARTIN V. GRAY CASE  
(CONFLICTS CREATED BY THE MIGRATING LAWYER)  
- REPORT FROM COLIN CAMPBELL

The Committee of the Federation of Law Societies studying the Martin v. Gray case has after 4 days of deliberations agreed upon a draft rule that hopefully will be of assistance to the Bench, the legal profession and the public in addressing problems created by the migrating lawyer.

At the mid-winter meeting of the Federation on the 16th and 17th of February in Toronto the representatives of all the Canadian law societies will be asked to debate the proposed rule. It is hoped that the same or similar rule will be adopted by all the law societies.

29th January, 1993

Mr. Campbell spoke to the Committee on the subject.

A report will be sent to Convocation in February.

3. LAWYER TO SET UP A CONSULTING COMPANY SEPARATE  
FROM HIS LAW FIRM - CONSULTING COMPANY TO GIVE  
BUSINESS ADVICE TO CLIENT OF A FOREIGN LEGAL  
CONSULTANT - REQUEST FOR ADVICE

The Committee has appointed a sub-committee to be chaired by Mr. Spence to study the issue of relationships between Ontario lawyers and foreign legal consultants.

4. LAWYERS ACTING AS ADOPTION LICENSEES -  
CONCERNS OF THE ADOPTION UNIT OF THE MINISTRY  
OF COMMUNITY AND SOCIAL SERVICES - IS THERE A  
NEED FOR GUIDELINES FROM THE LAW SOCIETY?

Lawyers in Ontario have had a long involvement in private adoptions.

In 1985 the Law Society was asked to comment on the propriety of lawyer involvement in adoption proceedings other than as a lawyer. The Committee concluded that there was no problem with lawyers being involved provided there was no duplication of fees for the social work. The Committee noted that there were other circumstances where lawyers acted in a dual capacity, for example, as executor in an estate and as lawyer for the state.

The Legal Services Branch of the Ministry has written the Society and expressed some concern:

"Under the Child and Family Services Act, an individual can obtain a licence to place children for adoption. Although an individual need not be a lawyer to be a licensee, of our 80 licensees, 68 of them are lawyers. Many lawyers find it convenient to provide both the adoption services as a licensee and the legal services necessary to complete an adoption before the courts.

"The Ministry has become increasingly concerned about lawyers acting in a dual role who fail to differentiate between services they provide as a licensee and those offered as a lawyer. For example, we have had lawyers refuse to disclose certain information that all non-lawyer licensees are obligated to disclose to the Ministry, purportedly on the basis of solicitor-client privilege."

The Committee's Secretary has advised the Legal Branch that the advice of the Committee would be sought. Should there be guidelines for lawyers functioning in this capacity? If so, the input of those 68 lawyers who now hold adoption licences should be sought. The Complaints Department has dealt with one complaint where a member of the public who dealt with a lawyer, who held an adoption licence, was concerned as to the capacity in which the lawyer was acting.



29th January, 1993

This issue will be referred to one of the working groups studying what revisions need to be made to the Rules of Professional Conduct.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"M. Somerville"  
Chair

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

C-Item 1 - Minutes of a meeting on December 16, 1992 re: Special Committee to  
review the Rules of Professional Conduct. (pages 1 - 14)

THE REPORT WAS ADOPTED

SPECIAL COMMITTEE ON ACCESS TO LEGAL SERVICES

Ms. Kiteley presented the Report of the Special Committee.

REPORT OF THE SPECIAL COMMITTEE  
ON ACCESS TO LEGAL SERVICES

1 RECOMMENDATIONS

1.1 The Committee recommends that the Law Society actively promote and encourage the establishment of prepaid legal plans in Ontario by pursuing the following initiatives:

1.1.1 through the Discipline Policy Committee, introduce amendments to the Law Society regulations to rationalize the filing requirements for Forms 2/3 to allow the Forms to be filed on behalf of the plans rather than the practice presently employed of having all trust accounts in all staff locations filed under the name of the Director;

1.1.2 through the Professional Conduct Committee, introduce an amendment to the Law Society regulations to make provisions which will enable referrals to staff offices without violating rules against steering; and to allow the use of trade names for pre-paid legal service plans;

1.1.3 through the Treasurer, offer assistance to the International Foundation of Employee Benefits Plans to make representations to the Minister of National Revenue to encourage amendment to the Income Tax Act to ensure consistent treatment with other benefit programs and to abolish the current tax on legal services provided through prepaid plans (where, for example, dental benefits are not similarly taxable); and to promote any other regulatory or legislative change to insurance or other laws to facilitate the operation of prepaid legal plans;

- 1.1.4 through the Communications Committee, ensure that the members of the profession are aware that the Law Society supports the participation of members in the establishment and operation of prepaid legal plans;
- 1.1.5 through the Communications Committee, ensure that the public is aware that the availability of prepaid legal plans will facilitate access to legal services;
- 1.1.6 through the Treasurer and through staff at the Law Society, ensure that actual and potential providers of prepaid legal services are aware that the Law Society will co-operate in the establishment and operation of prepaid legal plans by meeting with providers including labour unions and commercial providers and with the Canadian Prepaid Legal Services Institute;
- 1.1.7 through the Legal Aid Committee, explore the prospects of integrating services provided by Legal Aid with services provided through prepaid plans (e.g. research facility, assessment of accounts).

