

24th January, 1992

MINUTES OF CONVOCATION

Friday, 24th January, 1992
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence), Arnup, Bastedo, Bellamy, Bragagnolo, Brennan, Campbell, Cass, Copeland, Cullity, Curtis, Elliott, Epstein, Farquharson, Goudge, Graham, Henderson, Howie, Howland, Jarvis, Krishna, Lamek, Lawrence, Lax, Legge, Levy, McKinnon, Manes, Mohideen, Murphy, Murray, O'Brien, S. O'Connor, Palmer, Pepper, Rock, Ruby, Scace, Scott, Somerville, Thom, Wardlaw, Weaver and Yachetti.

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"IN CAMERA"

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IN CAMERA Content Has Been Removed

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"IN PUBLIC"

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Mr. Arnup did not participate in the debate.

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It was moved by Tom Bastedo, seconded by Susan Elliott that the Finance and Administration Committee Report be supported and that the Advocates Society Institute be written and told to resubmit an application for consideration in the 1992/93 budget.

Lost

It was moved by Colin Campbell, seconded by David Scott that the matter be referred back to Committee for consideration at the next Convocation and that a special sub-committee be appointed to report on the situation.

Carried

It was moved by Joan Lax, seconded by Rino Bragagnolo that the appropriate amount of money (\$7,500) be loaned on a 30 day basis and that the matter be deferred to the next Convocation for a further report.

Lost

It was moved by Roger Yachetti, seconded by Colin McKinnon that the funding be provided and that the matter of continuation of the partnership be considered by a special committee.

Withdrawn

It was moved by Clay Ruby and failed for want of a seconder that an opinion of counsel be obtained when the matter comes back.

There was a discussion on the issue of whether there was a question of conflict of interest facing those Benchers who were also Directors of the Advocates Society Institute and the Advocates Society.

Ms. Lax abstained from voting.

THE REPORT WAS DEFERRED BACK TO COMMITTEE

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ADMISSIONS COMMITTEE

Mr. Goudge presented that portion of the Admissions Committee Report which pertained to the Call to the Bar.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of January, 1992 at 9.30 a.m., the following members were present: Mr. Goudge (Vice-Chair); Messrs. Brennan and Lamek.

A. POLICY

1. REPORT OF ADMISSIONS HEARING - LAW STUDENT CRIMINAL CONVICTION/GOOD CHARACTER

A panel of Benchers, representing the Admissions Committee met on Thursday, December 19th, 1991 at 10.00 a.m., the following being present: Colin Campbell (Chair), Frances Kiteley and Stuart Thom.

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This was a hearing under Section 27 of the Law Society Act in respect of an application of a law student for admission to the Society. The hearing was required because of the applicant's prior criminal record. Over a period of seventeen years he was found guilty of seven charges including assault, wounding and use of a firearm.

The evidence before the committee indicated that the offences took place some twelve years ago and at a period in time when the applicant had a severe alcohol problem. The evidence indicated that the applicant has in both his efforts at rehabilitation and his assistance to others who suffer from the same disease, demonstrated exemplary effort.

Upon hearing the evidence and reading the exhibits filed and hearing submissions of counsel for the Society, and the applicant on his own behalf, the hearing committee was unanimously of the view that the applicant is of good character and eligible for admission to the Society.

The Admissions Committee was asked to consider, whether in the case of a hearing where there was a unanimous recommendation that the student be admitted, a copy of the entire report containing the applicant's name should be forwarded to Convocation.

The Committee recommends that it should continue the current practice that where there is a unanimous report of the hearing committee that it report merely that a hearing has been held and that the applicant has been found to be of good character.

2. ADMISSIONS HEARINGS PROCEDURE

The Committee was asked to consider the possibility of striking a sub-committee to look at the question of procedures to govern the conduct of Admissions Hearings.

The Committee recommends that this matter be deferred until a preliminary Staff Report is presented to the Committee at its March meeting.

B. ADMINISTRATION

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

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

Adrian A. Philips
Elizabeth Lynne Mulvenna

APPROVED

2. DIRECT TRANSFER - QUEBEC - REGULATION 4(2) - REAPPLICATION

The following candidate has met all the requirements to transfer under Regulation 4(2):

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Theresa Siok (B. Com. 1978; LL.B & B.C.L, 1984; all from McGill University) was called to the Bar of Quebec on 14th November, 1985 and has practised in the city of Montreal from 15th November, 1985 until the present. Ms. Siok presents a Certificate of Good Standing. She is reapplying to proceed under Regulation 4(2) having been originally given permission to proceed by the Admissions Committee, in August, 1989.

APPROVED

3. EXAMINATION RESULTS

STATUTES & PROCEDURE IN ONTARIO TRANSFER EXAMINATION

The results of the examination on Statutes & Procedure in Ontario, held in December 1991, were before the Committee:

The following candidates passed:

Christopher Broadbent
Marc Duguay
Morris Szwimer
J. Michael Nelson

One candidate failed.

BAR ADMISSION COURSE REQUALIFICATION EXAMINATIONS

The results of the Bar Admission Course Requalification Examinations, held in December 1991, were before the Committee:

The following candidates passed:

Victor Carl Gasparitsch
Charles Arthur Eyton-Jones

COMPLETION OF PHASE THREE OF BAR ADMISSION COURSE

The following candidate was permitted to enter Phase Three of the Bar Admission Course as an option for requalification and successfully completed its requirements:

Bradley Michael Nairn

NOTED

4. REINSTATEMENT AFTER SUSPENSION

Victor Carl Gasparitsch, called to the Bar on the 19th of April, 1978 was suspended on the 25th of November 1983 for failure to pay the annual fee. Having now successfully completed the necessary requalification examinations and upon payment of all back fees and levies or upon making suitable arrangements with the Finance department, he asks to be reinstated.

Charles Arthur Eyton-Jones, called to the Bar on the 9th of April, 1981 was suspended on the 24th February, 1984 for failure to pay the annual fee. Having now completed the necessary requalification examinations and upon payment of all back fees and levies or upon making suitable arrangements with the Finance Department, he asks to be reinstated.

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Bradley Michael Nairn, called to the Bar on the 10th April, 1980 was suspended on 26th February, 1982 for failure to pay the annual fee. Having now successfully completed the necessary requalification examinations and upon payment of all back fees and levies or upon making suitable arrangements with the Finance Department, he asks to be reinstated.

NOTED AND APPROVED

5. CALL TO THE BAR & CERTIFICATE OF FITNESS

The following candidates having successfully completed the Bar Admission Transfer Examinations, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted a Certificate of Fitness:

Christopher Ian Broadbent	Province of Quebec
Robert Marc Duguay	Province of Quebec
James Michael Nelson	Province of Quebec
Morris Szwimer	Province of Quebec

APPROVED

6. ADMISSION OF STUDENTS -AT-LAW

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 at students-at-law in the Bar Admission Course:

Under Bar Admission Course Regulation 22(7)
33rd B.A.C. (Entering Articles 1990)

1148. Antonakos, Violet Amy	B.A. Toronto/85; LL.B. York/90;
1149. Auerbach, Paul Harris	B.A. Toronto/87; LL.B. York/90;
1150. Bacque, Ian Scott McMaster	B.A. Queen's/87; LL.B. New Brunswick/90;
1151. Baxter, Colin Stephen	A.B. Stanford, USA/84; A.M. Stanford, USA/84; B.C.L. McGill/90; LL.B. McGill/90;
1152. Bosschart, Leonard Pieter	B.A. Western/86; LL.B. Dalhousie/90;
1153. Cullen, Patricia Anne	3 yrs. Arts, York; LL.B. York/90;
1154. Dasil, Merilyn Monteverde	B.Sc. Philippines/67; LL.B. Philippines/74; LL.B. Queen's/90;
1155. Debreli, Alparslan	B.Sc. Middle East Technical, Turkey/84; LL.B. Ottawa/90;
1156. Dimitrijevic, John	B.A. Toronto/82; LL.B. Ottawa/90;

1157. Dow, Scott Buchanan	B.A. Western/87; LL.B. York/90;
1158. Emerson, Wesley Norman	B.A. Manitoba/77; LL.B. York/91;
1159. Engelking, Tracy Lynn	B.A. Carleton/86; LL.B. York/90;
1160. English, Timmy Allan	B.A. British Columbia/86; LL.B. Toronto/90;
1161. Ertel, Mark Edward	B.A. Wilfrid Laurier/86; LL.B. Ottawa/90;
1162. Fiorino, Mario	3 yrs. Arts, Western; LL.B. Windsor/90;
1163. Fisman, Karen Lee	2 yrs. Arts, Western; LL.B. Toronto/90;
1164. Forer, Michael	B.A. Western/86; LL.B. British Columbia/90;
1165. Girvan, Robert McLean	3 yrs. Arts, Alberta; LL.B. Victoria/89;
1166. Heine, Monica Marie	B.A. Western/83; B.Sc. Trent/87; LL.B. Calgary/90;
1167. Henders, David Robert	4 yrs. Science, Calgary; LL.B. York/90;
1168. Hourigan, Christopher William	B.A. McGill/87; LL.B. York/90;
1169. Hrynicky, Jane Catherine	B.A. Toronto/87; LL.B. Toronto/90;
1170. Huculak, Jocelyn Pauline	B.A. Alberta/84; LL.B. Windsor/87;
1171. Kearns, Sharon Joyce	2 yrs. Arts, Toronto; LL.B. Windsor/90;
1172. Kell, Laura Ann	B.A. St. Francis Xavier/86; LL.B. New Brunswick/89;
1173. Kirshenbaum, Randy Malka	2 yrs. Arts, Toronto; LL.B. York/90;
1174. Krishnappa, Chitra	B.Sc. Queen's/87; LL.B. York/90;
1175. Lanos, Michael David	B.A. Carleton/86; LL.B. Queen's/90;
1176. Leclerc, Joseph Eugene Marcel Alain	B.A.Sc. Ottawa/86; LL.L. Ottawa/89; LL.B. Ottawa/90;

