

MINUTES OF CONVOCATION

Friday, 23rd February, 1990.
9:30 a.m.

PRESENT:

The Treasurer (Mr. Lee K. Ferrier), Mr. Bastedo, Ms. Callwood, Messrs. Campbell, Carey, Carter, Cullity, Epstein and Farquharson, Mrs. Graham, Messrs. Guthrie, Hickey and Kemp-Welch, Ms. Kiteley, Messrs. Lamont and Lawrence, Mrs. Legge, Messrs. Lerner, Levy, Lyons, Manes, McKinnon, Rock, Ruby, Scace, Shaffer, Somerville and Spence, Ms. Stewart, Messrs. Thom, Topp and Wardlaw, Mrs. Weaver and Mr. Yachetti.

.....

"IN PUBLIC"

.....

MOTIONS

ELECTION OF BENCHER

It was moved by Mr. Lamont, seconded by Mr. Cass THAT Colin L. Campbell be elected a Bencher to fill the vacancy created by the resignation of A. Burke Doran.

Carried

COUNTY & DISTRICT REPRESENTATIVES

It was moved by Mr. Wardlaw, seconded by Mr. Shaffer THAT Randy Lalande be appointed the County & District representative on the Libraries and Reporting Committee.

Carried

It was moved by Mr. Wardlaw, seconded by Mr. Shaffer THAT Robert Smith be appointed the County & District representative on the Research and Planning Committee.

Carried

NOTICE OF MOTION

Mr. Carey gave notice that he intended to bring a motion before Convocation in April pursuant to Rule 1, subsection (1) of the Rules made under the Law Society Act.

"THAT Convocation recognizes the importance of the Annual General Meeting and the need to encourage members to attend the Meeting and therefore reaffirm that 100 members be the minimum quorum for the Annual General Meeting."

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ADMISSIONS COMMITTEE

Mrs. Weaver presented the Reports of the Admissions Committee of its meetings on February 8th and February 22nd, 1990.

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 8th of February, 1990 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mrs. Weaver (Vice-Chair) and Messrs. Ground, Lamont and Strosberg.

A.

POLICY

1. ADMISSION PROCEDURE

The Admissions Committee is reviewing procedural aspects of Admissions hearings including readmissions as a result of the issues which have arisen from the admissions hearing regarding Re: P and will be reporting to Convocation.

B.

ADMINISTRATION

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

Nanci Jean Kilsch (B.A. 1987 from the University of Calgary and an LL.B. 1983 from the University of Alberta) was called to the Bar of the Province of Alberta on the 20th day of July, 1984 and practised in that province from the 20th July 1984 to the 27th July 1988. Ms. Kilsch presents a Certificate of Good Standing and seeks to proceed under Regulation 4(1). There is nothing unusual about her application.

Approved

Ronald James Richards (B.A. 1968 from Acadia University and an LL.B. 1972 from the University of New Brunswick) was called to the Bar of the Province of Newfoundland on the 24th day of July 1978 and practised in the province from the 24th July 1978 to the 30th May 1989. Mr. Richards presents a Certificate of Good Standing and seeks to proceed under Regulation 4(1). There is nothing unusual about his application.

Approved

2. FULL-TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS
- SPECIAL PETITION

The following member of an approved law faculty asks to be called to the Bar and admitted as a solicitor without examination under Regulation 5 respecting full-time members of approved law faculties in Ontario:

Philip Goldman
Faculty of Law,
Queen's University

B.A. 1962 and M.A. 1964 both from
University of Toronto; A.M.
1966 Princeton University; LL.B.
1983 Queen's University.

Regulation 5(2) reads:

"A full-time member of the faculty of a law school in Ontario that is approved by Convocation, upon application after he has entered upon the third consecutive year in that position, may, in the discretion of Convocation, be called to the bar and admitted as a solicitor without examination."

Professor Goldman has not entered upon the third consecutive year in a full-time position with an approved Ontario law faculty.

In his letter of the 2nd January, 1990, Dean John D. Whyte states that from 1982 to 1988 Professor Goldman had joint teaching responsibilities in the Faculty of Law and Department of Political Studies and since July 1st, 1988 he has held a full-time appointment in the Faculty of Law. He goes on to explain that in the six years prior to this appointment he taught one course each year in the Faculty of Law and acted as an advisor on several LL.M. theses. He also developed and taught a law course for undergraduate students. During this period his primary area of research was Criminal Law. He adds that Professor Goldman is joint author of a Criminal Law casebook which is to be published shortly.

On reviewing the matter, the Committee was of the view that the requirements for an academic call are set out in the regulation and therefore cannot be varied by the Committee. Accordingly, the Committee is of the view that Professor Goldman does not at this time qualify for an academic call.

3. APPLICATIONS - FOREIGN LEGAL CONSULTANTS

Lowell Grosse - Grosse, Rossetti, Chelus & Herdzik - New York

An application was received from Lowell Grosse of the firm of Grosse, Rossetti, Chelus & Herdzik, New York to be licensed as a foreign legal consultant.

Mr. Grosse was called to the New York State Bar in 1954 and has been actively engaged in the practice of law in the state of New York as a member in good standing since that time.

The applicant is also admitted to practice in the Federal District Court, Western District of New York and the United States Supreme Court.

The only unusual factor is in regard to the residency requirement. Mr. Grosse does not plan to take up permanent residency but asks if the circumstances as outlined in his letter of the 5th February, 1990 would constitute "permanent residency" as required by the policy.

Mr. Grosse's application is complete and both he and the firm have filed all necessary undertakings.

The application and supporting material is available at the request of the Committee.

The Committee is of the view that Mr. Grosse does not satisfy the requirement for permanent residency and therefore the Committee did not grant him a license as a foreign legal consultant.

4. ADMISSION OF STUDENTS-AT-LAW

Bar Admission Course

The following candidates, having complied with the relevant Regulations, paid the required fee of \$101.00 and filed the necessary documents, now apply for admission to the Law Society as students-at-law in the Bar Admission Course:

Under Bar Admission Course Regulation 22(7)
31st B.A.C. (Entering Articles 1988)

1026.	Alexander, Michael Ian	B.A. Toronto/78; M.A. Toronto/79; LL.B. Toronto/83;
1027.	Benson, Jeffrey Ian	B.A. York/71; M.S.W. Toronto/79; LL.B. York/88;
1028.	Bleta, Leroy Arif	B.Sc. Toronto/85; LL.B. Manitoba/88;
1029.	Boulding, Jo-Anne Marie	B.A. Trent/85; LL.B. York/88;
1030.	Boyce, Mark Randal	B.A. Toronto/85; LL.B. Queen's/88;
1031.	Brockenshire, Deborah Henrietta	Mature Student; LL.B. York/88;
1032.	Brodzky, Michael	B.A. Toronto/78; M.A. Toronto/79; LL.B. Western/88;
1033.	Buckley, Melina Louise	B.A. Toronto/84; LL.B. Ottawa/88;
1034.	Bulat, Drazen Franjo	2 yrs. Arts, Toronto; LL.B. York/88;
1035.	Bur, Donald Floyd	3 yrs. Arts, Calgary; LL.M. Toronto/81; LL.B. Alberta/77;
1036.	Chow, Raymond Ki Wah	Joint Committee on Accreditation/89;
1037.	Comeau, Bradley Frederick	B.Sc. Prince Edward Island/80; B.Ed. Prince Edward Island/82; LL.B. New Brunswick/88;
1038.	Coulter, Catherine Patricia	B.Mus.A. Michigan, U.S.A./85; LL.B. Western/88;
1039.	Crnkovich, Mary Katherine	B.A. Carleton/80; LL.B. Queen's/88;
1040.	Crombie, Karen Elizabeth	B.A. Calgary/84; LL.B. Toronto/88;
1041.	Crooks, Sharon Janelle	B.A. Winnipeg/84; LL.B. Alberta/87;
1042.	Dale, Peter James	B.Comm. Dalhousie/85; LL.B. Dalhousie/88;
1043.	Dietrich, Thomas Francis	B.A. York/82; LL.B. Ottawa/88;
1044.	Dinsdale, Marie Des Neiges Denise	Special Student; LL.B. York/87;
1045.	Edgar, Vicki-Jo	B.A. Western/85; LL.B. Western/88;

1046.	Egan, Richard Wayne	B.A. Guelph/73; LL.B. Windsor/88;
1047.	Feltes, Alyson Elizabeth	B.A. Queen's/85; LL.B. York/88;
1048.	Gamble, Ian Jeffrey	B.Sc. McGill/85; LL.B. British Columbia/88;
1049.	Garson, Marc Alan	M.B.A. Dalhousie/88; LL.B. Dalhousie/88;
1050.	Gertler, Hana	B.A. Ottawa/85; LL.B. Ottawa/88;
1051.	Giamberardino, Maria Catherine	B.Pub.Rel. Mount Saint Vincent/85; LL.B. Ottawa/88;
1052.	Gilmour, William Ross	1 yr. Arts, York; 1 yr. Arts, Waterloo; LL.B. Queen's/87;
1053.	Haigh, Richard Arthur	B.Sc. Calgary/83; LL.B. Dalhousie/88;
1054.	Hess, Liisa Pille	2 yrs. Arts, Toronto; LL.B. York/88;
1055.	Hitzig, Susan Amy	B.A. McGill/83; B.C.L. McGill/87; LL.B. McGill/87;
1056.	Hodgson, Norman Bradley	B.A. Windsor/83; LL.B. Windsor/88;
1057.	Jaremchuk, Antin	B.A. Western/72; LL.B. Western/88;
1058.	Jeffcott, James William	B.A. McGill/84; LL.L. Ottawa/88; LL.B. Ottawa/87;
1059.	Jolly, Neelam	B.A. Alberta/84; LL.B. Alberta/88;
1060.	Krebs, Randall John	B.Comm. Alberta/82; LL.B. Alberta/85;
1061.	Langlois, Tracey Lee	B.A. McMaster/85; LL.B. Western/88;
1062.	Laratta, Francis Joseph Anthony Cosmo	B.A. Toronto/82; M.Sc. University of London, U.K./85; LL.B. Dalhousie/87;
1063.	Latham, Lee Joseph	2 yrs. Arts, Western; LL.B. Western/88;
1064.	Lechow, Meros Bohdan	B.A. Winnipeg/80; LL.M. York/86; LL.B. Manitoba/83;
1065.	Ledingham, Clark Bain	B.A. Toronto/85; LL.B. York/88;

1066.	Lesperance, David Sylvio	B.A. Windsor/84; LL.B. Saskatchewan/88;
1067.	Liddle, John David	B.A. Windsor/83; M.A. Windsor/85; LL.B. Windsor/88;
1068.	Linden, Lisa Dawn	B.A. McGill/85; LL.B. Toronto/88;
1069.	Little, Ross Brenton	B.A. Saint Mary's/84; B.Comm. Saint Mary's/84; LL.B. Dalhousie/88;
1070.	Litwack, Gary Michael	2 yrs. Yeshiva University; LL.B. Ottawa/88;
1071.	Loewen, Donald Brian	B.A. Queen's/85; LL.B. Dalhousie/88;
1072.	Lyons, Catherine Anne	B.A. New Brunswick/82; LL.B. Toronto/88;
1073.	MacDonald, Norman	Special Student; LL.B. Dalhousie/86;
1074.	MacKenzie, Gordon Ralph	B.A. Carleton/82; LL.B. Ottawa/88;
1075.	Marc, Timothy Craig	B.A. Toronto/85; LL.B. Ottawa/88;
1076.	Marley, Kenneth Shawn	4 yrs. Arts, McMaster; LL.B. York/88;
1077.	Martin, Peter Guy	B.Sc. Toronto/83; LL.B. York/88;
1078.	Matthews, Ina Susan	B.A. McGill/85; LL.B. York/88;
1079.	McArter, Raymond Gary	B.Sc. Brandon/77; B.Comm. Windsor/81; LL.B. Western/88;
1080.	McKenzie, Linda Ann	B.A. Concordia/85; LL.B. York/88;
1081.	McLean, Catherine Stewart	B.A. Western/83; LL.B. Toronto/88;
1082.	Miller, Renee Margaret	4 yrs. Arts, Alberta; LL.B. York/88;
1083.	Milligan, Patricia Erin	B.A. Western/84; LL.B. York/88;
1084.	Minnes, Robert Douglas	B.A. Ottawa/86; LL.B. York/88;
1085.	Mitchell, Donald Paul	B.A. Saskatchewan/76; LL.B. Saskatchewan/88;
1086.	Morgan, Charles	B.A. Wilfrid Laurier/85; LL.B. Toronto/88;
1087.	Morris, Donald Frederick	Mature Student; LL.B. Dalhousie/88;

1088.	Morton, Kenneth John	B.Sc British Columbia/74; LL.B. Queen's/88;
1089.	Mullaney, Jesslyn Marie	B.Sc. St. Francis Xavier/74; B.A. Calgary/84; LL.B. Ottawa/88;
1090.	Murray, Ross Colin	B.Comm. Alberta/82; LL.B. Alberta/85;
1091.	Nickel, Holly Joanne	2 yrs. Arts, Alberta; B.C.L. McGill/88; LL.B. McGill/88;
1092.	Nott, Harley Roderick	2 yrs. Arts, Victoria; LL.B. Victoria/88;
1093.	Novak, George Alexander	B.A. Western/84; LL.B. Western/88;
1094.	Olij, Pieter Harm Roelf	2 yrs. Arts, York; LL.B. York/88;
1095.	Ozols, Gunar Edgar	B.A. York/75; M.A. McGill/81; LL.B. Ottawa/84;
1096.	Paul, Ian David	B.A. Mount Allison/84; LL.B. Dalhousie/87;
1097.	Pearce, Tracey-Anne	2 yrs. Arts, Western; LL.B. Toronto/88;
1098.	Pether, Terrence Kenneth	B.A. Western/84; B.C.L. McGill/88; LL.B. McGill/88;
1099.	Pothier, Jennifer Lynne Elizabeth	3 yrs. Arts, Toronto; LL.B. Ottawa/88;
1100.	Prymak, Shannon Kelly	3 yrs. Arts, Ottawa; LL.B. Ottawa/88;
1101.	Rassos, Anastassios	B.Comm. Toronto/85; LL.B. Queen's/88;
1102.	Reilly, Mary Patricia	B.A. York/80; M.A. York/82; LL.B. Windsor/88;
1103.	Renaud, Marie Myriam	B.A. Montreal/75; LL.B. British Columbia/80;
1104.	Rezek, Kenneth Paul Joseph	2 yrs. Arts, Alberta; LL.B. Toronto/88;
1105.	Riccio, Andrea Mario Felice	B.Comm Calgary/85; LL.B. Alberta/88;
1106.	Richardson, Karen Jane	B.A. Laurentian/84; LL.B. Ottawa/88;
1107.	Roberts, Andrew Millidge Wynne	B.A. Queen's/79; LL.B. Queen's/86;
1108.	Rodger, Jonathan Mark	3 yrs. Arts, Toronto; LL.B. Windsor/88;

1109.	Rosen, Gary Steven	2 yrs. Arts, McGill; LL.L. Ottawa/87; LL.B. Ottawa/86;
1110.	Ross, Leslie Andreen	B.A. Queen's/83; LL.B. Western/88;
1111.	Rowan, Donald Frederick	B.A. New Brunswick/86; LL.B. New Brunswick/88;
1112.	Rowles, Calvert John	B.A. Western/85; LL.B. Victoria/88;
1113.	Rowsell, Janet Susan	B.A. Toronto/83; LL.B. Ottawa/88;
1114.	Safer, Susan Paula	B.A. York/84; LL.B. Western/88;
1115.	Schofield, Linda Teresa	B.A. Manchester, U.K./66; M.A. Newcastle, U.K./68; LL.B. Saskatchewan/82;
1116.	Schwarzl, Richard Hans Karl	B.A. Western/84; LL.B. Western/88;
1117.	Serafimovski, Tomislav	B.A. Windsor/86; LL.B. Windsor/88;
1118.	Sergenese, Sandra Lynn	B.A. Lakehead/82; LL.B. York/88;
1119.	Shainhouse, Batsheva Judith	B.A. York/85; LL.B. York/88;
1120.	Smith, Clyde Martin	2 yrs. Arts, York; LL.B. York/88;
1121.	Smith, William Hamlin Arvida	B.A. Western/83; LL.B. Western/88;
1122.	Stabile, Vincent	Mature Student; LL.B. Windsor/89;
1123.	Staples, Christopher James	B.A. Toronto/85; LL.B. Ottawa/88;
1124.	Ste-Marie, Lili Gisele	B.A. McGill/82; LL.B. Moncton/88;
1125.	St-Fort, Rene	B.Soc.Sci. Ottawa/80; LL.B. Ottawa/88;
1126.	Strong, Marylynn Florence	B.A. Carleton/77; LL.B. York/88;
1127.	Sui, Erwin Yee Mon	B.A. British Columbia/85; LL.B. York/88;
1128.	Sutherland, Alison Velda	B.A. McGill/85; LL.B. York/88;
1129.	Sym, Colleen Joan	B.A. Carleton/84; LL.B. Ottawa/87;
1130.	Thompson, Kevin Andrew	B.A. McMaster/84; LL.B. Dalhousie/85;

1131.	Thorburn, Julie Alexandra	B.Mus Montreal/85; LL.B. Queen's/88;
1132.	Traub, Sophie	B.A. Waterloo/85; LL.B. Western/88;
1133.	Traynor, Michael Howard	B.Sc. Ottawa/83; LL.B. Ottawa/88;
1134.	van der Burg, Corrine	2 yrs. Arts, Waterloo; LL.B. Ottawa/88;
1135.	Villeneuve, Gilles Daniel	B.Soc.Sci. Ottawa/84; LL.L. Ottawa/88; LL.B. Ottawa/87;
1136.	Walker, Kenneth Gordon	B.A. Western/85; LL.B. Windsor/88;
1137.	Wall, Brickford	Joint Committee on Accreditation/89;
1138.	Weilenmann, Henry Robert	B.A. Berkeley, U.S.A./80; M.A. Rutgers, U.S.A./84; LL.B. Windsor/88;
1139.	Wenger, David James	B.Comm. Calgary/85; LL.B. Toronto/88;
1140.	Whelan, Susan Elizabeth	3 yrs. Business, Windsor; J.D. Detroit, U.S.A./88; LL.B. Windsor/88;
1141.	Wilkinson, Terri Susan	Mature Student; LL.B. York/88;
1142.	Wong, Eleanor Wai-Ling	LL.B. University of London, U.K./86; LL.B. Queen's/88;
1143.	Wright, James Douglas	B.Sc. Western/84; LL.B. Dalhousie/88;
1144.	Wyonch, Nancy Anne	Mature Student; LL.B. Queen's/88;

Approved

Under Bar Admission Course Regulation 22(7)
32nd B.A.C. (Entering Articles 1989)

187.	Boniuk, Andrea Jane	B.A. York/86; LL.B. Windsor/89
188.	Clement, Bernadette Louise	D.E.C. Stanislas; LL.L. Ottawa/87; LL.B. Ottawa/88
189.	Crann, Gordon Parker	B.A. Toronto/75; M.A. Toronto/85; LL.B. Toronto/89
190.	Elder, David Bruce	B.A. York/85; LL.B. Ottawa/89
191.	Elliott, John Scott	B.A. Western/86; LL.B. Queen's/89