## 2 MANDATE OF THE COMMITTEE

2.1 The Special Committee on Paralegals was created in September 1990. The Chair of the Special Committee on Paralegals subsequently created a Subcommittee on Access to Justice which included Harvey Strosberg, Jack Ground, Clay Ruby, and Fran Kiteley (Chair). In July 1992, the Subcommittee was converted to a Special Committee on Access to Legal Services. The Committee now includes: Lloyd Brennan, Robert Carter, Netty Graham and Fatima Mohideen.

2.2 The mandate throughout has been to identify and explore initiatives which the Law Society should take to increase the extent to which the public has access to Legal Services.

2.3 This report is one from the previous sub-committee setting out its recommendations arising from its meetings and meetings with staff of the Attorney-General.

## 3 DELIBERATIONS BY THE SUBCOMMITTEE

3.1 The Subcommittee met on April 17, 1991 and canvassed a list of over 20 areas which the Subcommittee might usefully explore including lawyer referral service expansion, literacy and plain language and class actions. The consensus was reached that the focus of the Subcommittee's deliberations should be on exploring the role that the Law Society might play in encouraging the availability of prepaid legal plans.

3.2 The Subcommittee considered the historical role which the Law Society had played which is described in section 4 below.

3.3 On June 17, 1991, the Subcommittee together with Alan Rock and Richard Tinsley met with Stephen Ginsberg, Executive Director, CAW Legal Services and Noel Bates of LawLine. The Subcommittee met with each of them separately for an hour. The candid observations made by Stephen Ginsberg and Noel Bates at that time have figured prominently in the Subcommittee's deliberations.

3.4 On October 8, 1991, the members of the Subcommittee together with Allan Rock, James Spence, Don Crosbie, Richard Tinsley, Meg Angevine, Andrew Brockett, Leah Dockrill and Bob Holden met with Alex Schwartz, Executive Director of the American Institute of Pre-Paid Legal Services. Mr. Schwartz is a well known (and persuasive) advocate of prepaid legal plans. The Subcommittee met with Mr. Schwartz for several hours and is grateful for his helpful input.

3.5 In the winter and spring of 1991-92, a series of meetings was held where representatives of the Law Society (including Alan Rock, Harvey Strosberg, Richard Tinsley, Don Crosbie and Fran Kiteley) met with representatives of the Ministry of the Attorney General (including Doug Ewart, Thea Herman, Susan Charendorf). A variety of initiatives were considered from which it emerged that there was considerable potential for the Law Society in encouraging the introduction of prepaid legal plans.

#### 4 HISTORY OF THE PREPAID LEGAL PLANS IN ONTARIO

4.1 Prepaid legal plans were initiated in the United States in the 1970's. Predominantly union driven in the early years, commercial or "for profit" plans have entered the market in growing numbers in recent years. In 1991 it was estimated some 17.5 million Americans are enrolled in pre-paid legal service plans.

4.2 In 1984, the U.A.W. (now the CAW) successfully bargained for the inclusion of prepaid legal plans as a benefit in collective agreements with Chrysler Ford and G.M. Canada. Implementation of the plan was delayed for one year until the fall of 1985.

4.3 As originally conceived, employees were required to consult or retain staff lawyers or "co-operating lawyers" who agreed to be paid in accordance with a tariff. The co-operating lawyers were to be selected by the plan administrators. This was the way the plan operated in the United States. Lawyers in the communities where there were large union memberships opposed the plans based upon the effective denial of freedom of choice of counsel.

4.4 As a result of the announcement of the inclusion of a pre-paid legal service benefit in the UAW collective agreement, the Law Society's special committee focused its deliberations on the operation of union sponsored pre-paid legal service plans. In January 1985 Convocation adopted a report of a special committee which recommended allowing members to participate in union sponsored pre-paid legal service plans including those operating on a staff lawyer or panel basis provided that beneficiaries under such plans were able to select any staff or cooperating lawyer under the plan and that any lawyer who agreed to the terms of the plan could become a cooperating lawyer. The recommendations also required the maintenance of solicitor-client privilege. The report also recommended that Rule 13 be changed to permit steering under such plans.

4.5 As a result of further information becoming available as to the anticipated operation of the UAW plan in October 1985 Convocation adopted further guidelines regarding the operating of pre-paid legal service plans as follows:

4.5.1 members could participate in plans where members of the public enrolled in the plan retained the freedom to select the lawyer of their choice without losing any of the plan's benefits regardless of whether the lawyer joins the panel or not;

4.5.2 where there was a panel, any lawyer who agreed to the terms of the plan could join the panel;

