

MINUTES OF REGULAR CONVOCATION

Friday, 23rd June, 1989
9:30 a.m.

PRESENT:

The Treasurer, Mr. L. K. Ferrier, Mr. Bastedo, Ms. Bellamy, Mr. Bragagnolo, Ms. Callwood, Messrs. Carey, Cass, Cullity, Doran, Epstein, Farquharson, Ferguson and Furlong, Mrs. Graham, Mr. Ground, Ms. Harvey, Messrs. Howie and Kemp-Welch, Ms. Kiteley, Messrs. Lamek, Lamont, Lawrence, Lerner and Lyons, Mrs. MacLeod, Messrs. Manes, McKinnon and O'Brien, Ms. Peters, Ms. Poulin, Messrs. Rock, Shaffer, Somerville, Strosberg, Thom, Topp and Wardlaw, Mrs. Weaver.

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ELECTION OF TREASURER

The Secretary announced that pursuant to Rule 19, governing the election of Treasurer, one nomination had been received - that of Mr. Lee K. Ferrier by Messrs. Rock and Lamek. No further nominations being received, Mr. Ferrier was re-elected Treasurer by acclamation for the coming year.

PIERRE GENEST

The Treasurer made the following remarks regarding Pierre Genest, Q.C.:

"As you all know our beloved Pierre Genest is no longer with us and this is the first but not the last Convocation where his wonderful presence will be missed.

He was larger than life. Universally respected. Universally admired. Universally loved. His good humor, his sense of fairness, his consummate skill as an advocate touched us all and indeed touched anyone who had the very great advantage of knowing him. He enriched our lives. We should all strive to follow his example."

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ADMISSIONS COMMITTEE

Ms. P. Peters, Chair, presented the portion of the Admissions Committee Report of its meeting on Thursday, the 8th June, 1989, dealing with the Call to the Bar.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June 1989 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mrs. Weaver, Messrs. Ground, Lamont and Strosberg.

A.
POLICY

4. CALL TO BAR AND CERTIFICATE OF FITNESS

Transfers from another province - Regulation 4(1)

The following candidate, having passed the Bar Admission Course Transfer Examinations, filed the necessary documents and paid the required fee, applied for call to the Bar and to be granted a Certificate of Fitness:

Patricia Lynn Howard - Province of British Columbia

Approved

The following candidate, having passed the Statutes and Procedures examination, filed the necessary documents and paid the required fee, applied for call to the Bar and to be granted a Certificate of Fitness:

Neil Evan Sacks - Province of British Columbia

Approved

BAR ADMISSION COURSE

The following candidates having successfully completed the Bar Admission Course, filed the necessary documents and paid the required fee of \$210.00, applied for call to the Bar and to be granted a Certificate of Fitness:

Dawn Crysler Benson	- 30th Bar Admission Course
Robert Peter Boron	- 30th Bar Admission Course
Daniel Jeffrey Brodsky	- 30th Bar Admission Course
David Arthur Chapman-Smith	- 30th Bar Admission Course
Sheila Star Cuthbertson	- 30th Bar Admission Course
Andrew Grieve	- 30th Bar Admission Course
Kathleen Jeanne Kelly	- 30th Bar Admission Course
Reesa Susan Levis	- 28th Bar Admission Course
Debra Lynne Sattler	- 30th Bar Admission Course
Cecile Vu Wong	- 30th Bar Admission Course

Approved

23 June 1989

The following candidates having successfully completed the Bar Admission Course, filed the necessary documents and paid the required fee of \$210.00, applied for call to the Bar, to be granted a Certificate of Fitness and to be admitted as Student Members under Regulation 22(7):

1115	William Elie Gagnon	-	30th Bar Admission Course
1116	Morrie Zucker	-	30th Bar Admission Course

Approved

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

Chair

THE REPORT 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:

Dawn Crysler Benson	-	30th Bar Admission
Daniel Jeffrey Brodsky	-	30th Bar Admission
David Arthur Chapman-Smith	-	30th Bar Admission
Sheila Star Cuthbertson	-	30th Bar Admission
Robert Michael Geurts	-	30th Bar Admission
Andrew Grieve	-	30th Bar Admission
Kathleen Jeanne Kelly	-	30th Bar Admission
Cecile Vu Wong	-	30th Bar Admission
Morrie Zucker	-	30th Bar Admission
Patricia Lynn Howard	-	Special, Transfer, B.C.
Neil Evan Sacks	-	Special, Transfer, B.C.