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| 1177. Lee, Jong Bum | B.A. Toronto/86;
LL.B. Windsor/91; |
| 1178. Lim, Ai Luen Helen | B.A. Trent/87;
LL.B. Ottawa/90; |
| 1179. Lovekin, Valentine Russell
Baldwin | B.A. Trent/87;
LL.B. York/90; |
| 1180. Lyne, Peigi Louise | B.A. Western/83;
LL.B. Victoria/90; |
| 1181. MacDonald, Andrew John | B.A. Toronto/87;
LL.B. Ottawa/90; |
| 1182. MacKay, Ian James | B.A. Toronto/85;
LL.B. Toronto/90; |
| 1183. Maidment, Jeffrey Scott | B.Comm. Memorial/85;
LL.B. Queen's/88; |
| 1184. Morley, David Boyd | B.Sc. Queens/80;
M.Eng. McGill/87;
B.C.L. McGill/89;
LL.B. McGill/89; |
| 1185. Mui, Ho Chow Eddie | Joint Committee on
Accreditation/91; |
| 1186. Nuttall, Gregory Ace | B.A. Manitoba/86;
LL.B. York/90; |
| 1187. Rose, Leslie Allen | B.A. Saskatchewan/69;
LL.B. Toronto/90; |
| 1188. Rosenthal, Kenneth Bruce | B.A. Western/87;
LL.B. Toronto/90; |
| 1189. Sengupta, Jayashree | B.A. Alberta/90;
LL.B. York/90; |
| 1190. Shah, Afsar Zain | 3 yrs. Arts, Queen's;
LL.B. York/90; |
| 1191. Sheehan, Paul William | B.A. Toronto/86;
LL.B. Ottawa/90; |
| 1192. Skolnik, Claudia Joan | Mature Student;
LL.B. Dalhousie/90; |
| 1193. Smart, James Brennan | B.A. Guelph/87;
LL.B. Windsor/90; |
| 1194. Strong, Patricia Dawn | B.A. Trent/87;
LL.B. Ottawa/90; |
| 1195. Tannenbaum, Joan Ellen | CEGEP;
1 yr. Concordia;
B.C.L. McGill/89;
LL.B. McGill/89; |

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| 1196. Wex, David Michael | B.Sc. Toronto/86;
LL.B. Toronto/89; |
| 1197. White, Todd Brett | B.A. Toronto/87;
LL.B. Ottawa/90; |
| 1198. Woyiwada, Frederick Brian | 4 yrs. Arts, Brandon;
LL.B. Manitoba/79; |
| 1199. Yeung, Chi Wai | B.Sc. Hong Kong/78;
LL.B. Western/91; |

APPROVED

7. REQUEST TO BE CALLED TO THE BAR IN FEBRUARY, 1992 ON AN UNDERTAKING TO BECOME A PERMANENT RESIDENT

A student enrolled in the 33rd Bar Admission Course, and who anticipates being qualified to be called to the Bar in February 1992, is currently studying in Canada on a Minister's Permit which is renewed annually. At present, he is inadmissible for permanent residency status due to ill health. He has cancer. If he stays healthy for a specific period of time, it is the Society's understanding that he will be given permission to apply to become a Permanent Resident.

The Committee was asked to consider whether the student would be permitted to be called to the Ontario Bar on an undertaking to continue to seek permanent residency status when his health is no longer deemed an obstacle by Immigration Canada.

The Committee recommends that provided the student is successful in the Bar Admission Course that he be permitted to be called to the Bar in February 1992 on an undertaking that:

- a) he will continue to diligently pursue his permanent residency status application;
- b) he report to the Law Society quarterly on his medical condition and on the status of his application;
- c) that he resign his membership in the Law Society forthwith if his Minister's Permit is revoked for any reason or if his permanent residency application is not approved.

Note: deletion, see page 38

C.
INFORMATION

1. TEMPORARY MEMBERSHIP - BILL 75

On 25th November, 1991 third and final reading and Royal Assent were given to Bill 75, an Act to amend the Law Society Act.

Bill 75 permits the admission of persons qualified to practise outside Ontario as temporary members of the Law Society of Upper Canada. Temporary members are permitted to act as barristers and solicitors while in the employ of the Attorney-General for Ontario or, if appointed, under the Crown Attorneys Act, as Crown Attorneys or Assistant Crown Attorneys.

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The Bill amends only the English version of the Law Society Act. The Legislature has not yet adopted an official French version of the Act.

The Committee was asked to consider administrative procedures to be followed by the Admissions Department staff in admitting and tracking these members, as well as, the appropriate fee schedule to apply to this category of membership.

The Committee has asked that this matter be brought forward for discussion at their February meeting.

NOTED

2. FOREIGN LEGAL CONSULTANTS - APPLICATION & LICENSING FEES

The cost of processing applications and the license fee for Foreign Legal Consultants has been under review by the Admissions Committee. Presently, the Law Society does not charge for the processing of an application.

All of those individuals who are currently licensed as Foreign Legal Consultants are aware that the issue of the applicable fees has not yet been finalized. They are aware that they will be subject to a levy when the fee is decided.

The Committee was asked to consider the appropriate admission fee for applicants to be licensed as Foreign Legal Consultants in Ontario. Whether it should be a one time fee of \$535.00, similar to the fee charged to solicitors for an occasional appearance, or a percentage of the Annual Fee currently charged to regular full-time members (\$1166.30).

The Committee recommends that a non-refundable fee of \$500.00 (plus applicable G.S.T.) be required at the time of application for a permit to become a Foreign Legal Consultant, and that a fee of \$100.00 (plus applicable G.S.T.) be required on application for an annual renewal of the permit.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"L. Brennan"
for Chair

B-ITEM 5 WAS ADOPTED

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CALL TO THE BAR

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

Christopher Ian Broadbent	Special, Transfer, Quebec
Robert Marc Duguay	Special, Transfer, Quebec
James Michael Nelson	Special, Transfer, Quebec
Morris Szwimer	Special, Transfer, Quebec

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OATH OF ALLEGIANCE

The motion on the oath of allegiance was presented by Mr. Somerville.

The Treasurer asked the Secretary to read a letter received from Robert Topp.

It was moved by Marc Somerville, seconded by Denise Bellamy that Rule 52 of the Rules made pursuant to the Law Society Act be amended to make the swearing of the oath of allegiance optional.

Carried

ROLL CALL VOTE - SOMERVILLE MOTION

Arnup	For
Bastedo	For
Bellamy	For
Bragagnolo	For
Brennan	For
Campbell	For
Copeland	For
Cullity	For
Curtis	For
Elliott	For
Epstein	For
Goudge	For
Graham	Against
Howie	For
Howland	Against
Krishna	Against
Lamek	For
Lamont	For
Lax	For
Legge	Against
Levy	For
McKinnon	For
Manes	For
Mohideen	For
Murphy	For
Murray	For
O'Brien	For
S. O'Connor	For
Palmer	For
Rock	For
Ruby	For
Somerville	For
Thom	Abstain
Wardlaw	For
Weaver	For
Yachetti	Against

It was moved by Brendan O'Brien, seconded by James Wardlaw that Rule 52 be amended by adding thereto the following: a candidate for call to the bar who for conscientious reasons objects to swearing an oath of allegiance, upon filing a written declaration to that effect with the Secretary will be excused from compliance with this Rule.

Lost

ROLL CALL VOTE - O'BRIEN MOTION

Arnup	Against
Bastedo	Against
Bellamy	Against
Bragagnolo	Against
Brennan	Against
Campbell	Against
Copeland	Against
Cullity	Against
Curtis	Against
Elliott	Against
Epstein	Against
Goudge	Against
Graham	For
Howie	Against
Howland	For
Krishna	For
Lamek	Against
Lamont	Against
Lax	Against
Legge	For
Levy	Against
McKinnon	Against
Manes	Against
Mohideen	Against
Murphy	Against
Murray	Against
O'Brien	For
S. O'Connor	Abstain
Palmer	Against
Rock	Against
Ruby	Against
Somerville	Against
Thom	Against
Wardlaw	For
Weaver	For
Yachetti	Against

CONVOCATION ADJOURNED FOR A SHORT RECESS

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CONVOCATION RESUMED IN PUBLIC

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It was moved by Roger Yachetti, seconded by Stuart Thom that Convocation adopt the resolution passed at the Annual Meeting:

BE IT RESOLVED that the OATH OF ALLEGIANCE to Her Majesty Queen Elizabeth the Second, Her heirs and successors, as prescribed by Rule 51, be deleted from the Rules made under the Law Society Act.

Lost

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ROLL CALL VOTE - YACHETTI MOTION

Arnup	Against
Bastedo	Against
Bellamy	Against
Bragagnolo	Against
Brennan	Against
Campbell	Against
Copeland	Abstain
Cullity	Against
Curtis	For
Elliott	Against
Epstein	Against
Goudge	Against
Graham	Against
Howie	Against
Howland	Against
Krishna	For
Lamek	Against
Lamont	Against
Lax	Against
Legge	Against
Levy	Against
McKinnon	Against
Manes	Against
Mohideen	Against
Murphy	Against
Murray	Against
O'Brien	Against
S. O'Connor	Against
Palmer	Against
Rock	Against
Ruby	Against
Somerville	Against
Thom	For
Wardlaw	Against
Weaver	Against
Yachetti	For

It was moved by Laura Legge, seconded by Netty Graham that the matter be referred to the profession at large on a referendum basis to ascertain the wishes of the profession.

Lost

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ROLL CALL VOTE - LEGGE MOTION

Arnup	Against
Bastedo	Against
Bellamy	Against
Bragagnolo	Against
Brennan	Against
Campbell	Against
Copeland	Against
Cullity	Against
Curtis	Against
Elliott	Against
Epstein	Against
Goudge	Against
Graham	For
Howie	Against
Howland	For
Krishna	For
Lamek	Against
Lamont	For
Lax	Against
Legge	For
Levy	Against
McKinnon	Against
Manes	Against
Mohideen	Against
Murphy	Against
Murray	Against
O'Brien	Against
S. O'Connor	Against
Palmer	Against
Rock	Against
Ruby	Against
Somerville	Against
Thom	Against
Wardlaw	Against
Weaver	Against
Yachetti	Against

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

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The Treasurer and Benchers had as their guests for luncheon The Honourable James Farley, The Honourable A. William Maloney, The Honourable John D. Ground, Mr. Christopher Quinn (Fox Scholar) and Mr. Murray Hunt (Fox Scholar).

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CONVOCATION RECONVENED AT 2:45 P.M.

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PRESENT:

The Treasurer, Arnup, Bastedo, Bellamy, Bragagnolo, Brennan, Campbell, Copeland, Cullity, Curtis, Elliott, Graham, Henderson, Howie, Howland, Jarvis, Lamek, Lamont, Lawrence, Lax, McKinnon, Manes, Mohideen, Murphy, Murray, S. O'Connor, Palmer, Rock, Somerville, Thom and Wardlaw.