- 4.5.3 criteria for referrals to participating lawyers had to be based on the legal needs of the client;
  - 4.5.4 the Society's rules were to be changed to permit such referrals;
  - 4.5.5 the Society should be directly involved in establishing fee structures;
  - 4.5.6 and a plan's procedures could not interfere with the Society's responsibility to govern and discipline its own members.
- 4.6 On November 1, 1985 the Treasurer, Pierre Genest, wrote to the Director of the UAW Legal Services Plan outlining the guidelines passed by Convocation in October. The letter also commented on the lack of information provided to the Society by the Plan as to how it would operate.
- 4.7 On November 4, 1985 the Treasurer wrote to the profession attaching a copy of his letter of November 1, 1985 and indicating to the profession that as the Society had not received any specific information as to how the Plan was going to operate the Society could give no assurance that the UAW plan complied with the guidelines passed by Convocation and, therefore, participation by members might constitute professional misconduct.
- 4.8 On November 5, 1985 the UAW Legal Services Plan began operation pursuant to the collective agreement of October 1984.
- 4.9 Following the Treasurer's letter of November 4, 1985, negotiations were entered into with the UAW Legal Services Plan to permit the operation of the plan pending a judicial challenge to the authority of the Law Society to set guidelines. The interim agreement provided that lawyers could provide services to plan members without joining the plan's panels and would not be bound by the plan's fee schedules in providing legal services to plan members.
- 4.10 A formal application for judicial review of the Society's authority to set guidelines was filed in May of 1986. Following further negotiations a settlement was reached in the Spring of 1987. The settlement continued the interim agreement with respect to freedom of choice of counsel and the Law Society recognized the authority of the Plan to establish the fees.
- 4.11 The Law Society and Canadian Bar Association (Ontario Branch) agreed to engage Woods Gordon/William M. Mercer Limited to prepare a study on the feasibility of a pre-paid legal services plan in Ontario. That study was released in July 1986. In summary, the conclusions reached in that report are as follows:
- 4.11.1 that the legal profession should not attempt to administer plans itself because of the need for highly specialized knowledge and procedures;
  - 4.11.2 that since prepaid legal service plans are generally well regarded the legal profession should expend every effort to avoid being perceived as opposing plans and should endeavour to create a positive environment for such plans;
  - 4.11.3 that the profession should as part of creating a positive atmosphere critically examine its attitudes and rules relative to referral (or steering) and to fee discounting to identify ways to protect the public's and the profession's interest.

4.12 From time to time the Society receives inquiries from actual or potential providers of pre-paid legal service plans seeking information on the Society's guidelines for pre-paid legal plans. As a result of inquiries from "for profit" pre-paid plans (ones which are offered to the public at large through credit card affiliation, for example) Convocation in 1989 adopted guidelines for the operation of "for profit" plans. The guidelines drew upon those prepared by the American Bar Association and provide that the plan:

- 4.12.1 must allow the lawyer to exercise independent professional judgment on behalf of the client;
- 4.12.2 allow the lawyer to maintain client confidentiality;
- 4.12.3 allow the lawyer to avoid conflicts of interest and
- 4.12.4 allow the lawyer to practice in a competent manner.
- 4.12.5 must not involve improper advertising or solicitation or improper fee sharing and
- 4.12.6 must not interfere in any way with the relationship between the Law Society and the lawyer.

4.13 The Law Society has received inquiries from all sectors of the pre-paid market, both union and "for profit". To date advice on the Society's guidelines has been provided to 12 organizations.

4.14 Generally speaking, plans have submitted their documentation to the Society for a determination as to whether they comply with the Society's guidelines. Law Society staff review the documentation and give the opinion as to whether the plan is in conformance with guidelines or suggest changes to bring the plan within the guidelines. To date all suggestions made by staff have been accepted by the various plans.

4.15 Although there is no central registry of pre-paid legal service plans, the largest union sponsored plan, the CAW Legal Services Plan, has 87,000 members. LawLine and its affiliated programs have approximately 250,000 subscribers and dependents in a variety of plans from straight access plans to more comprehensive legal benefit programs.

## 5 DESCRIPTION OF PREPAID LEGAL PLANS

5.1 Referral Plans - not a true pre-paid plan. The member is referred to a lawyer or law firm recommended by the plan. The lawyer provides low cost advice and consultation plus specified additional services according to a plan fee schedule which is normally below the market rate.

5.2 Access Plans - most basic of plans. The purpose is to provide the member of the plan with access to a lawyer for advice and basic legal needs such as the preparation of a will. If more involved legal services are required the member is referred to a panel lawyer who has agreed to the plan's schedule of fees.

5.3 Comprehensive Plans. Benefits under these plans include the basic services provided under access plans plus coverage for other in-office and court work in most areas of law. The CAW plan is an example of such a plan. In addition to summary legal advice the plans provide coverage in such areas as real estate, family law, criminal law and corporate/commercial. Plan benefits are provided for the cost of the premium with some plans having a limit or a deductible.

5.4 Business Plans - provide basic business and corporate commercial law coverage. The scope and nature of the benefits vary from plan to plan according to the premium paid.

6 COMMUNICATIONS SURVEY 1992

6.1 The communications survey conducted by the Law Society earlier this year indicated that the public have had little direct experience with pre-paid plans and do not strongly support them. Only 2% of the respondents were currently enrolled in pre-paid legal plans suggesting a very limited knowledge of pre-paid legal service plans.

7 CONCLUSIONS

7.1 The availability of prepaid legal plans (through employment or private insurance) is an important means by which access to legal services can be promoted to the public in Ontario.