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Mr. J. D. Ground, Chair of Finance, took the Chair in the absence of the Treasurer who had to attend a court ceremony in honour of the retiring Chief Justice of the High Court of Ontario, Chief Justice Parker.

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MOTION - BUILDING COMMITTEE

It was moved by Ms. Graham, seconded by Ms. Poulin, that Mrs. MacLeod be appointed to the Building Committee.

Carried

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MOTION - REQUALIFICATION COMMITTEE

It was moved by Mr. Lerner, seconded by Mr. Rock, that the members of the Requalification Committee be: P. Peters, J. Ground, H. MacLeod, J. Lyons, J. Spence, and N. Graham.

Carried

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MOTION - TITLE INSURANCE COMMITTEE

It was moved by Mr. Shaffer, seconded by Mr. Topp, that the members of the Title Insurance Committee be: I. Outerbridge, J. Wardlaw, H. Strosberg, B. Noble, D. Lamont, and A. Strauss.

Carried

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MOTION - COURT REFORM COMMITTEE

It was moved by Mr. Cass, seconded by Mr. Lerner, that the members of the Court Reform Committee be: F. Kiteley, D. O'Connor, K. Howie, D. Bellamy, H. MacLeod, M. Somerville, C. McKinnon.

Carried

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MOTION - ANNUAL MEETING

It was moved by Mrs. MacLeod, seconded by Mr. Lamont, that the Annual Meeting of the Law Society of Upper Canada be held on Wednesday, October 11th, 1989, at 5:00 p.m. in Convocation Hall.

Carried

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MOTION - CERTIFICATION BOARD

It was moved by Mr. Ground, seconded by Mr. Lernere, that the members of the Certification Board be: A. Rock, R. Yachetti, J. Callwood, P. Furlong, M. Pilkington, G. Sadvari, and L. Shore.

Carried

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ADMISSIONS COMMITTEE

Mr. A. M. Rock, presented the balance of the Admissions Committee Report, with the exception of the Galloway matter, of its meeting on Thursday, the 8th June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of June 1989 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mrs. Weaver, Messrs. Ground, Lamont and Strosberg.

A.

POLICY

1. TRANSFER EXAMINATIONS - REWRITING AFTER FAILURE

The Committee considered what further requirements should be imposed on transfer candidates who fail one or more of the transfer exams. After reviewing the matter the Committee was of the view that this issue should be addressed by the Special Committee on Re-Qualification.

B.

ADMINISTRATION

1. A suspended member has made application to be reinstated to good standing. The member has not practised law since 1980 pursuant to an undertaking given when he was charged with certain criminal offences. These criminal proceedings finally ended with his acquittal on all charges in late 1988.

The Committee was asked whether the five year rule regarding the writing of the Bar Admission Course applied to a member who does not practise pursuant to an undertaking given in discipline proceedings. The Committee is of the view that the policy does apply to members in that situation and they should be required to write the transfer examinations.

Another problem in which the Committee's direction was sought is that of the timing of the exam. The next scheduled exams are set for October 1989. Normally, suspended members enquire about the exam schedule and plan their re-entry around the schedule. In this case external factors have driven the application.

The Committee was asked if a separate set of exams should be prepared for the member and be administered when he indicates he is ready to sit them or whether he should be required to wait until the October sitting of the Bar Admission Course transfer examinations.

The Committee recommends that the member be required to write the transfer examinations at the regularly scheduled date in October.

2. Mr. Peter J. Lamont was called to the Bar in Ontario in April of 1980. He then moved to Calgary where he was called to the Bar of Alberta in November of 1980. He has practised continually in Alberta in the area of criminal law both in private practice and with the Federal Department of Justice. In 1983 he resigned his membership to the Ontario bar. He has now accepted a position with the Federal Department of Justice in Ontario and wishes to become a member of the Ontario bar.