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"IN PUBLIC"
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WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Bellamy presented the Report of the Women in the Legal Profession Committee of its meeting on January 9th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCACTION ASSEMBLED

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

Your Committee met on Thursday, the 9th of January, 1992, at 11:30 a.m., the following members being present: D. Bellamy (Chair), T. Bastedo, P. Copeland, S. Goudge, J. Lax, F. Mohideen, D. Scott.

Also present: A. Brockett, L. Johnstone, H. Sava, G. Zecchini.

A.
POLICY

A.1. RECOMMENDED PERSONNEL POLICY REGARDING EMPLOYMENT-RELATED SEXUAL HARASSMENT

A.1.1. One of the recommendations of the Transitions Report, adopted by Convocation in April 1991, was that the Law Society make available, for dissemination within the profession, information and policies with respect to sexual harassment.

A.1.2. Over the past eighteen months your Committee has been working on the development of a recommended personnel policy dealing with this matter. Convocation has already approved the distribution of two preliminary documents: "Sexual Harassment in the Workplace: A Review of the Law in Canada" and "The Problem of Sexual Harassment in the Workplace: Steps That Can Be Taken By Lawyers As Employers."

A.1.3. Accompanying this report is a copy of "A Recommended Personnel Policy Regarding Employment-Related Sexual Harassment", dated January 9, 1992. The document has been prepared for the assistance of firms wishing to develop their own personnel policies. Your Committee wishes to record its gratitude to those members of the Law Society with expertise in this area of law who have given their advice on earlier drafts.

A.1.4. The heart of the policy will be found in the green pages of the document.

A.1.5. Recommendation

Your Committee recommends that Convocation approve, for distribution to the profession, the document entitled "A Recommended Personnel Policy Regarding Employment-Related Sexual Harassment", dated January 9, 1992.

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A.1.6. Recommendation

Your Committee recommends that:

- A.1.6.1. a copy of the entire document be sent to the managing partner of every law firm in the province;
- A.1.6.2. copies of the document be made available to members of the Law Society, on request, with permission to photocopy;
- A.1.6.3. the part on green paper (without the endnote numbers) be printed in the "Proceedings of Convocation" in the buff pages of the Ontario Reports.

A.1.7. Financial impact

A.1.7.1. It is estimated that the cost of the distribution scheme recommended in paragraph A.1.6. will be \$6,200.00.

A.1.7.2. This cost can be met from funds available in the Committee's 1991-1992 budget.

A.2. PERMISSION TO PUBLISH THE TEXT OF THE RECOMMENDED PERSONNEL POLICY REGARDING EMPLOYMENT-RELATED SEXUAL HARASSMENT

A.2.1. Dr. A.P. Aggarwal, author of the Canadian text *Sexual Harassment in the Workplace* (Toronto: Butterworths, 1987) has asked permission to print the text of the Recommended Personnel Policy in the second edition of the book.

A.2.2. Recommendation

Your Committee recommends that Dr. Aggarwal be given permission to print the text of the Recommended Personnel Policy (green pages only) in his book *Sexual Harassment in the Workplace*.

A.3. CONTINUING LEGAL EDUCATION PROGRAMMES ON SEXUAL HARASSMENT

A.3.1. Recommendation

Your Committee recommends that the Legal Education Committee be asked to consider CLE programs addressing the issue of employment-related sexual harassment.

C.
INFORMATION

C.1. SUBCOMMITTEE TO CONSIDER MEMBERSHIP FEES PAYABLE BY MEMBERS DURING MATERNITY LEAVES

C.1.1. On the recommendation of the Finance and Administration Committee, Convocation asked the Women in the Legal Profession Committee to review and report on the matter of membership fees payable by members who take maternity leaves.

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C.1.2. Paul Copeland, Stephen Goudge and Joan Lax have been appointed members of a subcommittee to study this issue.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"D. Bellamy"
Chair

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

A-Item A.1. - Copy of Report entitled A Recommended Personnel Policy Regarding Employment-Related Sexual Harassment", dated January 9, 1992.

THE REPORT WAS ADOPTED

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SPECIAL COMMITTEE ON PROPOSED CHANGES TO THE ONTARIO LABOUR RELATIONS ACT

Mr. Somerville presented the Report of the Special Committee on Proposed Changes to the Ontario Labour Relations Act of its meeting on January 23rd, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON PROPOSED CHANGES TO THE ONTARIO LABOUR RELATIONS ACT begs leave to report:

A committee composed of the Treasurer (in the Chair), Ms. Bellamy, Mr. Goudge, Ms. Mohideen and Mr. Somerville was appointed to look at the proposals put forward by the Ontario Ministry of Labour that includes the recommendation that section 3 of the Act be amended to allow professionals (other than professional engineers who are permitted to organize under the present Labour Relations Act) to acquire the right to bargain collectively.

The first meeting of the Special Committee was held on January 23rd, 1992. Ms. Bellamy and Ms. Mohideen were unable to attend. The Committee, with the Treasurer in attendance, was assisted by the Under Treasurer, the Secretary, the Director of the Ontario Legal Aid Plan, and the Senior Counsel - Professional Conduct.

Set out below are the provisions respecting professionals taken from Proposed Reform of the Ontario Labour Relations Act: A Discussion Paper from the Ministry of Labour, November 1991.

Professional Employees

Architects, dentists, land surveyors, lawyers and doctors are not permitted to organize and bargain collectively under the Act even when they are in a normal employment relationship with an employer. This exclusion is somewhat anachronistic in that it only covers certain traditional professions and not those which have more recently emerged.

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In the past, this exclusion was justified by the view that collective bargaining may be inconsistent with the professional responsibilities of these employees. This view has changed over time as various groups of professionals (including professional engineers, university professors and teachers) have become organized. Many professional employees - particularly those who work in large bureaucratic organizations - now see collective bargaining as a means of protecting and enhancing their professional interests.

Professional employees are permitted to organize and bargain collectively in other Canadian jurisdictions, except in Alberta, Nova Scotia and Prince Edward Island.

The government is not aware of any compelling reasons for continued exclusion of professional employees from the Act. But it recognizes that there may be a distinct community of interest among some professional employees which might result in their inclusion in a separate bargaining unit. As well, the government is interested in hearing the views of professional associations and their governing bodies during the consultation process concerning removal of the professional employee exclusion.

- Will this proposal effectively balance the right of access to organizing and collective bargaining with any distinct community of interest concerns shared by professional employees?
- Should existing collective bargaining relationships involving professional employees operating outside of legislation be considered by the government in determining the scope of any amendments in this area?

The Ministry of Labour has asked that professional bodies have their responses ready by February 14th.

This proposal raises significant concerns with respect to the lawyers discharge of the lawyer's obligations to the client as spelled out in the Rules of Professional Conduct. Can the lawyer belong to a bargaining unit and at the same time ensure that there is no impairment of professional duties?

The Committee can see the following as potential problems arising for lawyers in the context of a collective bargaining regime:

- (a) The interruption or withdrawal of services to the client created by a strike with corresponding prejudice to the client.
- (b) The potential harm to the lawyer's professionalism created by the lawyer's membership in the union and the lawyer's corresponding membership in the Law Society. Where there is a conflict between the objectives of the bargaining unit and the duties imposed on the lawyer by the Rules of Professional Conduct, which is paramount?
- (c) Quite apart from the conflicts noted in (a) and (b) that potentially could harm the client and the lawyer, there are the potential costs to the legal system where a group or groups of lawyers are organized in a collective bargaining regime. The Committee notes that most groups of lawyers that will become organized would be in the public sector. Setting aside the intangible cost to the public in terms of the withdrawal of services by public service lawyers such as a disruption to the work of the courts and the corresponding effect on the legal system, there is the very tangible economic cost to the employer which is the government. In a related sphere, the organization of Legal Aid duty counsel would present various obvious problems were there to be a withdrawal of services.

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- (d) The Law Society has jurisdiction to regulate its members including their professional conduct. The acquisition by groups of lawyers of collective bargaining status means potential conflict for those lawyers. Whose disciplinary process should prevail in the event of a conflict? That of the union or that of the Law Society? What about the Law Society's concern with its responsibility for self-government of the profession? The Committee has to date only looked at these issues in a cursory fashion. There are no doubt other issues raised by the existing Act and the proposed changes that will impact on other Rules of Professional Conduct. For this reason the Special Committee has decided to hire counsel knowledgeable in labour relations law to advise it.

The Committee makes the following recommendations to Convocation:

1. Convocation should delegate to the Special Committee the responsibility for making an interim submission to the Ministry that will meet the February 14th deadline. This submission will be brought to the February Convocation.
2. Convocation should approve the Committee's decision to obtain advice in its subsequent deliberations from expert counsel.
3. Convocation should endorse in principle the Committee's approach which is to raise concerns with respect to the potential ramifications of union membership for our members professional obligations as lawyers. One of the questions being discussed is whether lawyers, if they should acquire collective bargaining status, should not be subject to a separate labour relations statute that would address such critical issues as the withdrawal of services (the labour relations legislation governing police, firefighters and hospital workers are relevant on point).

The Committee asks Convocation for its direction based on the above recommendations.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"M. Somerville"
for Chair

THE REPORT WAS ADOPTED

.....

ADMISSIONS COMMITTEE

Mr. Brennan presented the balance of the Admissions Committee Report of its meeting on January 9th, 1992.

It was moved by Ron Cass and failed for want of a seconder that B-Item 7 re: Request to be called to the Bar in February 1992, be deleted.

Mr. Brennan accepted the deletion from the report of that portion in Item 7 under Administration relating to the requirement of reports on the student's medical condition.

THE BALANCE OF THE REPORT AS AMENDED WAS ADOPTED

.....

24th January, 1992

LEGAL EDUCATION COMMITTEE

Mr. Lamek presented the Report of the Legal Education Committee of its meeting on January 9th, 1992.

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 9th of January, 1992. The following members were present: Paul Lamek (Chair), Donald Lamont (Vice-chair), Thomas Bastedo, Denise Bellamy, Lloyd Brennan, Carole Curtis, Philip Epstein, Abraham Feinstein, Stephen Goudge, Vern Krishna, Laura Legge, Colin McKinnon, Ross Murray, Allan Rock. Representing the law schools were: Dean Berryman and Dean Mercer. Representing the Bar Admission Advisory Committee was: Frederick Innis. Staff in attendance were: Marilyn Bode, Brenda Duncan, Holly Harris, Alexandra Rookes, Alan Treleaven.