192.	Elliott, Richard David	B.Sc. Toronto/85; LL.B. York/89
193.	Elrifi, Ivor Ramsay	B.Sc. Queen's/82; Ph.D. Queen's/86; LL.B. York/89
194.	Embree, Kirsten Ruth	B.A. Carleton/86; LL.B. McGill/89
195.	Emery, Laura Phyllis Maria	B.A. Western/86; LL.B. Saskatchewan/89
196.	Engel, Bruce	B.A. Concordia/86; LL.B. Saskatchewan/89
197.	Esposito, Eduardo	B.A. Queen's/86; LL.B. Western/89
198.	Evans, Heather Lynn	B.A. McMaster/86; LL.B. Western/89
199.	Evans, Richard Edmund	B.A. McMaster/86; LL.B. Queen's/89
200.	Exner, Deanna Marie	3 yrs. Arts, Regina; LL.B. Saskatchewan/89
201.	Ferrier, Calvin David	2 yrs. Arts, Western; LL.B. Toronto/89
202.	Fiorenza, Cosimo	B.B.A. Lakehead/86; LL.B. Ottawa/89
203.	Fisher, Kenneth J.	B.A. Yeshiva, USA/84; LL.B. York/89
204.	Fisher, Roger Stephen	B.A. Ottawa/77; M.A. McMaster/79; Ph.D. McMaster/87; LL.B. York/89
205.	Fisher, Rosemary Anne	B.A. Western/86; LL.B. York/89
206.	Friend, Derek Gordon	B.A. Winnipeg/83; M.A. York/86; LL.B. Dalhousie/89
207.	Gahtan, Alan Meir	B.A. Toronto/81; M.B.A. York/84; LL.B. York/87
208.	Grinberg, Rachel	B.A. York/86; LL.B. Western/89
209.	Olson, David Bruce	B.A. Western/85; LL.B. York/89
210.	Peach, Ian Laird	B.A. Dalhousie/86; LL.B. Queen's/89
211.	Pearson, Kurt Robert	B.A. Queen's/86; LL.B. Queen's/89
212.	Piehler, Rolf Martin	B.A. McGill/86; LL.B. Toronto/89

213.	Prefontaine, Nicole Micheline Marie-France	B.A. Carleton/86; LL.B. Ottawa/89
214.	Price, Claire Louise	Joint Committee on Accreditation/89
215.	Rubinoff, Jeffrey Aaron	2 yrs. Arts, York; LL.B. York/89
216.	Saumure, Jean Denis	B.A. Ottawa/85; LL.B. Ottawa/89
217.	Saunders, Lynne Anne	B.A. York/86; LL.B. Western/89
218.	Saxena, Rahul Erik	B.A. McGill/85; LL.B. Toronto/89
219.	Sheppard, Jeremy Scott Attwood	B.A. Victoria/85; LL.B. Queen's/89
220.	Shi, Chi-Kun	B.A.Sc. Toronto/82; M.A.Sc. Toronto/84; LL.B. Toronto/89
221.	Shulakewych, Bohdan De Leliva	B.A. Lethbridge/85; M.Sc. London, UK/88; LL.B. Windsor/89
222.	Shulman, Steven Howard	B.A. York/86; LL.B. York/89
223.	Silkauskas, Lynn Christine	B.A. McGill/85; LL.B. York/89
224.	Silverman, Howard Stephen	B.A. York/82; M.A. Brandeis, USA/86; LL.B. Toronto/89
225.	Simand, Harriet Joy	B.A. Trent/84; B.C.L. McGill/89; LL.B. McGill/89
226.	Simser, Jeffrey Ray	B.A. Toronto/84; LL.B. Queen's/89
227.	Sinicrope, Rose Maria	3 yrs Arts, York; LL.B. York/89
228.	Siwanowicz, Hellen Linda	B.Sc. Toronto/84; LL.B. Toronto/89
229.	Skuce, Peter Allen	B.A. York/85; LL.B. Toronto/89
230.	Smale, Martha Jane	B.A. Queen's/80; LL.B. Queen's/89
231.	Smith, Gregory Joseph	B.Admin. Brock/86; LL.B. Windsor/89
232.	Smith, Ian Ross	B.A. Queen's/86; LL.B. Queen's/89
233.	Smith, Tamar Lee	A.B. Vassar, USA/86; B.A. Oxford, UK/88; LL.B. York/89

234.	Springfield, Roger Julian	B.A. Queen's/85; LL.B. Toronto/89
235.	Squire, Jack	B.A. Laurentian/86; LL.B. York/89
236.	St. Louis, Paul Borden	B.A. Queen's/85; M.A. Queen's/89; LL.B. Queen's/89
237.	Stairs, Anne Felicite	B.A. Macalester, USA/72; B.A. Western/78; Ph.D. Western/86 LL.B. York/89
238.	Starr, Melanie Dawn	B.A. Calgary/85; LL.B. York/89
239.	Steele, David Michael	B.A.Sc. Toronto/85; M.B.A. McGill/89; LL.B. McGill/89
240.	Stefanovic, Marina	B.A. York/86; LL.B. Queen's/89
241.	Stein, Rosanne Gail	B.Sc. McGill/84; LL.B. Saskatchewan/89
242.	Steiner, Jeffrey David Maurice	B.A. York/86; LL.B. British Columbia/89
243.	Stewart, Carolyn Elaine	B.Journ. Kings/86; LL.B. New Brunswick/89
244.	Straus, Geraldine Rose	Mature Student; LL.B. Windsor/89
245.	Sutton, Lynn-Beth	B.A. Toronto/86; LL.B. Windsor/89
246.	Swan, Richard Bruce	B.A. Manitoba/85; B.C.L. McGill/89; LL.B. McGill/89
247.	Taite, Hollie Ann	B.A. Ottawa/86; LL.B. Ottawa/89
248.	Thompson, Karen Alvertta Darlene	B.A. Western/69; LL.B. York/89
249.	Thompson, Marylynn Elizabeth	B.Th. Saskatchewan/84; B.A. Saskatchewan/86; LL.B. Saskatchewan/89
250.	Thompson, Owen James Earl	B.A. Toronto/83; M.B.A. Toronto/86; LL.B. Ottawa/89
251.	Thrasher, Cynthia Ann	2 yrs. Arts, Windsor & Toronto; LL.B. Windsor/89
252.	Tibollo, Nicola	B.A. York/86; LL.B. Windsor/89
253.	Timmis, Mary Kathleen	B.A. Western/82; LL.B. Toronto/89

254.	Tingey, Valerie June	B.A. Laurentian/86; LL.B. Windsor/89
255.	Toms, Charmaine	B.A. Saskatchewan/86; LL.B. Saskatchewan/89
256.	Toms, Lynda Ann	B.A. Western/86; LL.B. Windsor/89
257.	Tucci, Gregorio Graziano	2 yrs. Arts, York; LL.B. Windsor/89
258.	Tulloch, Michael Hopeton	B.A. York/86; LL.B. York/89
259.	Turnbull, Brian Murray	Mature Student; LL.B. York/89
260.	Turnbull, Lorna Anne	B.A. Queen's/85; LL.B. Ottawa/89
261.	Turner, Elizabeth Ross	A.B. Stanford, USA/85; LL.B. Toronto/89
262.	Varma-Zuidema, Jyoti	B.A. Western/86; LL.B. Windsor/89
263.	Vezina, Joseph Rejean Louis	B.Sc. Quebec/81; LL.B. Ottawa/89
264.	Voudouris, Alexander Michael	B.A. York/86; LL.B. Windsor/89
265.	Walberg, Wendy Elizabeth	3 yrs. Arts, Carleton; LL.B. York/89
266.	Walker, Patrick James	B.A. Saskatchewan/84; LL.B. Queen's/89
267.	Walters, Charles William	B.A. Western/85; LL.B. Windsor/89
268.	Walz, Paul Michael	B.A. Carleton/86; LL.B. Windsor/89
269.	Warkentin, Bonnie Rae	B.A. Winnipeg/83; LL.B. Queen's/89
270.	Warren, Stephen Gregory	B.A. Western/86; LL.B. Toronto/89
271.	Watson, Harold Rogers	B.A. Guelph/80; B.Ed. Western/81; LL.B. Ottawa/89
272.	Whalen, Christian Robert	B.A. Carleton/87; LL.B. New Brunswick/89
273.	Williams, Heather Jean	B.Journ. Carleton/83; LL.B. Ottawa/89

Approved

5. OTHER ITEMS

ADMISSION TO THE ONTARIO BAR - SPECIAL PETITION

The following item was stood over from the January 11th Admissions Committee meeting:

Michael C. Varabioff was called to the Bar of the Province of British Columbia on the 14th day of June, 1985. From September 1985 to November 1986 he was an associate lawyer at the Vancouver firm of Freeman & Company. From December 1986 to July 1987 he was employed by the British Columbia Securities Commission as a Filings Analyst. From September 1987 to January 1989 he was enrolled in the LL.M. program at the University of Toronto.

Being short the required three years of practice, which would allow him to transfer through the Admissions Committee, Mr. Varabioff applied for a transfer through the Legal Education Committee, in early 1988. At that time he was granted an abridgement of his articles to four months and later received permission to serve the articling term following completion of the teaching term of the Bar Admission Course.

Mr. Varabioff entered the teaching term of the Bar Admission Course in September 1988 completing it successfully in February 1989. During the period of March 1989 to September 1989 he sought both an articling position in Ontario and employment in Vancouver. Since October 2nd, 1989 Mr. Varabioff has been employed as an associate lawyer with a firm in Vancouver. To date he has not completed the articling requirement.

In his letter dated the 15th November, 1989, Mr. Varabioff requests that, upon completing three years of practice "or its equivalent" in October 1990 (if the Committee will accept his work with the B.C. Securities Commission as the equivalent of the practice of law), the Committee grant him admission to the Bar of Ontario on the basis that he has already completed the teaching term of the Bar Admission Course which is one of the routes of transfer available to those who have the required three years of practice.

The Committee noted that in his letter he states that the period during which he will have completed his three years of practice exceeds the last five years by one month and hopes this will not be an impediment to his request being accepted.

His letter of the 15th November was before the Committee for further consideration and the Committee recommends that Mr. Variaboff be called to the Bar after October 1990 as he will then have satisfied the requirements set out in the regulation.

SPECIAL PETITION - APPLICATION UNDER 4(2)

Lorraine Elizabeth Kuska (LL.L. 1984 from the University of Ottawa) was called to the Bar of the Province of Quebec on the 14th day of November, 1985. She practised in Quebec as an assistant Crown Prosecutor for the Quebec Ministry of Justice from the 13th November 1985 to the 24th January 1986 (2 mos. and 1 wk). The applicant then moved to Ontario where she has worked as in house counsel for IBM, first in Markham from the 25th January 1986 to the 4th September 1988 and then in North York from the 5th September 1988 to the present.

In her letter of the 31st January, 1990, she describes the nature of her duties as in house counsel with IBM in Ontario as legal counsel to their "manufacturing operations, the principal one being in the city of Bromont, Quebec. Other key responsibilities include contracting responsibilities for Procurement activities, personnel concerns and translations for the province Quebec."

Ms. Kuska asks that her time working in Ontario be accepted as fulfilling the requirements under Regulation 4(2) with regard to length of time in actual practice.

In the past the Committee has taken the view that as the requirements regarding practice are contained in the regulations that the requirement cannot be waived. Regulation 4(2) reads:

" Upon the recommendation of the Committee, an applicant may be called to the bar and admitted as a solicitor who,

- (a) has been engaged in the active practice law in the Province of Quebec for a period or periods totalling at least three years within the five years immediately preceding his application; ... "

Accordingly, work in Ontario such as described by Ms. Kuska would not be credited toward the necessary three years of practice.

Her letter was before the Committee for consideration.

The Committee was of the view that Ms. Kuska does not qualify as a transfer candidate as the regulation for transfer from Quebec specifically requires that the applicant has practised 3 of the last 5 years in the province of Quebec.

B.A.C. STUDENT - CITIZENSHIP DIFFICULTY

A letter from Allan Rock dated the 22nd January 1990 was before the Admissions Committee for consideration.

In his letter Mr. Rock outlines the situation of a Bar Admission student in the current teaching term who seeks to be called to the Bar with her fellow classmates in March of this year.

The student is an American citizen who intends to live in Ontario and to practice Ontario law if she is permitted to do so. The Law Society Act was recently amended to provide that persons may be called to the Bar in Ontario if they are either Canadian citizens or permanent residents of Canada. The student has encountered difficulty in being granted landed immigrant status and has retained an immigration lawyer.

In the past the Committee has sometimes permitted persons to be called to the Bar in Ontario on the undertaking to become Canadian citizens. The Committee is asked whether the student would be permitted to be called to the Ontario Bar in March this year on the undertaking to become a landed immigrant. The difficulty with that, however, as apparently the student herself admits, is that her being granted landed immigrant status is not something over which she has control.

The Committee also had before it, for consideration, the student's letter of the 5th February, 1990 which arrived in time for Meeting Day.

The Committee is of the view that the student cannot be called to the Bar as she does not meet the requirements of being either a Canadian citizen or permanent resident of Canada. The Committee was also of the view that as it is the ruling of the Immigration Department that the student does not at this time meet the criteria for permanent residency it would not serve any purpose to call her to the Bar on her undertaking to become a permanent resident as soon as is practicable.

Deleted in Convocation, see Page 154.

CRIMINAL CONVICTION - (Articling Student)

The following item was stood over from the January 11th Admissions Committee meeting:

A student, currently articling, pleaded guilty in the early 1960's to a petty theft involving books taken from a student book store and paid a fine on the order in the amount of roughly \$25.00.

23rd February, 1990

In 1969 or 1970 (applicant not certain of date) he was charged with carrying a concealed weapon and displaying a weapon in a threatening manner while in a taxicab. He explains that the weapon was a toy which he was carrying to show a friend and when moving it from one pocket to to another the taxi driver panicked and radioed ahead for the police. He states that the matter proceeded close to trial before the public defender was told that the weapon had proved to be a toy at which point there was an offer to plea bargain. The two charges were dropped in return for a plea of guilty to "failure to pay a taxi driver".

He asked the Committee whether these incidents which occurred 20 years ago will prevent him from being called to the Ontario Bar.

Three letters of reference, the applicant's description of the two events, a copy of his application for admission to the New York Bar, and other copies of correspondence regarding the matters were before the Committee for information.

The Committee is of the view that the offences would not prevent the student from being called to the Bar particularly in light of his age when the offences occurred, the fact that the offences took place some 20 years ago and as he has filed evidence of present good character.

C.
INFORMATION

1. BUDGET - '90/'91

The following is the Admissions Committee estimates for disbursements for the year 1990/91:

Examiners' Fees (and Miscellaneous)	\$7,500.00
Update Common Law Examinations	\$2,500.00 (*Note)
Counsel Fees	\$40,000.00 (**Note)
	<hr/>
	\$50,000.00

*Note: This amount is half of the \$5,000.00 approved by the Finance Committee for the 1986/87 Fiscal Year to update the Common Law examinations. The amount was not used and the Committee carried it forward to its 1987/88, 1988/89 and 1989/90 Budgets.

To date, only half of the material for the examinations has been updated and therefore the whole job only half paid for. The Committee is asked to carry the remaining \$2,500 forward to its 1990/91 Budget.

**Note: This amount was reached on the basis of an estimate of the number of readmission hearings scheduled for the next year. We have received ten readmission applications which are at various stages of being processed and we have received approximately six other enquiries by counsel indicating that they will be submitting applications on behalf of disbarred members. Also taken into consideration to arrive at this amount was the \$66,554.59 cost of the P matter.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"M. Weaver"
Chair

A-Item 5 regarding the Bar Admission Course student requesting that she be Called to the Bar despite the fact that she is not a citizen of Canada nor a permanent resident was deleted from the Report.

Mr. Lerner did not participate in the debate nor vote on the student citizenship matter.

THE REPORT AS AMENDED WAS ADOPTED

.....

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

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met by means of a conference call on Thursday, the 22nd of February, 1990 the following members participating: Ms. Peters (Chair), Mrs. Weaver (Vice-Chair) and Mr. Lamont.

B.

1. CALL TO THE BAR AND CERTIFICATE OF FITNESS

Bar Admission Course

The following candidate, having successfully completed the thirty-first Bar Admission Course, filed the necessary documents and paid the required fee of \$210.00 now applies for call to the Bar and to be granted a Certificate of Fitness:

Susan Jennifer Day

2. CONDITIONS OF READMISSION WAIVED

The following item was stood over from the January 11th, 1990 Committee Meeting:

A member of the Law Society of Upper Canada was disbarred in April 1967 for improperly drawing from his trust account. In 1977 he was told that he would be readmitted as a member of the Law Society of Upper Canada on the following conditions:

1. That he complete successfully the teaching portion of the Bar Admission Course;
2. That he not practise as a sole practitioner; and
3. That he not sign trust cheques.

In March 1978 he successfully completed the teaching term of the Bar Admission Course. In April 1978 he was formally readmitted as a member of the Law Society.

The condition prohibiting the member's signing of trust cheques was waived so long as he was not the sole signing partner.

In his letter dated the 21st December, 1989 the member requests a waiving of the condition that he not practise as a sole practitioner and that he be permitted to manage his own trust account.

His letter is before the Committee for consideration."

The member telephoned staff lawyer Ajit John on the 12th of January, 1990 who told him that his request had been made to stand until the February meeting. The member informed Ajit John of an address change and that he was getting pressure from his former partner/associate and was forced to change shared office space. He is now sharing office space with another member of the Law Society. He stated that he would not be handling any trust monies of any clients.

The Secretary asked the member to send a letter describing the circumstances surrounding the switch in shared office space for the Committee's information. The member was also asked to provide letters from lawyers who have been associated with him in the last few years who are aware of his past situation and who can attest to the fact that his practising as a sole practitioner should not present a problem.

After reviewing the member's letter of the 7th February, 1990 and a letter of reference (the sole person appraised of the member's past situation) in support of the member's request dated the 8th of February, 1990 the Committee recommends that the member be permitted to practise as a sole practitioner and to manage his own trust account.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"M. Weaver"
Chair

THE REPORT WAS ADOPTED

.....

CALL TO THE BAR

The following candidate was presented to the Treasurer and Convocation and was Called to the Bar, and the degree of Barrister-at-law was conferred upon her by the Treasurer.

Susan Jennifer Day

31st Bar Admission Course

LEGAL EDUCATION

Mr. Rock presented the Report of the Legal Education Committee of its meeting on February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990. The following members were present: A. Rock (Chair), D.H.L. Lamont, M.C. Cullity (Vice-chairs), R. Ferguson, P. Peters, J. Spence, S. Thom, J. Wardlaw, R. Yachetti.

A. POLICY

1. CONTINUING LEGAL EDUCATION REFORM

On January 24, 1990, a meeting took place in the office of the

Director to examine the operation of and new directions for the Law Society's Continuing Legal Education operation. In attendance were the Chair, Allan Rock, the Vice-chairs, Donald Lamont and Maurice Cullity, the Director, Alan Treleaven, the Deputy Director, Brenda Duncan, and the Continuing Legal Education Manager, Cheryl Barr. The first chapter of a Report containing Recommendations, drafted by Mary Tomlinson, was discussed. At the conclusion of the meeting it was agreed that there should be appointed a Continuing Legal Education Reform Subcommittee to consider and make recommendations in relation to the following aspects of the Law Society's Continuing Legal Education operation:

- a) Process for developing a curriculum
- b) Content of curriculum
- c) Educational mandate
- d) Economic mandate
- e) Continuing legal education outside Toronto
- f) French language programs
- g) Role in the certification process
- h) Internal organization.

It is recommended that a Continuing Legal Education Reform Subcommittee be appointed to study significant issues relating to the Law Society's Continuing Legal Education operation and to provide recommendations to the Committee.

Approved

2. WOMEN IN THE LEGAL PROFESSION SUBCOMMITTEE

The Chair of the Women in the Legal Profession Subcommittee, Fran Kiteley, has consulted with the Director, and requests that the Legal Education Committee provide details of the role that the Women in the Legal Profession Subcommittee might have in relation to the teaching and articling terms of the Bar Admission Course and to the Continuing Legal Education operation.