7.2 The Law Society has the following options:

7.2.1 sustain the status quo;

7.2.2 engage a consultant whose objective would be to develop dialogue with the public and with providers to encourage implementation of prepaid legal services plans;

7.2.3 using its current resources, promote the establishment and operation of prepaid legal plans by other providers (unions, insurance carriers);

7.2.4 design and implement a plan whereby the Law Society operates a prepaid legal services plan for the public.

7.3 The Sub-Committee elected against sustaining the status quo for the following reasons:

7.3.1 there are technical changes which must be made (advertising, Forms 2/3, steering) to address the current fictional compliance with the Rules of Professional Conduct and the Regulations regarding the filing of financial forms and accounting requirements;

7.3.2 members of the profession may be (wrongly) of the view that the Law Society is still opposed to such plans; until the members are aware that the Law Society is favourably disposed to such plans, committed participation may be illusory.

7.4 The Sub-Committee elected against the design and implementation of its own prepaid legal services plan because workplace and commercial providers exist and should be encouraged. The Law Society's role is to promote access to legal services.

7.5 The Sub-Committee elected against retaining at the Society's cost a consultant for purposes of promoting prepaid legal services for the same reasons as in section 7.4.

7.6 The Sub-Committee approved the recommendation that the Law Society should actively promote the design and introduction of prepaid legal services plans by workplace and commercial providers, and that the Law Society's efforts to do so could be accomplished by the recommendations set out in paragraph 1.1 and following.

29th January, 1993

7.7 In encouraging the development of prepaid legal plans, the Law Society and members should be guided by the following principles already adopted by the Law Society.

- 7.7.1 where a plan member must enroll in a pre-paid legal service plan as a condition of employment (i.e. union employee) that plan member must be entitled to a choice of counsel;
- 7.7.2 the plan provider must not interfere with the exercise of independent professional judgment by the lawyer on behalf of the client;
- 7.7.3 the plan provider must ensure that systems are developed to prevent violations of Rule 5 (conflict of interest);
- 7.7.4 the plan and participating lawyers must ensure that all advertising and trade names are accurate and do not lead to or create unjustified expectations;
- 7.7.5 lawyers may participate without violating Rule 12 (prohibition against telemarketing), provided that the personal contact with the potential member or subscriber is not undertaken by any lawyer who would be providing legal services under the plan, or any organization controlled directly or indirectly by such plan.

It was moved by James Wardlaw that Item 1.1.3 under the Recommendations dealing with an amendment to abolish the current tax on legal services provided through prepaid plans, be deleted.

Withdrawn

It was moved by James Wardlaw, seconded by Rino Bragagnolo that the sentence in Item 1.1 under the heading Recommendations be amended by deleting the words "actively promote and encourage".

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THE REPORT WAS ADOPTED

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CONVOCATION ADJOURNED FOR LUNCHEON AT 1:00 P.M.

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CONVOCATION RESUMED AT 2:00 P.M.

PRESENT:

The Treasurer, Bastedo, Bragagnolo, Brennan, R. Cass, Copeland, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Goudge, Graham, Hill, Howie, Jarvis, Krishna, Lamek, Lamont, Lax, Levy, McKinnon, Mohideen, Murray, O'Brien, Palmer, Pepper, Peters, Scace, Scott, Sealy, Somerville, Spence, Thom, Topp, Wardlaw and Weaver.

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PROFESSIONAL STANDARDS COMMITTEE

Meeting of January 14th, 1993

Mr. McKinnon spoke to Item A-A.1. re: Certification and the Practice Review programme.

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 14th of January, at 11:30 a.m., the following members being present: C. McKinnon (Chair), R. Murray (Vice-Chair), M. Weaver (Vice-Chair), P. Furlong, S.C. Hill, R. Manes, D. Murphy, M. Trofimenko.

Also Present: N. Amico, M. Devlin, S. Kerr, S. McCaffrey, P. Rogerson, F. Smith.

A.  
POLICY

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A.1. CERTIFICATION AND THE PRACTICE REVIEW PROGRAMME

- A.1.1. As part of its function within the Law Society, the Professional Standards Department is asked to review the names of lawyers applying for certification as specialists in order to advise whether these individuals have been or are participants in the Practice Review Programme. It is then in the discretion of the Certification Board to decide what effect this information should have on the application for specialist designation.
- A.1.2. Recently, however, a lawyer was referred to the Practice Review Programme by the Certification Board after being certified as a specialist in Immigration Law. The Board was concerned about the lawyer's Law Society record, which at the time of referral consisted of 5 complaints since 1987, and 4 Errors & Omissions claims since 1985, two of which were closed, with the claim being paid in full for one of those two. Since the time of referral, the lawyer has received a further two complaints and one additional E&O claim.
- A.1.3. Certification as a specialist implies an endorsement by the Law Society of a lawyer's competence; referral to the Practice Review Programme contradicts that endorsement, as evidenced by the fact that names of lawyers authorized for participation in the Programme are removed from the Lawyer Referral Service roster.
- A.1.4. In and of itself, the referral to the Professional Standards Department of a lawyer who has been certified by the Certification Board as a specialist in a particular area of law causes concern to the Professional Standards Committee about the procedure being followed.



- A.1.5. The Committee therefore recommends that the Certification Committee reconsider the process being followed by the Certification Board when the Board has concerns about the competence of a member who applies for certification as a specialist. If the Certification Board wishes to seek the assistance of the Professional Standards Department in investigating and assessing a member's competence, the Committee further recommends that the Certification Committee consider the costs of obtaining such an assessment, and the appropriate mechanism for the recovery of those costs.