A.
POLICY

1. INFORMATION FOR LAW STUDENTS ON ADMISSION TO THE PRACTICE OF LAW IN ONTARIO

A draft document entitled "Information for Law Students on Admission to the Practice of Law in Ontario" has been jointly drafted by representatives of the Committee of Ontario Law Deans, Allan Rock, and the Director.

It is recommended that the document be approved for distribution to law school students. (pages 1 - 4)

Approved

C.
INFORMATION

1. BAR ADMISSION COURSE APPOINTMENTS

The following individuals have accepted the Director's invitation to serve in leadership roles in the Bar Admission Course:

- a) Catherine Brayley (Morris, Rose and Ledgett), as Business Law Assistant Section Head: Tax,
- b) Jeff Casey (Senior Crown Counsel, Toronto), as Criminal Procedure Assistant Section Head,
- c) Kevin McElcheran (Blake, Cassels and Graydon), as Business Law Assistant Section Head: Debtor and Creditor,
- d) Bernard Roach (Scott and Aylen), as Estate Planning and Administration Senior Instructor (Ottawa).

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2. ARTICLING REFORM SUBCOMMITTEE

Report attached (page 5)

3. BAR ADMISSION COURSE SUBCOMMITTEE

The Bar Admission Course Subcommittee met on November 21, 1991. Members in attendance were: Donald Lamont (Chair), Lloyd Brennan (Vice-Chair), and Abraham Feinstein. Staff in attendance were: Erika Abner, Sophia Sperdakos and Alan Treleaven. This was the first meeting of the newly-constituted Subcommittee, and involved a wide-ranging discussion of the strengths and weaknesses of the reformed Bar Admission Course.

The next meeting was held on January 8, 1992 at 3:30 p.m. Members in attendance were: Donald Lamont (Chair), Lloyd Brennan (Vice-Chair), Abraham Feinstein, Vern Krishna, and Paul Lamek. Staff in attendance were Erika Abner, Sophia Sperdakos and Alan Treleaven.

4. CONTINUING LEGAL EDUCATION SUBCOMMITTEE

The Continuing Legal Education Subcommittee, chaired by Colin McKinnon, met on January 8, 1992. Significant discussion focused on Mandatory Continuing Legal Education. Members in attendance were Colin McKinnon (Chair), Carole Curtis (Vice-Chair), Susan Elliott, Marc Bode and Paul Perrell. Staff in attendance were Brenda Duncan, Cheryl Keech and Alan Treleaven.

5. CONTINUING LEGAL EDUCATION: SPECIAL LECTURES

The 1992 Special Lectures will be in the area of recent developments in administrative law.

The Chair of the Legal Education Committee will appoint a Chair of the 1992 Special Lectures. Philip Anisman has already begun working with the Continuing Legal Education staff to develop the topic.

6. DIRECTOR'S BUDGET REPORT

The Director reported on Department of Education budget performance to date.

7. CONTINUING LEGAL EDUCATION REPORT ON COURSES

The Report was provided.

ALL OF WHICH is respectfully submitted

DATED this 24th Day of January, 1992

"P. Lamek"
Chair

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

A-Item 1 - Draft of a document entitled Information for Law Students on Admission to the Practice of Law in Ontario.

(Pages 1 - 4)

C-Item 2 - Report of the Articling Subcommittee - Legal Education Information Item - January 1992.

(Page 5)

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Mr. Lamek accepted the deletion of the words "within the meaning of the Immigration Act", at the end of the second paragraph of the document entitled Information for law students on admission to the practice of law in Ontario.

THE REPORT AS AMENDED WAS ADOPTED

.....

FINANCE AND ADMINISTRATION COMMITTEE

Mr. Howie presented the Report of the Finance and Administration Committee of its meeting on January 9th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 9th of January, 1992 at three o'clock in the afternoon, the following members being present: J.J. Wardlaw (Vice-Chair in the Chair), D.E. Bellamy (Vice-Chair), T.G. Bastedo, R.C. Bragagnolo, A. Feinstein, P.G. Furlong, D.H.L. Lamont, S. Lerner, R.W. Murray, K.J. Palmer, P.B.C. Pepper, and M.P. Weaver. Also in attendance were D.A. Crosbie, D.E. Crack and D.N. Carey.

A.
POLICY

1. REVISION OF RULE 50 TO REQUIRE PAYMENT OF ANNUAL FEE IN YEAR OF CALL BY MEMBERS OTHER THAN THOSE CALLED FROM THE BAR ADMISSION COURSE

Currently members who are called to the Bar during the regular Bar Admission Course Calls are not subject to payment of an annual fee until the fiscal year following their year of call. There are also members who are called from time to time throughout the fiscal year, ie. transfers, deferred calls, etc. These members avoid payment of the annual fees because of the wording of Rule 50 which currently reads:

"Unless otherwise exempted, every member of the Society shall pay an annual fee, to include a Lawyers' Fund for Clients Compensation levy, for each financial year of the Society in an amount to be determined by Convocation. The annual fee shall be due and payable on the 1st day of October in each financial year, or if a member is readmitted or restored to membership on a date subsequent thereto then on such date. The annual fee is not payable by a member for the financial year in which such member is first called to the Bar and admitted as a Solicitor. (emphasis added)"

It is proposed that these members (ie. other than the regular calls from the Bar Admission Course) should be charged an annual fee for the year in which they are called and that that be accomplished by a revision to the part of Rule 50 as follows:

- (a) Unless otherwise exempted, every member of the Society shall pay an annual fee, for each financial year of the Society, in an amount to be determined by Convocation.

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- (b) The annual fee shall include a levy for the Lawyers' Fund for Client Compensation.
- (c) Subject to paragraphs (d) and (e) below, the annual fee shall be due and payable on the 1st day of October in each financial year.
- (d) Subject to paragraph (e) below, where a member is admitted, readmitted or restored to membership on a date subsequent to the 1st day of October, the annual fee is due and payable on the date on which the member is admitted, readmitted or restored.
- (e) Student members who are admitted during the financial year in which they complete the Bar Admission Course are not required to pay the annual fee for the financial year in which they are admitted.

The Committee is asked to approve this change and to refer the matter to the Legislation and Rules Committee for drafting a final version for presentation to Convocation.

Approved

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the six months ended December 31st 1991. (Note that Errors & Omissions Insurance Fund is reported to November 30, 1991 due to the fact that the books will not be closed until January 10, 1992 since a full audit and actuarial evaluation is being prepared for the Lawyers' Professional Indemnity Company which has a fiscal year ended December 31, 1991).

Approved

2. OFFICIAL GUARDIAN - DINNER

A request has been made that the Law Society host a dinner in the Benchers' Dining Room for a group of Public Trustees and Official Guardians from around the world. The cost, which is not currently budgeted is \$1,250 - \$1,750.

A memorandum from the Secretary is attached.

The Committee approved this expenditure not to exceed \$1,750.

3. LAW SOCIETY POLICY ON SEXUAL HARASSMENT - FINANCIAL IMPACT

The Women in the Legal Profession Committee will be recommending to Convocation a policy on Sexual Harassment for Law Firms. It is proposed that this policy be adopted by the Law Society as an internal administrative policy.

While not included in the 1991/92 Budget, funds are available as outlined in the memorandum from the Under Treasurer which was before the meeting.

The Committee approved the expenditure of up to \$2,000 for the training of three Law Society staff advisors.

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4. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 22 members who have not complied with the requirements respecting annual filing and who have not paid their late filing fee.

In all 22 cases all or part of the late filing fee has been outstanding four months or more. The 22 members owe \$29,360 of which \$11,590 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 22 members be suspended on January 24, 1992 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: see motion, page 48

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:

William Anderson Cowan	Windsor
John David George	Sarnia
Clifford Keltie Kennedy	Ottawa
William Ralph Lederman	Kingston
John Gordon Littlejohn	Toronto
James Ernest Madden	Napanee
Reginald Mori	Don Mills
James Robert Wood	Toronto

(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:

Robert Durward Midgley	Toronto
Edward Benjamin Middleton	Owen Sound
Michael John O'Connor	Ottawa
Judith Lynne Williams	Plymouth, MI, USA

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

Approved

C.
INFORMATION

1. PURCHASE OF NEW COMPUTER SOFTWARE

In November Convocation approved the Finance Committee report which recommended the acquisition of new accounting software. This was based on

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several facts; that our current software is eight years old, cannot meet the increased demands for reporting, was not designed originally for our current IBM equipment, and finally, is no longer supported in Canada since the company which sold us the software is now bankrupt.

The Finance Committee approved the acquisition of new software subject to site visits and reference checks by the Director of Finance and staff and with the Chair's final approval.

After seeing both systems in action and discussing each system with various users from each company, it has been decided that Software 2000 is the best software for LSUC's current and future needs as it is more flexible in its reporting package. This reporting capability will allow for the development of more meaningful financial reports that will assist in budget preparation and Operational Audit Sub-Committee Reports.

Attached is schedule that details the cost of the financial system. This would be \$41,844 per year charged as depreciation. The budget allows \$50,000 for software depreciation.

The total cost of the financial system is \$45,218 CDN greater than originally presented to the Finance Committee, as we have been able to negotiate a fee which protects us against an increased licence fee if we upgrade our computer. Cost to upgrade would be between \$120,000 and \$180,000, therefore the savings will be substantial.

The Chair was apprised of this at a meeting in December and authorized that we proceed, and the order has been placed with Software 2000.

Noted

2. 1991/92 OMNIBUS APPLICATION TO THE LAW FOUNDATION OF ONTARIO

The Treasurer received confirmation of the approval of the Society's 1991/92 Omnibus Application to The Law Foundation. A letter from the Chair of The Law Foundation is attached.

