

26th July, 2001

MINUTES OF SPECIAL CONVOCATION

Thursday, 26th July, 2001  
10:00 a.m.

PRESENT:

The Treasurer (Vern Krishna, Q.C., FCGA), Aaron, Bindman, Braithwaite, Campion (by telephone), Carey, Carpenter-Gunn, Cass, Chahbar, Coffey, Copeland, Crowe, Diamond, E. Ducharme, Elliott, Epstein, Feinstein, Finkelstein, Gottlieb, Lamont, Lawrence, Legge, MacKenzie, Manes, Marrocco, Millar, Minor, Mulligan, Murphy, Murray, Pilkington, Porter, Potter, Puccini, Ross, Ruby (by telephone), Simpson, Swaye, Topp (by telephone), White, Wilson and Wright.

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The reporter was sworn.

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IN PUBLIC

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MOTION - ELECTION OF BENCHER

WHEREAS Vern Krishna, who was elected from the Province of Ontario "A" Region (the City of Toronto) on the basis of the votes cast by all electors, has been elected as Treasurer; and

WHEREAS upon being elected as Treasurer, Vern Krishna became a bencher by virtue of that office and ceased to hold office as an elected bencher in accordance with subsection 25 (2) of the *Law Society Act*, thereby creating a vacancy in the number of benchers elected from the Province of Ontario "A" Electoral Region (the City of Toronto) on the basis of the votes cast by all electors;

It was moved by Mr. Feinstein, seconded by Mr. White THAT under the authority contained in By-Law 5, Janet E. Minor, having satisfied the requirements contained in subsection 50 (1), subsection 50 (2) and subsection 52 (1) of the By-Law, and having consented to the election in accordance with subsection 52 (2) of the By-Law, be elected by Convocation as bencher, to take office immediately after her election, to fill the vacancy in the number of benchers elected from the Province of Ontario "A" Electoral Region (the City of Toronto) on the basis of the votes cast by all electors.

Carried

The Treasurer and Benchers welcomed Ms. Minor to Convocation.

TREASURER'S REMARKS

The Treasurer introduced his Executive Assistant Ms. Deirdre Rowe Brown.

The Treasurer advised that he had taken a leave of absence from the University of Ottawa so that he could devote his time to his duties as Treasurer. In that regard he outlined the manner in which the business of Convocation would be conducted.

The Treasurer introduced Mr. Richard Margetts, President of the Law Society of British Columbia who was present to observe the proceedings of Convocation and who later joined the Benchers for luncheon.

**MOTION - AMENDMENT TO BY-LAW 9 RE: COMMITTEES**

It was moved by Mr. Wright, seconded by Ms. Diamond THAT

**THE LAW SOCIETY OF UPPER CANADA**

**BY-LAW 9  
[COMMITTEES]**

THAT By-Law 9 [Committees] made by Convocation on January 28, 1999 and amended by Convocation on February 19, 1999, March 26, 1999, May 28, 1999 and December 10, 1999 be further amended as follows:

1. Paragraph 5 of section 2 of the By-Law is amended by deleting "Legal Aid Services Committee/le Comité des services d'aides juridique" and substituting "Access to Justice Committee/le Comité sur l'accès à la justice".
2. Section 2 of the By-Law is further amended by adding the following:
  10. Emerging Issues Committee/le Comité sur les nouveaux enjeux.
  11. Inter-Jurisdictional Mobility Committee/le Comité sur la mobilité interjuridictionnelle.
3. The By-Law is amended by adding the following:

**EMERGING ISSUES COMMITTEE**

16.2 The mandate of the Emerging Issues Committee is to monitor emerging policy issues affecting the Society and the legal profession that do not fall directly within the jurisdiction of any other standing committee, to undertake and direct research into such policy issues and to develop for Convocation's approval strategic plans and other proposals relating to such policy issues.

**COMITÉ SUR LES NOUVEAUX ENJEUX**

16.2 Le mandat du Comité sur les nouveaux enjeux est de suivre les questions d'actualité ayant une incidence sur le Barreau et la profession juridique qui ne sont pas directement du ressort des autres comités permanents. Il a aussi pour mission de diriger les travaux de recherche sur ces questions et d'élaborer des plans stratégiques et d'autres propositions aux fins d'approbation par le Conseil.

**INTER-JURISDICTIONAL MOBILITY COMMITTEE**

16.3 The mandate of the Inter-Jurisdictional Mobility Committee is to develop for Convocation's approval policy options on all matters relating to the inter-jurisdictional mobility of members of the legal profession.

### COMITÉ SUR LA MOBILITÉ INTERJURIDICTIONNELLE

16.3 Le mandat du Comité sur la mobilité interjuridictionnelle est d'élaborer, aux fins d'approbation par le Conseil, des options de politiques sur toutes les questions touchant la mobilité interjuridictionnelle.

2. The By-Law is amended by revoking subsection 17 (8), section 18 and subsection 19 (2).

Carried

### MOTION - COMMITTEE ASSIGNMENTS AND SPECIAL APPOINTMENTS

It was moved by Mr. White, seconded by Mr. Carey THAT,

1. The existing Proceedings Authorization Committee be disbanded;
2. Earl Cherniak, Neil Finkelstein, Gavin MacKenzie and Heather Ross be appointed as members of the Proceedings Authorization Committee; and
3. Gavin MacKenzie be appointed as chair of the Proceedings Authorization Committee.

Carried

It was moved by Mr. White, seconded by Mr. Carey that the list of Committee Assignments and Special Appointments circulated with the amendment that Stephen Bindman be added to the Access to Justice Committee be adopted.

Carried

### ADMISSIONS COMMITTEE

Edward Ducharme, Chair  
George Hunter, Vice-Chair

Larry Banack  
Thomas Carey  
John Campion  
Gillian Diamond  
Pamela Divinsky  
Donald Lamont  
Robert Lalonde  
Ronald Manes  
Robert Martin  
Daniel Murphy

FINANCE & AUDIT COMMITTEE

Clayton Ruby, Chair  
Seymour Epstein, Vice-Chair  
Marshall Crowe, Vice-Chair

Ronald Cass  
Abdul Chahbar  
Andrew Coffey  
Gillian Diamond  
Pamela Divinsky  
Todd Ducharme  
Neil Finkelstein  
Donald Lamont  
Laura Legge  
Allan Lawrence  
Marilyn Pilkington  
Julian Porter  
Gerald Swaye  
Donald White  
Bradley Wright

Audit Sub-Committee:

Bradley Wright, Chair  
Neil Finkelstein, Vice-Chair  
Donald White, Vice-Chair  
Abdul Chahbar  
Allan Lawrence

GOVERNMENT RELATIONS & PUBLIC AFFAIRS COMMITTEE

Frank Marrocco, Chair  
John Campion, Vice-Chair

Marion Boyd  
Leonard Braithwaite  
Abdul Chahbar  
Andrew Coffey  
Paul Copeland  
Charles Harnick  
Allan Lawrence  
Julian Porter  
William Simpson  
Michele Strom, LPIC

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Robert Topp, Chair  
Larry Banack, Vice-Chair  
Abdul Chahbar, Vice-Chair