Mr. Lamont requested that he be excused from writing the Bar Admission Course transfer examinations because of his prior membership in the Law Society of Upper Canada and the fact that he has practised exclusively in the field of criminal law and plans to continue to do so.

His new position is with the Legal Services Section of the Canadian Security Intelligence Service (C.S.I.S).

The Committee recommends that Mr. Lamont be required to write the Bar Admission Course Transfer examinations.

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

Bernard William Crotty (LL.B. 1985 from the University of Toronto) was called to the Bar in the Province of Alberta on the 15th day of August 1986 and practised in that province from that day to the date hereof. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1).

Note: See motion page .

Wayne Dana Gray (LL.B. 1977 from Osgoode Hall Law School at York University) was called to the Bar in the Province of British Columbia on the 10th day of May 1978 and practised in that province from the 9th day of June 1982 to the date hereof. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1).

Approved

23 June 1989

Kathleen Mary Levesque (LL.B. 1982 from the University of New Brunswick, LL.M. 1986 from Boston University) was called to the Bar in the Province of New Brunswick on the 4th day of July 1983 and practised in that province from the 6th day of September 1983 to the 9th day of May 1986 and was in actual practice under the terms of Regulation 3 as a Compliance Officer for the Canadian Deposit Insurance Corporation (C.D.I.C.) from the 8th day of February 1988 to the date hereof. She presented a Certificate of Good Standing and sought permission to proceed under Regulations 4(1) and 3.

Approved

Esther Ann Marshall (LL.B. 1981 from Osgoode Hall Law School at York University) was called to the Bar in the Province of British Columbia on the 11th day of January 1983 and practised in that province from that day to the 30th day of June 1987. She presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1). There was nothing unusual about her application.

Approved

Janet Elizebeth McMurtry (LL.B. 1985 from Dalhousie University) was called to the Bar in the Province of Saskatchewan on the 11th day of July 1986 and practised in that province from that day to the date hereof. She presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1). There was nothing unusual about her application.

Approved

Note: See motion page .

Lynn Denise O'Brien (LL.B. 1982 from the University of British Columbia) was called to the Bar in the Province of British Columbia on the 13th day of September 1983 and practised in that province from the 1st day of December 1983 to the 1st day of June 1989. She presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1). There was nothing unusual about her application.

Approved

Joanna Jane Ringrose (LL.B. 1974 from the University of New Brunswick) was called to the Bar in the Province of New Brunswick on the 28th day of June 1974 and practised in that province from that day to the 20th day of May 1988. She presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1). There was nothing unusual about her application.

Approved

Archie Michael Zariski (LL.B. 1971 from the University of Alberta) was called to the Bar in the Province of Alberta on the 18th day of January 1974 and practised in that province from the 1st day of June 1976 to the 2nd day of May 1989. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(1). There was nothing unusual about his application.

Approved

DIRECT TRANSFERS - QUEBEC - REGULATION 4(2)

Michael Philip Aspler (LL.B. 1982 from the University of Montreal) was called to the Bar in the Province of Quebec on the 17th day of November 1983 and practised in that province from the 18th day of November 1983 to the date hereof. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(2). There was nothing unusual about his application.

Approved

23 June 1989

Terence Patrick Badour (LL.L. 1983, LL.B. 1984 both from the University of Ottawa) was called to the Bar in the Province of Quebec in November 1985 and practised in that province from that month to the date hereof. He presented a Certificate of Good Standing, sought to proceed under Regulation 4(2) and requested permission to be excused from writing the Common Law examination according to the interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 which states: "Candidates qualified to proceed under Regulation 4(2) and who have obtained an approved LL.B. degree within the eight years preceding their application may be taken to have satisfied the requirements of subparagraph (d) which reads - passes a comprehensive examination on the common law in Ontario."