Briefly, the application was for \$3,734,986 and the approved grant is \$3,536,738 as follows:

	<u>Requested</u>	<u>Granted</u>
Legal Education		
Bar Admission Course	\$2,242,786	\$2,242,786 (or deficit, whichever is less)
Libraries	929,000	929,000
Communications	155,000	155,000
Heritage		
Core Programs	100,000	50,000
Special Projects	<u>98,000</u>	<u>denied</u>
	<u>198,000</u>	<u>50,000</u>
French Language Services	160,000	160,000

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Law Society Gazette
Fourth issue
Index

35,000
15,000

denied
denied

\$3,734,986

\$3,536,738

Noted

3. LIFE MEMBERS

Pursuant to Rule 49, the following member is eligible to become a Life Member of the Society with an effective date of 15th January 1992:

Lawrence Hynes

Toronto

Noted

4. CHANGES OF NAME

(a) Members

From

To

Esther Hope Dressler

Esther Hope Dressler Green
(Married Name)

Linda Louise Willcox

Linda Louise Willcox Whetung
(Change of Name Certificate)

Christine Anna Zablocki

Christine Anna Philp
(Married Name)

(b) Student Members

From

To

Amy-Lynn Patrice Katz

Amy-Lynn Patrice Katz Martin
(Married Name)

Maria Elizabeth VanBerkum

Melissa Elizabeth VanBerkum
(Change of Name Certificate)

Agnes Linda Vass-Harding

Agnes Linda Vass Harding
(Married Name)

Maria Teresa Tummillo

Maria Teresa Tummillo-Goy
(Married Name)

Colleen Ruth Feller

Collen Ruth Gillis
(Married Name)

Herawati Ramlakhan

Herawati Ramlakhan Sawh
(Married Name)

Joseph Mark Doucet

Mark Joseph Doucet
(Court Order)

Noted

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5. ROLLS AND RECORDS

(a) Deaths

Kenneth James Matheson
Ottawa

Called September 19th 1929
Died February 1st 1985

Daniel Ross Cobb Harvey
Toronto

Called January 17th 1946
Died July 14th 1988

John Joseph Callaghan
Peterborough

Called March 19th 1970
Died January 3rd 1991

Norman Robert Shapiro
Ottawa

Called June 26th 1958
Died September 15th 1991

Anne Elizabeth Genereux
Oshawa

Called May 15th 1970
Died October 9th 1991

Alan Monteith Gordon
Toronto

Called March 29th 1977
Died October 15th 1991

Eric Wayne Chodak
Pickering

Called March 29th 1977
Died November 6th 1991

James Kenneth Kidd
Toronto

Called February 18th 1943
Died November 12th 1991

Patricia Gail Allen
Ottawa

Called March 28th 1990
Died November 13th 1991

Louis William Spencer
Toronto

Called April 21st 1938
Died November 22nd 1991

James Evans Jefferson
Toronto

Called April 8th 1987
Died November 26th 1991

Robert Stirling Kelusky Gibson
Belleville

Called April 12th 1962
Died November 29th 1991

Noted

(b) Disbarments

Allen Weinstein
Thornhill

Called March 26th 1971
Disbarred - Convocation
December 6th 1991

Noted

(c) Membership in Abeyance

Donald McNeill
Toronto

Called September 16th 1954
Appointed to Ontario Court of Justice
General Division
June 3rd 1991

Geraldine Fern Waldman
Brampton

Called April 9th 1976
Appointed to Ontario Court
Provincial Division
November 15th 1991

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James Elliott Allen
Guelph

Called April 5th 1979
Appointed to Ontario Court
Provincial Division
November 15th 1991

Bruno Cavion
Toronto

Called April 10th 1980
Appointed to Ontario Court
Provincial Division
November 15th 1991

John Dawson Ground
Toronto

Called June 15th 1959
Appointed to Ontario Court of Justice
General Division
November 28th 1991

Norman Michael John Karam
Cochrane

Called March 24th 1972
Appointed to Ontario Court of Justice
General Division
November 29th 1991

Ellen Margaret MacDonald
Toronto

Called March 20th 1975
Appointed to Ontario Court of Justice
General Division
November 29th 1991

Vibert Theophilus Rosemay
Brampton

Called March 26th 1971
Appointed to Ontario Court
Provincial Division
December 1st 1991

Ramez Khawly
Sarnia

Called April 14th 1980
Appointed to Ontario Court
Provincial Division
December 1st 1991

Timothy Clifford Whetung
Oshawa

Called April 10th 1981
Appointed to Ontario Court
Provincial Division
December 1st 1991

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:

January 6, 1992

Lawyers Club Dinner
Convocation Hall

January 23, 1992

Judges Reception
Convocation Hall

February 17, 1992

Medical-Legal Dinner
Convocation Hall

March 6, 1992

Phi Delta Dinner
Convocation Hall

Noted

24th January, 1992

5. STAFF CHANGES

The Director reports that 13 employees have left the employ of the Law Society and 18 have joined in the four months ended December 31, 1991. One new position has been created and staff complement is now at 333 as at December 31st 1991.

Noted

ALL OF WHICH is respectfully submitted

DATED this 24th day of January 1992

"K. Howie"
Chair

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

- B-Item 1 - Memorandum from Mr. David Crack to the Chair and Members of the Finance Committee dated January 9, 1992 re: Financial Statements - Highlights as at December 31st, 1991 - (November 30th for Errors and Omissions Fund). (Marked B1, pages (6))
- B-Item 2 - Memorandum from Mr. Richard Tinsley to Mr. David Crack dated December 24, 1991 together with a letter from Mr. Willson A. McTavish, Official Guardian dated December 9, 1991. (Marked B2, pages (3))
- C-Item 2 - Letter from Mr. H. Donald Guthrie, Chair, The Law Foundation of Ontario to Mr. James M. Spence, Treasurer dated December 20, 1991. (Marked C2, pages (2))

THE REPORT WAS ADOPTED

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

It was moved by Kenneth Howie, seconded by James Wardlaw THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from January 24, 1992 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

.....

DISCIPLINE COMMITTEE

Mr. Murray presented the Report of the Discipline Committee of its meeting on January 9th, 1992.

24th January, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs to leave report:

Your Committee met on Thursday, the 9th of January, 1992 at one thirty in the afternoon, the following members being present:

Mr. Rock (Chair), Ms. Peters, Mr. Topp, Ms. Bellamy, Mr. Finkelstein, Ms. Graham, Messrs. McKinnon, Murphy, Murray, O'Connor, Scott, Thom and Yachetti.

Also in attendance were Ms. O'Connor and Messrs. Kerr, MacKenzie, Macri, Ms. Robertson, Ms. Rogerson, Messrs. Varro and Yakimovich.

A.
POLICY

1A. Participation by Benchers in Cases
Where Their Partners Give Evidence

Your Committee was asked by Convocation to consider whether Benchers can properly participate as members of hearing panels or in Convocation when evidence is to be led from their law partners. The issue was brought into focus during submissions as to penalty in Convocation in a particular case in which the solicitor relied upon letters of reference from members of the profession whose partners were Benchers.

The Committee recommended to Convocation in June of 1991 that in such circumstances, the Bencher in question should declare the relationship and provide the parties with an opportunity to state their position on the question whether that Bencher should be disqualified. If no objection is made following such a declaration by a Bencher, the parties would then be taken to have consented to the participation of that Bencher.

Convocation did not adopt the recommendation and requested that the Committee revisit the issue. At the time, Convocation expressed the following concerns:

- a. The proposal may put Law Society counsel in the potentially difficult position of challenging or objecting to a Bencher's participation; and
- b. The decision whether a Bencher ought to be disqualified should not be made solely by the particular Bencher, but rather by the other members of the hearing panel or Convocation.

The Committee discussed the matter and took Mr. MacKenzie's advice on the point. In particular, Mr. MacKenzie expressed the view that a procedure requiring a Bencher to identify a relationship with a witness and then calling upon counsel to make submissions as to disqualification should not be rejected simply because it would "put Law Society counsel in a difficult position". Mr. MacKenzie told the Committee that in his view, the position in which discipline counsel might find themselves in such circumstances is not sufficiently different from that of counsel for other parties in civil, criminal or administrative proceedings generally so as to justify a special rule.

The Committee also concluded that the decision whether a particular Bencher should be disqualified because of a relationship with a witness should not be made by the Bencher, but rather by the other members of the hearing panel or

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Convocation once the facts are disclosed and submissions are heard. Naturally, the Benchers affected by the procedure would not participate in the discussion or vote on the point.

Your Committee therefore recommends that where evidence is to be led either before a hearing panel or in Convocation from a lawyer who is associated in practice with a Benchers, the following procedure should be followed:

- i) The Benchers in question should declare the relationship, and then withdraw;
- ii) Counsel for the parties should be invited to make submissions on the question whether the Benchers should be disqualified from further participation; and
- iii) The issue should then be determined by the remaining members of the discipline hearing panel or Convocation, as the case may be, without the participation of the Benchers in question.

Note: motion, see page 54

2A. Victim Impact Statements and Representation of
Complainants at Discipline Hearings

Your Committee had before it a letter dated December 23rd, 1991 from David G. Bryce, counsel for a complainant in a disciplinary proceeding, requesting the opportunity to make submissions on behalf of his client before Convocation, relating to the impact of the solicitor's alleged misconduct on the complainant's mental health and her financial well-being. The request put squarely in issue the question whether "victim impact statements" ought to be permitted in disciplinary proceedings as a matter of policy.

Dealing first with the broad policy question, the Committee requested staff to prepare a specific and detailed proposal for discussion at its February 1992 meeting, and directed that the proposal reflect the following elements:

- a) Where a victim impact statement is to be tendered in evidence, it should be done before the discipline hearing panel, and not before Convocation;
- b) The question in each case whether the effect of the solicitor's misconduct upon the complainant should be put before the Committee will be for the Law Society's discipline counsel to decide;
- c) The victim impact statement should be just that: a factual statement from the complainant, without argument or submissions, describing the consequences of the solicitor's alleged misconduct;
- d) In the first instance, efforts should be made to tender the evidence of the victim in the form of an agreed statement in writing. Should agreement not be reached, and should counsel for the Society still wish to tender evidence from the victim, such evidence should be led viva voce, with counsel for the solicitor having the right to cross-examine the victim;
- e) While the victim, like any witness, will be entitled to be represented by counsel in the proceeding, the victim will have the status of a witness, and carriage of the proceeding shall remain throughout with the Society's discipline counsel; should the victim testify viva voce before the hearing panel, such evidence will be led in chief by counsel for the Society; and

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- f) Where evidence is led from the victim in either form, the facts adduced should be taken into account by the Committee on the subject of penalty and reported upon the usual fashion to Convocation.

In formulating the specific written policy for discussion at next month's meeting, staff will review and consider the practice in place in the criminal courts, and in that regard will have the advantage of Mr. McKinnon's assistance and experience.