In response to this request, the following involvement of the Women in the Legal Profession Subcommittee is recommended:

- a) The Director and Faculty of the Bar Admission Course will consult with the Subcommittee on a regular basis to determine how gender-related issues will be included in the content of the teaching term.
- b) The Director will consult with the Subcommittee on gender-related issues arising in the teaching and administration of the Bar Admission Course.
- c) The Director will consult with the Subcommittee on gender-related issues arising in articling.
- d) The Director and Deputy Director will consult with the Subcommittee to determine how gender-related issues affecting the profession and clients might be dealt with in Continuing Legal Education programs.

Approved

3. ADVOCATES SOCIETY INSTITUTE

The Law Society is entitled to representation on the Board of the Advocates Society Institute. By reason of the appointment of Helen King-MacLeod to the Bench of the District Court and the resignation of Roger Yachetti from the Board, there are two positions on the Board to be filled by representatives of the Law Society.

It is recommended that Marc Somerville, Q.C. and Harvey Strosberg, Q.C. be appointed to fill the Board vacancies.

Approved

4. SUPPLEMENTAL EXAMINATION PROCEDURES

The Bar Admission Course procedures governing supplemental examinations will likely be questioned by students wishing to write four supplemental examinations before appealing failure of the Bar Admission Course to the Committee.

Students in the 1989-90 teaching term each received a copy of the procedures governing supplemental examinations at the commencement of the term. The procedures, which have been in place for over ten years, are as follows:

A candidate who fails one, two or three examinations will be required to write supplemental examinations in the subject or subjects failed.

The final grade for a subject in which a supplemental examination is written will be the grade obtained for the supplemental examination.

In no case may a candidate write more than a total of three supplemental examinations. A candidate who fails four or more examinations fails the Bar Admission Course outright and is not eligible to write supplemental examinations.

One student wishes to be entitled to write four supplemental examinations so that the results would be evidence of his ability should he appeal his failure of the Bar Admission Course to the Committee. (He does not propose that success in four supplemental examinations result in his automatically passing the Bar Admission Course.)

It is recommended that the supplemental examination procedures be confirmed.

Approved

B.
ADMINISTRATION

1. SAM McNICOLL PRATT

Ms. Pratt requests an abridgment of the articling requirement based on her experience as a legal secretary and for one month as a conveyancing paralegal.

Ms. Pratt enrolled in the LL.B. program at the University of Windsor in September of 1987, and expects to graduate in April of 1990.

Ms. Pratt's lengthy experience as a legal secretary began in 1975, and continued with little interruption until 1987 in Alberta, British Columbia, and Ontario. In the summer of 1988, at the end of her first year of law school, she worked as a conveyancing paralegal with a Windsor law firm.

Ms. Pratt's letter and curriculum vitae are attached. (pages 1-3)

The Director has determined that her employment experience, while extensive, has not been equivalent to an articling position.

It is recommended that Ms. Pratt's request for an abridgment of articles be denied.

Approved

2. JOHN KENNETH VENN

Mr. Venn requests an abridgment of the articling requirement to four months.

In this way Mr. Venn's articling requirement could be completed before entry into the September, 1990 teaching term of the Bar Admission Course. Mr. Venn expects to complete the program of legal studies prescribed by the Joint Committee on Accreditation by the end of April, 1990.

Mr. Venn's letter and resume are attached. (pages 4-9)

Mr. Venn was called to the Bar of England in July of 1971.

From 1972 to 1988 Mr. Venn served as a Staff Officer (Legal) with the British Army, rising from the rank of Captain to Major. His experience is supported by a letter from Lieutenant Colonel Spencer.

It is recommended that Mr. Venn's articling requirement be abridged to six months, including two weeks of vacation, and that Mr. Venn be permitted to split the articling requirement around the teaching term provided that he complete no less than four months of the articling requirement prior to entering the teaching term.

Approved

C.
INFORMATION

1. CONTINUING LEGAL EDUCATION MANAGER

Cheryl Barr has joined the Law Society's Continuing Legal Education operation as Continuing Legal Education Manager, replacing Susan Langton. Ms. Barr's outstanding qualifications most recently include serving with the Canadian Bar Association Ontario as Director of Education.

2. TREASURER'S ANNUAL DINNERS

The Treasurer is hosting the following dinners in the Benchers' Dining Room. Each dinner will be preceded by a meeting in Convocation Room at 4:30 p.m. followed by refreshments. All members of the Legal Education Committee are invited to attend.

a) Ontario Law Dean's Dinner: March 8, 1990.

The 4:30 p.m. business meeting will be to discuss Legal Education issues which are of joint interest to the Legal Education Committee and to the law schools.

b) Bar Admission Course Section Heads and Senior Instructors: date (to be announced).

The 4:30 p.m. business meeting will be to discuss the most recent Bar Admission Course, with a view to making improvements. The dinner will be to honour the Heads of Section and Senior Instructors for their considerable contribution to the Bar Admission Course.

3. TORONTO STUDENTS CALL TO THE BAR DINNER

The Toronto Bar Admission Course students' Call to the Bar dinner and dance will take place at Inn on the Park on Saturday, March 31, 1990. The students have sent invitations to each member of the Legal Education Committee to attend with a guest if desired. Heads of Section have also been invited. The Invitation requests that RSVP's be sent to the Toronto Bar Admission Course office.

4. DEPARTMENT OF EDUCATION RENOVATIONS AND MOVES TO NEW SPACE

Substantial renovations to the Education wing of Osgoode Hall begin on February 12, 1990. On the weekend of February 10 and 11, all of the occupants of the Education wing, excepting the print shop, will move to the Cadillac Fairview Tower, 34th Floor, 20 Queen Street West (at the South end of the Eaton Centre).

The three sessions of the one month Bar Admission Course teaching term will be operated at Ryerson Polytechnical Institute, beginning on May 14, 1990. During that time the Director, the Faculty and many of the staff will be required to work out of both temporary locations.

Renovation of the basement and first to third floors of the Education wing is to be completed by September 14, 1990, in time for the teaching term of the 32nd Bar Admission Course to begin on September 17, 1990. Shortly before September 17, 1990, the move back to the Education wing of Osgoode Hall should be completed.

In mid-September of 1990, the Continuing Legal Education operation of the Department of Education will vacate 204 Richmond Street West and move into the 34th floor of 20 Queen Street West. The facility will be renovated prior to occupancy.

Due to the renovation of Osgoode Hall from February 12, 1990 to September 14, 1990, the Continuing Legal Education operation will be unable to offer programs in Osgoode. The Continuing Legal Education operation is therefore required to adjust to the inconvenience and expense of locating individual programs to other premises.

The construction of new floors to the Education wing is scheduled to begin in the fall of 1990 and to be completed by the end of 1991. On completion of the new floors, the Continuing Legal Education operation is scheduled to occupy a portion of the new space, together with other Law Society departments.

5. FRENCH LANGUAGE

Holly Harris, Regional Director of Education in Ottawa, is directing translation of Bar Admission Course materials in consultation with the Chair, the Chair of the Special Committee on French Language Services, Colin McKinnon, the Under Treasurer and the Director. The Law Foundation has provided \$155,000 for the year 1990 for translation. Translation is about to begin, with the object that the French language section of the Bar Admission Course in Ottawa have written materials entirely in French within the next two to three years. Other funding sources are being sought by the Special Committee on French Language Services and the Under Treasurer.

6. ARTICLING REFORM SUBCOMMITTEE

The Chair of the Articling Reform Subcommittee, Philip Epstein, has provided copies of the Draft Report to members of the Legal Education Committee and a broad range of individuals representing the

practising Bar, the judiciary, and legal educators. Availability of the Draft Report has been announced in the Ontario Reports, and copies are being provided in response to requests. Each recipient of the Draft Report has been requested in writing to provide comments and suggestions.

The Subcommittee will consider comments and suggestions before presenting its Report to the Legal Education Committee for consideration and approval.

7. CONTINUING LEGAL EDUCATION

A report was provided on the following programs:

- a) Basic Accounting for Law Offices
- b) Pensions: Significant Issues and Development
- c) Breathalyzer
- d) Opinions in Lending Transaction
- e) The O.M.B. for the Non-Specialist: Keeping it In-House

ALL OF WHICH is respectfully submitted

DATED this 8th day of February, 1990

"A. Rock"
Chair

Attached to the original Report in Convocation File, copy of:

B-Item 1 - Letter and resume of Ms. Sam McNicoll Pratt. (Pages 1 - 3)

B-Item 2 - Resume of Mr. John K. Venn and letter dated January 2, 1990 from Lieutenant Colonel R. Spencer in support of his request. (Pages 4 - 9)

THE REPORT WAS ADOPTED

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DISCIPLINE COMMITTEE

Re: KEVIN JOHN MAHAN, Hamilton

Mr. Somerville, Vice-Chair of Discipline placed the matter before Convocation.

The reporter was sworn.

This matter first came on before Convocation in January when it was adjourned at the request of the solicitor to the February Convocation. The adjournment was peremptory to the solicitor.

Mr. Reg Watson appeared for the Society and Mr. Charles Mark appeared for the solicitor who was also present.

Convocation had before it the Report and Recommendation as to Penalty of the Discipline Committee dated 9th January 1990, together with an Affidavit of Service sworn 22nd January 1990, by Louis Katholos

that he had effected service on the solicitor by registered mail on 10th January 1990 (marked Exhibit 1). The Acknowledgement, Declaration and Consent completed by the solicitor was filed (marked Exhibit 2). Copies of the Report having been sent to the Benchers prior to Convocation, the reading of it was waived.

The Report of the Discipline Committee is as follows:

THE LAW SOCIETY OF UPPER CANADA

The Discipline Committee

REPORT AND DECISION

Dennis R. O'Connor (Chair)
Patrick G. Furlong
Denise Bellamy

In the matter of
The Law Society Act

Reginald Watson
for the Society

and in the matter of
KEVIN JOHN MAHAN
of the City
of Hamilton
a barrister and solicitor

Charles C. Mark & David Ball
for the solicitor

Heard: January 17, 1989
August 10, 1989

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

THE DISCIPLINE COMMITTEE BEGS LEAVE TO REPORT:

REPORT

On July 28, 1988, Complaint D63/88 was issued against Kevin John Mahan, alleging that he was guilty of professional misconduct and conduct unbecoming a barrister and solicitor.

The matter was heard in public on January 17, 1989, June 16, 1989 and August 10, 1989 by a committee composed of Dennis R. O'Connor, Q.C. as Chair, Patrick G. Furlong, Q.C. and Denise Bellamy.

Mr. Mahan attended the hearing and was represented by Mr. Charles Mark and Mr. David Ball of the same firm. Mr. Reginald Watson appeared on behalf of the Law Society.

DECISION

The Complaint

The following particulars of professional misconduct were admitted by the Solicitor and found to have been established:

(Paragraph 2: Complaint D63/88)

(a) After being found by the Discipline Committee to have demonstrated that he was ungovernable by the Society and not suited to the practice of law, for which he was suspended for a period of one year, he engaged in the following misconduct while so suspended:

(i) He repeatedly attempted to mislead his fellow solicitor, Paul Ennis, respecting the status of the Peter Iannazzo file, the George Larson file and his reinstatement with the Law Society.

(ii) He attempted to mislead Mr. Peter Iannazzo and Mr. George Larson respecting the status of their matters.

(iii) In an attempt to deceive his fellow solicitor, Paul Ennis, respecting the Iannazzo matter, he forged an admission of service on a Notice of Motion dated April 27th, 1988.

(iv) He failed to follow the instructions of his fellow solicitor, Paul Ennis, respecting the Iannazzo and Larson matters.

(v) On or about May 25th, 1988, he attempted to mislead the Unified Family Court in Hamilton, Ontario, by informing that court that he was appearing as a solicitor of record.

The following particulars of conduct unbecoming a barrister and solicitor were admitted by the Solicitor and found to have been established:

(Paragraph 3: Complaint D63/88)

(a) After being found by the Discipline Committee to have demonstrated that he was ungovernable by the Society and not suited to the practice of law, for which he was suspended for a period of one year, he engaged in the following conduct unbecoming a barrister and solicitor while so suspended and purporting to act as a law clerk:

(i) He repeatedly attempted to mislead his fellow solicitor, Paul Ennis, respecting the status of the Peter Iannazzo file, the George Larson file and his reinstatement with the Law Society.

(ii) He attempted to mislead Mr. Peter Iannazzo and Mr. George Larson respecting the status of their matters.

(iii) In an attempt to deceive his fellow solicitor, Paul Ennis, respecting the Iannazzo matter, he forged an admission of service on a Notice of Motion dated April 27th, 1988.

(iv) He failed to follow the instructions of his fellow solicitor, Paul Ennis, respecting the Iannazzo and Larson matters.

(v) On or about May 25th, 1988, he attempted to mislead the Unified Family Court in Hamilton, Ontario, by informing the court that he was appearing as a solicitor of record.

Evidence

The entirety of the evidence on the issues of professional misconduct and conduct unbecoming a barrister and solicitor consisted of the following Agreed Statement of Facts:

AGREED STATEMENT OF FACTS

I. JURISDICTION AND SERVICE

1. The Solicitor admits service of Complaint D63/88 and is prepared to proceed with a hearing of this matter before the Discipline Committee on January 17, 1989.

II. IN PUBLIC/IN CAMERA

2. The parties agree that this hearing should be held in public pursuant to Section 9 of the Statutory Powers Procedure Act.

III. ADMISSIONS

3. The Society hereby amends particulars 2(a)(i) and 3(a)(i) by deleting the words "and his reinstatement with the Law Society."

The Solicitor has reviewed Complaint D63/88 with his counsel, Charles Mark, and admits the particulars contained therein and admits that they constitute professional misconduct.

IV. BACKGROUND

4. The Solicitor was called to the Bar on March 29th, 1977 and was before the Discipline Committee on January 14th and May 15th, 1987 respecting Complaints D59/86, D64/86 and D6/87, copies of which are at Tab 1 of the Document Brief. The allegations in the complaints include:

- (a) practising under suspension;
- (b) breach of undertaking;
- (c) misleading the Society and others;
- (d) falsely commissioning affidavits; and
- (e) failing to provide books and records.

5. The Discipline Committee dealt with these complaints on January 14th and May 15th, 1987 and issued a report and recommendation finding the Solicitor guilty of professional misconduct and recommending that the Solicitor be given permission to resign. A copy of the Decision and Recommendation of the Committee is at Tab 2 of the Document Brief. The Solicitor opposed the Committee's Recommendation and Convocation lowered the penalty to a suspension for one year along with an undertaking from the Solicitor. After pronouncing the penalty, the Treasurer informed the Solicitor that Convocation had given him one last chance. A copy of the Order of Convocation (which include the undertaking) is at Tab 3 of the Document Brief.

6. Prior to the conclusion of the Solicitor's discipline matter, he arranged employment as a law clerk with Mr. Paul Ennis of the firm of Ennis & Associates in Hamilton, Ontario. It is in this setting, while the Solicitor's rights and privileges were suspended for one year and while he was acting as a law clerk for Mr. Ennis, that the misconduct occurred.

V. FACTS

Iannazzo

7. The firm of Ennis & Associates was retained to act for Peter Iannazzo with regard to a family law matter. A hearing was set for April 13th, 1988, in the Unified Family Court at which time the divorce was granted and the issues respecting access and support were adjourned sine die.

8. Shortly, thereafter, the Solicitor prepared a Notice of Motion dated April 27th, 1988, and returnable on May 13th, 1988, which was to be served by the Solicitor on the solicitors for Mrs. Iannazzo. In late May or early June, the Solicitor showed Mr. Ennis a copy of the Notice of Motion which had a handwritten admission of service purportedly executed by L. Santino of the firm of Rocchi, Cassano and Rocchi. The admission of service was improperly executed by the Solicitor who forged the signature of one "L. Santino" who is unknown to the firm of Rocchi, Cassano and Rocchi.

9. On May 10th, 1988, the Solicitor falsely informed Mr. Ennis that the matter which had been set down for May 13th, 1988 was to be

adjourned. Mr. Ennis asked the Solicitor to attend to the adjournment and the Solicitor later falsely reported to Mr. Ennis that the matter had been adjourned to May 20th, 1988. The Solicitor then falsely told Mr. Ennis that there was to be a further adjournment of the matter to May 27th, 1988. Based on this discussion, Mr. Ennis prepared letters to both Mr. Cassano and to Mr. Morton of the Official Guardian's Office. Both these letters were dated May 24th, 1988, and were to be hand delivered by the Solicitor.

10. On May 27th, 1988, the Solicitor falsely informed Mr. Ennis that the matter had been adjourned to June 3rd, 1988. On June 3rd, 1988, the Solicitor falsely told Mr. Ennis that he had attended at court and informed the court that Mr. Iannazzo's girlfriend had called stating that Mr. Iannazzo had a bad back and could not attend the hearing. The Solicitor further falsely informed Mr. Ennis that the matter had been put over to June 10th, 1988.

11. On June 10th, 1988, the Solicitor attended court and falsely informed Mr. Ennis, by telephone, that there were 72 cases on the list and that their matter had been put over to 2:00 p.m. The Solicitor then falsely informed Mr. Ennis that the matter had been adjourned sine die, and as a result, Mr. Ennis prepared a new affidavit which the Solicitor was instructed to serve and file but did not. Shortly thereafter, the Solicitor falsely informed Mr. Ennis that the matter had been put on the list for June 17th, 1988. The Solicitor attended on this date and falsely informed Mr. Ennis that the court had made a mistake in that matter was not on the list and that it had been put over to June 24th, 1988.

12. On June 24th, 1988, shortly before the hearing, the Solicitor falsely informed Mr. Ennis that the other side would consent to access and support. The Solicitor then drafted a consent on the instructions of Mr. Ennis which Mr. Ennis then corrected, approved and returned to the Solicitor for service and filing. Of course, the consent could not be served or filed. The Solicitor misled his client by giving him a copy. No copy of the consent was found in the file.

13. On June 28th, 1988, Mr. Iannazzo called Mr. Ennis and indicated that he wanted to arrange for access pursuant to the consent order. Mr. Ennis had not yet received the issued and entered order and informed the client that the order was not yet official and they would not be able to proceed at that time. He informed his client that he would contact Mr. Cassano. Mr. Ennis did call Mr. Cassano and requested that he contact his client to arrange access. Mr. Cassano was shocked and surprised at this suggestion and stated that he had not signed any consent, he had not been served with any documents, he had made no undertakings and that nothing had happened on the file since April 13th, 1988. Mr. Ennis immediately contacted the Unified Family Court and was informed that there was nothing in any of the Iannazzo files since April 13th, 1988.

14. On June 29th, 1988, Mr. Ennis attended the Unified Family Court Office and spoke with the court administrator, Mr. Gerry McNeilly. They both reviewed the Iannazzo court files and the dockets for all of the courts on all of the aforementioned dates and found nothing in the court files after April 13th, 1988 and no mention of any Iannazzo hearings on the dockets.

15. Mr. Ennis then returned to his office and examined both his diary as well as the Solicitor's diary and found that the Solicitor had inserted entries in both diaries for the aforementioned dates.

Misleading the Unified Family Court

16. In May of 1988, the Solicitor appeared in Unified Family Court while he was suspended and in response to a question from the Bench he stated that he was appearing as the Solicitor of record on a matter. The judge before whom the Solicitor appeared had practised in the Hamilton area and knew of the Solicitor. The judge chose not to

question the issue of the Solicitor's capacity to appear but subsequent to the hearing she informed one of the more senior judges who immediately called Mr. Ennis and complained about the Solicitor's conduct. The senior judge also informed him that the Solicitor was not welcome in Unified Family Court and should not attend again.