Approved

William Frank Crooks (LL.L. 1983, LL.B. 1984 both from the University of Ottawa) was called to the Bar in the Province of Quebec on the 14th day of November 1985 and practised in that province from the 18th day of February 1986 to the 10th day of June 1988 and from the 19th day of September 1988 to the date hereof. He presented a Certificate of Good Standing, sought to proceed under Regulation 4(2) and requested permission to be excused from writing the Common Law examination according to the interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 which states: "Candidates qualified to proceed under Regulation 4(2) and who have obtained an approved LL.B degree within the eight years preceding their application may be taken to have satisfied the requirements of subparagraph (d) which reads - passes a comprehensive examination on the common law in Ontario."

Approved

Michiko Hara (LL.L. 1983 from the University of Ottawa) was called to the Bar in the Province of Quebec on the 27th day of December 1984 and practised in that Province from the 28th day of December 1984 to the 19th of May 1989. She presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(2). There was nothing unusual about her application.

Approved

Elise Paul-Hus (B.C.L., LL.B. both in 1983 from McGill University) was called to the Bar in the Province of Quebec on the first day of November 1984 and practised in that province from the 2nd June 1986 to the 2nd June 1989. She presented a Certificate of Good Standing, sought to proceed under Regulation 4(2) and requested permission to be excused from writing the Common Law examination according to the interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 which states: "Candidates qualified to proceed under Regulation 4(2) and who have obtained an approved LL.B degree within the eight years preceding their application may be taken to have satisfied the requirements of subparagraph (d) which reads - passes a comprehensive examination on the common law in Ontario."

Approved

Jacques Lagasse (LL.L. 1966 from the University of Montreal) was called to the Bar in the Province of Quebec on the 25th day of October 1967 and practised in that province from the 1st November 1969 to the date hereof. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(2). There was nothing unusual about his application.

Approved

David Walter Rothschild (LL.L. 1977 from the University of Sherbrooke) was called to the Bar in the Province of Quebec on the 2nd day of December 1978 and practised in that province from the 3rd day of December 1978 to the 19th day of May 1989. He presented a Certificate of Good Standing and sought permission to proceed under Regulation 4(2). There was nothing unusual about his application.

Approved

23 June 1989

C.
INFORMATION

1. GALLAWAY HEARING

A hearing for Roger Gallaway, a member who was permitted to resign in 1983, was held on May 10th, 1989. It was decided that he be readmitted to the Law Society of Upper Canada subject to the following conditions; that he successfully complete the Bar Admission Course Transfer examinations and that he practise only in association with Mr. James Carpeneto until otherwise ordered by Convocation without signing privileges over trust funds in the accounts of himself or Mr. Carpeneto.

Noted

Note: See note on page 91.

2. OCCASIONAL APPEARANCES

The following have been approved to proceed under Regulation 6, "Occasional appearances in Ontario of lawyers from other provinces", upon filing the necessary information and Certificate of Good Standing, paying the required fee and giving the necessary undertaking:

Thomas Dore
David Matas

Province of Saskatchewan
Province of Manitoba

3. RE-ADMISSION PROCEEDINGS

A subcommittee on Pre-Hearing Proceedings was struck to make recommendations regarding pre-hearing procedures similar to those used in Discipline proceedings. The members of the subcommittee are Messrs. Howie and Strosberg.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

Chair

It was moved by Mr. Cass and accepted by Mr. Rock that Mr. Crotty and Ms. McMurtry be deleted from the report as they do not meet the requirements of section 4(1) of the Regulation.

THE REPORT AS AMENDED AND WITH THE EXCEPTION
OF ITEM C-ITEM 1 (GALLAWAY HEARING) WAS ADOPTED

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ADMISSIONS SUB-COMMITTEE REPORT RE: READMISSION OF R. J. GALLOWAY

Mr. A. M. Rock presented the Report of the Admissions Sub-Committee regarding the readmission of Mr. Galloway.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

This is a report of the Admissions Committee regarding Section 30 of the Law Society Act and the application of Roger John Gallaway for readmission to the Law Society.