B.  
ADMINISTRATION

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B.1. PRACTICE REVIEW PROGRAMME - FILE CLOSURES

- B.1.1. Two Practice Review files were closed by the Committee based on recommendations from staff, because the members were unwilling to participate in the Programme. These files are being referred to Senior Counsel, Discipline pursuant to Committee policy.
- B.1.2. A third file was closed on the basis of the member's successful completion of the Practice Review Programme. The member began participation in the Programme in March, 1991, implemented the recommendations made in the course of the programme, and has received no complaints or claims since January, 1992. It appears that the member has improved the quality of his practice and has benefitted from the Practice Review Programme.

C.  
INFORMATION

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C.1. PRACTICE REVIEW PROGRAMME - FILE CLOSURE - RESIGNATION

- C.1.1. The solicitor was authorized for participation in the Practice Review Program in February 1989.
- C.1.2. The solicitor was found guilty of professional misconduct and was permitted to resign effective October 22, 1992. Accordingly, the file has been closed.

C.2. COMPLAINTS REVIEW - PRACTICE REVIEW PROGRAMME

- C.2.1 In her role as Complaints Commissioner, Mrs. Graham recently reviewed a complaint matter concerning a member participating in the Practice Review Programme. Mrs. Graham wished to address the Committee about this matter; since she was unable to attend the Committee meeting, this matter has been deferred to the February Committee meeting.

C.3. STANDARD FOR LEGAL AID PANEL MEMBERS

C.3.1. A Joint Sub-committee of the Legal Aid and Professional Standards Committees, chaired by Bruce Durno, has been struck to establish the feasibility of determining and imposing standards of professional practice, training and experience for entry to and retention on Legal Aid Panels. Representatives on the Sub-Committee are drawn from the Law Society, the Ontario Legal Aid Plan and the practising Bar. The Sub-Committee is in the nascent stage of its deliberations, and is seeking the views of the profession across the province to ensure that consideration is given to regional practices.

C.3.2 The Joint Sub-Committee presented a draft budget to the Professional Standards and Legal Aid Committees, attached hereto as page C1. Because the structure and membership of the Family and Immigration/Refugee Standards Sub-Committees have not yet been determined, the Committee was of the view that consideration of the proposed budget for these sub-committees was premature.

C.3.3 In principle, the Committee supports the proposed equal sharing of budget costs between the Professional Standards and Legal Aid Committees, but no funding is available in the present Professional Standards budget for the sub-committees. The chair undertook to discuss the matter with the chairs of the Legal Aid and Finance Committees.

C.4. REQUALIFICATION

C.4.1. The Joint Sub-Committee on Requalification, chaired by Stephen Goudge, has met on four occasions, clarifying its mandate and the issues to be addressed in the requalification policy. The sub-committee is presently seeking the views of members of the profession and interested organizations, after which a series of meetings is scheduled to assess the responses received and formulate a proposal for consideration by Convocation.

C.5. CIVIL LITIGATION CHECKLIST

C.5.1. The Civil Litigation Sub-Committee is in the process of preparing a recommendation for consideration by the Committee at its February meeting. The Committee expects to report to Convocation in February.

C.6. SECURITIES CHECKLIST

C.6.1. The Securities Sub-Committee is in process of assessing the necessity for a checklist in this area of practice.

C.7. WILLS AND ESTATES CHECKLIST

C.7.1. A draft of the Wills and Estates Checklist was distributed to Committee members at the November meeting with the intent that it be reviewed for possible approval at the January meeting. In December, however, upon the request of a representative of the Wills and Estates Sub-Committee, a copy of the latest draft of the Checklist was distributed to all members of the Sub-Committee for their review and comment. At present this matter has therefore been tabled until the February, 1993 meeting, in order that input from members of the Sub-Committee can be considered in determining whether approval should be given to the Checklist in its present form.

C.8. FAMILY LAW CHECKLIST

- C.8.1. The Family Law Checklist is complete with the exception of a new section that is being prepared to cover child welfare proceedings. This section is being drafted by Roselyn Zisman, a Toronto practitioner called to the Bar in 1976. Ms. Zisman estimates that the section will be completed by mid-January, and the checklist in its entirety will be submitted to the Committee with a view to its approval at the February meeting.