Larson

17. Mr. George Larson retained the firm of Ennis & Associates to act on his behalf respecting the recovery of property. Mr. Ennis drafted a Statement of Claim which he asked the Solicitor to issue and serve. The Statement of Claim was issued in the District Court but was not served. Subsequently the Solicitor falsely informed Mr. Ennis that Default Judgment had been granted and that he was attempting to execute upon the judgment. Both Mr. Ennis and the Solicitor informed Mr. Larson of the default judgment. The Solicitor later falsely told Mr. Larson that the Sheriff was having difficulty executing on the judgment as he could not contact the defendant.

18. When the Iannazzo matter came to light it was also discovered that only a Statement of Claim had been filed with the District Court. Mr. Ennis had his daughter, Nancy Ennis, a junior lawyer in his office, investigate the file. The Solicitor falsely informed her that he could not find the office file. She then attended at District Court and found that only a Statement of Claim had been filed. When she returned to the office she made further inquiries of the Solicitor who found the file. However, the original Statement of Claim and the Affidavits of Service were not in the file. Ms. Ennis then contacted the process server who stated that he had attempted to serve the Statement of Claim and had delivered the appropriate Affidavits to the office of Ennis & Associates. Ms. Ennis then examined the Solicitor's desk and found the Statement of Claim and the Affidavits of Attempted Service crumpled in a corner of the desk. Nothing had been done on the file other than to issue the Statement of Claim and attempt to serve the defendant.

DATED at Toronto this 9th day of November, 1988"

The Committee accepted the Agreed Statement of Facts and made findings of professional misconduct and conduct unbecoming a barrister and solicitor as particularized in Complaint D63/88.

RECOMMENDATION AS TO PENALTY

The Committee recommends that Kevin John Mahan be permitted to resign his membership in the Society.

REASONS FOR RECOMMENDATION

Counsel for the Society takes the position, not unreasonably, that the Solicitor should be disbarred. Counsel for the Solicitor argues that the existing suspension should be continued for another year, that this matter be adjourned for that time period, and that the Solicitor be permitted to work as in-house counsel to a company that is prepared to employ him.

During the hearing on penalty, the Committee heard evidence from the Solicitor. The Committee also heard from Mr. Paul Ennis, his employer at the time of these offences, and Mr. John Campbell, a lawyer

who provides support to recovering alcoholics. Both of these gentlemen also testified at the Solicitor's previous discipline hearing in 1987. As well, the Committee had before it letters attesting to the Solicitor's good character.

Previous Complaints

The Solicitor first came to the attention of the Discipline Department in late 1983, as a result of a number of citizen complaints. Upon investigating those complaints, it was determined that the Solicitor had an alcohol problem. It is agreed by all parties that the Society's position at that time was non-adversarial and was aimed entirely at assisting the Solicitor to obtain treatment and therapy that would allow him to resume his practice. As a result of assurances that the Solicitor was dealing with his alcohol problem (and it is accepted by the Society that he was), the Society accepted an undertaking from him on July 31, 1984. In the undertaking, he agreed, among other things, that he would continue to get treatment for alcohol dependency and provide the Society with reports, that he would see a doctor regularly and have the doctor report, that he would continue taking "antabuse", that he would not engage in the practice of law as a sole practitioner, that he would cooperate with the Society's Audit Department and that he would resolve complaints from 13 specified individuals.

Between the date of the undertaking and the issuance of the first formal complaints in 1986 and 1987, the Society went to great lengths to assist the Solicitor. To this extent, the Society monitored his gradual re-introduction to the practice of criminal law by approving his acceptance of a limited number of trials and by then consulting defence counsel, Crown attorneys and judges to obtain feedback on the Solicitor's behaviour in those cases. The Society also spoke to representatives of the Homewood Sanitarium, where the Solicitor was obtaining treatment, and to the Solicitor's doctor.

During this period, the Solicitor was practicing in breach of his undertaking. Accordingly, three complaints were sworn and a discipline hearing proceeded in 1987. The Solicitor admitted to the misconduct alleged. This consisted of engaging in the practice of law while he was under suspension, engaging in the practice of law in breach of his undertaking to the Law Society, misleading the Society by assuring it that he was not so practicing when he was, failing to provide -- despite repeated requests -- books, records and accounts respecting his practice, and failing to file his annual reports. Evidence admitted at that time demonstrated that he repeatedly lied and misled colleagues and clients, that he falsely commissioned affidavits, and forged documents. It is important to highlight that this behaviour is almost identical to that which forms the basis of the current complaint.

The Discipline Committee recommended that the Solicitor be permitted to resign and that Convocation look favourably upon an application for permission to take employment as a law clerk with a member of the Society practicing in the area of criminal law. The Discipline Committee was of the view that alcoholism was at the root of the Solicitor's problems and that while he had made serious attempts to rehabilitate himself, it was clear by his continuing devious behaviour, that he was not so rehabilitated.

Convocation rejected the Committee's recommendation. Instead, it ordered the Solicitor suspended for one year as of June 25, 1987 and ordered that he comply with the following conditions:

- (1) to continue to attend regular meetings of Alcoholics Anonymous;
- (2) to continue with a course of psychiatric treatment until rehabilitated;

(3) to account to and effect repayment of his former clients, Brady, Mattiuz, Ribson and Bach;

(4) during the two years following June 25, 1988 not to practice law as a sole practitioner but to practice law during that period only as an employee or associate of another member of the Society and to have no control over client trust funds;

(5) to provide the Society with all information and documents in his possession with respect to his law practice books, records and accounts for 1985-1986.

Convocation further granted its approval to the Solicitor to continue his work during the period of his suspension as a law clerk in the employ of another member of the Society. In substituting the one-year suspension for the Committee's recommendation, the Treasurer advised the Solicitor that Convocation had given him one last chance. It is significant that, while he is not charged with breaching Convocation's Order, the Solicitor admitted that to this date he has not complied with condition 3 (either the accounting to or the repayment of approximately \$4,000, despite having retired almost \$30,000 worth of debt during this same time period) or condition 5.

Current Complaint

The substance of the current complaint is that the Solicitor repeatedly attempted to mislead his employer/colleague (Paul Ennis), clients, and the court. He did this through a progressively complicated web of lies and forgeries which are detailed in the Facts previously mentioned.

Difference between Complaints

There is no substantial difference between the conduct leading to the previous complaints or to this one. Indeed, the behaviour of repeated deceit, lies, forgeries are all too similar. Insofar as the character evidence tendered is concerned, it too is similar. Some of the same witnesses testified. They said substantially the same things as they had in 1987. The Solicitor is also continuing to receive therapy. The only significant difference appears to be related to alcohol. That is, while the abuse of alcohol appeared to be the direct cause of the Solicitor's misconduct in the first hearing, it plays no part at all this time. Indeed, the Solicitor's last drink was over four years before these offences were committed. It was argued before us that, while alcohol was not directly responsible, the Solicitor is still a recovering alcoholic and such individuals frequently experience difficulty in embarking on a path of honesty. Indeed, the Solicitor himself testified that he has to be conscious of being honest, that it doesn't always come automatically to him. He did acknowledge, however, that forgeries do not constitute "little white lies".

Solicitor's Proposal

The Solicitor argued that this matter should be adjourned for one year. Initially, he proposed that he be permitted to continue to be under the close supervision of Mr. Ennis. However, he later abandoned that position and instead proposed that he be permitted, during the one-year adjournment, to be employed as in-house counsel with Serrentino Group of Companies. The Committee rejects this proposal for the following reasons:

1. Mr. Ennis, for whom the Solicitor has worked for over two years, and who has had ample opportunity to observe the Solicitor, testified that the Solicitor should not, at present, be reinstated as a lawyer, but should instead be allowed to continue as a law clerk. He testified that he would not allow him to draw a deed, a will or incorporate a company;

2. Mr. Ennis believes the Solicitor requires supervision to perform even law clerk functions. At Serrentino's, the Solicitor would be the only legally-trained person on the premises. While the company's current solicitors, Dixon-Spong, have apparently indicated they are prepared to train the Solicitor in any aspects of the law with which he is unfamiliar, it is important to note that the Dixon-Spong firm is in Whitby, whereas Serrentino's is in Mississauga. The Committee cannot lose sight of the fact that the current complaints arose when the Solicitor was under the direct and daily immediate contact and supervision of a lawyer of 27 years' experience. These gentlemen worked together closely and in the same building. Still the offences were committed without the supervisor's knowledge. Under the circumstances, the Committee thinks it would be naive to recommend to Convocation that the Solicitor be subject to a more relaxed form of supervision. Accordingly, the Committee will not so recommend.

3. As mentioned earlier, the Solicitor admitted he still has difficulty with always being honest. There is no reason to believe that he would have more success with this challenge if he were less well supervised.

Conclusion

The Committee concludes that there is nothing further the Society can do for the Solicitor. He has been treated fairly and has been granted every indulgence. He has responded by lying, misleading employers, colleagues, clients, the Court, and the Society, by committing forgery, and by generally demonstrating that he is a person who is ungovernable by the Society and a person who cannot be trusted. The proposal he proffers is unacceptable. Indeed, even if he were to have daily personal supervision, the Committee would not be inclined to extend the time of the suspension.

The Committee is of the view that this continuous devious behaviour demonstrates that he has not fully rehabilitated himself and thereby continues to be a danger to the public.

The Solicitor acknowledged in evidence that he had been given "one last chance" by Convocation in 1987. He accepted that he understood this to mean that if he engaged in misconduct again, his legal career would be over. Despite that, while under suspension, he committed further offences and took the risk that he would not get caught. He did. He deserves no further indulgences by the Society.

The public interest demands that the Solicitor not be permitted to practice law. However, having regard to the genuine attempt and success at overcoming difficulties with alcoholism, the Committee is not prepared at this time to recommend disbarment, but instead recommends that the Solicitor be permitted to resign.

Kevin John Mahan was called to the Bar and admitted as a Solicitor of the Supreme Court of Ontario on March 29th, 1977.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED this 9th day of January, 1990

"Denise Bellamy"

Mr. Mark requested a further adjournment to enable him time to prepare his submissions to Convocation. He indicated that he had been retained by the solicitor on Wednesday, February 6th, 1990 and intended to call three witnesses before Convocation, a psychiatrist, the solicitor's wife and Mr. Tom Campbell of the Ontario Bar Alcohol

program. Mr. Mark indicated that he was aware that the matter had been adjourned peremptory to the solicitor and in response to that he was willing to give as a term of the adjournment a resignation signed by the solicitor to be effective on the 30th of April. He made it clear that he intended to bring the matter back to Convocation in March and would not be requesting a further adjournment.

Mr. Watson on behalf of the Society opposed the adjournment indicating that the matter had been adjourned peremptory to the solicitor and should therefore proceed.

Mr. Mark in reply indicated there was no danger to the public and that the solicitor would continue his undertaking not to engage in the practice of law.

The solicitor, counsel and public withdrew.

It was moved by Mr. Carey, seconded by Mrs. Graham that the matter proceed today.

Not Put

It was moved by Mr. McKinnon, seconded by Mr. Rock that the solicitor be granted an adjournment to the March Convocation on the terms set out by his counsel.

Carried

The solicitor and counsel were recalled and the Treasurer requested Mr. Mark to consider waiving the quorum requirement as Convocation had become seised of the matter by receiving the Report prior to his request for an adjournment. Mr. Mark on behalf of the solicitor waived any quorum requirement. On those terms the matter was adjourned to the March Convocation on March 22nd, 1990.

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SPECIAL COMMITTEE ON COMPLAINTS PROCEDURES

Ms. Callwood tabled a Report of the Special Committee on Complaints Procedures dated February 22nd, 1990. She outlined briefly the development of the Committee and the progress of its work. The purpose of the Report of February 22nd, 1990 was to alert Convocation to the matters being considered by the Committee and to prepare Convocation for consideration of the Committee's full report.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Special Committee on Complaints Procedures is comprised of the following members: Meg Angevine (staff), Harry Arthurs (President, York University), Patrick Ballantyne (staff), June Callwood, Tom Carey, Roderic Ferguson, Netty Graham, Scott Kerr (staff), Jeff Lyons, Colin McKinnon, Ann Merritt (Observer, Attorney-General's Department), Rita Mosevich (staff), Mark Orkin, Kevin O'Toole (staff), Allan Rock, Clay Ruby, Arthur Scace, Jim Spence, Jim Wardlaw, John Whyte (Dean, Queen's Law School).

This is the first in a series of working papers setting out details of the Special Committee's deliberations.

INTRODUCTION

The Special Committee on Complaints Procedures is preparing a series of recommendations to Convocation which are evolutionary in nature, rather than revolutionary. Self-regulatory bodies are

everywhere under severe pressure to be more accountable and responsive to a public which increasingly feels there is at least the appearance of conflict of interest when a professional group regulates, investigates and disciplines itself. Consumer groups in the United Kingdom, for instance, have been insisting in recent years that the Law Society cease to have any jurisdiction whatsoever over the complaints process.

Lord Benson, who chaired a Royal Commission on Legal Services in 1984, commented, "If a profession is to retain the respect of the community it must keep just ahead of public thought and opinion. If it falls behind, it will encounter trouble."

The Special Committee considered recommending that a body entirely independent of the Law Society of Upper Canada should receive and process complaints. Perhaps this alternative can be reviewed again if the changes the Special Committee is suggesting prove inadequate to the test of inspiring the confidence of the public and profession in the fairness of the process. Such separation of powers potentially strikes at the heart of self-governance however and it may be premature.

It is submitted that the present mandate of the complaints process is overly restrictive. Existing procedures focus exclusively on the investigation of complaints in order to determine if a lawyer's conduct warrants disciplinary action. Of the some 4000 complaints processed last year by the Complaints Department (with each staff lawyer and complaints officer carrying a staggering number, on average, of 300 to 350 open files at any given time) only 2.5%, about 100 complaints, result in any form of hearing before a Discipline Committee.

These figures raise the fundamental question of whether a complaints process geared exclusively toward developing cases for prosecution properly serves and protects the public. Your Committee is of the view that complaints procedures need to be changed so that the Law Society can more effectively respond to a much wider range and variety of complaints.

It is recognized that many complaints have no merit or involve matters over which the Law Society has no jurisdiction at present (fees, for instance, or negligence suits). A great number however fall into a category that the United Kingdom likes to call "shoddy work": minor acts of tardiness, indifference or sloppiness on the part of lawyers who may be incompetent or merely overworked. While technically in such cases the lawyer has violated Rule 2 or Rule 13, the Law Society has traditionally taken no action to satisfy the distress and indignation of the complainant or to address the inadequacy of the lawyer.

This unhappy state of affairs has been recognized by the Law Society for many years. It resulted in the establishing of a committee, headed by Allan Rock, whose recommendations led to the formation some years ago of a new standing committee, Professional Standards, which itself has been frustrated by a lack of statutory power to oblige lawyers to take steps to remedy the situation or to improve their skills. In Working Paper 2 to be presented at the March Convocation, the Special Committee on Complaints Procedure will be bringing recommendations to establish a new category of professional misconduct, to be known (tentatively) as Unsatisfactory Professional Practice, with a series of remedies that will require approaches to the Attorney General to expand the Law Society's statutory powers. At the April Convocation, the Special Committee will submit its final Working Paper dealing principally with the issue of minor negligence matters that at the moment are lost in the system.

Convocation will be interested to know that the largest number of complaints arise from the practice of real estate law (33% in 1988), followed by civil litigation (21%) and matrimonial law (12%). Fully 40% of all files opened fall into the "shoddy work" category.

A major shift in style is proposed for the Complaints Department. Except in acute situations, both complainants and lawyers would be better served by a conciliatory, problem-solving approach rather than an adversarial one. The present system, relying as it does on written complaints and responses, is admirable in its ponderous and judicious dignity when there is evidence of serious misconduct, but it is cumbersome and almost useless for most other matters. The result has been that minor complaints languish in open files for one or two years, or even more; the Complaints Department at present is choking on paper.

It is also submerged in telephone calls. Each staff lawyer handles about 780 general calls a year and each complaints officer about 5,000. Many of these calls are inquiries which can be satisfied by a reference to such Law Society of Upper Canada services as Dial-A-Law, Lawyer Referral, and the Compensation Fund. In those cases where the complainant requests an investigation, the Law Society is obliged to open a file. The process commences with the requirement of a written complaint, followed by a written request to the lawyer asking for an explanation of the events in the complaint, followed by a wait for the reply from the lawyer, after which there is a letter to the complainant from the lawyer, after which there is a letter to the complainant outlining the lawyer's reply, and then a letter to the lawyer, and so on....

It is submitted that a uniform approach to complaints handling which requires each matter to be dealt with in the same manner regardless of subject matter and gravity is overly formal and cumbersome and inappropriate. It should be replaced with a multifaceted process operated by a restructured Complaints Department equipped to respond to a wide variety of complaints. It is proposed that a number of "streams" be created within the complaints process with each stream employing different methods to achieve the various objectives of the Complaints Department.

A major area of concern for the Special Committee on Complaints Procedure for example is the necessity to develop a speedier process to handle complaints of a minor nature which show little likelihood of resulting in a discipline hearing. One useful step already has been taken. The Complaints Department, has been restructured into teams, with each team made up of a staff lawyer, a complaints officer and two clerk typists who work together on a cluster of files. This has proved efficient and effective and the Committee supports and encourages this approach.

Team management of a case is a promising beginning but further restructuring is essential. In particular, the different "streams" within the complaints process should be able to interact effectively with the various other departments of the Law Society which have an interest in a particular complaint. In its deliberations, the Committee has sought out and obtained the participation of not only the Discipline Department but also Errors & Omissions, Professional Standards and Audit. The existing computer system operated by the Complaints Department enables staff to monitor a complaint but changes to the programme may be necessary to reduce delays and improve the flow of information between departments.

When handling complaints, staff should have guidelines and authority to mediate difficulties promptly between solicitors and clients, before they exacerbate into bitter confrontation. The accusatorial style of the formal discipline process is simply unsuited to the overwhelming majority of complaints received by the Society.

The Special Committee has reviewed innovations in the complaints procedures of a number of jurisdictions -- Australia, New Zealand, other Canadian provinces, the United States and the United Kingdom -- and has synthesized some of the most promising of these to merge them harmoniously with the Law Society of Upper Canada's long standing traditions and procedures.

GOALS AND OBJECTIVES

The Treasurer asked the Special Committee to draw up goals and objectives for the Complaints Department. This was the easiest part of the exercise.

1. The Complaints Department's process should be readily accessible to the public.
2. The public should be satisfied that the complaints procedure is fair.
3. Lawyers should be satisfied that the complaints procedure is fair.
4. The process should involve no avoidable delay.
5. The Complaints Department should expand its mandate beyond its traditional investigative function to encompass mediation and resolution-oriented activities.
6. The Complaints Departments must have means to address complaints which involve minor professional misconduct, minor amounts of money lost through negligence, and other types of deficient service which fell under the general heading of UPP.
7. The complaints process, in its entirety, should be evaluated by an independent body at regular intervals of three to five years to determine the following:

- (i) its efficiency, effectiveness, and credibility with the public and the profession;
- (ii) patterns of complaints which might require analysis and remedy.

RECOMMENDATIONS

1. Recommendation

The Complaints Department immediately should have a toll-free number accessible from any place in Ontario.

Explanation

People living outside the Metro Toronto dialing area are at an unfair disadvantage. In the years 1987-89, a breakdown of complaints by geographical location showed that a substantial number of complaints came from outlying parts of the province. For instance, Algoma had 73, Cochrane District 59, Kent 45, Ottawa/Carleton 523, Parry Sound 31, Peterborough 31, Prescott/Russell 26, Niagara 196, Rainy River 13, Simcoe 235, Thunder Bay 80, Sudbury 84. In contrast, the City of Toronto had 4,117, North York 606, York 501, Scarborough 345, Peel 716, Hamilton/Wentworth 379. The suggestion is that the closer to Osgoode Hall, the more likely dissatisfied clients are to avail themselves of remedies such as Complaints Review.