23 June 1989

The matter was heard in public on May 30, 1989 before a committee composed of Allan M. Rock, Q.C., as Chair, Earl J. Levy, Q.C. and Mary P. Weaver, Q.C.. Mr. Gallaway attended the proceedings and was represented by his counsel Joseph F. Foreman, Q.C.. Thomas J. Lockwood, Q.C. appeared as counsel for the Law Society.

The Committee received in evidence the application which was comprised of two statutory declarations sworn by Mr. Gallaway and in which he briefly described the activities in which he has been engaged since his resignation from the Law Society in 1983. The Committee also received and considered the reports of two Discipline Committees that had made recommendations to Convocation in the past.

The first of these reports was dated November 19, 1982 and recommended Mr. Gallaway's disbarment. That Committee had heard allegations that Mr. Gallaway had failed to provide with reasonable promptness certain documents repeatedly requested of him by a fellow solicitor. Mr. Gallaway had failed to attend at the hearing before the Committee, notwithstanding that he had ample notice of it. Having heard evidence, the Committee found Mr. Gallaway guilty of that charge, as well as allegations that he failed to comply with orders of a Discipline Committee requiring him to attend before them.

Mr. Gallaway appeared before Convocation in January of 1983 at the time that that Discipline Committee's recommendations were considered. Convocation declined to follow the recommendation of disbarment. Rather, it ordered a Section 35 inquiry to determine Mr. Gallaway's suitability to continue in practice. By the time that Committee met to consider the matter, additional complaints had been sworn against Mr. Gallaway alleging misappropriation from his trust accounts. The amounts were relatively small (less than \$6,000 in each case) and the misappropriation had occurred during the period July 1981 to December 1982, on five occasions. All of the money had been repaid, and no one had suffered a loss. The Committee heard the Section 35 issue at the same time it considered these additional complaints.

The Committee at that time had before it two reports from Dr. Andrew Malcolm, who is a psychiatrist practising in Toronto. In the first of those reports, Dr. Malcolm expressed the view that Mr. Gallaway had overcome certain stresses that he had faced and seemed optimistic, balanced and positive. Dr. Malcolm concluded:

I could find no evidence that would seem to indicate any incapacity to practice law at this time. Mr. Gallaway seems to me to be a decent and ethical man who had responded to certain extraordinary stresses with depression and a vast sense of futility.

He has now recovered completely, and there is no reason to anticipate that there will be any symptom formation comparable to what was seen last year in the foreseeable future.

Dr. Malcolm saw Mr. Gallaway, however, on a second occasion before the Committee met. In a second report, Dr. Malcolm said the following:

On this occasion he was a remarkably changed man. He was vague, insecure, and illogical with respect to his circumstances and his plans for the future. He was moderately depressed and he showed inappropriate affect. He reviewed the recent events and assured me that he knew who the investigators were. They were former clients of Mr. Bullbrock, he said, who intended to sue him for the return of lost funds. He said these people were being sued by an insurance company and that they in turn planned to sue him. He said 'They were there for forty-five minutes and their

attitude was hostile. I just left after they left. I'm sitting on a keg of dynamite. I was found at midnight. A friend thought I was behaving peculiarly. I was detached. It was an anxiety attack. The next morning I was in the Sarnia General Hospital.' I asked him how this reversal in his previously stable condition had been brought about and he said: 'Something triggered it. Who knows what. The fact these people came in and laid this on me. I had burnout. I equated this with exhaustion ... I can't seem to cope any more. I seem to collapse ... and then I miss the Hearing.'

Based on all the evidence before it, that Committee reported in May of 1983 that it chose to make no finding with respect to the capacity of Mr. Gallaway to practise law, but did find him guilty of professional misconduct as charged. Having regard to all the circumstances, it recommended that Mr. Gallaway be permitted to resign.

It is appropriate at this point to describe the extenuating circumstances relied upon by Mr. Gallaway and identified by the Committee as sufficient to warrant permission to resign, rather than disbarment, in 1983.