Robert Aaron  
Andrew Coffey  
Marshall Crowe  
Gillian Diamond  
Marilyn Pilkington  
Helene Puccini  
Gerald Swaye  
Donald White  
Richmond Wilson

PROFESSIONAL DEVELOPMENT & COMPETENCE COMMITTEE

Eleanore Cronk, Chair  
Earl Cherniak, Vice-Chair  
Kim Carpenter-Gunn, Vice-Chair

Gordon Bobesich  
Carole Curtis  
Susan Elliott  
Abraham Feinstein  
Barbara Laskin  
Janet Minor  
Gregory Mulligan  
Helene Puccini  
William Simpson  
Richmond Wilson

PROFESSIONAL REGULATION COMMITTEE

Gavin MacKenzie, Chair  
Carole Curtis, Vice-Chair  
Todd Ducharme, Vice-Chair  
Neil Finkelstein, Vice-Chair  
Heather Ross, Vice-Chair

Robert Aaron  
Stephen Bindman  
Patrick Furlong  
Gary Gottlieb  
Derry Millar  
Ross Murray  
Marilyn Pilkington  
Judith Potter  
Sanda Rodgers

EQUITY & ABORIGINAL ISSUES COMMITTEE

Paul Copeland, Chair  
Derry Millar, Vice-Chair  
Helene Puccini, Vice-Chair

Stephen Bindman  
Leonard Braithwaite  
Thomas Carey  
Gary Gottlieb  
Robert Lalonde  
Janet Minor  
Judith Potter  
Bradley Wright

LPIC BOARD OF DIRECTORS

Ross Murray, Chair

Kim Carpenter-Gunn  
Abdul Chahbar  
Marshall Crowe  
Frank Marrocco  
Derry Millar

ACCESS TO JUSTICE COMMITTEE

Ronald Manes, Chair  
Marion Boyd, Vice-Chair  
Barbara Laskin, Vice-Chair

Larry Banack  
Stephen Bindman  
Paul Copeland  
Todd Ducharme  
Seymour Epstein  
Charles Harnick  
Robert Lalonde  
Derry Millar  
Ian Scott

LITIGATION COMMITTEE

Kim Carpenter-Gunn, Co- Chair  
Julian Porter, Co-Chair

Larry Banack  
Earl Cherniak  
Neil Finkelstein  
Ronald Manes  
Frank Marrocco  
Clayton Ruby  
Gerald Swaye  
Donald White

EMERGING ISSUES COMMITTEE

George Hunter, Co-Chair  
Niels Ortved, Co-Chair

Earl Cherniak  
Abraham Feinstein  
Susan Elliott  
Seymour Epstein  
Allan Lawrence  
Harvey Strosberg

ONTARIO LAWYERS' GAZETTE ADVISORY BOARD

Julian Porter, Chair  
Robert Topp, Vice-Chair

Stephen Bindman  
Gregory Mulligan  
Bradley Wright

HERITAGE COMMITTEE

Thomas Carey, Chair  
Pamela Divinsky, Vice-Chair

Patrick Furlong  
Allan Lawrence  
Derry Millar  
Helene Puccini

INTER-JURISDICTIONAL MOBILITY COMMITTEE

Derry Millar, Chair  
Gavin MacKenzie, Vice-Chair

John Campion  
Gillian Diamond  
Abraham Feinstein  
George Hunter  
Niels Ortved

REPORT ON CANLII - VIRTUAL LAW LIBRARY

Mr. Feinstein presented the Report on CanLII, the Virtual Law Library project for consideration by Convocation.

Report to Convocation  
July 26, 2001

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Virtual Law Library - CanLII

Purpose of Report:      Information  
                                    Decision

CANLII - STATUS REPORT AND BUDGET PROPOSAL

Issue for Convocation's Consideration

1. At the Federation of Law Societies meeting in February 2001 delegates were advised that approval of a three-year funding proposal for CanLII, the Virtual Law Library project, would be sought at the Federation meeting in Saskatoon in August.
2. Delegates have been requested to seek authority from their respective law societies to approve the budget proposal at the August Federation meeting.
3. The projected cost per member of each law society in each of the three years is approximately \$10 to \$15.



### CanLII Project to Date

#### Background

4. In recent years there has been a significant increase in court decisions and in the pace of development of legislation and regulations. The profession's efforts to maintain and enhance competence requires members to research case law and statutes regularly to ensure that the public is being provided with accurate and current advice. The cost to individual lawyers of maintaining a library with case law services and up-to-date legislation has increased consistently over the years and continues to do so.
5. The Virtual Law Library project, known as CanLII, was undertaken with the following goals in mind:
  - a. To create a new, original web resource offering free access to all primary sources of Canadian law;
  - b. To publish comprehensive Canadian primary legal collections; and
  - c. To facilitate legal research.
6. The benefits for users of CanLII include,
  - a. access to free primary legal materials;
  - b. information accessible from any location with Internet access, 24 hours a day, 7 days a week;
  - c. substantial savings on primary legal materials;<sup>1</sup>
  - d. access to a research tool that is "user-friendly" and easy to search;
  - e. one search strategy and search tool for all Canadian law and across jurisdictions.

#### Progress Report

7. Since September 2000, a static site, built for demonstration purposes has evolved into a dynamic resource. The software used to monitor the site shows that visits to CanLII are increasing. In May 2001, CanLII received an average of 16,604 hits per day, with an average of 7,301 pages viewed per day. The average number of visits per day was 542, with an average visit length of 13 minutes.
8. These figures indicate a growing user base. This increase in traffic and interest is also observed in the number of e-mails received on the Infocanlii service, and in the quality of the questions submitted. Legal practitioners who have viewed a demonstration of the site have all been impressed with the ease with which searching can be done across all Canadian jurisdictions. The Canadian Association of Law Librarians has provided positive comments about CanLII and the potential that this new resource offers.

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<sup>1</sup> Cancelling a subscription to one law report could save an individual lawyer or firm approximately \$1,000 per year.

9. In terms of case law content, the databases increased to 37 case law collections, with 30,818 documents in these collections alone. Almost 9,000 new decisions and 10,000 files per month are being added.

|                 | March 21, 2001 | June 20, 2001   |
|-----------------|----------------|-----------------|
| Decisions added | 22,180         | 30,818 (+8,638) |
| Files added     | 30,362         | 39,818 (+9,456) |
| New collections | 29             | 37 (+8)         |
|                 |                |                 |

10. The goals of the initial phase have been attained. The nature and structure of CanLII including governance, board membership and terms of reference, and voting rights have been agreed upon. The documents for the incorporation of CanLII as a non-profit federal corporation have been submitted to the government. Letters of authorization and relationships have been developed with all information-supplying jurisdictions. Solutions or workable approaches to known technical and standards issues have been proposed.
11. On the technical front extensive work has been undertaken to better adapt material received in various formats to the CanLII structure, enhance the accessibility of indexes, add collections of materials to the databases, and correct collection-specific problems to enhance user access.

#### Expanding the collection

12. CanLII's continuing goal is to expand its collection of resources. The most significant accomplishment to date is that the CanLII site now includes collections from all Canadian Courts of Appeal. This goal was officially attained at the end of May with the inclusion of the New Brunswick Court of Appeal. CanLII has also expanded its collection of reports from all provinces, as set out in Appendix 1.