C.9. PROFESSIONAL STANDARDS - DEPARTMENTAL UPDATE

- C.9.1. Ms. Nancy Amico has joined the staff of the Professional Standards Department effective December 7, 1992, as Co-ordinator of the Practice Review Programme. Seven additional members have been authorized to participate in the Practice Review Programme, and four Programme files have been closed, bringing the total number of open files up to 100. Eleven files are in abeyance due to members' suspension or disciplinary proceedings. A list of 20 potential candidates for the Programme has been prepared by the Errors & Omissions Department, by identifying those lawyers who both reported more than one potential claim in 1992 and also appear likely to benefit from the Programme. Staff of the Professional Standards and Errors & Omissions Departments are meeting to assess the priority that should be given to these potential candidates, in seeking authorization for their participation in the Programme.
- C.9.2 Bar Admission Course workshops on establishing a law practice are offered by Professional Standards Department staff at the three Bar Admission Course locations. The workshops cover issues such as budgets, fee setting and retainers, office systems, bookkeeping, advertising and marketing, equipment, and other practical matters related to law practice management. Enrolment for 1992/93 has exceeded the record set in 1991/92: to date, a total of 225 students have registered for the London, Ottawa and Toronto workshops.
- C.9.3. Lawyers with alcohol and other drug abuse problems are frequently brought to the attention of the Practice Advisory Service and the Professional Standards Department, both of which liaise with the Ontario Bar Alcoholism Program ("OBAP") and the LINK - Lawyers' Assistance Programme in seeking assistance for these lawyers. Staff represent the Law Society at monthly meetings of the OBAP "council", and often receive valuable advice of benefit in dealing with alcoholic and other addicted lawyers.
- C.9.4. As part of the implementation of its sexual harassment policy, the Law Society provided to all staff a program that explained what conduct could constitute sexual harassment, set out the policy of the Society, and described the assistance available at the Society through that policy. The program should serve to enhance sensitivity to this issue.

29th January, 1993

C.10. PRACTICE ADVISORY SERVICE - STATUS REPORT

- C.10.1. The Service responded to 368 requests for assistance in October, and 500 queries in November, 1992. A large number of calls relate to mobility in the profession, including such issues as solicitors' liens, the closing of a law practice, and relationships between members of a firm that is splitting up. Financial issues are also of concern, compelling many firms to review their internal arrangements and offer juniors space-sharing facilities or association with remuneration based upon their billings, rather than guaranteed employment. The professional implications of these arrangements are discussed in the context of Rules 4, 5, 9 and 12 of the Rules of Professional Conduct, and Regulations 573 and 574 under the *Law Society Act*, on books, records and accounts.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"C. McKinnon"  
Chair

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

C-Item C.3.2 - Draft budget of the Joint Subcommittees of the Legal Aid Committee and the Professional Standards Committee.  
(marked C1)

THE REPORT WAS ADOPTED

RESEARCH AND PLANNING COMMITTEE

Meeting of January 14th, 1993

Mr. Bastedo spoke to Item A-A.1. re: Distribution of Convocation transcripts.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January, 1993, at 8:00 a.m, the following members being present: T. Bastedo (Chair), L. Brennan, C. Curtis, S. Elliott, A. Feinstein, J. Herbert, P. Lamek, R. Manes, C. McKinnon, M. Somerville.

Also present: A. Brockett, S. Hodgett.

A.  
POLICY

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A.1            DISTRIBUTION OF CONVOCATION TRANSCRIPT TO COUNTY AND DISTRICT LAW LIBRARIES

A.1.1        Recommendation

Your Committee recommends:

A.1.1.1      That the transcripts of the January 1993 meetings of Convocation be the final transcripts to be sent to the County Law Libraries in printed paper form.

A.1.1.2      That copies of the printed transcript should continue to be available in the Great Library at Osgoode Hall.

A.1.1.3      That, commencing with the February 1993 meetings of Convocation, the transcript should be sent to all County Law Libraries on computer diskette.

A.1.1.4      That the availability of the transcript on diskette in all County Law Libraries should be advertised to members in the *Benchers Bulletin*.

A.1.1.5      That the transcript of each session of Convocation should be accompanied by a table of contents to facilitate the search for particular topics.

A.1.2        Reasons for the Recommendation

A.1.2.1      Since September 1991, a transcript of the proceedings of each meeting of Convocation has been produced. Copies of the transcript have been sent to the Great Library and to each of the County and District Law Libraries.

A.1.2.2      When the project began, it was agreed that, after one year's experience, a survey of the County and District Law Libraries would be undertaken to evaluate the arrangement whereby they are each sent a copy of the transcript.

A.1.2.3      In November 1992, a questionnaire was sent to the 47 County and District Law Librarians and the Presidents of the County and District Law Associations. Replies were received from 30 Law Associations.

A.1.2.4              Of the 30 Librarians who replied:

- 0 reported that the transcripts had been consulted more than 20 times during the year.
- 0 reported that the transcripts had been consulted 10 - 20 times during the year.
- 4 reported that the transcripts had been consulted 5 - 10 times during the year.

- 10 reported that the transcripts had been consulted fewer than 5 times during the year.
- 9 reported that the transcripts had never been consulted during the year.
- 7 reported that they did not know how many times the transcripts had been consulted during the year.

A.1.2.5            Of the 30 Law Association Presidents who answered the question "If Convocation decides to continue the distribution of the transcript to those libraries which request it, would you recommend that your County and District Law Library continue to receive it?"

- 10 answered Yes.
- 20 answered No.

A.1.2.6            The cost of producing paper copies of the transcripts for the County Law Libraries is \$8,000 per annum. Although the availability of the transcript may not have been sufficiently advertised and although a one-year experiment may not be long enough, your Committee cannot justify the continued distribution of a paper transcript at such cost.

A.1.2.7            Nevertheless, your Committee is of the opinion that Convocation should not go back on its decision to make the proceedings of Convocation available to the membership by means of a transcript. It is for this reason that your Committee recommends that the transcript be distributed to the County Law Libraries on computer diskette each month. The cost of this distribution would not exceed \$750 per annum.