Mr. Gallaway was called to the bar in March of 1977. Immediately after his call, he began practising in association with a senior lawyer in Sarnia, Ontario. That lawyer died about twenty months after Mr. Gallaway began practising with him. It came to light that the senior lawyer's practice was in considerable disarray in his last years of life, and Mr. Gallaway inherited some very substantial problems. Files had not been properly maintained, clients were dissatisfied with the way that their matters had been handled, and Mr. Gallaway encountered substantial difficulty in trying to determine the status of outstanding matters.

What is more, Mr. Gallaway's wife experienced a very difficult pregnancy that required her to be hospitalized during its later stages. Mr. Gallaway was required to travel between Sarnia and London in order to visit her in the hospital on a regular basis, while tending to their young children by himself. Mrs. Gallaway eventually delivered a stillborn child, and that tragedy affected him as well.

These various professional and personal pressures took their toll on Mr. Gallaway, and the Committee that reported to Convocation in May of 1983 was satisfied that he had behaved in an uncharacteristic way by misappropriating funds and failing to live up to his obligations as a professional.

In making its recommendations, the Committee of 1983 said the following:

Your Committee has considered all of the evidence, including the psychiatric evidence, and the submissions made by counsel for both parties, and is of the view that the Solicitor ought to be permitted to resign. Your Committee is cognizant of the principle that prima facie where a solicitor has been found guilty of professional misconduct by reason of misappropriation of clients' funds, he ought to be disbarred. In this case, however, there are extenuating circumstances and the Committee is of the view that a departure from the prima facie penalty is appropriate.

On the basis of the foregoing considerations, your Committee recommends that the Solicitor be permitted to resign and that he be required to pay the costs of the Society in an amount not to exceed the sum of \$1,000.

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Mr. Gallaway's Activities Since 1983

The Committee was told in evidence that after his resignation in May of 1983 and until about Christmas of that year, Mr. Gallaway was virtually inactive. Through much of 1984, he was involved in the acquisition and development of a commercial property in Tobermory, Ontario, from which he eventually withdrew.

In early January of 1985, he enrolled as a full-time French immersion student at Laval University in Quebec City, and then subsequently registered there in a Master's program in political science. While attending Laval, he was employed as a translator and helped various persons draft speeches. He became fluently bilingual, and he learned how to play the organ.

At some point, his family joined him in Quebec City. He has throughout the period enjoyed the support of his wife and four children. Eventually, his family decided that they would be happier living in Sarnia, to which they returned in about 1986.

He has been active in the community since his return to Sarnia. He has supported himself by being a supply teacher for the Lambton County Board of Education. He has been an organist and choir director at his local church and has been active in local political affairs.

During the last fourteen months, he has served as an employee of a solicitor who carries on a very active practice in Sarnia and in Watford, Ontario, one James J. Carpeneto. The Committee was told that in that capacity, Mr. Gallaway has searched titles and assisted in the closing of real estate transactions.

Mr. Gallaway's counsel filed with the Committee a report from Dr. Malcolm, dated May 22, 1989. Dr. Malcolm's report was based upon an interview he did with Mr. Gallaway on May 5 of this year. Dr. Malcolm described Mr. Gallaway on this occasion as "bright, enthusiastic and interesting ... resourceful and well motivated."

Dr. Malcolm was frank to admit in his report to the Committee that his earlier letter concerning Mr. Gallaway was less than entirely reliable:

Perhaps I should be excessively careful and tentative about giving a favourable opinion in this case because, after all, I had been crucially wrong in 1983. I had interviewed him and recorded that he seemed to be handling the many stressful circumstances that afflicted him with much equanimity. But then, two weeks later, he was approached by a couple of auditors and he decompensated dramatically and ended up in a regressed state in a local hospital.

Notwithstanding that fact, Dr. Malcolm was very positive in his view about Mr. Gallaway's present circumstances:

But things have really changed now. He has had six years to work through his many problems, and it seems to me he has proven himself to be a survivor ... I cannot see why he would not be an effective and reliable solicitor.