#### Continuing with the current funding plan

13. The Project Director, Janine Miller, presented a projected 3-year budget at the Montreal meeting of the Federation of Law Societies in February 2001. She confirmed that the objectives of the project were continuing to be met and that funding requirements, as had originally been stated, would be held within the \$10 - \$15 range per member of each law society, per year. She has indicated that if libraries are to achieve savings it is important that CanLII be seen as a reliable and permanent source of information. For this to occur there needs to be a commitment to long term stable funding to ensure that the project can continue.
14. One of CanLII's goals is to provide a resource to the legal profession that will make it possible for lawyers to have free access to a wide range of primary Canadian legal materials. It is already the case that the price lawyers would have to pay to purchase the equivalent publications and services available in the CanLII collection far exceeds the annual contribution of lawyers to the cost of CanLII. These potential savings to users of CanLII will continue to escalate as the collections on CanLII grow.

#### Conclusion

15. The CanLII project has evolved quickly in the last few months, building on the ground work accomplished during the Fall and Winter. More developments will continue to emerge. For 2002, the main goals are to,

- a. continue to add new case law and legislation to the site;
- b. continue to build in the hypertext links;
- c. assure the quality of the resource through use of a dedicated editorial team;
- d. develop the collections in co-operation with the members of the Federation of Law Societies; and
- e. enhance the technological infrastructure and accessibility by users.

#### Request to Convocation

16. Convocation is requested to consider this report and, if appropriate, to authorize the Law Society of Upper Canada's delegate to the Federation of Law Societies to affirm the Law Society of Upper Canada's commitment to the CanLII project and approve the funding plan of \$10-15 per member over the next three years.

#### Appendix 1

#### CanLII Collections

##### Alberta

Alberta was among the first jurisdictions to support the CanLII project. The first sample of decisions from its Court of Appeal and Provincial Court were included in the demonstration during the summer of 2000. CanLII is adding the Alberta Court of Queen's Bench decisions to the collection and completing the collections from the Appeal and Provincial Court to mirror those included on the official Court website. Since May, this has allowed over 3,600 decisions to be added to the Alberta collections including about 3,265 in the Queen's Bench corpus alone. These three collections are now continuously updated.

##### Quebec

In March 2001, the decisions from the Quebec Labour Tribunal were added to the SOQUIJ database. As with the Quebec Court of Appeal decisions, this material was immediately added to CanLII and will be kept current for users. This new collection starts with decisions rendered since January 1, 2001. Decisions from Quebec's Judges Council have also been transferred to CanLII from their original location in LexUM's <sup>2</sup> pages.

##### Nova Scotia

This spring material from both superior Courts of Nova Scotia, namely the Court of Appeal and the Supreme Court (including those from the family division) was added to the CanLII site. The collections start at the beginning of 2001, but earlier judgments should soon be included. These collections will also be kept up to date on a continuous basis.

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<sup>2</sup>LexUM is the group from l' Université de Montréal, faculté du droit, which is under contract to develop the database for CanLII.

## Manitoba

In the past two months collections of the Manitoba Court of Appeal and Court of Queen's Bench Courts have been added. The collection from the Court of Appeal includes 209 judgments dating back to 1996. All new judgments from the Court of Appeal will be added to the site, as well as all new judgments from the Court of Queen's Bench. An historical collection from the Court of Queen's Bench, going back to May 2000, will be gradually added as the material becomes available. The support of the Justices in the Manitoba Courts have ensured the development of these collections.

## Territories

The collections from the Canadian Territories have also been enhanced. The first shipments of decision files from the Territorial Court of the Yukon, including the first one from the Youth Court, have been received.

For the Northwest Territories, the Court of Appeal collection has been started by including the decisions available on the NWT Court Library's website. New decisions should be received on a regular basis, and it is anticipated that other Northwest Territories decisions will follow.

## Newfoundland

The Newfoundland Provincial Court has also been added to the project. The collection's first two decisions from this Court were logged in early March. More content will be added shortly.

## British Columbia

Authorization was received to add new material from the British Columbia courts. The site has been updated to include all original material available on the official site of the BC Courts. This collection includes all the decisions rendered by the Court of Appeal of British Columbia since January 1999. The documents come from the Court's website. There are now 1,778 B.C. decisions on the site. All new BCCA and BCSC judgments will also be supplied to CanLII as they are rendered to make sure that the database is always up to date.

## New Brunswick

The New Brunswick Court of Appeal recently agreed to participate in the project. The first decisions from the Court were posted in June.

## CACT

CanLII has also been approached by officials at the Canadian Competition Tribunal to add their decisions to the site. The Competition Tribunal's website houses an important number of documents pertaining to cases submitted to the Competition Tribunal as well as the decisions rendered in these cases. All decision files, available in PDF format on the Competition Tribunal's official site, have been supplied in text format to CanLII to allow users to search through them with the usual search functions. These files are currently being processed and will be up on the site very soon.

## LEGISLATION

LexUM is working to provide a standardized environment to access laws and regulations that will remain on the original sites. In addition, in some cases hypertext links will be able to be provided to those documents from the case law that has been received. This is dependent on the indexes received or those that can be built. The aim is to offer standardized pages to allow the visitor a user friendly interface that will guide him/her through all resources available, whether they are on the CanLII site or on official sites. Work is being done on a mockup of such legislative pages and the plan is to put as much as possible online this summer. This process is currently being applied to Alberta legislation.

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It was moved by Mr. Crowe, seconded by Mr. Aaron that the matter be referred to the Finance Committee.

Lost

It was moved by Mr. Feinstein, seconded by Mr. Mulligan that the Law Society's delegate to the Federation of Law Societies be authorized to affirm the Law Society of Upper Canada's commitment to the CanLII project and that the funding plan of \$10 to \$15 per member over each of the next three years be approved.

Carried

### MOTION TO AMEND BY-LAW 36 - DISCRIMINATION AND HARASSMENT COUNSEL

Mr. MacKenzie presented the motion to amend By-Law 36 for approval by Convocation.

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July 26, 2001

Motion to Amend By-Law 36 -  
Discrimination and Harassment Counsel

Purpose of Report: Decision

Prepared by the Policy and Legal Affairs Department

### AMENDMENT TO BY-LAW 36 ON THE DISCRIMINATION AND HARASSMENT COUNSEL

#### A. *BACKGROUND*

1. On June 22, 2001, Convocation made By-Law 36<sup>1</sup>, which establishes the office of the Discrimination and Harassment Counsel (DHC), provides for the appointment of the DHC by Convocation, specifies the duties of the DHC and requires the DHC to maintain the secrecy of information obtained in the fulfilment of his or her duties.
2. Convocation made an amendment to the proposed By-Law prior to adopting it. This report provides language for Convocation's approval respecting that amendment.

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<sup>1</sup>Please see Appendix 1 for the text of the By-Law.

3. As the Professional Regulation Committee, which would normally review the language of the amendment, has not met following June 22 Convocation, the text of the amendment has been approved by the Chair of that Committee and the Chair of the Equity and Aboriginal Issues Committee, as the report that resulted in the adoption of the By-Law was a joint effort of these committees.