B.  
ADMINISTRATION

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No matters to report.

C.  
INFORMATION

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C.1                REPORT OF THE DISPUTE RESOLUTION SUBCOMMITTEE

C.1.1            Your Committee received and adopted a draft final report from its Dispute Resolution Subcommittee.

C.1.2            The final report will be submitted to Convocation for consideration at the meeting of February 26, 1993.

C.2        STRATEGIC PLANNING CONFERENCE: CONCLUSIONS AND RECOMMENDATIONS

- C.2.1      The members of the Strategic Planning Conference Subcommittee have met with the Group Facilitators to draft a set of conclusions and recommendations from the Strategic Planning Conference of September, 1992. It is expected that the matter will be before your Committee at its February 1993 meeting.

C.3        SUBCOMMITTEE ON NON-BENCHER REPRESENTATION ON LAW SOCIETY COMMITTEES

- C.3.1      The Subcommittee on Non-Bencher Representation on Law Society Committees (A. Feinstein, S. Elliott, J. Herbert, R. Manes) gave a progress report.
- C.3.2      The Subcommittee plans to consult Committee Chairs and non-bencher Committee members for their views on non-bencher Committee membership in light of their experience with the experimental scheme this year.

C.4        VOLUNTARY PRO BONO SUBCOMMITTEE

- C.4.1      R. Manes, Chair of the Voluntary Pro Bono Subcommittee, reported that the United Way of Greater Toronto had been asked to consider providing administrative support and publicity for a proposed project to co-ordinate the provision of *pro bono* legal services to non-profit and charitable organizations in Metropolitan Toronto.

C.5        SUBCOMMITTEE ON THE ROLE OF THE LAW SOCIETY

- C.5.1      The Subcommittee on the Role of the Law Society (F. Mohideen, C. Hill, P. Lamek) has held a preliminary meeting to consider its mandate which is to draft a statement setting out the role of the Law Society.

C.6        INDEX OF PAST REPORTS AND POLICY DOCUMENTS

- C.6.1      In co-operation with the Archives Department, work is proceeding on the preparation of an index of policy documents adopted by Convocation during 1992. When complete, the 1992 index will be reviewed by your Committee to determine whether to produce an index covering the years 1980-1991.

C.7        SURVEY OF HOURS SPENT BY BENCHERS ON LAW SOCIETY BUSINESS

- C.7.1      Work is under way, in co-operation with the Communications Director, on the drafting of a report from the Survey of Benchers Hours conducted from January to April 1992.

C.8        FUTURE BUSINESS

- C.8.1      Your Committee has the following items of business for its future agendas:
- C.8.1.1    Rules of Order for the Law Society Annual Meeting.

29th January, 1993

- C.8.1.2 A review of the Rules of Order for Convocation.
- C.8.1.3 Revised standard format and numbering system for Convocation reports.
- C.8.1.4 Keeping the profession informed on technological developments (a one-person subcommittee chaired by Susan Elliott is in existence).
- C.8.1.5 Structure for determining Law Society priorities.
- C.8.1.6 Consideration of the report on expenditures incurred by candidates and law associations in the 1991 bench election.
- C.8.1.7 Consideration of whether life benchers may move and second motions in Convocation.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"T. Bastedo"  
Chair

THE REPORT WAS ADOPTED

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of January 1993 at 10:30 a.m., the following members being present: P. Peters (Acting Chair), R. Cass, G. Farquharson, N. Finkelstein and M. Weaver. Also in attendance was: A. John (Secretary).

B.  
ADMINISTRATION

1. COMPLAINTS/INVESTIGATIONS

Your Committee authorized an investigation in three new cases and prosecution in one new case.



29th January, 1993

2. THE LAW SOCIETY OF NEWFOUNDLAND; APPEAL TO THE SUPREME COURT OF CANADA

The Benchers of the Law Society of Newfoundland are seeking leave to appeal a recent decision of the Newfoundland Court of Appeal to the Supreme Court of Canada. The Nixon case involves a paralegal who wished to represent a person in Provincial Court on a charge under the Highway Traffic Act. The Law Society of Newfoundland took the position that this would constitute the practice of law. Nixon succeeded at trial and on appeal.

Your Committee suggested that once leave to appeal was granted by the Supreme Court of Canada, the Society should seek a legal opinion on the potential legal and financial effect of this decision, bearing in mind the particular governing legislation in Ontario.

C.  
INFORMATION

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Attached hereto is a list of current prosecutions.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"D. O'Connor"  
Chair

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

Item C - List of Pending Court Matters.

THE REPORT WAS ADOPTED

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Meeting of January 14th, 1993

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 14th of January, 1993 at 11:30 a.m., the following members being present: S. Elliott (Chair), S. Goudge, J. Lax, J. Monaghan, F. Mohideen, S. O'Connor and J. Spence.

Also present: J. Herbert, E. Brunet, A. Langlois and S. Hodgett.

A.  
POLICY

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No matters to report.

B.  
ADMINISTRATION

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No matters to report.