On the subject of the specific request made by Mr. Bryce on behalf of his client, the Committee took into account the fact that although the discipline hearing panel in that case has made a finding of professional misconduct, it has not yet arrived at a recommendation as to the penalty. In keeping with the principles set forth above, the Committee therefore instructed Mr. MacKenzie to take up with Mr. Bryce the preparation of a victim impact statement, so that Mr. MacKenzie could decide whether he wished to put such evidence before the hearing panel. If Mr. MacKenzie was of the view that such a statement should be led, he could then prepare a draft and determine whether an agreement as to its contents can be reached with counsel for the solicitor. If not, Mr. MacKenzie would then decide whether to seek to lead the evidence of the victim viva voce before the hearing panel, all in accordance with the principles set forth above.

3A. Disclosure of Members' Status with the Society

A former member of the Society who was disbarred in 1962, has requested that the Society not divulge to persons asking about his status the fact that he was disbarred. The former member has complained that he has been damaged in his present calling as a mediator, arbitrator and adjudicator, because potential employers inquired of the Law Society and were told that he had been disbarred.

The member takes the position that information is private, and given the length of time since his disbarment, the Law Society should not disclose that fact.

The Committee took the view that the status of a member or former member in the Society's records is information that is publicly available, and that the Society has the right and obligation to respond to an inquiry with all of the facts necessary to furnish a fair and full answer. The Committee did observe that the information to be disclosed would depend on the question asked of the Society, and that while the Society's obligation is to respond in a forthright and factual manner, the Society ought not gratuitously to offer information that goes beyond the bounds of the inquiry.

Note: motion, see page 54

B.

1B. Michael A. Spensieri - Permission to Employ Him
Pursuant to Rule 20 As a Case Management Counsellor

Mr. Spensieri was called to the Bar in 1974 and was permitted to resign in October of 1989, having been found guilty of professional misconduct by:

- co-mingling funds received from clients for investment purposes with his own funds;
- failing to keep client funds in a separate trust account;
- failing to account to clients and the Society; and
- failing to maintain books and records.

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Mr. Spensieri has been offered a position in employment with the Labourers' International Union of North America, Local 183, and particularly with its Prepaid Legal Benefits Fund. His duties would include assisting the Executive Director, Mr. Tony Baker, who is himself a lawyer, and to whom Mr. Spensieri would report, in various administrative activities and filings.

The Committee perceived two issues arising from the material in this matter:

- a) whether Rule 20 has application to the circumstances, so that Convocation's approval is necessary before Mr. Baker can employ Mr. Spensieri in the proposed position; and
- b) if Rule 20 is thought to apply, ought the Committee to recommend to Convocation that such approval be given in this instance?

On the first question, the Committee had little difficulty, having regard to the breadth of language that defines the scope of Rule 20, in coming to the conclusion that the case is one in which Mr. Baker requires Convocation's approval.

On the second question, the Committee concluded that it ought to recommend that Convocation's approval be granted. In coming to its conclusion, the Committee noted that it would be open to Mr. Spensieri to go into business for himself as an unsupervised paralegal without obtaining Convocation's approval and without working with or answering to a member of the Society. The proposed arrangement would involve Mr. Spensieri working with Mr. Baker and being subject to his supervision.

Your Committee therefore recommends that Convocation approve the proposal, but that the approval be conditional upon Mr. Baker reporting quarterly to the Law Society, through Mr. MacKenzie, on the state of Mr. Spensieri's employment and providing assurances that he does not have access to any funds.

Note: amendment, see page 54

2B. Advising the Profession of Matters Considered for Discipline

Pursuant to the policy of Convocation to publish for the benefit of the profession fact situations of discipline matters, the following summary was approved by your Committee for publication in the buff pages of the Ontario Reports. Mr. Lamek and Mr. Topp, who authorized the formal complaint in this case in April 1991, requested that the facts be published after conclusion of the hearing. The matter was heard in September, 1991.

The solicitor acted for a husband and wife in obtaining custody of the children of the wife's sister. The sister, who was experiencing marital difficulties at the time and eventually filed for divorce from her husband, consented to the arrangement for custody. At the solicitor's suggestion, she obtained independent legal counsel. Unbeknownst at the time to the clients, the solicitor and the wife's sister became involved in an intimate personal relationship which continued during the time he pursued and obtained the order for custody. The relationship ended several months later. The solicitor, pursuant to a formal complaint of professional misconduct, was reprimanded by the Discipline Committee for acting in a conflict of interest. Although the clients suffered no prejudice, there was a breach of the conflict of interest rule given that the solicitor's judgment and freedom of action on his clients' behalf were not free from compromising influences.

Your Committee recommends that Convocation approve the above summary for publication.

C.

1C. Budget - Fiscal 1992-93

Members of your Committee were reminded that the budgetary process for the upcoming fiscal year has started. Detailed budget projections from the Discipline, Complaints and Audit Departments will be tabled at the February, 1992 Committee meeting. Committee members were requested to consider the upcoming budget proposals in light of Convocation's statement in principle to hold annual fee increases to zero percent for the fiscal year 1992-93.

2C. Authorization of Discipline Charges

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

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

	<u>Sought</u>		<u>Obtained</u>	
	<u>October</u>	<u>November</u>	<u>October</u>	<u>November</u>
Discipline	18	30	16	23
Complaints	13	22	12	19
Audit	0	0	0	0

Total Number of Charges Authorized to Date for 1991

January	11	
February	12	
March	14	
April	21	
May	22	
June	9	
July	21	
August	38	(14 of the August authorizations were for failure to file Forms 2/3)
September	22	
October	28	(7 of the October authorizations were for failure to file Forms 2/3)

24th January, 1992

November	<u>42</u>	(13 of the November authorizations
		were for failure to file Forms 2/3)
Total:	240	

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"R. Murray"
for Chair

Item 1B under Administration re: Spensieri, was amended by deleting the rest of the words after the word "proposal" in the last paragraph and inserting the following 3 conditions:

1. That Mr. Spensieri not have access to trust funds;
2. That Mr. Baker report to Mr. MacKenzie's office in writing quarterly as to whether Mr. Spensieri has complied with the conditions and performed the responsibilities of his position to Mr. Baker's satisfaction; and
3. That Mr. Baker inform Mr. MacKenzie's office immediately in the event that Mr. Spensieri's employment is terminated.

It was moved by James Wardlaw, seconded by Colin Campbell that item 3A under Policy re: Disclosure of Members' Status, go back to the Committee for consideration.

Carried

It was moved by Denise Bellamy, seconded by Ron Cass that Item 1A under Policy re: Participation by Benchers in cases where partners give evidence, be referred back to Committee to reconsider the matter of all persons other than law partners.

Carried

THE REPORT AS AMENDED WITH THE EXCEPTION OF
A-ITEM 1A AND A-ITEM 3A WAS ADOPTED

.....

ORDERS

Mr. Rock presented 3 Orders of Convocation to be recorded in the Minutes of Convocation.

Re: ALLEN WEINSTEIN, Thornhill

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

24th January, 1992

AND IN THE MATTER OF Allen Weinstein,
of the Town of Thornhill, a Barrister and
Solicitor (hereinafter referred to as "the
Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 19th day of November, 1991, in the presence of Counsel for the Society, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Allen Weinstein 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 6th day of December, 1991.

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary.

Filed

Re: PETER MICHAEL HOLLYOAKE, Burlington

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Peter Michael
Hollyoake, of the City of Burlington, 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 18th day of November, 1991, in the presence of Counsel for the Society, and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and conduct unbecoming and having heard Counsel aforesaid;

24th January, 1992

CONVOCATION HEREBY ORDERS that the said Peter Michael Hollyoake be Reprimanded in Convocation.

DATED this 6th day of December, 1991.

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

Re: HELEN LORRAINE TERRY, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Helen Lorraine Terry, 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 10th day of June, 1991, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Helen Lorraine Terry be Reprimanded in Convocation.

DATED this 6th day of December, 1991.

"James M. Spence"
Treasurer

(Seal -
The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

LEGAL AID COMMITTEE

Mr. Copeland presented the Report of the Legal Aid Committee of its meeting on January 9th, 1992.

24th January, 1992

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 9th of January, 1992 at two o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Bond and Brennan, Ms. Cohen, Mr. Copeland, Ms. Curtis, Mr. Durno, Ms. Kehoe, Messrs. Lalonde, Petiquan.

A.
POLICY

1. ABT REPORT

A Report concerning the operation of the Ontario Legal Aid Plan which had been commissioned by the Provincial and Federal Governments was completed by Abt Associates in August, 1991. A summary and the conclusions of the Report were attached to the Legal Aid Committee Report to Convocation for September, 1991.

The Legal Aid Committee has been reviewing in detail each chapter of the Report and expects to complete this task by April of 1992. At its January meeting the Committee reviewed Chapter 6 which is entitled "Quality of Service". The Committee expressed concern as to the methodology used and the conclusions reached in this chapter. The Committee will consider these conclusions further at a future meeting but believes that the Benchers should be aware of them at this time.

Chapter 6 of the Abt Report is attached hereto and marked as SCHEDULE (A).

B.
ADMINISTRATION

1. REPORT OF THE PROVINCIAL DIRECTOR FOR
THE EIGHT MONTHS ENDED NOVEMBER 30, 1991

The Report demonstrates that the demand for and the provision of Legal Aid assistance is continuing to increase dramatically. Since the preparation of the Report additional funds have been made available by the Provincial Government. Further funding, which will be required by the Plan to meet its obligations for the remainder of the fiscal year, will be sought at the end of January.

The Report is attached hereto and marked as SCHEDULE (B).

2. REPORT ON THE PAYMENT OF SOLICITORS
ACCOUNTS FOR NOVEMBER & DECEMBER, 1991

The Reports on the Payment of Solicitors Accounts are attached hereto as SCHEDULE (C).

3. REPORT ON THE STATUS OF REVIEWS IN THE LEGAL
ACCOUNTS DEPARTMENT FOR NOVEMBER & DECEMBER, 1991

The Reports on the Status of Reviews in the Legal Accounts Department are attached hereto as SCHEDULE (D).

24th January, 1992

4. AREA COMMITTEES - APPOINTMENTS & RESIGNATIONS

APPOINTMENTS

Halton

Brenda Adelaide Kearney, Supervisory Officer, Board of Education.