#### *B. NATURE OF THE AMENDMENT*

4. In order for the DHC to fulfill his or her role, it is necessary that the DHC give an assurance of confidentiality to the users of the services. This is to encourage those who would otherwise not access the service or who choose not to complain to the Society about the conduct of a lawyer, for various reasons, to seek the DHC's advice and counsel on issues relating to discrimination and harassment.
5. By-Law 36 includes a requirement in subsection 6(1) that the DHC maintain the secrecy of information obtained in the fulfilment of his or her duties. Subsection 6(2) provides that the By-Law supersedes any requirement in the *Rules of Professional Conduct* that may require the DHC, if a member of the Society, to disclose to the Society information about the misconduct of another lawyer. Amendments to the Rules were approved by Convocation for consistency with the By-Law.
6. While the By-Law and the Rule amendments provide that there is no duty on the DHC to report misconduct, the issue of the DHC's obligation with respect to the permissive disclosure of imminent risk of death or serious bodily harm, as discussed in Rule 2.03(3), was raised at Convocation on June 22. The By-Law is silent on this issue. Rule 2.03(3) reads:

Where a lawyer believes upon reasonable grounds that there is an imminent risk to an identifiable person or group of death or serious bodily harm, including serious psychological harm that substantially interferes with health or well-being, the lawyer may disclose, pursuant to judicial order where practicable, confidential information where it is necessary to do so in order to prevent the death or harm, but shall not disclose more information than is required.

7. Convocation determined that the By-Law should provide that the DHC not be prohibited from making such disclosure. The suggestion was that subsection 6(3) be amended to cross-reference rule 2.03(3).
8. After consulting with Elliot Spears, Legislation and Research Counsel, the chairs are proposing that the following clause, which tracks the language in rule 2.03(3), be added to subsection 6(3) to give effect to the amendment:

(3) Subsection (1) does not prohibit,

...

- (c) disclosure of information where the Counsel has reasonable grounds to believe that there is an imminent risk to an identifiable individual or group of individuals of death, serious bodily harm or serious psychological harm that substantially interferes with the individual's or group's health or well-being and the disclosure is necessary to prevent the death or harm;

#### *C. DECISION FOR CONVOCATION*

9. Convocation is requested to approve the language for the amendment to By-Law 36 on the Discrimination and Harassment Counsel, as discussed above or as Convocation deems appropriate. A motion including the amendment appears below.

THE LAW SOCIETY OF UPPER CANADA

BY-LAW 36  
[DISCRIMINATION AND HARASSMENT COUNSEL]

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON JULY 26, 2001

MOVED BY

SECONDED BY

THAT By-Law 36 [Discrimination and Harassment Counsel] made by Convocation on June 22, 2001 be amended as follows:

1. Subsection 6 (3) of the By-Law is amended by revoking clauses (c) and (d) and substituting the following:
  - (c) disclosure of information where the Counsel has reasonable grounds to believe that there is an imminent risk to an identifiable individual or group of individuals of death, serious bodily harm or serious psychological harm that substantially interferes with the individual's or group's health or well-being and the disclosure is necessary to prevent the death or harm;
  - (d) disclosure by the Counsel to his or her counsel; or
  - (e) disclosure with the written consent of all persons whose interest might reasonably be affected by the disclosure.

APPENDIX 1

BY-LAW 36

Made: June 22, 2001

DISCRIMINATION AND HARASSMENT COUNSEL

Appointment

1. (1) Convocation shall appoint a person as Discrimination and Harassment Counsel in accordance with section 2.

Term of office

- (2) The Counsel shall be appointed for a term not exceeding three years and is eligible for reappointment.

Appointment at pleasure

- (3) The Counsel holds office at the pleasure of Convocation.

No appointment without recommendation

2. (1) Convocation shall not appoint a person as Counsel unless the appointment is recommended by the standing committee of Convocation responsible for matters relating to equity and diversity in the legal profession.

Vacancy in office

(2) When a vacancy exists in the office of Counsel, the committee shall conduct a search for candidates for appointment as Counsel in accordance with procedures and criteria established by the committee.

List of candidates

(3) At the conclusion of the search, the committee shall give Convocation a ranked list of at least two persons the committee recommends for appointment as Counsel, with brief supporting reasons.

Additional candidates

(4) If the committee gives Convocation a list of persons it recommends for appointment, Convocation may require the committee to give Convocation a list of additional persons who are recommended by the committee for appointment.

Recommendations considered in absence of public

(5) Convocation shall consider the committee's recommendations in the absence of the public.

Application of s. 2

3. Section 2 does not apply if Convocation reappoints the Counsel under subsection 1 (2).

Function of Counsel

4. (1) It is the function of the Counsel,

- (a) to assist, in a manner that the Counsel deems appropriate, any person who believes that he or she has been discriminated against or harassed by a member or student member;
- (b) to assist the Society, as required, to develop and conduct for members and student members information and educational programs relating to discrimination and harassment; and
- (c) to perform such other functions as may be assigned to the Counsel by Convocation.

No authority to conduct investigation

(2) Despite clause (1) (a), the Counsel has no authority to require an investigation to be conducted or to conduct an investigation under section 49.3 of the Act.

Access to information

(3) Except with the prior permission of the Secretary, the Counsel is not entitled to have any information in the records or within the knowledge of the Society respecting a member or student member.

Annual and semi-annual report to Committee

5. (1) The Counsel shall make a report to the committee,

- (a) not later than January 31 in each year, upon the affairs of the Counsel during the period July 1 to December 31 of the immediately preceding year; and
- (b) not later than September 1 in each year, upon the affairs of the Counsel during the period January 1 to June 30 of that year.

Report to Convocation

(2) The committee shall submit each report received from the Counsel to Convocation on the first day following the deadline for the receipt of the report by the Committee on which Convocation has a regular meeting.



Confidentiality

6. (1) The Counsel shall not disclose,
- (a) any information that comes to his or her knowledge as a result of the performance of his or her duties under clause 4 (1) (a); or
  - (b) any information that comes to his or her knowledge under subsection 4 (3) that a bencher, officer, employee, agent or representative of the Society is prohibited from disclosing under section 49.12.

Rules of Professional Conduct

- (2) For greater certainty, clause (1) (a) prevails over the Society's Rules of Professional Conduct to the extent that the Rules require the Counsel to disclose to the Society the information mentioned in clause (1) (a).

Exceptions

- (3) Subsection (1) does not prohibit,
- (a) disclosure required in connection with the administration of the Act, the regulations, the by-laws or the rules of practice and procedure;
  - (b) disclosure of information that is a matter of public record;
  - (c) disclosure by the Counsel to his or her counsel; or
  - (d) disclosure with the written consent of all persons whose interests might reasonably be affected by the disclosure.

.....

An amendment by Mr. Wright was accepted by Mr. MacKenzie that the word "that" be inserted before the words "the disclosure" in subsection 6(3) to rule 2.03(3).

It was moved by Mr. MacKenzie, seconded by Ms. Ross that the language for the amendment to By-Law 36 on the Discrimination and Harassment Counsel as amended be approved.