2. Recommendation

The Law Society of Upper Canada should establish Telephone Resolution as part of its Complaints Department as soon as the following considerations can be met:

- (i) assessment of staffing needs to implement TR and approval of the budgetary considerations involved;
- (ii) guidelines for staff to determine which complaints can be handled this way, by whom, and at what point the effort should be deemed a failure and a written process be commenced;
- (iii) staff training in conciliatory style and approaches.

Explanation

The quickest and simplest way to resolve complaints about minor practice problems that do not seem to warrant disciplinary action or involve ethical issues is a telephone call from the Law Society to the lawyer whose behaviour is at issue. In most cases the complainants are not seeking disciplinary action. They merely want the Law Society's assistance in getting a lawyer to complete a task which can be readily completed.

Examples include failure to pay a bill incurred in connection with the practice of law, failure to complete a real estate report, failure to render an account or to explain an item on an account, failure to turn over a client file, failure to honour an undertaking. The Law Institute of Victoria (Australia) finds that telephone conciliation has the greatest success in such areas as: delays in answering calls and letters, delays in transferring files, lawyer error resulting in the loss of small amounts of money where the lawyer may be willing to repay or reduce some of the fee, and the failure of the lawyer to explain a delay.

In cases where the lawyer has demonstrated a pattern of such conduct in the past, an attempt will be made to deal with the immediate concern by TR but at the same time Professional Standards will be notified so that possible underlying problems in the lawyer's practice can be identified and addressed.

The Law Society of England disposes of 20% of all complaints by TR. In Victoria (Australia) where the Law Institute launched Telephone Complaints Conciliation in 1986, some 30% of complaints are resolved by this means. In its first year of operation, open files were reduced from 600 to 100.

Staff lawyers in the Law Institute make what is described as "a friendly telephone call." Accordingly, disputes are not prolonged. It has been found that lawyers are more likely to be truthful and admit fault, and more likely to remedy the situation, if the approach is by telephone.

Scott Kerr of the Law Society of Upper Canada's Complaints Department spoke with Michael Power, deputy Director of Professional Standards for the Law Institute. Mr. Power described a dramatic reduction in the turn-around time of complaint files since the telephone process was introduced. In a great number of cases, the complaint is successfully conciliated and withdrawn by the complainant. Both complainant and lawyer seem to appreciate the more informal and personal intervention by Institute staff lawyers. As a result there has been a decrease in the number of appeals to lay commissioners.

Significantly, the Victoria Law Institute obtained the required legislative authority to arbitrate fees' disputes by the telephone resolution process. The possibility of binding arbitration is something the Law Society might wish to consider, but what is envisioned by TR at this time is that the staff have the authority to negotiate a voluntary fee adjustment. Complaints staff anticipate that the most frequent use of telephone resolution by the Law Society is likely to be in cases where there is a delay in releasing a file, a delay in preparing a report on closing a real estate transaction, a delay in honouring an undertaking, and delay in the rendering of a fee billing. The incidence of complaints involving fee disputes is also expected to be high.

Telephone Resolution will enable the staff to negotiate a solution to the dispute with which the lawyer concurs. Compliance is wholly voluntary. In such cases where, for instance, a letter of apology is sought and is appropriate (a not uncommon situation) the lawyer must be protected against abuse of such a well-intended gesture. Complainants would be obliged to sign a suitable release to that effect. A complainant who is not satisfied with the staff's handling of the matter may appeal, as is presently the case, to the lay Benchers who sit as

Complaint Appeal Commissioner. When a lawyer refuses to cooperate with what the staff views as a reasonable resolution of the matter, the procedure immediately becomes formal; letter-writing commences and a staff request for mandatory action can be presented through the "minor discipline remedies" stream being developed by the Committee.

The client whose complaint is dealt with expeditiously by telephone is very often a satisfied and cordial client. In many cases, a good relationship between lawyer and client resumes.

The process is not lacking in record-keeping. In all cases, lawyers or complaints officers making the telephone calls to lawyers will maintain a careful record of the conversation and a memo concerning it will be placed in the lawyer's file. In order to monitor the frequency of minor complaints against a lawyer (numbers approaching 100 are not unknown) a computer record of the complaint and resolution will be kept.

The tone of voice and attitude of the staff lawyer or complaints officer making the telephone calls are key factors in the success of the effort to mediate. An overbearing or hesitant manner would destroy effectiveness totally. Staff training in conciliatory approaches therefore is essential. The Law Society of British Columbia, which adopted a telephone resolution program recently, provided staff training before the program was introduced and this appears a good example to follow.

Since the team approach introduced in the Complaints Department appears to be working well, it is proposed that it be used for the new telephone resolution service. Complaints officers, who are law clerks and have developed enormous expertise in the complaints field, could handle most telephone complaints, with the discretion to refer more contentious matters to a staff lawyer.

3. Recommendation

The Law Society of Upper Canada in cooperation with the County and District Law Associations and the Legal Aid Plan establish Complainants Assistance panels in every part of the province to assist those clients, referred by Law Society staff, who appear to have difficulty formulating written complaints. This service will commence as soon as the following condition are met:

- (i) panels of lawyers of suitable temperament and expertise are found and some training has been done to ensure consistency;
- (ii) the budgetary considerations to establish the program (solicitors' fees, advertising the service, etc.) have been approved.

Explanation

The Law Society will continue to require that most complaints be submitted in writing. In a considerable number of situations, however, complainants are unable to formulate the complaint this way. Either the client has trouble writing in the English or French language, or writing in any language at all. Not infrequently clients are understandably confused. They may not appreciate the fine distinctions that sometimes arise between negligence and professional misconduct. Not infrequently, they fasten on a grievance of scant interest to the Law Society while overlooking another issue, less vexatious to themselves but of compelling relevance to the Law Society's discipline mandate. In their mood of undifferentiated wrath, clients may miss the real substance of their complaint.

The Law Society of Upper Canada has a responsibility to assist all clients who wish to lodge a complaint, not only those who are literate, perceptive, informed and articulate. The Special Committee therefore proposes that the staff have the discretion to refer clients with perceived difficulties to a lawyer in that client's community or adjacent community who, without cost to the complainant, will provide two hours of time helping the person compose a written complaint.

The costs to the Law Society may be insignificant but much would be accomplished. For one, the goal of accessibility to the complaints procedure would be met handsomely for a substantial number of people in Ontario who are uncomfortable in English or who may suffer the great indignity of being illiterate.

In the United Kingdom, where this process has been in place for some time (and is indifferently used) such lawyers are recruited on the basis of "innate sympathy and humanity." It is envisioned by the Special Committee that the lawyers who will assist complainants to the Law Society will perform no judicial function and will not attempt to mediate. Some years ago, the Law Society experimented with a program of referring minor complaints to County and District Law Associations. The results were erratic at best. Complaints often took longer to be resolved, inconsistency reigned, clients were unhappy, lawyers were unwilling to police one another, and it was impossible for the Law Society to monitor what was going on.

The lesson from this has been learned. Lawyers who assist complainants need not feel themselves involved in an attack on a colleague. It is not only acceptable but preferable that lawyers can excuse themselves from complaints involving other lawyers. Similarly, it is not only acceptable but preferable that clients who feel a lack of confidence in the assigned lawyer can request someone else on the roster.

Lawyers on Complaints Assistance panels will be paid by the Law Society according to the Legal Aid tariff, which retains an element of pro bono that will comfort idealists.

4. Recommendation

The Law Society of Upper Canada launch a program to educate the public and the profession about the changes in the Complaints Department.

Explanation

The public needs simple, graphic pamphlets and non-print material in order to be informed of the operation of the Complaints Department and the Law Society's sincere, ongoing efforts to deal speedily, fairly and effectively with evidences of dissatisfaction with the profession. The profession, on the other hand, needs to be cautioned that Rules 2 and 13 will be taken seriously in future and new remedies will be in place. The profession should be alerted to recent indications of confusion about such ethical issues as conflict of interest.

While these cautionary messages need to be communicated, and perhaps law schools, Continuing Legal Education and the Bar Admission courses have a role to play in preventing the need for them, it is also imperative that lawyers see the Law Society as a valuable and sympathetic resource rather than something on the order of Vlad the Impaler. Practice Advisory is a very helpful service, and little understood. The powers proposed for Professional Standards will work to the betterment of the profession as a whole and will address the factor of acute stress with which so many lawyers are burdened. The perception of the Law Society as an ogre rather than a friendly support is unfortunate and largely untrue, and should be corrected.

5. Recommendation

The Law Society should obtain the immediate assistance of computer experts to enable the staff to establish a base line of statistical gathering of some subtlety and sophistication.

Explanation

The operation of the Complaints Department should be accessible for easy monitoring and quick analysis in order to facilitate evaluation of performance and quality of service. As well, it will be a valuable tool for future generations of the profession if the Law Society can maintain a profile of complaints, a dowsing rod by which to judge the efficacy of legal education and Law Society governance.

ALL OF WHICH is respectfully submitted

Chair

.....

QUEEN'S COUNSEL

Convocation considered the motion passed at the Annual Meeting of the Law Society in October 1989.

The motion adopted by the Annual Meeting was:

WHEREAS at two prior annual meetings of this Society resolutions have been passed calling for the abolition of the title Queen's Counsel;

AND WHEREAS the Benchers of this Society eventually passed a resolution calling on the government for meaningful reform of the granting process for Queen's Counsel;

AND WHEREAS the Peterson government in response to the request of the Society announced that it would abolish the title of Queen's Counsel and has refrained from naming any new Queen's Counsel in Ontario;

AND WHEREAS the Peterson government has refrained from introducing legislation in this area;

AND WHEREAS the public is still being misled into believing that the title Queen's Counsel is indicative of legal excellence;

AND WHEREAS at the last annual meeting of the Society, when the presidents of the county and district associations were present, a resolution that the Law Society urgently request the government of Ontario to introduce legislation to abolish the title of Queen's Counsel of Ontario was defeated 47 to 45.

THEREFORE BE IT RESOLVED THAT this Society requests the Government of Ontario to introduce legislation to abolish the title of Queen's Counsel in Ontario;

Pursuant to Rule 52, subsection (8) Convocation is obligated to consider resolutions passed at the Annual General Meeting within six months.

It was moved by Mr. Bastedo and seconded by Mr. Kiteley that the present position of the Law Society adopted on the 22nd of May, 1988 be rescinded and that the Law Society take no position whatsoever in regard to the issue of Queen's Counsel.

Not Put

It was moved by Mrs. Legge and seconded by Mr. Farquharson that the Society confirm its present position in regard to Queen's Counsel.

The motion carried on a vote of 18 to 13.

It was moved by Mr. Ruby and seconded by Mr. Wardlaw that Convocation adopt the wording of the resolution passed by the Annual Meeting.

Not Put

It was moved by Mr. Rock and seconded by Mr. Epstein that Convocation approve the statement contained at page C8 of the material distributed to Convocation under date of February 9th, 1990 with the amendment of paragraph 1 of the Summary of Recommendations altered to read that "existing Queen's Counsel appointments be abolished."

Not Put

(Copy of "Summary of Recommendations" in Convocation File)

.....

FINANCE COMMITTEE

Mr. Wardlaw presented the Report of the Finance Committee of its meeting on February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Howie (Vice Chair), Furlong, Lamont, Lerner, Pepper, Topp, Wardlaw and Mrs. Weaver.

B.

ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the seven months ended January 31st 1990.

The financial statements were approved by the Committee.

Discussion of the highlights memo centered on the fact that extensive use of outside counsel has led to some departments being over budget so far this year. Several committee members expressed concern that other committees of which they were members, such as Admissions, Professional Standards, Practice and Insurance, anticipated increased use of outside counsel in the future. It was felt that guidelines for charging the Society should be in place for informing counsel when retained.

2. APPOINTMENT OF SALARY SUB-COMMITTEE

The Chair appointed Messrs. Guthrie, Howie and Noble to the Salary Sub-Committee.

3. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 61 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 61 cases all or part of the late filing fee has been outstanding four months or more. The 61 members owe \$42,600.00 of which \$5,325.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 61 members be suspended on February 23rd 1990 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

See Motion, page 181.

4. SUSPENSION OF MEMBERS - ARREARS OF ANNUAL FEES

There are a number of members who have not paid their annual fees which were due on 1st October, 1989.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on February 23rd 1990, if the annual fees remain unpaid on that date.

Approved

See Motion, page 181.

5. 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:

John Albert Mullin	Richmond Hill
John Stevenson Hall	Ottawa
Byron Hutton Lawrence	London
Harvey Coulter Bain	North York
James Joseph Patrick Walsh	Perth
Frederick John Arthur	Town of Haileybury

(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:

Lorne Marshal Alter	Vaughan
John David McGibbon	Owen Sound

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

Approved

6. RESIGNATION - REGULATION 12

Gary Stephen Arthur Solway of Toronto has applied for permission to resign his membership in the Society and has submitted a Declaration in support. Mr. Solway was called to the Bar on the 18th of April 1985 and practised law with a firm for only 4 years. Mr. Solway maintains

that publication in the Ontario Reports might suggest that his resignation is due to an undisclosed problem and thereby impugn his reputation. He is requesting to be relieved of publication in the Reports.

His Declaration is in order and the Committee was asked to approve it.

Approved

C.
INFORMATION

1. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Jose Maria Soares Dos Reis	Joseph Marcus <u>Reis</u> (Name Change Certificate)
Shirley Marino	Shirley <u>Jackson</u> (Maiden Name)
Louisa Jackson Alger Vervoort	Louisa Jackson <u>Alger</u> (Maiden Name)

(b) Student Members

<u>From</u>	<u>To</u>
Drazen Bulat	Drazen <u>Franjo</u> Bulat (Baptismal Certificate)
Shannon Kelly Prymak	Shannon Kelly <u>Mlodzik</u> (Name Change Certificate)
Fai Chit Siu	<u>James</u> Fai-Chit Siu (New Given Name)
Jane Elizabeth Clark	Jane Elizabeth <u>Clark-Foster</u> (Married Name)
Heather Lynn Belfer	Heather Lynn <u>Belfer-Rimer</u> (Married Name)
Rayna Beth Ash	Rayna Beth <u>Zucker</u> (Married Name)

Noted

2. MEMBERSHIP RESTORED

Thomas Robert Begora gave notice under section 31 of The Law Society Act that he had retired as a Judge of the Provincial Court. Criminal Division, St. Catharines, and wishes to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective the 31st of January 1990. Mr. Begora is entitled to life membership in the Society having being called to Bar on the 15th of September 1938.

Noted

3. ROLLS AND RECORDS

(a) Deaths

The following members have died:

James Forsythe Harvey Hamilton	Called June 16th 1938 Died August 29th 1988
Charles Witter Archibald Nova Scotia	Called February 19th 1953 Died March 4th 1989
Redmond Joseph Chartrand Vanier	Called April 21st 1949 Died March 6th 1989
Roy Henderson Cutzner Ottawa	Called January 18th 1957 Died September 24th 1989
Morris Gogek Etobicoke	Called October 21st 1948 Died December 20th 1989
Frederick McLaren Gaviller Toronto	Called March 26th 1971 Died December 29th 1989
Kenneth Alfred Gariepy Orangeville	Called June 25th 1953 Died January 4th 1990
Laurence John Ison London	Called April 17th 1978 Died January 6th 1990

Noted

(b) 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:

Bonnie Lee Rawlins Calgary	Called April 14th 1978 Appointed to Court of Queen's Bench of Alberta March 7th 1989
Deborah Kristin Livingstone London	Called March 29th 1977 Appointed to Provincial Court, Criminal Division December 15th 1989
Joseph William Bovard Scarborough	Called April 13th 1978 Appointed to Provincial Court, Criminal Division December 31st 1989
Petra Erin Newton Scarborough	Called April 6th 1979 Appointed to Provincial Court, Criminal Division December 31st 1989

Noted

(c) Disbarments

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

Martin Sheldon Pilzmaker
Toronto

Called March 29th 1977
Disbarred - Convocation
January 25th 1990

Noted

4. LEGAL MEETINGS AND ENTERTAINMENT

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

February 8th 1990	Legal Aid Benchers' Reception
February 21st 1990	Advocates Society Benchers' Reception
February 27th 1990	Women's Law Association Convocation Hall
March 7th 1990	Chief Howland's retirement dinner Convocation Hall
March 8th 1990	Law Deans Benchers' Reception, Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February 1990

"J. Wardlaw"
Chair

Attached to the original Report in Convocation File, copy of:

B-Item 1 Memo from David Crack dated re: February 5th, 1990 re:
Financial Statements - Highlights as at January 31st, 1990.
(Pages 1 to 7)

THE REPORT WAS ADOPTED

.....

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

It was moved by Mr. Wardlaw, seconded by Mr. Lerner 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 the 22nd of February 1990 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.

A list of those to be suspended was circulated in Convocation.

(List of Names in Convocation File)

MOTION TO SUSPEND: FAILURE TO PAY ANNUAL FEES

It was moved by Mr. Wardlaw, seconded by Mr. Lerner THAT, having

not paid their annual fees for the period July 1st 1989 to June 30th 1990, the rights and privileges of each of the members on the attached list be suspended for a period of one year from February 23rd 1990 and from year to year thereafter, or until their fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

A list of those to be suspended was circulated in Convocation.

(List of Names in Convocation File)

LEGISLATION AND RULES COMMITTEE

Mr. Lerner presented the Report of the Legislation and Rules Committee of its meeting on February 8th, 1990.

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 8th of February, 1990 at 11:15 a.m. the following members being present: Messrs. Lerner (Chair), Cass and Cullity. D. Crosbie and P.B. Bell also attended.

A.

POLICY

No items

B.

ADMINISTRATION

1. RECOVERY OF DISCIPLINE COSTS OF INVESTIGATION
OR AUDIT - AMENDMENT TO RULE 50

The Secretary reported that at its January 11th, 1990 meeting the Discipline Committee Policy Section, and Convocation on January 26th, 1990, approved an amendment to Rule 50 regarding the collection of costs of an investigation or audit that takes longer than 10 hours, pursuant to Section 62(1)(16) of The Law Society Act that provides for the making of rules for the payment to the Society by any member of the cost of any investigation or audit of his or her books, records, accounts and transactions.

RECOMMENDATION: Your Committee recommends that Rule 50A be added as follows:

50A Where an investigation of a member or members required by the Chair or a Vice-Chair, pursuant to Section 18 of Regulation 573, takes more than ten hours to complete, the Chair or a Vice-Chair, may require that a member or members 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.

2. THE AMENDMENT TO REGULATION 573(2)

The Admissions Committee on January 11th, 1990, and Convocation on January 26th, 1990 approved of an amendment to the above Regulation to provide that no person who is eligible for call to the Bar, under Section 2, shall be called more than three years after successful completion of the Bar Admission Course, except with the permission of the Admissions Committee which may impose such conditions as it deems fit.

RECOMMENDATION: It is recommended that this matter be referred to Arthur Stone for review, and possible redrafting.

3. BUDGET ESTIMATES FOR 1990-91

The Secretary reported that the budget estimates for the fiscal year 1990-91 are to be considered and approved at the March meeting of the Committee. J.D. Ground, the Chair of the Finance Committee, has asked that at the February meeting each standing Committee discuss any issues that may impact on the Society's budget for the fiscal year 1990-91.

RECOMMENDATION: Your Committee recommends that the Finance Committee be advised that the Legislation and Rules Committee does not have any staffing or equipment expenditures that would impact on the Society's budget for the fiscal year 1990-91.

4. WOMEN IN THE LEGAL PROFESSION

The Secretary reported that Convocation on January 26th, 1990 asked that the Committee review the Law Society Act, Regulations, and Rules to ensure that the legislation is gender neutral.

RECOMMENDATION: It is recommended that Arthur Stone be retained to review the Rules under the Law Society Act, to ensure that the Rules are gender neutral.