York County

Shalom Shachter, Solicitor
Kenneth Back, Solicitor
Peter Libman, Solicitor
Alvin Starkman, Solicitor
Linda Chodos, Assessment, Counselling & Consultation Services
Patricia Wells, Solicitor
Frances Gregory, Solicitor
Nadine Mayers, Family Therapist
Marty Klein, Solicitor
Peter Meier, Solicitor
Donna Ford, Solicitor
Douglas Millstone, Solicitor
Lyle Belkin, Solicitor
Marilynne Cass, Solicitor
Kenneth Snider, Solicitor
Ruth Thompson, Solicitor
T. Michele O'Connor, Solicitor
Katherine Kavassalis, Solicitor
Jegan Mohan, Solicitor
Michele Fagan, Marketing Officer
Alawi Mohideen, Solicitor
James Lockyer, Solicitor

Wentworth

George Stephen Gage, Solicitor

RESIGNATIONS

York County

Susan Peacey
Mina Tamblyn
Robert Blakely
R.S. Sleightholm
Deborah McPhail
Ruth Hartman
Michael Code

24th January, 1992

C.
INFORMATION

1. LETTER DATED NOVEMBER 28TH, 1991 FROM
ONTARIO ASSOCIATION OF INTERVAL & TRANSITION HOUSES

A copy of a letter dated November 28th, 1991 from Ontario Association of Interval & Transition Houses to the Ministry of the Attorney General regarding the Legal Aid Review is attached hereto and marked as SCHEDULE (E).

ALL OF WHICH is respectfully submitted

"P. Copeland"
for Chair

January 24, 1992

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

- A-Item 1 - Chapter 6 of the ABT Report entitled Quality of Service.
(Schedule (A), numbered 132 - 171)
- B-Item 1 - Provincial Director's Report - Ontario Legal Aid Plan, Statement of
Income and Expenditures, 8 Months Ended November 30, 1991 (\$000).
(Schedule (B), pages (2))
- B-Item 2 - Reports on Payment of Solicitors Account, Months of November and
December, 1991.
(Schedule (C), pages (4))
- B-Item 3 - Report on the status of reviews in the Legal Accounts Department,
Months of November and December, 1991.
(Schedule (D), pages (2))
- C-Item 1 - Copy of letter from Ms. Sharon L. Hafner, For the Ontario
Association of Interval and Transition Houses, to Mr. Elliot Sargon,
Co-ordinator, Legal Aid Reallocation Review, Ministry of the
Attorney General dated November 28, 1991.
(Schedule (E), pages (3))

THE REPORT WAS ADOPTED

.....

LIBRARIES AND REPORTING COMMITTEE

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting on January 9th, 1992. Mr. Gordon Henderson gave a brief oral report on the issues relating to Crown Copyright in judicial decisions.

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 9th of January, 1992, at 9:00 a.m., the following members being present: D. Murphy (Chair), R. Topp (Vice-Chair), R. Bragagnolo, S. Elliott, A. Feinstein, G. Henderson, M. Hickey, R. Lalande, Shirley O'Connor, B. Pepper, J. Spence (Treasurer), D. Scott and Mrs. Weaver; G. Howell and P. Bell also attended.

A.
POLICY

1. ONTARIO REPORTS - CROWN COPYRIGHT
IN REASONS FOR JUDGMENT

It was reported that the question of Crown Copyright was before the Committee on October 10th, 1991, when Gordon Henderson, Q.C., made a submission. The Committee recommended that the Society's position on Crown Copyright be re-affirmed as originally approved by Convocation in 1985. This recommendation was deferred to January 24th, 1992, Regular Convocation.

The Chair and Mr. Henderson sent a memo dated December 30th, 1991, to all Benchers with the background of the Society's position on copyright in judicial decisions and inviting any Bencher with a submission to make, to attend the Committee meeting. Mr. Henderson made a presentation and answered questions. There was a lengthy discussion of many aspects of the matter.

It is recommended that:-

(a) the Society's position on Crown Copyright be re-affirmed to the effect that it supports what, in the opinion of counsel, is the present law, i.e.

Copyright in judicial decisions (and statutes and regulations) is vested in the Crown by way of Crown prerogative.

This position is not inconsistent with

- a) the independence of the judiciary
- b) public access to the registry of judgments
- c) the media's right to report the outcome of judicial proceedings.

Regarding decisions of the courts of Ontario, the copyright legislation should clarify that copyright vests with the provincial Crown.

The public interest will be served by a review of

- a) increased charges for decisions disseminated electronically
- b) dissemination of decisions by foreign-controlled companies
- c) duplication of judgments in conventional and electronic sources.

Guidelines should ensure effective and rational dissemination of judgments at lowest possible cost, and should bind governments not to exercise copyright as a revenue-generating source.

The Law Society Act and Regulation gives responsibility to the Law Society for law reporting in Ontario, pursuant to which the Society distributes the weekly parts of the Ontario Reports free of charge to lawyers and judges in Ontario.

(b) the Society's position should be pursued with the respective Ministers of the Federal and Provincial Crown with a view to ensuring that Reasons for Judgment are available at the lowest possible cost; and

24th January, 1992

(c) the Society should continue to investigate the production of a CD-ROM (compact disc) version of the Ontario Reports.

B.
ADMINISTRATION

1. ACCOUNT OF COUNSEL FOR SOCIETY

An account of counsel for the Law Society for the period June 1st to September 30th, 1991 was approved.

C.
INFORMATION

1. FINANCIAL REPORT - DEPARTMENT BUDGET

The Chief Librarian reported to the Committee on the financial statement for the department.

2. BOOK LIST

The Great Library has added 43 new titles to its book collection for January 1992.

3. LAW FOUNDATION OF ONTARIO AND POTENTIAL REDUCTION IN FUNDING

An amount of \$929,000 as an operating grant for 1992 for the County Law Libraries was approved by the Law Foundation of Ontario on December 11th, 1991.

The Chair reported on the comments of the Treasurer the previous evening in connection with the probable severe reduction in the grants from the Law Foundation for 1993 and subsequent years. It was agreed that at the February meeting of the Committee, there would be a discussion of the ways to soften the impact of the reduction on the County and District Law Associations. In view of the fact that subscriptions increase at the rate of about 12% a year, it was agreed that the Society should arrange another meeting with the law book publishers. In addition, the Society is trying to arrange a meeting with Chief Justice Callaghan in connection with the reporting of judgments.

4. BUTTERWORTHS - LAW REPORTING SYMPOSIUM

The Law Reporting Symposium sponsored by Butterworths is tentatively scheduled for Friday, June 12th, 1992, (day after June Committee Meeting, Thursday, June 11th, 1992).

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"D. Murphy"
Chair

24th January, 1992

It was moved by Paul Copeland, seconded by Carole Curtis that Item 1 under Policy re: Crown Copyright, be deferred for two Convocations so that the matter can be reviewed and to permit commercial concerns to appear before the Committee and make representations.

Lost

THE REPORT WAS ADOPTED

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CONVOCATION ADJOURNED FOR A SHORT RECESS

.....

CONVOCATION RESUMED IN PUBLIC

.....

CLINIC FUNDING COMMITTEE

Mr. Bastedo presented the Report of the Clinic Funding Committee of its meeting on January 9th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of Legal Aid begs leave to report:

CLINIC FUNDING

The Clinic Funding Committee submitted a report to the Director recommending funding for various projects.

The Director recommends to Convocation that the report of the Clinic Funding Committee dated January 13, 1992 be adopted.

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

ALL OF WHICH is respectfully submitted

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

January 13, 1992

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

24th January, 1992

The Clinic Funding Committee met on January 9, 1992. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin.

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Supplementary legal disbursements

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

Algoma Community Legal Clinic - up to \$2,000
Kensington-Bellwoods Community Legal Services - up to \$7,000
Parkdale Community Legal Services - up to \$40,000
Peterborough Community Legal Services - up to \$15,000
Mississauga Community Legal Services - up to \$1,000
Renfrew County Legal Clinic - up to \$6,000
Legal Assistance Kent - up to \$3,500
Bloor Information & Legal Services - up to \$1,000
Kinna-aweya Legal Clinic - up to \$2,500
Windsor-Essex Bilingual Legal Clinic - up to \$700
Sudbury Community Legal Clinic - up to \$3,000
Rexdale Community Information & Legal Services - up to \$2,000

b. Court costs

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

West Scarborough Community Legal Services - up to \$500
South Ottawa Community Legal Services - up to \$109.60

2. Injured Workers' Consultants

The Clinic Funding Committee has approved an amount up to \$25,000 to refurbish the new premises for this clinic. The clinic is moving to better office space and requires new office furniture and equipment. It is therefore recommended that Convocation approve an amount up to \$25,000 for this purpose.

4. a. North Frontenac Community Services Corporation

The legal clinic component of this multi-service organization is separating from the host organization and will become an independent clinic, Rural Legal Services (North Frontenac). The Clinic Funding Committee has approved an allocation of up to \$23,600 for renovations and moving costs for this clinic.

b. Rural Legal Services (North Frontenac) - Incorporation

Convocation previously approved a change of name from North Frontenac Community Services Corporation to Rural Legal Services. However, the Ministry of Consumer and Commercial Relations required the addition of the geographical location. The Committee therefore recommends Convocation's approval of the new name, Rural Legal Services (North Frontenac).

24th January, 1992

5. Hastings & Prince Edward Legal Services

The Clinic Funding Committee has approved an amount up to \$3,600, for salary and benefits required as a result of hiring a more experienced staff lawyer.

B. INFORMATION

a. Hiring of Clinic Funding Staff Lawyer

Mr. Mordechai Ben-Dat, formerly counsel at the Ontario Law Reform Commission, with a background in government/public policy, has been hired as the fourth clinic funding staff lawyer.

b. CFC Orientation Meeting

The Committee met on Saturday, November 30, 1991. The all-day meeting provided an opportunity for Committee members to discuss issues in the clinic system and provide an orientation for new Committee members.

c. Review of Clinic System

The Committee has retained Sue Corlett & Associates to conduct an operational review of the community legal clinic system to be completed by August, 1992.

ALL OF WHICH is respectfully submitted

"T. Bastedo"
for Chair
Clinic Funding Committee.

January 13, 1992

THE REPORT WAS ADOPTED

.....

LEGISLATION AND RULES COMMITTEE

Mr. Cullity presented to Convocation an amendment to Rule 51.