THE LAW SOCIETY OF UPPER CANADA

BY-LAW 36

[DISCRIMINATION AND HARASSMENT COUNSEL]

THAT By-Law 36 [Discrimination and Harassment Counsel] made by Convocation on June 22, 2001 be amended as follows:

1. Subsection 6 (3) of the By-Law is amended by revoking clauses (c) and (d) and substituting the following:
- (c) disclosure of information where the Counsel has reasonable grounds to believe that there is an imminent risk to an identifiable individual or group of individuals of death, serious bodily harm or serious psychological harm that substantially interferes with the individual's or group's health or well-being and that the disclosure is necessary to prevent the death or harm;

- (d) disclosure by the Counsel to his or her counsel; or
- (e) disclosure with the written consent of all persons whose interest might reasonably be affected by the disclosure.

Carried

#### MOTION - DRAFT MINUTES OF CONVOCATION

It was moved by Mr. Feinstein, seconded by Mr. White that the Draft Minutes of Convocation of June 22nd, 2001 be approved with the amendment that Mr. Crowe's name be added to those present at the afternoon session.

Carried

#### MOTION - APPOINTMENT TO FAMILY RULES COMMITTEE

It was moved by Mr. Feinstein, seconded by Mr. White that Laurie H. Pawlitza of Goodman & Carr LLP be appointed the Law Society representative on the Family Rules Committee.

Carried

#### ZIMBABWE MOTION

Mr. Wright presented the Zimbabwe Motion for approval by Convocation.

It was moved by Mr. Crowe, seconded by Mr. Aaron that the motion be tabled.

Lost

It was moved by Mr. Aaron, seconded by Mr. Crowe that the motion be expanded to include Afghanistan, Myanmar (Burma), North Korea, China, Russia, Cuba, Nigeria and Belarus.

The Treasurer ruled the motion out of order for want of proper notice.

The following amendments were accepted by Mr. Wright and Ms. Potter:

- (1) that the words "rule of law" be inserted after the word "judiciary" in the first paragraph; and
- (2) that the notice be sent to the Law Society in Zimbabwe.

It was moved by Mr. Wright, seconded by Ms. Potter that the Zimbabwe motion be adopted as amended.

#### "THE LAW SOCIETY OF UPPER CANADA

WHEREAS the Law Society of Upper Canada, the traditional name of the governing body of lawyers in Ontario, Canada, is committed to the principles of the independence and integrity of the bar and the judiciary and the rule of law and to the principles of democracy, liberty, and responsibility, all in the public interest;

THEREFORE the Law Society of Upper Canada conveys to the Government of Zimbabwe the Society's deepest concerns and strongest condemnations of the attacks on those principles by the Government of Zimbabwe, specifically and without limitation the forced retirement of Chief Justice Anthony Gubbay and the intimidation of judges and officials in the administration of justice system. The Law Society of Upper Canada calls upon the Government of Zimbabwe to affirm and act upon an abiding commitment to the principles enunciated above, and thereby gain the respect of ourselves and the international community."

Carried

MOTION - APPOINTMENT TO FEDERATION OF LAW SOCIETIES OF CANADA

It was moved by Mr. Feinstein, seconded by Mr. White that Gerald Swaye be reappointed the Law Society's delegate to the Federation of Law Societies of Canada.

Carried

DIRECTOR OF EDUCATION REPORT

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of Education asks leave to report:

B.

ADMINISTRATION

B.1. APPLICATION TO BE LICENSED AS A FOREIGN LEGAL CONSULTANT

B.1.1. The following applies to be certified as a foreign legal consultant in Ontario:

Gil Cornblum

The State of New York  
- Dorsey & Whitney LLP

B.1.2. His application is complete and he has filed all necessary undertakings.

ALL OF WHICH is respectfully submitted

DATED this the 26th day of July, 2001

It was moved by Mr. Millar, seconded by Mr. E. Ducharme that the Director of Education Report be adopted.

Carried

## ADMISSIONS COMMITTEE REPORT

Mr. Millar presented the item in the Admissions Committee Report re: Call to the Bar Dates for decision by Convocation.

Admissions Committee  
June 22, 2001

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Report to Convocation

Purpose of Report: Decision Making

Prepared by the Policy Secretariat

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- APPENDIX 3                      Memorandum of the Education Department on Aboriginal Students in the 42nd BAC

## TERMS OF REFERENCE/COMMITTEE PROCESS

1.        The Admissions Committee ("the Committee") met on June 7th, 2001. Committee members in attendance were Derry Millar (Chair), Edward Ducharme (Vice-Chair), Tom Carey, Gillian Diamond, Pamela Divinsky, Dean Peter Hogg, George Hunter, Sanda Rodgers and Stephanie Willson. Staff in attendance were Julia Bass, Bob Bernhardt, Ian Lebane, Susan Lieberman, Charles Smith, Elliot Spears and Roman Woloszczuk.
2.        The Committee is reporting on the following matters:  
Policy - For Decision
  - 1) Reciprocal Mobility Arrangement with Quebec
  - 2) Dates of Call to the Bar, 2003 onwards

## POLICY - FOR DECISION

### RECIPROCAL MOBILITY ARRANGEMENT WITH QUEBEC

#### Issue

3.        The *Barreau du Québec* has requested that the Law Society of Upper Canada establish a mechanism to permit Quebec lawyers to practice federal and Quebec law in Ontario, creating reciprocity with the recent actions of the *Barreau* to permit two Ontario lawyers to practice federal and Ontario law in Quebec.

#### Background

4.        A large Toronto law firm approached the *Barreau* last year in connection with the planned opening of their Montreal office, with a view to enabling two of their Toronto partners to practice in Montreal. It was understood that this practice would be limited to federal law and the law of provinces where the two partners are already entitled to practice. Any Quebec matters are to be handled exclusively by Quebec lawyers.
5.        On January 18<sup>th</sup>, the *Barreau* passed a resolution granting the two lawyers conditional one-year permission to apply for membership, subject to the usual requirements with regard to French-Language proficiency, payment of fees, etc. This is regarded as a pilot project. (The resolution and an unofficial translation thereof is attached at Appendix 1.)
6.        Officials of the *Barreau* have now approached the Law Society to support a request that this arrangement be made reciprocal, so that the firm's Quebec lawyers, and other lawyers in this position, can apply to the Law Society for membership with similarly limited rights and privileges. (Correspondence attached at Appendix 2).

7. Under current policy, the Law Society does not impose restrictions on the rights and responsibilities of members; lawyers are either members or not. This procedure would also differ from current transfer arrangements as no transfer examinations would be required.
8. On May 24th, Convocation passed By-law 33 on the occasional practice of law by lawyers from another province, under the Protocol on the Interjurisdictional Practice of Law. However, the Quebec proposal differs from the occasional practice scheme in a number of respects: it concerns full-time, possibly permanent legal practice, and contemplates that the lawyers involved would form a new category of membership and would pay the normal membership fees.