5. TEMPORARY MEMBERS FROM OUTSIDE ONTARIO
PERMITTED TO ACT AS BARRISTERS AND SOLICITORS
EMPLOYED BY THE ATTORNEY GENERAL

Mr. Noble, Chair, agreed, at January Convocation, that this matter concerning the Crown Attorney's Exchange Program of the Ministry of The Attorney General, be referred back to the Committee in order to ensure that the Law Society retains control of who becomes a member of The Law Society.

RECOMMENDATION: Your Committee recommends that this matter be deferred until Mr. Crosbie speaks to the Chief Justice of the High Court.

C.
INFORMATION

1. AMENDMENT OF QUORUM OF MEMBERS AT THE SOCIETY'S ANNUAL MEETING

This item was deferred at January 26th Convocation because a Benchler is going to make a motion that will be considered at the February Convocation dealing with the number of members that should constitute a quorum at an annual meeting.

2. AMENDMENTS TO THE LAW SOCIETY ACT AND REGULATIONS

Mr. Crosbie reported to the Committee on the legislation that the Law Society has forwarded to Queen's Park to be enacted by the Ontario legislature.

ALL OF WHICH is respectfully submitted

DATED the 23rd day of February, 1990

"S. Lerner"
Chair

THE REPORT WAS ADOPTED

.....

FRENCH LANGUAGE SERVICES COMMITTEE

Mr. McKinnon presented the Report of the French Language Services Committee of its meeting on February 14th, 1990.

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 Wednesday, the 14th of February, 1990 at four thirty in the afternoon, the following members being present: Mr. McKinnon (Chair), Ms. Bellamy (Vice-Chair), and Mr. Ground. From the Law Society were Mr. Crosbie, Mr. Tinsley, Ms. Angevine, Mr. Treleaven, Ms. Harris, Mr. Kerr, Ms. Paquet-Broad (Co-ordinator), and Ms. Thomson.

C.
INFORMATION

1. French Language Services Co-ordinator

The Committee met the French Language Services Co-ordinator, Dominique Paquet-Broad, who began working at the Law Society on February 5th, 1990. Dominique summarized her mandate - to plan, implement, and promote the Law Society's French Language Services Program - and provided an overview of her work schedule over the next few weeks.

2. Discussion of Translation Matters

Dominique Paquet-Broad made specific recommendations, outlined in Appendix "A", regarding the translation of the Bar Admission Course (Business, Public and Estate Planning), as well as other pertinent assignments.

An analysis of needs and break-down of cash flow will be included in the Co-ordinator's implementation plan, to be presented to the Committee in the near future.

3. Recommendations of Co-ordinator

The Committee approved recommendations 1., 2., 3., and 4. outlined in page 2 of Appendix "A" attached.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"C. McKinnon"
Chair

THE REPORT WAS ADOPTED

.....

UNAUTHORIZED PRACTICE COMMITTEE

Mr. McKinnon presented the Report of the Unauthorized Practice Committee of its meeting on February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at 10:30 a.m., the following members being present: Messrs. Ruby (Chair), McKinnon (Vice Chair), Ms. Callwood, Mr. Cass, Ms. Graham, Messrs. Lawrence, Shaffer and Ms. Weaver. Also in attendance were: Messrs. Ballantyne, Tinsley and Traviss.

B.
ADMINISTRATION

1. ACCOUNTS

Accounts of counsel and investigators were approved in the total amount of \$9,232.71.

2. INVESTIGATIONS

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

3. BUDGET ESTIMATES FOR 1990/91

The Chair of Finance has requested that all Standing and Special Committees submit to the Director of Finance, details of anticipated expenditures for new programs or additional staff and equipment needs. Your Committee discussed budget preliminary matters and reported to Mr. Crack.

4. TORONTO SUN/THE TORONTO STAR - PARALEGAL ADVERTISING

We have received word from Alan Shanoff, Counsel for the Toronto Sun, that they will follow the lead of the Toronto Star and "police" the independent paralegal advertisements which they carry in their newspaper. The result of this should be that paralegal advertisements using the terms: divorce, incorporations, wills and impaired driving will no longer be permitted. This policy is expected to be implemented as of February 19, 1990. Your Committee indicated that it was quite pleased with the result of its deliberations with the Toronto Sun and The Toronto Star and that discussions should now be entered into with newspapers outside of the Toronto area.

5. PREPARATION OF REAL ESTATE CONTRACTS BY BROKERS

The Committee is in receipt of a letter addressed to Samuel Lerner from a member who expressed his concern that real estate brokers and their sales people are preparing real estate contracts with often poorly worded provisions, ill conceived solutions to legal matters and inadequate time frames for searches and closing dates. He suggested that the Province of Ontario should amend the Real Estate Brokers Act to require real estate contracts to be prepared or at least reviewed by lawyers prior to execution. Your Committee considered this suggestion and while it shares the concerns expressed in the letter, your Committee is of the view that contracts generally are not within the exclusive domain of lawyers and it would therefore be inappropriate to recommend the legislative amendments suggested by the member.

Approved

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"C. McKinnon"
Chair

MATTERS PENDING

Ongoing Investigations

Affordable Paralegal	Pickering, Brantford/Hamilton
Beldowski, Jerry	Cambridge
Bonham, Robert G. (disbarred lawyer)	Toronto
Bray, Bruce A.	Harriston
Burch, Randall	Sault Ste. Marie
Campbell, Robert (disbarred lawyer)	Toronto
Canadian Counselling	Toronto
Consumer Paralegal	Sudbury
Connort, Ronald	Toronto

Consultants (Donald Stewart, President)	Windsor
Cowan & Kearns Ltd.	Picton
Cross Canada Paralegal	Toronto
Cymbalski, Paul	Bradford
D.P.S. Paralegal Ltd.	Toronto
Divorce Easy (Peggy Wilson)	London
Dominion Paralegal (formerly Canada Paralegal and Stephen Kuz (disbarred lawyer) and Jerry Szuch	Toronto
Divorce Aid	Kitchener/Waterloo and London
Divorce Services	Toronto
duPlessis, Marc	Kingston
Elmore, Bruce and Associates	Kemptville
Finley, Helen	Kingston
Galaxy Paralegal	Toronto
Galbraith, Morris	Owen Sound
Galbreath, John	Ottawa
Global Paralegal	Toronto
Guelph Paralegal Consultation	Guelph
Heritage Financial	Windsor
Hoskin, Dale	Timmins
Hyatt Paralegal	Throughout Ontario
Incorporating Paralegal	Toronto
Jovanich, Radmir	Toronto
Juda, George	Toronto
Lobraico, Paul (retired lawyer)	Toronto
Landlord Tenant Advisory Bureau (Datinder Sodhi)	Toronto
Legal Services Centre	Hamilton
R.D. Lunstedt Ltd.	Bolton
Martin, Peter	Toronto
Marino, Pauline	St. Catharines
McCarron, James	Mississauga
Noseworthy, Donald	Oshawa
Ontario Paralegal	Throughout Ontario

Para Judicial Services	Toronto
Paralegal Associates	Toronto and area
Para Legal Clinic	Hamilton
Paralegal Consultants Ltd.	Ottawa
Paralegal Divorce Aid	Brantford
Personal Paralegal	Toronto
RMSK Services	Toronto
Regional Paralegal	Hamilton/Niagara Region
S.E.B. Legal Services	Burlington
Sandberg, Glen	Thunder Bay
Thalassinios, Helen	Toronto
The Search House	Toronto
Singh, Manjit	Rexdale
Sam Solomon Paralegal	Toronto
Superior Paralegal Services and Michael Delaney	Toronto
T.H.R. Paralegal	Lindsay
Unnamed - 1 - 521-8787	Hamilton
Wilmot, Harold	Toronto
Wilmour Bookkeeping Services	Kirkland Lake
Write-Away Processing Services Inc.	Toronto

PROSECUTIONS

NEXT COURT DATE

Donald Noseworthy (Whitby)	February 2, 1990 at 9:30 a.m. Courtroom 1 Trial
Donald Noseworthy Management (Whitby)	February 2, 1990 at 9:30 a.m. Courtroom 1 Trial
Richard Perry (Regional Paralegal) (Hamilton)	February 2, 1990 at 9:00 a.m. Courtroom 9 To set a date
Lynn Pattison (Hyatt Paralegal) (Kingston)	February 6, 1990 at 9:30 a.m. Courtroom 3 For plea
Andrew Czornyj (Jacobi & Myers) (Toronto)	February 6, 1990 at 9:00 a.m. Courtroom1-Brampton Prov. Crt. To be spoken to

Douglas Traill (Jacobi & Myers) (Toronto)	February 6, 1990 at 9:00 a.m. Courtroom 1-Brampton Prov. Crt. To be spoken to
Jacobi & Myers (Toronto)	February 6, 1990 at 9:00 a.m. Courtroom 1-Brampton Prov. Crt. To be spoken to
Dorothy Thiry Divorce Aid (London)	February 9, 1990 at 10:00 a.m. Courtroom 3 Trial
Personal Paralegal (Toronto)	February 13, 1990 at 10:00 a.m. Courtroom 140 To be spoken to
Christian Vadum (Personal Paralegal) (Toronto)	February 13, 1990 at 10:00 a.m. Courtroom 140 To be spoken to
Jane Baker Ontario Paralegal (Chatham)	February 14, 1990 at 10:00 a.m. Courtroom 3 Plea & Trial
Susan Merchant (Paralegal Associates) (Ottawa)	February 20, 1990 at 8:30 a.m. Courtroom 5 To be spoken to
Dale Hoskin (Timmins)	February 27, 1990 at 9:30 a.m. Courtroom 1 To be spoken to
Peggy Wilson Divorce Easy (London)	March 2, 1990 at 10:00 a.m. Courtroom 2 Trial
796332 Ontario Ltd. (Ontario Paralegal) (Oakville)	March 5, 1990 at 9:00 a.m. Courtroom - Milton Prov. Court Trial Continuation
Catherine O'Halloran (Ontario Paralegal) (Oakville)	March 5, 1990 at 9:00 a.m. Courtroom - Milton Prov. Court Trial Continuation
Canada United Paralegal Association Inc. (Toronto)	March 7, 1990 at 10:00 a.m. Courtroom 140 Trial
Marc Monson (Action Paralegal) (Downsview)	Apr. 4,5 & 6, 1990 at 10:00 a.m. Courtroom 302 Trial
Action Paralegal Inc. (786301 Ontario Ltd.) (Downsview)	Apr. 4,5 & 6 at 10:00 a.m. Courtroom 302 Trial
Natalie MacPhee (Paralegal Consultants Inc.) (Ottawa)	May 4, 1990 at 12:00 p.m. Courtroom 7 Trial (1 day)
Paralegal Consultants Inc. (Ottawa)	May 4, 1990 at 12:00 p.m. Courtroom 7 Trial (1 day)

Norine Earl (Toronto Divorce Services) (Trial)	June 25, 26, & 27, 1990 at 9:00 a.m. Courtroom 140 Trial
Fred May (Paralegal Associates) (Downsview)	June 28 & 29, 1990 at 10:00 a.m. Courtroom 306 To set a date
David Nancoff (Toronto)	July 30 - Aug. 4, 1990 at 10:00 a.m. Ottawa Provincial Court Trial Continuation
Ontario Paralegal Ltd. (Toronto)	July 30 - Aug. 4, 1990 at 10:00 a.m. Ottawa Provincial Court Trial Continuation
696631 Ontario Ltd. (Stephen Kuz) (Etobicoke)	August 8, 1990 at 10:00 a.m. Courtroom 203 Trial

THE REPORT WAS ADOPTED

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LEGAL AID COMMITTEE

Mr. Bastedo presented the Report of the Legal Aid Committee of its meeting on February 8th, 1990.

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 8th of February, 1990, the following members being present: Thomas G. Bastedo, (Chair), Messrs. Ally, Bond, Ms. Callwood, Ms. Campbell, Ms. Curtis, Mr. Durno, Ms. Janczaruk, Ms. Kehoe, Ms. Kiteley, Messrs. Koenig, Lalande and Spence.

A.

POLICY

B.

ADMINISTRATION

1. LEGAL AID BUDGET 1990/91

The Legal Aid Committee recommends the adoption of the Legal Aid Budget 1990/91. The Budget, together with explanatory notes, is attached hereto as SCHEDULE (A).

2. REPORT OF THE DEPUTY DIRECTOR FINANCE, DECEMBER 30, 1990

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the nine months ended December 31, 1989 takes the form of the following financial statements:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Nine Months Ended December 31, 1989 (\$000)

	Actual 1988/89	Budget 1989/90	Actual 1989/90	Favourable (Unfavourable) Variance
<u>Opening Balance</u>	190.9	369.8	369.8	
<u>Income</u>				
Treasurer of Ontario	90,895.0	98,257.0	98,257.0	
Northern Legal Services		132.0	69.4	(62.6)
Family Violence Grant	150.0	225.0	225.0	
Refugee Claimant Grant		1,887.8	2,044.1	156.3
Law Foundation	16,494.0	15,750.0	27,198.6	11,448.6
Client Contributions	5,767.3	6,075.0	6,378.5	303.5
Client Recoveries	1,196.5	1,275.0	1,302.5	27.5
Research Sales	102.2	105.0	77.7	(27.3)
The Law Society	64.6			
Miscellaneous	478.8	375.0	1,576.1	1,201.1
	<u>115,339.3</u>	<u>124,451.6</u>	<u>137,498.7</u>	<u>13,047.1</u>
<u>Expenditure</u>				
Certificate Accounts	67,839.0	81,862.5	71,743.3	10,119.2
Refugee Accounts		1,890.0	1,777.9	112.1
Duty Counsel Fees & Disbursements	5,307.9	5,670.0	5,453.6	216.4
Salaried Duty Counsel	504.2	613.5	568.6	44.9
Northern Legal Services		132.0	132.0	
Community Clinics	14,274.9	15,564.3	16,166.6	(602.3)
Student Legal Aid Societies	789.6	889.8	880.2	9.6
Research Facility	1,103.1	1,120.3	1,065.0	55.3
Area Office Administration	6,367.3	6,863.8	7,251.2	(387.4)
Provincial Office Administration	4,509.9	4,856.8	4,683.7	173.1
Refugee Administration	3.8	147.7	171.6	(23.9)
	<u>100,699.7</u>	<u>119,610.7</u>	<u>109,893.7</u>	<u>9,717.0</u>
<u>Closing Balance</u>	<u>14,639.6</u>	<u>4,840.9</u>	<u>27,605.0</u>	<u>22,764.1</u>

Statistics

The following table compares reported activity for the nine months ended December 31, 1989 with activity for the previous year:

	December 31 1989	December 31 1988	% Change from Last Year
Summary Legal Advice	39,267	40,501	(3.0)
Referrals to Other Agencies	76,951	68,433	12.4
Applications for Certificates	117,588	100,107	17.5
Refusals	24,105	22,264	8.3
As a Percentage of Applications	20.5	21.2	
Certificates Issued	93,485	78,853	18.6
Persons Assisted by Duty Counsel:			
Fee for Service	169,105	165,566	2.1
Salaried	56,472	55,764	1.3

Lease Renewals

Address: 295 Brock Street
Kingston, Ontario
Term: 5 years
January 1, 1990 to December 31, 1995
Rent: \$900.00 per month
Area: 900 square feet

Address: 329 Front Street
Belleville, Ontario
Term: 5 years
June 1, 1989 to May 31, 1994
Rent: \$1,500 per month
Area: 1,100 square feet

3.(a) REPORT ON THE PAYMENT OF SOLICITORS
ACCOUNTS FOR THE MONTH OF JANUARY, 1990

The Legal Aid Committee received for its information the Report on the Payment of Solicitors Accounts for the month of January, 1990 which is attached hereto as SCHEDULE (B).

(b) REPORT ON THE STATUS OF REVIEWS IN THE
LEGAL ACCOUNTS DEPARTMENT, JANUARY, 1990

The Legal Aid Committee received for its information the Report on the Status of Reviews in the Legal Accounts Department January, 1990, which is attached hereto as SCHEDULE (C).

ALL OF WHICH is respectfully submitted

DATED this 8th day of February, 1990

"T. Bastedo"
Chair

Attached to the original Report in Convocation File, copy of:

B-Item 1 - Legal Aid Budget 1990/91 together with explanatory notes.
(Schedule (A) Pages 1 - 4)

B-Item 3(a) Report on the payment of solicitors Accounts for month of
January 1990. (Schedule (B) Pages 1 -2)

B-Item 3(b) Report on the status of reviews in the legal accounts
department January 1990. (Schedule (C))

THE REPORT WAS ADOPTED
.....

CLINIC FUNDING COMMITTEE

Mr. Epstein presented the Report of the Clinic Funding Committee of its meeting on February 18th, 1990.

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

The Director of Legal Aid begs leave to report:

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 February 19, 1990 be adopted.

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

ALL OF WHICH is respectfully submitted

"Robert L. Holden"
Director
Legal Aid

February 19, 1990

ATTACHMENT:

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

The Clinic Funding Committee met on Sunday the 18th of February, 1990. Present were: Philip Epstein, Q.C., (Chair), Earl Levy, Q.C., Thea Herman, Jim Frumau.

A. DECISIONS

1. 1990/91 Estimates

Clinic Funding Committee approved a budget request for 1990/91 in a total amount of \$30,124,963. The request includes an increase in personnel funds to provide salaries for clinic staff which are comparable to 1989 government staff salaries. The Committee is requesting an 8% increase on operating costs and sufficient funds to create a Central Resource Office which will provide research, as well as precedent and training materials for all clinics. Attached as Schedule I are details of the Committee's budget request. The Committee therefore recommends Convocation's approval of this budget request to the Ministry of the Attorney General for 1990/91.

2. 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 from the following clinics:

Kinna-aweya Legal Clinic - up to \$4,792
Sioux Lookout Community Legal Clinic - up to \$1,500
West Scarborough Community Legal Clinic - up to \$2,000
Willowdale Community Legal Services - up to \$2,000

3. Training Funds

Pursuant to s.6(1)(k) of the Regulation on clinic funding, the Committee reviewed and approved training funds from the Regional Associations of Legal Clinics located in northern, eastern and southwestern Ontario, to conduct substantive legal training of lawyers and CLWs, in an amount up to \$135,000.

4. Neighbourhood Legal Services (London & Middlesex)
re. Additional Staff

The Committee approved supplementary funds, in an amount up to \$60,000, to enable Neighbourhood Legal Services (London & Middlesex) to hire two staff on contract in order to maintain availability of service at the east end office of the clinic.

5. Metro Tenants Legal Services/Bloor Information & Legal Services

The Committee reviewed and approved an application for funds from MTLs and BILS, joint applicants for a contract position to be shared by the two clinics. The Committee recommends approval of funding in an amount up to \$1,653, plus benefits coverage for the term of the contract position, payable to Bloor Information & Legal Services.

2. INFORMATION

a. Retreat

The Clinic Funding Committee met with the clinic funding staff at Geneva Park Conference Centre on February 16, 17 and 18, 1990. The Committee discussed with staff the many issues facing the clinic system at this time and determined strategies to address the concerns of community legal clinic Boards of Directors, the Clinic Funding Committee and clinic funding staff.

b. Meetings with clinics

The Committee will complete the current round of regional meetings when it meets with representatives of all northern community legal clinics in Sault Ste. Marie on March 31, 1990.

c. OLRB/OPSEU re. Leave to Appeal

The Clinic Funding Committee has retained Tory, Tory, DesLauriers and Binnington to represent the Committee on a notice of motion for leave to appeal to the Court of Appeal from the Order of the Divisional Court dismissing an application for judicial review of a decision of the Ontario Labour Relations Board.

d. Appointment of Finance Administrator

The Committee is pleased to announce the appointment of Mr. Joel Shuster to the position of Finance Administrator of the clinic funding staff.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Chair
Clinic Funding Committee

February 19, 1990

Attached to the original Report in Convocation File, copy of:

A-Item 1 - Estimates of 1990/91 budget request of Clinic Funding Committee. (Schedule I Pages 1 - 4)

THE REPORT WAS ADOPTED

.....