C.  
INFORMATION

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1. FOLLOW-UP TO TRANSITIONS

- 1.1. Your Committee endorsed a procedure for follow-up to the *Transitions* report, which will attempt to involve other organizations and as many members of the profession as practical. On December 17, 1992, a planning meeting with representatives of a number of organizations was held at Osgoode Hall. The meeting was chaired by the Chair of the Women in the Legal Profession Committee and hosted by the Treasurer.
- 1.2. It was decided that a coordinating committee will be formed. It is planned that this committee will include representatives from as wide a variety of organizations as possible.
- 1.3. The Committee will proceed with this project and make a further report to Convocation in the future.

2. "CROSSING THE BAR" - ARCHIVES EXHIBIT ON WOMEN IN THE LEGAL PROFESSION

- 2.1. Staff members of the Archives Department attended the meeting of the Committee and outlined the upcoming exhibit on women in the legal profession, "Crossing the Bar." The exhibit is scheduled to open on March 25, 1993. The Committee has offered to assist the Archives Department in a number of respects.

3. THE EQUITY COMMITTEE

- 3.1. The Chair of the Equity Committee, who is also a member of this Committee, briefly outlined projects currently being undertaken by the Equity Committee. The areas of interest of the two Committees are often related, and an effort will be made to exchange information about each Committee's activities.

4. NAME OF THE COMMITTEE

- 4.1. The Committee, at a future meeting, will consider whether to recommend to Convocation that the name and mandate of the Committee be changed. Committee members have expressed concern that the name may not reflect adequately the work and concerns of the Committee.

5. OTHER MATTERS

- 5.1. The Committee will continue efforts to have gender issues placed on the agenda of the upcoming roundtable of managing partners.
- 5.2. The Chair and staff reported that a questionnaire for the review of the sexual harassment policy is being developed.
- 5.3. At a future meeting a member of the staff from the Law Society's Human Resources Department will be asked to make a report about the Law Society's staff sexual harassment policy and its implementation.
- 5.4. Joan Lax reported to the Committee that the Joint Subcommittee on the Sexual Harassment of Articling Students will be making a report in the near future.

ALL OF WHICH is respectfully submitted

DATED this 29th day of January, 1993

"S. Elliott"  
Chair

THE REPORT WAS ADOPTED

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NOTICES OF MOTION RE: NAME CHANGE

NOTICE OF MOTION

MOVED BY: Stuart Thom

SECONDED BY: Robert Topp

THAT steps be taken toward the end of changing the name of The Law Society of Upper Canada to The Law Society of Ontario.

NOTICE OF MOTION

MOVED BY: Stuart Thom

SECONDED BY: Robert Topp

THAT the feeling of the membership be sought by way of a plebiscite on the question of whether the name of the Society should be changed to the Law Society of Ontario.

It was moved by James Wardlaw, seconded by Mary Weaver THAT the two Motions be tabled.

Lost

It was moved by Stuart Thom, seconded by Robert Topp THAT steps be taken toward the end of changing the name of The Law Society of Upper Canada to The Law Society of Ontario.

Lost

ROLL-CALL VOTE

Bastedo	For
Bragagnolo	Against
Brennan	For
Copeland	Against
Elliott	For
Epstein	Abstain
Feinstein	Against
Finkelstein	For
Goudge	For
Graham	Against
Hill	Against
Howie	Against
Krishna	Against
Lamek	Against
Lamont	Against
Lax	For
Levy	Against
McKinnon	For
Mohideen	For
Murray	Against
O'Brien	Against
Palmer	For
Peters	Against
Scott	Against
Sealy	For
Somerville	Against
Spence	Abstain
Thom	For
Topp	For
Wardlaw	Against
Weaver	Against

It was moved by Philip Epstein, seconded by Marc Somerville that the Law Society of Upper Canada membership be polled by way of a referendum to determine whether the name should be changed to the Law Society of Ontario and the title Treasurer be changed to President.

Lost

ROLL-CALL VOTE

Bastedo	Against
Bragagnolo	Against
Brennan	Against
Copeland	For
Elliott	For
Epstein	For
Feinstein	Against
Finkelstein	Against
Goudge	Against
Graham	Against
Hill	Against
Howie	Against
Krishna	Against
Lamek	Against
Lamont	Against
Lax	Against
Levy	Against
McKinnon	Against
Mohideen	For
Murray	Against
O'Brien	Against
Palmer	For
Peters	Against
Scott	For
Sealy	For
Somerville	Against
Spence	Abstain
Thom	Against
Topp	For
Wardlaw	Against
Weaver	Against

It was moved by Patricia Peters, seconded by Colin McKinnon that a plebiscite be taken.

Lost

ROLL-CALL VOTE

Bastedo	Against
Bragagnolo	Against
Brennan	For
Copeland	Against
Elliott	For
Epstein	Against
Feinstein	Against
Finkelstein	Against
Goudge	Against
Graham	Against
Hill	Against
Howie	Against
Krishna	Against
Lamek	Against
Lamont	Against
Lax	For
Levy	Against
McKinnon	For
Mohideen	Against
Murray	Against
O'Brien	Against
Palmer	For
Peters	For
Scott	For
Sealy	Against
Somerville	Against
Spence	Abstain
Thom	For
Topp	For
Wardlaw	Against
Weaver	Against

CONVOCATION ROSE AT 3:30 P.M.

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Confirmed in Convocation this       day of       , 1993.

Treasurer