#### The Committee's Deliberations

9. Although not arising from the terms of the Interjurisdictional Protocol, the proposal is in keeping with the spirit of the Protocol. It would be to the advantage of members of the Law Society to be able to apply to work in Quebec, and any Quebec lawyers using this provision would not be practising Ontario law, avoiding the problem of unfamiliarity with the law of the jurisdiction.
10. If the Law Society establishes reciprocity with Quebec in this fashion, it would logically imply that this sort of arrangement would be available to other provinces requesting it.
11. The form of membership under consideration could be regarded as analogous to a limited licence, a concept that the Law Society has generally rejected.
12. However, it can also be argued that a special form of membership for out of province lawyers is logically distinct from a limitation on the licence of an Ontario member.
13. Implementation of the proposal would require the resolution of a number of issues having to do with the status of the 'non-Ontario' members, e.g. right to vote for or stand as benchers, insurance treatment etc.
14. The Law Society also recognises a category of 'Foreign Legal Consultants' who are permitted to advise on the law of their home jurisdiction while working in Ontario, although this arrangement has not been formalised in a by-law.
15. The Federation of Law Societies of Canada will be holding a workshop on mobility at their meeting in Saskatoon this August.
16. The Committee's view is that the issue of greater mobility for lawyers is of increasing importance and should be considered in a co-ordinated fashion rather than as a series of *ad hoc* proposals.

#### Recommendation to Convocation

17. The Committee recommends that Convocation authorise the Admissions Committee to define the terms of reference for a Task Force on Mobility Issues, including a proposed schedule and budget, to place before Convocation in the fall.

## DATES OF CALL TO THE BAR FOR 2003 ONWARDS

### Issue

18. The new model of the Bar Admission Course introduced greater scheduling flexibility for students and a shorter time between graduation from law school and call to the bar. These features required a re-examination of the dates of the ceremonial calls to the bar, which was considered by the Committee and Convocation in March. Convocation accepted the Committee's recommendation that the year 2002 be treated as a transitional year, with one call to the bar in September, and requested that the issue of call dates in subsequent years be brought back after further consideration.
19. Still to be decided is whether, in years after 2002, there should be one or two ceremonial calls to the bar, and in which months.

### Background

20. One of the major goals in the development of the new Bar Admission Course was to reduce the time between graduation from law school and call to the bar. Since 1992, the major ceremonial calls to the bar have been in February, approximately 22 months after completion of the LL.B.
21. Under the previous model of the Bar Admission Course the majority of students began the Bar Admission Course in May or June immediately following completion of third year law school and completed the course, including articling, in December of the following year.
22. Scheduling the calls in February was introduced in response to the competing pressures of making the call as early as possible, while still providing adequate administrative time to,
  - a. communicate examination results to students;
  - b. provide a set of supplemental examinations for those who failed;
  - c. mark the supplemental examinations; and
  - d. process the successful students for inclusion in the call.
23. The production of the call ceremonies is a major event requiring substantial organization and planning.
24. In the new Bar Admission Course, students may choose the order in which they complete the different phases. Depending upon the option they choose, students may be finished the course and eligible for call to the bar by either the end of June (those who do the teaching phases back-to-back followed by articling) or the end of August (those who sandwich articling between the two teaching phases), in the year following their completion of law school.
25. Although there are calls to the bar in any month in which Convocation sits, (which will continue under the new Course) this report addresses the major ceremonial calls, which accommodate the majority of students.

### Discussion

26. There has always been pressure on the Law Society to call students to the bar as quickly as possible to allow them to begin practising law and earning an income. There has also been, over the last ten years at least, significant pressure on the Law Society to permit students who have failed examinations during the teaching term to write supplemental examinations as soon as possible so that successful completion will allow them to be called to the bar at the large ceremonial call with the rest of their class.

27. The proportion of students choosing the 'back to back' model of the BAC has been much higher than expected, about 75%. This has raised the question of whether the choice of scheduling should be eliminated. The Department of Education recommends that the choice be retained on the grounds that it is an important advantage to the 25% of students who choose it.

Starting in 2003, should there be a single major ceremonial call or should there be two?

a) Two Calls

28. Scheduling two calls reduces the potential waiting period for call to the bar. The first call could be held in July or August (for those students who complete the Course by the end of June). The second set could be held in September or October (for those students who complete the Course by the end of August).
29. This option would provide the advantage that all students would be called to the bar within a relatively similar time frame following completion of the Course, rather than those finishing in June having to wait until October to be called. As a result they will be able to start their careers as lawyers earlier, and will have potential for increased earnings.
30. A potential disadvantage of this approach is the perceived differentiation of lawyers by their month of call. The Bar Admission Course Reform Task Force cautioned against the creation of separate call months, where students who choose the schedule that results in a earlier call are perceived to be of greater worth than their classmates.
31. Scheduling ceremonial calls to the bar in the summer months may be a challenge in terms of obtaining the necessary quorum of benchers, particularly given the practice of holding calls in three different locations.
32. Multiple call dates in London and Ottawa would lead to increased costs. (Approximately \$25,000 each.) In Toronto, if the students were relatively evenly divided between calls, it may not lead to a substantially increased cost if the centre (currently Roy Thompson Hall) was only required for one day in each of August and October.
33. However, given the strong preference for the back to back model, most students would probably choose the summer call, in fact the availability of an earlier call would probably increase even further the number of student choosing that option.
34. Administratively, the calls draw heavily on the resources of the Registrar's office. A July or August call would occur at a time when the Course is in session. Increased staffing would likely be required for at least some period leading up to the calls.

b) One Call

35. There could be one major ceremonial call in either late September or end of October.
36. If most students are called at the same time, it eliminates the concern, raised above, of the perceptions about those called earlier being worthier than others.



37. Another advantage of this approach is that for all of the students it would provide a two month period in which they were not attending the Bar Admission Course or articling at some point between their LL.B. graduation and their call. Although some students would continue working some might use the opportunity for some "down-time" before their call. (Some students have expressed a desire that they be left with time in which they can take an extended vacation/sabbatical, or pursue an outside interest. Although they should arguably be able to negotiate this period with their law firms, they feel their bargaining position is weak, and have expressed a wish for the Law Society's support.)
38. The clear disadvantage of one call in September or October is that some students will have a much longer wait for their call. Many students plan to open up practices on their own, and for them an earlier call is more important than a longer break.

#### The Committee's Deliberations

39. The Committee's view was that the priority concern behind the shortening of the articling term and the redesign of the BAC was to enable students to be called to the bar earlier. It therefore seems inconsistent to require students to wait for most of the summer for their call.
40. On the other hand, the committee recognised the possible difficulty that could arise with obtaining a quorum of benchers during the summer months.
41. It was felt that the interests of students in the earliest possible call date should prevail over the logistical difficulties of scheduling.

#### Recommendation

42. The Committee recommends two call dates, a major ceremonial call in July (in Toronto, London and Ottawa) and one in the fall to be scheduled as numbers warrant.

#### Request to Convocation

43. With the assistance of this report, Convocation is requested to decide that there should be two call dates for students graduating in 2003 and after, one in July and one in the fall to be scheduled as the numbers warrant.

### INFORMATION ITEMS

#### ABORIGINAL STUDENTS IN THE BAC

44. A Report from the Education Department, prepared in conjunction with the Equity Initiatives Department, on the statistics on Aboriginal students in the BAC is attached at Appendix 3.