PROFESSIONAL CONDUCT COMMITTEE

Mr. Carter presented the Report of the Professional Conduct Committee of its meeting on February 8th, 1990.

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 8th of February, 1990 at three o'clock in the afternoon, the following members being present: Messrs. Strosberg (Vice-Chair in the Chair), Carter (Vice-Chair), Carey, Somerville and Mrs. Graham.

A.

POLICY

1.(a) LAWYERS INVOLVEMENT IN A
BUSINESS PROVIDING PARALEGAL
SERVICES TO MEMBERS OF THE PUBLIC

and

(b) IN HOUSE LAWYER SEEKING PERMISSION
TO HOLD A REAL ESTATE LICENCE
WHILE CONTINUING TO PRACTISE LAW

In the mid 1970s the Professional Conduct Committee had occasion to consider a request from at least two lawyers in private practice for permission to hold a real estate licence. The Committee's position, confirmed by Convocation, was that a lawyer in private practice could not hold and use a real estate licence at the same time he was practising law. The lawyer could hold and use a real estate licence provided he gave the Law Society a written undertaking to the effect he would not engage in the private practice of law at all while he held and used the licence. The Committee questions whether the Law Society has the jurisdiction to prevent a lawyer practising law and selling real estate at the same time.

and

(c) LAWYER HOLDING SHARES IN A
REAL ESTATE BROKERAGE FIRM

These three subjects were discussed by the Committee. Given the importance of these questions and the ramifications of any decisions, it was thought advisable to put over the questions to a future meeting of the Committee with the possibility that a sub-committee may be struck.

Given the importance of the issues raised by these questions, the Committee wishes to inform Convocation of the fact that it will be considering them in the next month. The Committee wants any Benchers, not a member of the Committee, to make its views on the three matters known to the Committee's Secretary.

2. REPRESENTATION OF MULTIPLE PARTIES IN
REAL ESTATE AND MORTGAGE TRANSACTIONS

Paragraph 5 of the Commentary under Rule 5 (set out below) permits the representation of multiple parties in transactions where there is no existing conflict of interest.

Before the lawyer accepts employment for more than one client in a matter or transaction, the lawyer must advise the clients concerned that the lawyer has been asked to act for both or all of them, that no information received in connection with the matter from one can be treated as confidential so far as any

of the others are concerned and that, if a conflict develops which cannot be resolved, the lawyer cannot continue to act for both or all of them and may have to withdraw completely. If one of such clients is a person with whom the lawyer has a continuing relationship and for whom the lawyer acts regularly, this fact should be revealed to the other or others with a recommendation that they obtain independent representation. If, following such disclosure, all parties are content that the lawyer act, the latter should obtain their written consent, or record their consent in a separate letter to each. The lawyer should, however, guard against acting for both sides where, despite the fact that all parties concerned consent, it is reasonably obvious that an issue contentious between them may arise or their interests, rights or obligations will diverge as the matter progresses.

Mrs. Heather Werry, one of the Assistant Secretaries responsible for the handling of Compensation Fund claims, has raised with the Chair of the Committee and its Secretary the suggestion that consideration be given to the position now taken by the English Law Society whereby a solicitor may not act for both the lender and the borrower on a private mortgage. Set out below is Rule 6 of the Law Society's Solicitors' Practice Rules:

Rule 6 [Prohibition against acting for vendor and purchaser, or for lender and borrower in a private mortgage]

- (1) Without prejudice to the general principle of professional conduct that a solicitor shall not accept instructions to act for two or more clients where there is a conflict between the interests of those clients, a solicitor or two or more solicitors practising in partnership or association shall not act for both vendor and purchaser on a transfer of land for value at arm's length, or for both lessor and lessee on the grant of a lease for value at arm's length, or for both lender and borrower in a private mortgage at arm's length.
- (2) Provided no conflict of interest appears, and provided the vendor or lessor is not a builder or developer selling or leasing as such, and provided the solicitor or a solicitor practising in partnership or association with him is not instructed to negotiate the sale of the property concerned, the rule set out in paragraph (1) of this Rule shall not apply if:
 - (a) the parties are associated companies; or
 - (b) the parties are related by blood, adoption or marriage; or
 - (c) both parties are established clients (which expression shall include persons related by blood, adoption or marriage to established clients); or
 - (d) on a transfer of land, the consideration is less than £5,000; or
 - (e) there are no other solicitors in the vicinity whom either party can reasonably be expected to consult; or
 - (f) two associated firms or two offices of the same firm are respectively acting for the parties, provided that:
 - (i) the respective firms or offices are in different localities; and
 - (ii) neither party was referred to the firm or office acting for him from an associated firm or from another office of the same firm; and
 - (iii) the transaction is dealt with or supervised by a different solicitor in regular attendance at each firm or office.

(3) In this Rule:

- (a) 'association' refers to a situation where two or more firms of solicitors have at least one common principal, and 'associated' is to be construed accordingly; and
- (b) 'private mortgage' means any mortgage other than one provided by an institution which provides mortgages in the normal course of its activities.

The Committee will be considering this issue at a future meeting of the Committee. No recommendation is being made at this time.

The Committee asks Convocation if it wishes this issue to be explored further. If a Rule change were made requiring independent representation in private mortgages, there would be a significant change in a practice that is widespread in Ontario.

The advice of Convocation is sought.

B.

ADMINISTRATION

3. INQUIRY FROM THE CIBC RE:
DISCOUNT COUPONS FOR MORTGAGORS

The legal department of the bank has sent the following letter:

The Canadian Imperial Bank of Commerce ("CIBC") from time to time offers its customers promotional coupons.

As part of a package of services to be offered to CIBC mortgage customers, CIBC wishes to include a coupon offering the customer 10% off a lawyer's regular fees on their mortgage transaction. This coupon would be redeemable at any one of several law firms named on the coupon. The coupon would also contain wording to the effect that the coupon does not constitute a recommendation or advice to the customer that a particular law firm be retained to perform the mortgage work in question. The lawyer's fees coupon would be only one coupon among a package of coupons offering discounts on moving-related expenses such as movers', storage and truck rental costs.

CIBC has approached several law firms in connection with the proposed promotion. The response has been very positive, however some firms have sought reassurance that the Law Society would have no objection to their participation in such a promotion.

We are aware that Rule 5(e) of the Rules of Professional Conduct states that:

"The lawyer shall not...arrange for or encourage anyone (e.g. a real estate agent) to make a practice of recommending to any person that the lawyer's services be retained",

however we consider that participating law firms would not infringe this Rule since the Rule prohibits referral to a particular lawyer, whereas the promotion involves a coupon redeemable at any one of a number of law firms, and will state clearly that the customer is not bound to use the services of any of these firms.

The proposed promotion benefits the Bank because of its potential to attract new customers and to permit us to offer our customers superior service and financial benefits than they might obtain elsewhere. Customers will benefit from the reduction in their legal fees, and the participating law firms will benefit by obtaining new clients who may have further need of their legal services in the future. We feel that the proposed promotion does not offend either the letter or the spirit of the Rules.

The Committee's Secretary raised the following problem with the Bank's legal department.

The major stumbling block is the listing of names of law firms on the coupon. Supposing I had such a coupon in my hand and wished to use the services of a law firm whose name was not on the coupon, would the bank be prepared to see that that law firm offered a discount?

The Bank replied:

In order to address the concern raised in your letter and discussed in our recent telephone conversation, I have discussed the matter further with the Bank's Marketing Division.

The Bank is quite willing to include all law firms willing to participate in the proposed coupon promotion. As a practical matter, however, it would be impossible for the Bank to canvass all Ontario law firms in advance of issuing the coupon to determine their willingness to participate; nor could the Bank compel law firms not wishing to offer a discount to participate. A solution, however, would be to specify on the coupon that in addition to the firms listed, the coupon may also be redeemed at any other Ontario law firm willing to give the customer value for the coupon. Since it is the law firm and not the Bank which absorbs the cost of honouring coupon, it would be up to each individual firm to decide whether they wished to honour the coupon.

The Bank would be pleased if firms other than those specified honoured the coupon since this would further the Bank's objective of providing superior service and financial benefits to its customers, thus engendering customer goodwill. This goodwill would also extend to the participating law firms, and these firms should benefit by building customer loyalty among clients who may have further need of legal services in the future.

The CIBC has been developing a "Home Moving Coupon Package" which includes this proposal and a few others. It is described in a two page flyer that has been sent to various lawyers in Hamilton (numbered 1 & 2).

The letter to the lawyers which accompanied this circular read:

In an effort to increase mortgage business in the Hamilton area the Bank is undertaking the development of a coupon package relating to expenses incurred during a home purchase. This promotion has been successful during a recent trial in the Oakville area mutually benefitting the Bank, our participating advertisers and above all, our customers. Part of the promotional package includes an offer of 10% discount on Legal Fees for house closings and in this regard we would like to offer you the opportunity to participate in this proposal. Details regarding the coupon package are enclosed and in the event that you are interested or require additional information please feel free to contact the writer prior to December 11th.

We believe that this venture will be an effective tool in increasing business for the Bank and participating businesses while at the same time providing up to \$600.00 in value to our home buying clientele. We look forward to discussing this proposal further with you.

The Committee was of the opinion that the proposal was an attempt by the CIBC in effect to saddle participating lawyers with the cost of the advertising by requiring them to discount their fees by 10% by being participants in this scheme.

The Committee recommends to Convocation that the CIBC's proposal be turned down.

The Committee also recommends to Convocation that the CIBC's proposal be approved if the Bank will agree to the proposal that it will assume the cost of the 10% discount.

Deleted by Convocation, see below.

The Committee asks Convocation to adopt its position.

2. BUDGET 1990-1991

The Committee considered its budget for 1990-1991.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"R. Carter"
Chair

The penultimate paragraph under section B-Item 3 relating to the application by the C.I.B.C. was deleted.

Attached to the original Report in Convocation File, copy of:

B-Item 3 - CIBC's "Home Moving Coupon Package" proposal.

(Pages 1 - 2)

THE REPORT AS AMENDED WAS ADOPTED

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DISCIPLINE POLICY COMMITTEE

Mr. Somerville presented the Report of the Discipline Policy Committee of its meeting on February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at one thirty in the afternoon, the following members being present: Mr. Somerville (Vice-Chair), The Honourable Allan Lawrence, Messrs. Carey, Cass, Cooper, Cullity, McKinnon, O'Connor, Strosberg, Topp and Mrs. Graham.

Also in attendance were Ms. Callwood and Mr. Yachetti.

Amendment see page 201.

A.

POLICY

1A. Special Committee on Discipline Procedures

The Chair of the Special Committee on Discipline Procedures, Roger Yachetti attended on February 8, 1990 and provided a progress report on the work of this Committee.

2A. Special Committee on Complaints Procedures

The Chair of the Special Committee on Complaints, June Callwood, attended on February 8, 1990 and provided a progress report on the work of this Committee.

3A. Sub-Committee on Publication of Discipline Proceedings Information

The work of the Sub-Committee on Publication of Discipline Proceedings Information has now been merged with the Special Committee on Discipline Procedures appointed by Convocation.

B.

ADMINISTRATION

1B. Budget Estimates For 1990/91

The chair of Finance has requested that all Standing and Special Committees submit to the Director of Finance details of anticipated expenditures for new programmes or additional staff and equipment needs. The Committee was asked to consider whether there are any new initiatives which will have an impact on the 1990/91 budget.

Proposals for new expenditures from the Audit and Complaints Departments were discussed.

C.

INFORMATION

1C. AUTHORIZATION OF DISCIPLINE CHARGES

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

The following table shows the number of requests made by Discipline and Complaints Staff for January, 1990.

	<u>Sought</u>	<u>Obtained</u>
Discipline	7	7
Complaints	11	10
		--
Total # of charges for January, 1990		17

2C. RELOCATION OF DISCIPLINE AND COMPLAINTS DEPARTMENTS

The bulk of the Discipline and Complaints Departments will move to the third floor of 204 Richmond Street in April 1990. Renovations to the south east wing of Osgoode Hall are to be completed by October 1990.

Approved

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"M. Somerville"
Chair

The Report was amended to show that Mr. Cass was present at the Committee meeting.

THE REPORT WAS ADOPTED

.....

ORDERS

Mr. Somerville presented three Orders for Convocation to be recorded in the Minutes of Convocation.

Re: MARTIN SHELDON PILZMAKER, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 20th day of October, 1989, in the presence of Counsel for the Society and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Martin Sheldon Pilzmaker 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 25th day of January, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: WILLIAM DONALD GRAY, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 2nd day of November, 1989, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said William Donald Gray be suspended for a period of sixty days, such suspension to commence on the 5th day of February, 1990.

DATED this 25th day of January, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: PATRICK CHRISTIAN HENGEN, Richmond Hill

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Patrick Christian Hengen, of the Town of Richmond Hill, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 17th day of October, 1989, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Patrick Christian Hengen be Reprimanded in Convocation.

DATED this 25th day of January, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

PRACTICE AND INSURANCE COMMITTEE

Mr. Wardlaw presented three Reports of the Practice and Insurance Committee of its meetings on January 11th, January 25th and February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PRACTICE AND INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of January, 1990 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Hickey, Lamont, Noble, Outerbridge, Scace, Wardlaw, Smith, Tinsley, Crosbie, Spence, Lyons and O'Toole.

ITEM

1. C.L.I.A. PROPOSAL

Following a period of written communications during which the L.S.U.C. endeavored to obtain answers or additional information with respect to several questions regarding C.L.I.A.'s operation the Chair invited and C.L.I.A. representatives, Messrs. Wittmann and Durrell accepted the invitation to appear at the January 11, 1990 Committee Meeting. Messrs. Wittmann and Durrell addressed the Committee, and requested the appointment of a Subcommittee to negotiate with C.L.I.A., presumably preparatory to L.S.U.C.'s participation in C.L.I.A. Following the presentation, their request was discussed, but due to time constraints, the Chair advised that final discussion of the C.L.I.A. presentation would be postponed until the next regularly scheduled Committee Meeting.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"J. Wardlaw"
Chair

THE REPORT WAS ADOPTED

.....

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PRACTICE AND INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 25th of January, 1990 at four o'clock in the afternoon, the following members being present: Messrs. Furlong (Chair), Howie, Bragagnolo, Epstein, Hickey, Lamont, Noble, Wardlaw, Smith, Crack and O'Toole.

ITEM

1. CAPTIVE REINSURANCE

Pursuant to Convocation's recommendation of May 26, 1989, additional preparatory work necessary for the formation and establishment of the Society's Insurance Corporation has led to the completion of the proposed company's Business Plan. The Director reported to the Committee on the details of the Business Plan.

Following discussion of the Plan, it was moved and passed that the name of the insurance entity be Lawyers Professional Indemnity Company, and that The Law Society proceed by submitting the Business Plan, with the appropriate correspondence and other advices, to the Regulatory Authorities. Submission of the plan will allow for pursuit of the subsequent stages in the process of incorporation and licencing.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"J. Wardlaw"
Chair

THE REPORT WAS ADOPTED

.....

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PRACTICE AND INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Howie, Bragagnolo, Lamont, Murphy, Outerbridge, Wardlaw, Smith and O'Toole.

ITEM

1. C.L.I.A. PROPOSAL

Pursuant to Messrs. Wittmann's and Durrell's presentation on behalf of C.L.I.A. during the Committee's January 25, 1990 meeting,

final discussion of this matter had been postponed due to time constraints. Mr. Wittmann requested the establishment of a Sub-Committee to pursue further communication with C.L.I.A. with a view to address future participation in the Reciprocal Program. The Committee recommends that further consideration of participation with C.L.I.A. be deferred until the expiration of its first five year underwriting period when C.L.I.A. will have greater depth to its operating history and experience to compare against the L.S.U.C. Program.

The Law Society's brokers' correspondence of January 15, 1990 prepared in response to the C.L.I.A. presentation is attached as Appendix "A".

2. DIRECTOR'S MONTHLY REPORT

The Director's Monthly Report is attached as Appendix "B".

3. 1990/1991 BUDGET PLANNING

Pursuant to Mr. John D. Ground's memo of January 31, 1990, addressing the need to advise the Finance Committee on changes impacting the 1990-1991 Budget, the Director advises that he will request approval of the cost for two additional examiners, two additional support staff, one in-house counsel, including the equipment required by these individuals.

The Director is considering Mr. Ross Smiley as a candidate for in-house counsel, and while he is well known by members of the Committee, the Director will provide a detailed review of Mr. Smiley's qualifications and background for the Committee's advisement.

See Appendix "C".

4. OUTSTANDING ITEMS

(a) Subcommittee on Women in the Legal Profession - This Subcommittee is seeking the input of all benchers in identifying and responding to the concerns resulting from the increase in the number of women lawyers. Your Committee was unable to identify specific issues relating to The Society's Insurance Program. The scope of coverage and levy obligations are applicable to all members without consideration for a member's gender. The Chair will correspond with the Subcommittee requesting identification of specific issues relating to the administration of the Insurance Program.

See Appendix "D".

(b) Research Bank - The Chair previously inquired about the feasibility of the Errors and Omissions Department making available to defence counsel, the research capabilities and law briefs available through the Legal Aid Research Department. Such a program was approved at the November, 1988 Committee Meeting, and is operational with requests for research being submitted by the Errors and Omissions Department on its own behalf, and on behalf of defence counsel.

Members of your Committee expressed concern that the briefs satisfy the needs of the Errors and Omissions defence counsel. The Committee recommends it would be appropriate to conduct an analysis of the benefits and costs of such a program. The Director will report to the Committee on the outcome of this review to facilitate further discussion prior to a recommendation being made on the future of this program.

(c) Compensation Fund - Errors and Omissions Insurance Fund - Two areas of interaction between these Funds are under discussion. Which Fund should have priority regarding payments to claimants who may have recourse against both funds due to the addition of Innocent Partner Coverage to The Professional Liability Insurance Program? The second question concerns the possibility of insuring the Compensation Fund to alleviate the adverse effects of catastrophic claims severity and frequency. Mr. Harvey Strosberg has been appointed, from the Compensation Fund Committee, to act as liaison for both Committees. He is presently arranging to meet the Chairs of both Committees to facilitate additional and more detailed discussion.

The Director will undertake a review of the pros and cons associated with the current Compensation Fund policy which dictates that claimants must first pursue the Errors and Omissions Insurance Fund to claim against innocent partners and will contrast this practice with the pros and cons of having the Compensation Fund bear the obligation to pay the claimants' losses allowing them to pursue the Errors and Omissions Insurance Fund for any losses or expenses in excess of the Compensation Fund limit. It was recommended that a Subcommittee be established to address the issues involving both Funds, and to provide a joint report with specific recommendations. The Chair will communicate with the appropriate parties on the Compensation Fund Committee to initiate preparatory work for the joint report.

(d) Undertaking - Agreement of Purchase and Sale - At its January, 1988 meeting, your Committee initiated a review of lawyers' undertakings in mortgage discharge provisions. The Practice Advisory service considered, and reported on the giving of undertakings, including guidelines. The Director will report back to the Committee after communicating with Practice Advisory on this issue.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"J. Wardlaw"
Chair

Attached to the original Report in Convocation File, copy of:

- Item 1 - Letter from Mr. John Chippindale (Marsh & McLennan Limited) dated January 15, 1990 re: C.L.I.A. Presentation.
(Appendix "A" Pages 1 - 4)
- Item 2 - Director's Monthly Report for December 1989.
(Appendix "B" Pages 1 - 4)
- Item 3 - Memorandum from Mr. John D. Ground dated January 31, 1990 re: Preliminary 1990/91 Budget Planning and memorandum from Mr. Victor Smith dated November 3, 1988 re: E&O Legal Adviser.
(Appendix "C" Pages 1 - 2)
- Item 4(a) Memorandum and enclosures from Ms. Meg Angevine to All Secretaries of Standing Committees dated January 3, 1990 re: Research & Planning Sub-Committee Women in the Legal Profession.
(Appendix "D" Pages 1 - 13)

THE REPORT WAS ADOPTED

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Mr. Wardlaw then announced the appointment of Mr. L. V. Whitman to replace Mr. Smith on Mr. Smith's retirement in April.