Subrule 51(1) currently reads:

The following oaths shall be administered in accordance with subrule 4 of rule 53 in either the English or the French language:

Subrule 4 of rule 53 reads:

(4) Immediately after a candidate is called to the bar the candidate shall be presented to the Court of Appeal for Ontario or the Ontario Court of Justice by any benchler present in court and the court may cause the candidate to be admitted and the name of the candidate to be enrolled as a solicitor on the rolls of the Society and thereupon the presiding judge shall administer the oaths prescribed by rule 51.

PROPOSAL

Amend subrule 4 of rule 53 as follows:

(4) Immediately after a candidate is called to the bar the candidate shall be presented to the Court of Appeal for Ontario or the Ontario Court of Justice by any bencher present in court and the court may cause the candidate to be admitted and the name of the candidate to be enrolled as a solicitor on the rolls of the Society and thereupon the presiding judge shall administer the Barristers Oath, the Solicitors Oath and, if the candidate so wishes, the Oath of Allegiance.

It was moved by Mr. Cullity, seconded by Lloyd Brennan that the Rule be amended to provide that the swearing of the Oath of Allegiance on Call Day be optional.

Carried

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COMMUNICATIONS COMMITTEE

Mr. Murray presented the Report of the Communications Committee of its meeting on January 9th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of January, 1992, the following members were present: Colin McKinnon (Chair), Thomas Bastedo, Fran Kiteley, Ross Murray, Julaine Palmer, and Roger Yachetti. Also in attendance: Theresa Starkes, and Gemma Zecchini.

C.
INFORMATION

1. Lawyer Referral Service Audit

In response to a number of concerns that have recently arisen regarding the operation of the Lawyer Referral Service an internal audit is being undertaken in an effort to determine the improvements and efficiencies necessary to optimize service to both clients and service providers. The results together with recommendations will be reported to the Committee at the March meeting.

Convocation is advised that the \$25.00 levy per member approved in October will be held in abeyance until the results of both the internal audit and the public and member surveys are known.

2. Members Letters Regarding the Lawyer Referral Service

As the result of a Lawyer Referral Service recruitment mailing, the Treasurer has received several letters from members of the profession about the operation of the Lawyer Referral Service. In order to assist the Treasurer with replies to these inquiries, the letters were presented to the Committee for their consideration. The Committee's comments will be forwarded to the Treasurer.

24th January, 1992

3. Pro Bono Lawyer Referral Service

As of January 1, 1992, lawyers in Middlesex County and the Regional Municipality of Hamilton-Wentworth will be participating in a twelve month pilot project under which the provision of free legal services to eligible non-profit organizations will be coordinated through the Pro Bono Lawyer Referral Service.

A mailing inviting the profession to register with the Pro Bono Lawyer Referral Service has been completed and to date 89 lawyers have agreed to join the programme.

A mailing to all non-profit organizations in these areas inviting their application for eligibility has been completed. The mailing included a letter from the Committee, a Pro Bono Lawyer Referral Service Pamphlet and a Pro Bono Application for Eligibility Form.

4. Public Legal Information Brochures

Samples of the new public legal information brochures are now available through the Communications Department.

5. Media Activity

Media activity for the months of November and December are attached (C-1).

6. Call Statistics

Call statistics for the Dial-A-Law program and the Lawyer Referral Service are attached (C-2).

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"R. Murray"
for Chair

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

C-Item 5 - Media Activity for the months of November and December, 1991.
(marked C-1)

C-Item 6 - Dial-A-Law and Lawyer Referral Service statistics.
(marked C-2)

THE REPORT WAS ADOPTED
.....

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Mr. Murray presented the Report of the Lawyers Fund for Client Compensation Committee of its meeting on January 9th, 1992.

24th January, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 9th of January, 1992, at 11:45 a.m. the following members being present:

R. Murray, (a Vice-Chair in the Chair), L. Brennan, S. Lerner and S. Thom;
P. Bell and H. Werry also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. QUESTIONNAIRE TO FUND CLAIMANTS

The Chair asked the staff to consult with the Director of Communications and draft a questionnaire to be sent to claimants in the form of a user survey. After a discussion of the draft questionnaire and cost analysis the Committee decided to defer the matter to the February meeting.

2. LONG RANGE FORECAST OF GRANT PAYMENTS

The Chair of the Investment Committee asked that the staff prepare a long range forecast of grant payments out of the Lawyers Fund for Client Compensation. The Committee discussed the long range forecast of payment of grants for the fiscal years 1991/1992 to and including 1996/1997 and instructed the Secretary to refer it to the Investment Committee as revised by amending the grant payments for 1991/1992 to \$2,000,000 from 1,700,000. A copy of the long range forecast is attached.

(Pg. B1)

C.
INFORMATION

1. REFEREE'S REPORT AND MEMORANDA OF ASSISTANT SECRETARIES

The Secretary reported that a Referee's Report and memoranda of Assistant Secretaries were approved by the Review Sub-Committee and the grants appear on Schedule "A" attached.

2. Accounts approved by Assistant Secretaries in October, November and December amounted to \$14,563.22, \$7,039.33 and \$548.57 respectively.

3. Copies of the Financial Summary and the Activity Report for the months of October, November and December 1991 are attached. (Pgs. C1 - C9)

24th January, 1992

4. It was reported that one account will be substantially over budget by June 30th, 1992. This overage will be made up from other accounts.

5. REDUCING SOLICITORS' DEFALCATIONS

It was reported that the fourth and fifth special policy dinner meetings were held on October 23rd, and November 26th, 1991, to consider ways of reducing defalcations.

6. MEYER FELDMAN COMPENSATION FUND

The Chair has received a letter from counsel for the Society indicating an agreement to lift the injunction has been signed and the Committee's decision in February 1991 can now be implemented to the extent of arranging hearings of the claims to the Fund by clients of Meyer Feldman.

7. NATIONAL COMPENSATION FUND

It was reported that the Inter-Jurisdictional Implementation Committee of the Federation of Law Societies at its meeting November 30th, 1991, discussed a proposal for a national compensation plan. A subcommittee of representatives of the Law Societies of Quebec, Upper Canada, Alberta and Yukon is to undertake a detailed examination of the proposal, insurance aspects arising out of it, and ways to accommodate the concerns of governing bodies that may not have the financial resources to honour claims in an unlimited amount.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"R. Murray"
for Chair

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

- C-Item 1 - Referee's Report and memoranda of Assistant Secretaries re: Grants approved by Review Committee and by the Lawyers Fund for Client Compensation Committee. (Schedule "A", pages (2))
- B-Item 2 - Memorandum from Mr. Peter B. Bell, Assistant Secretary to The Lawyers Fund for Client Compensation Committee and the Investment Committee dated November 18, 1991 re: Long-Range Forecast of Grant Payments. (B1)
- C-Item 3 - Financial Summary for the period July 1, 1991 - October 31, 1991. (C1 - C9)

THE REPORT WAS ADOPTED

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INSURANCE COMMITTEE

Mr. Campbell presented two Reports of the Insurance Committee of its meeting on January 9th, 1992.

24th January, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of January, 1992 at 1:30 in the afternoon, the following members being present: Messrs. Campbell (Chair), Wardlaw, Epstein, Bragagnolo, Hickey and Ms. Palmer.

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

ITEM

1. DIRECTOR'S MONTHLY REPORT

In light of the increase in both claim frequency and severity for the twelve month period ending June 30, 1991, the claims paid and reserved in 1990/1991 exceeded revenues and surplus by \$1.4 million dollars. Claim frequency and severity were expected to remain high throughout the second half of 1991, and it was anticipated that for the entire eighteen month period ending December 31, 1991 claims paid and reserved during that period would exceed revenues and surplus by \$7.4 million dollars. The Director reported that as at the end of October, 1991, development in this regard was exactly as projected. It appears that deterioration in the frequency and severity of claims through the months of November and December will result in a somewhat higher deficit situation as at December 31, 1991. More precise details of the results of the influx of claims during the last two months of 1991 will be available for the February 13, 1992 Committee Meeting.

The Director reports that he has initiated an audit of claims reported during the closing months of 1991. Messrs. Campbell, Epstein and Wardlaw will meet with the Director shortly to consider the audit results, current loss prevention measures and to pursue development and implementation of additional short and long term loss prevention methods. The Director's Monthly Report is attached as Appendix "A".

2. REINSURANCE RENEWAL NEGOTIATIONS - LLOYD'S OF LONDON

Following successful completion of the negotiations to renew LPIC's reinsurance, the reserves on a series of existing and newly reported claims were revised upwards penetrating the reinsurer's layer of coverage. Several reinsurers have expressed concern about this development. The Director, the Society's Brokers, and counsel have arranged to meet with reinsurers with a view to alleviating their concerns.

ALL OF WHICH is respectfully submitted

DATED this 10th day of January, 1991

"C. Campbell"
Chair

24th January, 1992

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

Item 1 - Director's Monthly Report - Net Claims Summary - July 1, 1991 -
November 30, 1991. (Schedule "A")

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of January, 1992 at 1:30 in the afternoon, the following members being present: Messrs. Campbell (Chair), Wardlaw, Epstein, Bragagnolo, Hickey and Ms. Palmer.

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

ITEM

1. E & O DEPARTMENT BUDGET

As a consequence of the creation of LPIC, the E & O Fund year has been changed to the calendar year, and no longer matches the Society's fiscal year. To alleviate administrative difficulties arising from this, Convocation adopted the Committee's recommendation to sever the E & O Department's fiscal year from the Society's effective January 1, 1992. The Director tabled the E & O Department's interim 1992 budget for review and discussion. Your Committee unanimously approved the budget subject to further discussion and approval of the final E & O automation project proposal which will be brought before your Committee shortly.

ALL OF WHICH is respectfully submitted

DATED this 10th day of January, 1991

"C. Campbell"
Chair

THE REPORTS WERE ADOPTED

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The following Reports were deferred to February Convocation:

Research and Planning Committee
French Language Services Committee
Certification Board
County and District Liaison Committee
Professional Standards Committee
Legislation and Rules Committee
Unauthorized Practice Committee
Professional Conduct Committee

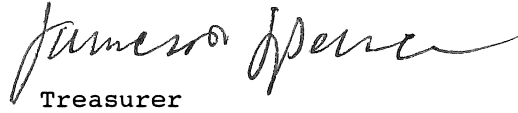
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24th January, 1992

CONVOCATION ADJOURNED AT 5:05 P.M.

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Confirmed in Convocation this ~~22nd~~ day of *February* 1992 .


Treasurer