## ENFORCEMENT OF STUDENT RECRUITMENT PROCEDURES

### Issue

45. The Law Society has for a number of years regulated the process by which both articling students and, more recently, summer students are recruited, these procedures being particularly relevant to the highly competitive market of the larger Toronto firms. However, surveys of law schools, law firms and particularly, students have shown a significant degree of dissatisfaction with the level of observance of the procedures. One of the problems is that students are understandably reluctant to complain on the record. If the procedures are not reasonably enforceable, it raises the question of whether the Law Society should cease to regulate this area.

### Background

46. The Law Society first started regulating articling student recruitment in 1980. The central feature of the procedures developed was an agreed-upon set of dates before which job offers would not be made. This was intended to give students the best opportunity to consider, and be considered for, articling positions.
47. As the recruitment of summer students for the summer after second year law school and, most recently after first year, has become more common, similar procedures were adopted to regulate these processes also.
48. The Law Society's jurisdiction to regulate the employment of law students derives from section 62 of the *Law Society Act*. Paragraph 62 (0.1) 19 reads as follows:  
  
    'Convocation may make by-laws,  
    19. Defining and governing the employment of student members while under articles and the employment of other law students.'
49. Although the Law Society has not exercised this jurisdiction by passing a by-law, the Society's Rules of Professional Conduct include the following:  
  
    " Sub-rule 5.02(1). A lawyer shall observe the procedures of the Society about the recruitment of articling students and the engagement of summer students."
50. While it appears that most firms follow the procedures, there are persistent complaints, sometimes of a vague nature, that some firms are 'jumping the gun' on dates or otherwise failing to follow the rules.
51. In recent surveys<sup>1</sup>, 23% of student respondents stated that, in their experience, law firms were not abiding by the Summer Recruitment Procedures and 16% of student respondents commented on their awareness of violations of the Articling Recruitment Procedures. In separate communications, several law firms and career development officers ('CDOs') also alleged violations by firms.
52. Typically, alleged procedural violations have involved early telephone calls on Call Day, early offers, pressure from firms for students to reveal their match rankings, pressures on students to commit to job offers before the designated date, and generally testing the spirit of the Procedures, such as holding an "Open House" on a date that has the effect of turning the open house into a targeted, and thus restricted, recruitment activity. Complaints are often made anonymously, or second hand, because the original complainant is afraid of repercussions.

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<sup>1</sup> An articling survey was administered in 2000 relating to the procedures for recruitment for the 2001-2002 articling term and summer recruitment surveys were administered in 2001 relating to the summer recruitment procedures for Summer 2001.

53. Enforcement of the procedures may be complicated by the fact that while complaints generally concern a firm, the Law Society's only disciplinary powers are over individual members. However, in most law firms it is possible to identify a member of the Law Society involved with the process.
54. A further complication is the participation in the recruitment process of US law firms. The Law Society's jurisdiction is limited to the regulation of its members.
55. Anecdotally, it appears that there have not ever been any serious sanctions for violations of sub-rule 5.02(1). At the most, a letter may have been sent or a phone call made concerning such violations.
56. In recent surveys, representatives of all groups (students, CDOs and firms) expressed frustration that violations of the Procedures have not been dealt with strictly.

#### The Committee's Deliberations

57. While it may be unrealistic to achieve 100% compliance, there are probably a number of steps which could be taken to improve observance of the procedures, such as better communication with the major firms about the problem and the Law Society's concerns.
58. While the Law Society lacks the jurisdiction to regulate the US firms, it may be possible for the Law Schools to enter into agreements with them whereby they would observe Law Society procedures voluntarily in return for facilitating recruitment activities on campus.

#### The Committee's Decision

59. The Committee requested the Committee Chair to write to all the large firms which hire a significant number of students to inform them of the perceived problem and to request their assistance in achieving better observance of the procedures. In addition, the Committee chair was requested to telephone the managing partner of those firms which have been alleged to have breached the agreed procedures to ask whether they are aware of any problems in the recruitment process.

### APPENDIX 3

#### Re: Aboriginal Students in the BAC - Supports and Successes

1. The following report indicates a dramatic improvement in the success rate of self-identified Aboriginal students in the BAC, and it discusses some of the support services that have made this possible.

#### STATISTICS FOR ABORIGINAL STUDENTS IN THE BAC:

##### 41<sup>st</sup> BAC (Fall of 1999)

2. As of February 2000, of the 18 self-identified Aboriginal students who were enrolled in the 41<sup>st</sup> BAC, 3 had withdrawn and 9 of the remaining 15 successfully completed Phase Three. Thus 50% of the initial 18 successfully completed.

42<sup>nd</sup> BAC (Fall of 2000)

3. As of May, 2001 of the 19 self-identified Aboriginal students who were enrolled in the 42<sup>nd</sup> BAC, none had withdrawn and 16 successfully completed Phase Three. Thus 84% of the initial 19 successfully completed. In addition, two of the other three students are within one course of successful completion.
4. It is important to note three things in relation to these statistics:
  - a. This improvement in performance has occurred during two years in which general success rates have remained relatively stable and the standards have remained high. (Approximately 30% of the students fail at least one exam, but after the supplementals about 95% of the students are successful in completing the requirements.)
  - b. The support programs that are identified in the following text are virtually all available to students who are having difficulty, regardless of the communities to which they identify.
  - c. The statistics do not indicate that systemic problems for Aboriginal Peoples, or for students from other communities under represented in the profession, have been solved. Many of the students who passed did so with little margin to spare, and there is still an over representation of students from these communities in the collection of students who are not successful.

BAC Supports

5. Aboriginal students of the 42<sup>nd</sup> BAC accessed various supports through the Aboriginal Issues Coordinator, the Student Success Centres, and BAC administrators. These supports to Aboriginal students were implemented further to discussions with Rotiio' taties (then Roti io' ta'-kier) in the spring of 2000, and included an \*orientation program, \*tutoring, and \*exam review sessions. Aboriginal students also benefited from a \*shorter turn around on making students' marks available thanks to in-house marking, as well as an \*appeal process for students who failed exams (programs with an asterisk are available to all students).
6. With the addition of the Aboriginal Issues Coordinator position in May 2000, the Law Society also offered Aboriginal BAC students an \*Elders Program (Toronto), informal counselling, \*financial assistance program, \*assistance in résumé writing/job searches/setting up a practice, assistance in accessing housing and other services, \*assistance in obtaining accommodations in the BAC, and opportunities to network with Aboriginal lawyers and other members of the Bar through organized lunches or dinners in Toronto and Ottawa (programs with an asterisk are available to all students).
7. Most of the 19 self-identified Aboriginal students of the 42<sup>nd</sup> BAC accessed supports of some kind.

Orientation Program: Five Aboriginal students completed the orientation program and offered positive feedback on the program.

Tutoring and Exam Review: Nine Aboriginal students accessed tutoring and the feedback was very good. Ten Aboriginal students attended one or more exam review sessions, with many of those ten participating on a regular basis. The feedback on exam review sessions was also generally very good.

Elders Program: Seven Aboriginal students in Toronto participated in the Elders Program. The feedback from those students who accessed the Elders Program was excellent.

Financial Support: Nine Aboriginal students accessed financial assistance through the Equity & DiversityBursary Program. Several of these students cited the financial assistance as the most significant support to their success in the BAC. Many of these students were parents, some single parents, with many other commitments outside of the BAC and in difficult financial circumstances.