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LIBRARIES AND REPORTING COMMITTEE

Mr. Farquharson presented the Report of the Libraries and Reporting Committee of its meeting on February 8th, 1990.

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 8th of February, 1990 at 9:30 a.m. the following members being present: Messrs. Murphy (Chair), Bragagnolo (Vice-Chair), Cullity, Farquharson, O'Connor, Thoman and Topp. D. Crosbie, P. Bell and G. Howell also attended.

A.

POLICY

No items.

B.

ADMINISTRATION

1. THE BUDGETS OF THE 47 COUNTY LAW ASSOCIATIONS FOR 1990

The Chief Librarian reported that he has received almost all of the budgets from the 47 county law associations. The Chief Librarian's report of February 5th, 1990, plus two charts showing almost all of the figures for the 47 counties were discussed by the Committee.

RECOMMENDATION: Your Committee recommends that the approach of the Chief Librarian in his report of February 5th, 1990 be approved in principle, subject to final adjustments based on financial information being provided by some of the counties.

2. LONG TERM FUTURE OF THE COMMITTEE'S
FUNDING OF COUNTY AND DISTRICT LAW LIBRARIES

The Chair asked that this Committee consider whether it should be taking the initiative on county law libraries' funding or should the Committee respond to the recommendations for funding from the County and District Presidents Library Committee.

RECOMMENDATION: That the Libraries and Reporting Committee, in consultation with the County and District Presidents Association, should be responsible for the funding of county law libraries. Your Committee also recommends that a member of the County and District Presidents Association be appointed as a non-Bencher member of the Libraries and Reporting Committee.

3. LAW SOCIETY BUDGET

The Secretary reported that Mr. J.D. Ground, Chair of the Finance Committee, has asked for a discussion of issues that might have an impact on the 1990-91 budget of the Society. The Chief Librarian reported to the Committee on this matter.

RECOMMENDATION: That this matter be deferred until the March Meeting when the budget estimates will be discussed.

C.
INFORMATION

1. MEETING WITH LAW BOOK PUBLISHERS

The Chair and members of the Committee met with representatives of Butterworths and Carswells to discuss the prices of subscriptions of loose-leaf series. A future meeting will be arranged with Canada Law Book.

2. ONTARIO REPORTS TENDER DOCUMENTS

The Secretary reported that the tenders for the Weekly Parts, Data Base and CD-ROM version of the Ontario Reports were received and will be considered by the Sub-Committee on the Ontario Reports Data Base on Wednesday, February 21st, 1990.

3. ONTARIO REPORTS - POSTAGE

The Secretary reported that effective March 1st, 1990, postage rates will increase by 13% for the Ontario Reports. This will be an additional \$6,600 in this fiscal year and \$18,500 for the next fiscal year.

4. BOOK LIST

The Great Library will be adding 40 new titles to its book collection for February 1990.

5. FINANCIAL STATEMENT

The Financial Statement for the seven months ending January 31st, 1990 was received.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"G. Farquharson"
Chair

THE REPORT WAS ADOPTED
.....

PUBLIC INFORMATION COMMITTEE

Mr. Lyons presented the Report of the Public Information Committee of its meeting on February 8th, 1990.

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

The PUBLIC INFORMATION COMMITTEE begs leave to Report:

Your Committee met on Thursday, the 8th of February, 1990, the following members were present: Mr. Outerbridge (Chair), Ms. Callwood, Messrs. Lyons, McKinnon, Shaffer, and Thom. Also in attendance were Ms. Angevine, Mr. Daniher and Ms. Starkes.

B.

ADMINISTRATION

1. ON-GOING COMMUNICATIONS ACTIVITIES

Convocation approved the formation of a Communications Task Group as a means of addressing issues of concern and public interest. The group will comprise a representative of the Treasurer's office, a representative of the Public Information Committee and the Director of Public Information.

The group will be charged with the following tasks, among others:

- (a) define the communications objectives available to the Society under the circumstances (i.e. the ability to comment prior to consideration by Convocation);
- (b) determine and draft the one or more messages that may be available to the Society under the circumstances;
- (c) determine how we wish to convey the message;
- (d) determine the key audience and the manner in which we will communicate with various members;
- (e) identify the spokesperson;
- (f) review the likely questions which may arise; and
- (g) prepare an advisory working paper for the Treasurer's office.

The Committee reviewed the means by which the proposed Communications Task Group could assist in identifying and communicating about relevant issues. The Chair volunteered to discuss the matter with the Treasurer and report to the next meeting. This item will be brought forward on the March agenda.

2. PRELIMINARY 1990/81 BUDGET PLANNING

Ms. Angevine reviewed the timetable in this matter. The Chair requested members to bring forward any recommendations in this regard.

3. WOMEN IN THE LEGAL PROFESSION/GENDER NEUTRAL COMMUNICATIONS

The Committee reviewed plans surrounding a media briefing to convey the results of the Kay report. This event is tentatively planned for the last week of February or the first week in March and would be hosted by several members of the Bench.

The Committee was reminded that the draft letter on the issue of gender neutral communications, together with the Society's policy in this regard would be sent to the staff of the Society and to the profession. In addition, Ms. Angevine was asked to consider placing an advertisement in the Ontario Reports outlining a statement reflecting the content of the letter. Ms. Angevine was also advised that, in the Committee's view, the process of directly overseeing change within the Society in this area could entail the hiring of a person to edit all Society materials over a period lasting up to six months.

4. LEGAL WISE TELEVISION VIDEO

The Committee discussed the role of video and television within the Department's and the Society's communications program. Discussion centered on such areas as the objectives to be advanced, the message conveyed, the audience and the cost effectiveness of such activities. Consideration was also given to the pending changes in various Society programs and policies and the most cost effective way of communicating such changes. Mr. Daniher was requested to circulate a copy of his earlier document outlining the cost effectiveness and efficiency of the various media. The Committee also requested that a representative of Mr. Daniher's media planning department attend the next Committee meeting to review these considerations. The Chair requested that the next meeting of the Committee commence at 9:00 a.m. in order to allow sufficient time to consider this item.

C.
INFORMATION

1. COMMUNICATIONS AUDIT

Attached is a letter to the Chairs of each Committee outlining the communications audit being undertaken by this Committee (C-1).

2. DIAL-A-LAW FRENCH LANGUAGE SERVICE/OTTAWA SATELLITE SYSTEM

The work on both of these systems is proceeding as scheduled. Testing will begin on the system the first week in March.

3. INFORMATION BOOKLET

The Chair tabled the Thom-Callwood draft (headed draft III) for the Committee's review. Any changes are to be channelled through Mr. Daniher. The first draft will be presented at the next meeting.

4. LETTER OF APPRECIATION

A letter of appreciation from a Lawyer Referral client is attached (C-2).

5. DIAL-A-LAW/ LAWYER REFERRAL SERVICE STATISTICS

Updated Call Usage Statistics (C-3)

Dial-A -Law - Tape Selection Statistics (C-4)

Lawyer Referral - Calls by Area of Law (C-5)

Lawyer Referral - Referrals by Geographic Zone (C-5)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"J. Lyons"
Chair

Attached to the original Report in Convocation File, copy of:

C-Item 1 - Letter from Mr. Outerbridge dated January 19, 1990 to Mr. Spence outlining the communications audit.

(Marked C-1 Pages 1 - 2)

- C-Item 4 - Letter from Mr. Victor Estevan dated January 24, 1990 to the Lawyer Referral Service. (Marked C-2)
- C-Item 5 - Updated Call Usage Statistics. (Marked C-3)
- C-Item 5 - Dial-A-Law - Tape Selection Statistics. (Marked C-4 Pages 1 - 2)
- C-Item 5 - Lawyer Referral - Calls by Area of Law and Referrals by Geographic Zone. (Marked C-5)

THE REPORT WAS ADOPTED

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COMPENSATION FUND COMMITTEE

Mr. Yachetti presented the Report of the Compensation Fund Committee of its meeting on February 8th, 1990.

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

The COMPENSATION FUND COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at 11:45 a.m. the following members being present: Messrs. Yachetti (Chair), Wardlaw (Vice-Chair), Ms. Callwood, Mrs. Graham, Lerner, O'Connor and Thom. P.B. Bell and Mrs H.A. Werry also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. BUDGET ESTIMATES FOR 1990/91

The Secretary reported that the budget estimates for the fiscal year 1990-91 are attached to the Agenda for consideration and approval at the March meeting of the Committee. The Chair of the Finance Committee, J.D. Ground, has asked that each standing Committee discuss issues at the February meeting that may have an impact on the Society's budget for the fiscal year 1990-91.

The Secretary reported on the items that the Compensation Fund department thinks should be included in the Society's budget. The Committee discussed the matter. The Secretary was instructed to advise Mr. Ground of the Committee's decisions.

C.
INFORMATION

1. The following Reports of Referees and Memorandum of an Assistant Secretary were approved by the Review Sub-Committee and the amounts of grants are shown on "Schedule A" attached:-

- a) J.S. Boeckh, Q.C. - Referee's Report re:
- Harold Bordonaro (suspended June 1/81),
- Tarcisio Nella (in good standing),
- Gordon Vadum (suspended June 1/81)
- Three claims
- b) B.W. Grossberg, Q.C. - Referee's Report re:
- Peter J. Nolan (disbarred April 24/86),
- One claim

The Secretary reported that the Appeal Division heard an appeal on November 23rd, 1989 and delivered its reasons for dismissing the appeal of Ian Macdonald, a claimant, against Peter J. Nolan (disbarred April 24/86).

The following Memorandum of an Assistant Secretary, Peter B. Bell, regarding:

- H. Gordon Mylks (permitted to resign April 28/89)
- One claim

2. The total amount of accounts approved by Assistant Secretaries for the month of January 1990 was \$4,539.11.

3. The Financial Summary for the seven months July 1st to January 31st, 1990, and the Activity Report are attached.
(Pgs. 4-6)

4. COMPUTER STATISTICS FOR THE FUND

Mrs. Werry has completed a change in the computer programming that allows reviewing the effect of changing from one amount to another amount for the claimant limit. Mrs. Werry has also drawn two graphs comparing claims made to the Fund and bank interest rates of business loans from 1976 to 1989.

5. The Guidelines Sub-Committee (Messrs. Wardlaw (Chair), Lerner, O'Connor and Thom) will be considering amendments to the Guidelines at a meeting on Tuesday, February 20th, 1990 in order that estates and beneficiaries of estates can be claimants to the Fund.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"R. Yachetti"
Chair

S C H E D U L E "A"
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COMPENSATION FUND GRANTS APPROVED BY
THE REVIEW COMMITTEE AND
BY THE COMPENSATION FUND COMMITTEE,
Thursday, February 8th, 1990

REFEREE/ ASSISTANT SECRETARY	SOLICITOR	NUMBER OF CLAIMANTS	TOTAL
J.S. Boeckh, Q.C.	H. BORDONARO (Suspended June 1/81) T. NELLA (in good standing) G. VADUM (Suspended June 1/81)	THREE	36,400 00
B.W. Grossberg, Q.C.	P.J. NOLAN (disbarred Apr. 24/86)	ONE	N I L
P.B. Bell	H.G. MYLKS (Permitted to resign Apr. 28/89)	ONE	1,405 00
TOTAL		Seven	\$ 37,805 00

Attached to the original Report in Convocation File, copy of:

C-Item 3 - Financial Summary for seven months July 1st to January 31,
1990 and Activity Report (January 31st, 1990).
(Numbered 4 - 6)

THE REPORT WAS ADOPTED

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PROFESSIONAL STANDARDS COMMITTEE

Mr. Lyons presented the Report of the Professional Standards
Committee of its meeting on February 8th, 1990.

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 the 11th day of January, 1990 at eleven thirty in the morning the following members being present: Mr. Lyons (Chair), Mr. Farquharson (Vice-Chair), Mr. Ferguson, Mr. Furlong, Mr. Thoman and Mrs. Weaver.

Correction see Page 215.

Also in attendance was Mr. David Lovell, Chair of the Professional Standards Committee of the County and District Law Presidents' Association.

Also present were Ms. Angevine, Ms. Ashby, Ms. McCaffrey, Ms. Poworoznyk, Ms. Rose and Messrs. Kerr, Marshall and Stephany.

A.
POLICY

1. PROFESSIONAL STANDARDS COMMITTEE - PRACTICE REVIEW PROGRAMME
AMENDMENTS TO THE LAW SOCIETY ACT

The Chair reported to the Committee on recent developments with the Special Committees on Complaints and Discipline as they relate to this Committee's deliberations on legislative reform. While certain proposals were discussed in general terms, it was agreed that the Committee should defer action until the Special Committees reported to Convocation in March.

B.
ADMINISTRATION

1. BUDGET FOR 1990 - 91 FISCAL YEAR

The Committee considered possible new programmes and expenditures for the coming fiscal year. It was concluded that the Committee would not be in a position to consider this issue until the Special Committees reported to Convocation in March.

C.
INFORMATION

1. STRESS AND ASSISTANCE PROGRAMME
LINK INC. (LAWYERS IN NEED OF COUNSELLING)

Ms. Ashby updated the Committee on developments in the programme. Budgetary responsibility for the Programme will be transferred to the Committee effective March 1, 1990. Attached as C1 - C2 is a copy of a report prepared by the Stress and Assistance Sub-committee of the Research and Planning Committee.

2. PRACTICE ADVISORY SERVICE
STATUS REPORT

Attached as C3 - C6 is a copy of a report on recent activities of the Practice Advisory Service.

3. SUB-COMMITTEE ON WILLS AND ESTATES

Mrs. Weaver reported on the sub-committee meeting which was held on February 7, 1990.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"J. Lyons"
Chair

Attached to the original Report in Convocation File, copy of:

- C-Item 1 - Copy of report prepared by the Stress and Assistance
Sub-committee of the Research and Planning Committee.
(Marked C1 - C2)
- C-Item 2 - Report on recent activities of the Practice Advisory
Service (Meeting of February 8th, 1990).
(Marked C3 - C6)

The Professional Standards Committee met on February 8th, 1990 not on January 11th, 1990 as indicated in the Report.

THE REPORT WAS ADOPTED

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COUNTY & DISTRICT LIAISON COMMITTEE

Mr. Somerville presented the Report of the County & District Liaison Committee of its meeting on February 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE COUNTY & DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of February, 1990 at four o'clock in the afternoon, the following members being present: Mr. Somerville (Chair), Messrs. Carey, Ferguson, Shaffer, Spence, Thoman, Topp and Wardlaw. Members from the County & District Executive in attendance were: Ms. Mossip (Chair), Messrs. Bode, Brennan, Lalande, Lovell, O'Dea, Smith and Weekes. Ms. Angevine and Mr. Howell from the Law Society staff also attended.

1. SPECIAL COMMITTEE ON FEE GUIDELINES

The Chair of the Special Committee on Fee Guidelines, Mr. Spence, outlined in some detail the response of the Director of the Competition Branch to his Committee's request for guidance in the area of suggested fee schedules for lawyers. He also indicated what he saw as potential concerns should his Committee pursue the matter further at this point in time. It was agreed that the issue should be placed on the agenda for the May plenary session and that Mr. Spence would prepare a memorandum summarizing his remarks to the County & District Law Presidents' Association Executive for distribution to all County & District Presidents in advance of the May meeting date. In this way, each law

association would be made aware of the progress to date and the issues, and would have an opportunity to canvass their members on their reaction prior to the plenary session.

2. SUB-COMMITTEE ON WOMEN IN THE LEGAL PROFESSION

The members of the Committee discussed briefly some of the issues which in their view were relevant to the work of this sub-committee. It was decided that there were no matters in respect of which the County & District Law Presidents' Association wished to report at this time but that the Executive would pursue these issues further with the county law associations.

3. GUEST SPEAKER - MAY PLENARY

Various suggestions were made regarding the choice of a guest speaker for the dinner hosted by the Law Society. The Committee's secretary will follow up and report to the next meeting of the Committee.

4. CERTIFICATION PROGRAMME

The Co-ordinator of the Certification Programme has requested the assistance of the County Law Associations in providing facilities to enable interview panels to conduct interviews of applicants for certification throughout the province. The Executive of the County & District Law Presidents' Association agreed to ask each county law association to designate an individual to act as the contact person to arrange for the facilities requested. A list will be prepared and forwarded to the Co-ordinator - Certification Programme.

5. PRELIMINARY BUDGET DISCUSSION

Your Committee discussed preliminary plans for the upcoming fiscal year and will forward its budget estimates to the Finance Committee.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"M. Somerville"
Chair

THE REPORT WAS ADOPTED

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RESEARCH AND PLANNING COMMITTEE

Ms. Kiteley presented the Report of the Research and Planning Committee of its meeting on February 8th, 1990.

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 8th of February, 1990 with the following members being present: Mr. Spence (Chair), Ms. Kiteley, Mr. Outerbridge, Ms. Birenbaum, Mr. Bastedo, Mr. Furlong, and Mr. McKinnon.

Also present: Mr. Tinsley, Ms. Angevine, Ms. Ashby, Ms. Lee, and Mr. Brockett.

1. SUB-COMMITTEE ON WOMEN IN THE LEGAL PROFESSION

Ms. Kiteley, the Chair of the Sub-Committee reported that;

(a) A copy of the Kay report on the demographic analysis of women in the legal profession was distributed to the Chairs of all Committees and Sub-Committees for their comments and recommendations.

(b) The survey instrument arising out of the report which is designed to measure transitions within and out of the profession has been pre-tested. It will be distributed to a random sample of 2,000 men and women in the profession and a report is expected in September.

2. GENDER NEUTRAL POLICY GUIDELINES

There was a general discussion of the status of the Gender Neutral Policy Guidelines. The matter has been adjourned to the next meeting at which time a staff report on action taken and a manual on gender neutral policy will be discussed.

3. PRELIMINARY BUDGET DISCUSSION

There was a general discussion of the budget. Included in the subjects raised were policy guidelines with respect to women's issues in the legal profession, pro bono and hiring of research assistants.

4. PRO BONO

There was a brief discussion regarding the Pro Bono Committee. The matter was adjourned for future discussion.

5. STRESS ASSISTANCE PROGRAMME

It was reported that the programme began on January 1, 1990. The first quarterly report will be available in April. It was decided to advertise to Bar Admission students graduating this year as well as to the incoming Bar Admission Students.

6. BENCHERS' RESPONSIBILITY

The Chair of the Research and Planning Committee has requested that the Chairs of the Benchers' Responsibility Sub-Committee and Benchers' Election Committee hold discussions with respect to the work of each Committee. The appropriate co-ordination between the committees and a determination of the best structure for the Benchers' Responsibility Sub-Committee are to be discussed.

7. OTHER BUSINESS

There was a discussion regarding new matters for consideration by

23rd February, 1990

this Committee. The Committee welcomes suggestions and proposals which it will review in addition to a list of items proposed in the past. Among new matters raised for consideration is the future shape of law firms practice, for example, the role of large and small firms

ALL OF WHICH is respectfully submitted

DATED this 23rd day of February, 1990

"F. Kiteley"
Chair

THE REPORT WAS ADOPTED

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Confirmed in Convocation this 22nd day of March, 1990.

Treasurer