Skills Development: Eight Aboriginal students accessed assistance in résumé writing, job searches, or in setting up a practise.

Housing: One Aboriginal student who had relocated from Northern Ontario to a BAC site had required assistance in obtaining housing and other essential services.

Accommodations for Disability, etc.: Two Aboriginal students sought assistance from the Aboriginal Issues Coordinator and the Student Success Centres in seeking accommodations for the BAC.

Appeals Process: Twelve exams grades were appealed by Aboriginal students, several of those successful appeals resulted in a pass for students.

#### Further Development of Supports

8. There are ten self-identified Aboriginal students in the 44<sup>th</sup> BAC (Skills Phase, May 2001). The location of these Aboriginal students are as follows: 3 in Ottawa, 3 in Toronto, 2 in Windsor, 1 in Kingston and 1 in London.
9. All supports mentioned above will be available to current students with the exception of the Equity & Diversity Bursary - which has been replaced by the Repayable Allowance Program, and the orientation period which was not offered due to the immediate start of the BAC following completion of law school. The orientation program will be offered to those Aboriginal students of the 43<sup>rd</sup> BAC (Phase III, September 2001).
10. In addition to offering a weekly Elders Program / discussion groups with Aboriginal lawyers in Toronto, we will be organizing a monthly lunch program for Ottawa BAC students with Elders and Aboriginal lawyers in the Ottawa area. We will also work with students in Windsor, London and Kingston to ensure that they, as well as Aboriginal members of the profession in those communities, access supports wherever possible.
11. Formalized mentoring relationships between members of Rotiio' taties and other Aboriginal lawyers with BAC students are being developed pursuant to the Law Society's Equity & Diversity Mentorship Program.
12. We will create an Aboriginal students list serve using the Bar-EX email system. This will ensure Aboriginal students who are interested in being connected with their peers across Ontario have the opportunity to do so, sharing their experiences and networking with other Aboriginal students.
13. We will be working with Aboriginal students at their BAC sites to ensure that they maintain access to a support network in their study centre. This is particularly important given the fact that students now have the opportunity to study in the same site where they attend law school, which will likely result in smaller groups of Aboriginal students at each BAC site. We hope that ensuring access to the Aboriginal Issues Coordinator, other Aboriginal law students, Aboriginal lawyers, and supports in the local communities will further minimize feelings of isolation for Aboriginal students in the BAC.

#### Conclusion

14. The creation of the Aboriginal Issues Coordinator position and the further development of supports to Aboriginal students in the BAC has had a significant impact on the success of Aboriginal students, as reflected in the success of Aboriginal students in the 42<sup>nd</sup> BAC (fall of 2000). We continue to work with Rotiio' taties and the broader Aboriginal community for feedback and support in the initiatives we undertake with Aboriginal BAC students. Positive responses to the various supports offered, and the evidenced successes of Aboriginal students in the 42<sup>nd</sup> BAC suggest continuing success of Aboriginal students as we further enhance the broadening base of culturally appropriate supports to Aboriginal students in the BAC. Moreover, several of the supports developed originally for Aboriginal students have been made available for students in general, and this has had a positive impact on the success rates for these students as well.

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

- (1) Copy of the Resolution of the Executive Committee of the *Barreau du Québec*. (Appendix 1)
- (2) Copy of Letter from Ronald Montcalm, c.r., *le batonnier du Québec*, to Robert Armstrong, Treasurer, and letter from Me Pierre Gauthier, Executive Director of the *Barreau du Québec*, to Malcolm Heins, CEO.

It was moved by Mr. Millar, seconded by Mr. E. Ducharme that there be two call dates for students graduating in 2003 and after, one in July and one in the fall to be scheduled as the numbers warrant.

Carried

Re: Reciprocal Mobility Arrangement with Quebec

The item re: Reciprocal Mobility Arrangement with Quebec was dealt with by the adoption of the amendment to By-Law 9.

“ INTER-JURISDICTIONAL MOBILITY COMMITTEE

16.3 The mandate of the Inter-Jurisdictional Mobility Committee is to develop for Convocation's approval policy options on all matters relating to the inter-jurisdictional mobility of members of the legal profession.

COMITÉ SUR LA MOBILITÉ INTERJURIDICTIONNELLE

16.3 Le mandat du Comité sur la mobilité interjuridictionnelle est d'élaborer, aux fins d'approbation par le Conseil, des options de politiques sur toutes les questions touchant la mobilité interjuridictionnelle.

2. The By-Law is amended by revoking subsection 17 (8), section 18 and subsection 19 (2).”

TASK FORCE ON THE CONTINUUM OF LEGAL EDUCATION

Mr. E. Ducharme presented an amendment to the Task Force's terms of reference for Convocation's approval.

Report to Convocation  
July 26, 2001

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Task Force on the Continuum of Legal Education

Prepared by the Policy and Legal Affairs Department

Proposed Amendment to Terms of Reference

1. On April 26, 2001 Convocation adopted Terms of Reference for the Task Force on the Continuum of Legal Education ('the Task Force') and directed the Task Force to report within one year from the date it was populated, namely April 2002.

2. The Task Force members are Edward Ducharme (Chair), George Hunter, Barbara Laskin, Greg Mulligan, Neils Ortvad, and The Treasurer (ex officio).
3. As part of its deliberations, the Task Force has considered its terms of reference with a view to developing a work plan.
4. The issues that the Task Force has been established to consider are complex and far-reaching and span the law school, pre-call, and post-call phases of a lawyer's education and training. Although the Task Force has been directed to defer consideration of the post-call component until after the Professional Development and Competence (PD&C) Committee has completed its further report, it is conceivable that within the Task Force's short time frame, the PD&C Committee will complete its report and post-call issues will then need to be integrated into the Task Force's work.
5. The Task Force is of the view that, whatever analysis it undertakes, consultation is a critical component of its work. Consultation requires that there be adequate time within which interested parties and individuals may comment. The greater the scope of the consultation, the more time is required.
6. Having considered the scope of the Terms of Reference as currently framed, the Task Force is of the view that, while the time frame set out in the Terms of Reference provides an important window of opportunity, it would not be possible to address the full range of the issues appropriately within this time frame.
7. Accordingly, the Task Force proposes in the time allotted to focus its analysis and consultation on, and to provide a report and recommendations on, issues related to the post-law school, pre-call component of the continuum, keeping in mind,
  - a. the larger context within which that component operates; and
  - b. the importance of using the conclusions and recommendations of that aspect of the Task Force's analysis to inform its work in subsequent stages.

Request to Convocation

8. Convocation is requested to approve an amendment to the Task Force's Terms of Reference to direct it to report and make recommendations, within one year from the date it was populated, on issues related to the post-law school, pre-call component of the continuum.

.....

It was moved by Mr. E. Ducharme, seconded by Mr. Mulligan that the terms of reference of the Task Force on the Continuum of Legal Education be amended and that the Task Force be directed to report and make recommendations within one year from the date it was populated on issues related to the post-law school, pre-call component of the continuum.

Carried

CONVOCATION ROSE AT 12:00 NOON

Confirmed in Convocation this      day of      , 2001

Treasurer