Dr. Malcolm did express concern, however, that Mr. Gallaway had failed to follow up with continuous psychological counselling after the episode in 1982-1983. Dr. Malcolm expressed the view that he would be far more comfortable about Mr. Gallaway's return to the profession had there been such therapy. Indeed, the evidence before the Committee was that Mr. Gallaway had not received any professional help in the years 1983 to the present, although he did refer to his evidence to a relationship he developed with a Minister of the Church with whom he spoke from time to time.

23 June 1989

The Committee heard from Mr. Gallaway, who expressed the view that his misconduct in the past grew directly out of a series of unfortunate events that combined to produce extraordinary stress, at a time when he was simply unable to stand it. Mr. Gallaway expressed certainty that with the time that has now elapsed, he is far more stable and able to withstand the pressures and challenges of a professional practice.

The Committee also heard from Mr. Carpeneto, who has employed Mr. Gallaway during the past fourteen months as a law clerk. Mr. Carpeneto carries on a very active practice with offices in both Sarnia and Watford, Ontario. He is also the Reeve of Watford, which requires his attendance at about five meetings per month, usually during the evening hours.

Mr. Carpeneto expressed to the Committee his view that Mr. Gallaway is ready to return to practice. Although he was not familiar with the details of the charges of which Mr. Gallaway had been found guilty by the Discipline Committee in 1983, he was aware that Mr. Gallaway had been granted permission to resign. He attributed those problems to the very difficult circumstances in which Mr. Gallaway found himself after the death of the senior lawyer with whom Mr. Gallaway practised, and Mr. Carpeneto was satisfied with Mr. Gallaway's essential honesty and decency.

Mr. Carpeneto testified that he had seen Mr. Gallaway perform well in stressful circumstances while in his employ. While conceding that he was the one that retained ultimate responsibility for the clients and the files, Mr. Carpeneto nonetheless testified that Mr. Gallaway gave every indication to him of being able to deal with stress and responsibility.

Finally, Mr. Carpeneto said he was quite prepared to have Mr. Gallaway practise with him, to ensure that Mr. Gallaway was supervised in his practice and to retain sole signing authority over the trust accounts, should that be Convocation's will.

RECOMMENDATION

The principal issue in this case is whether it is in the public interest to permit Mr. Gallaway to return to practice when it is unclear whether he will react to the stresses and the challenges of professional life in the way that he did in 1981 and 1982. At that time, Mr. Gallaway misappropriated funds and failed in important respects to live up to his obligations as a professional person.

On his behalf, his counsel argued before us that those misdeeds were the result of unique circumstances that will not recur, and that in any event, Mr. Gallaway is now a changed man, stronger and better able to deal with life.

Counsel for the Law Society, while not opposing the application for readmission, urged us to impose certain conditions in order to ensure that the public interest is protected should Mr. Gallaway prove unable to deal with professional life and all of its challenges.

We found Dr. Malcolm's report to be less than helpful on that central question. In fairness to Dr. Malcolm, he saw Mr. Gallaway only briefly and perhaps cannot be expected to answer fully in the absence of greater experience with him. We did find assistance in the evidence of Mr. Carpeneto, who impressed us as a sensible person with a reliable assessment of Mr. Gallaway's potential and a sincere commitment to his successful return to practice.

After considering carefully the circumstances of this case, and particularly our obligation to protect the public interest, we have come to the conclusion that we can safely recommend to Convocation that it readmit Mr. Gallaway to the practice of law, but only on the following conditions:

- a) that he demonstrate his knowledge of current law by successfully completing the Transfer Examinations, comprised of questions based on the Bar Admission Course materials;
- b) that he practise only in association with another solicitor;
- c) that until further Order of Convocation, that other solicitor be James J. Carpeneto; and
- d) that until further Order of Convocation, he not enjoy signing privileges over trust funds.

We are satisfied that with these conditions, we can achieve protection of the public, while at the same time permitting Mr. Gallaway to return to professional life.

Note: See amendment page 96.

ALL OF WHICH is respectfully submitted

DATED this 20th day of June, 1989

"Allan Rock"
Chair

The reporter was sworn and Mr. Galloway was present together with his counsel Mr. Foreman. Mr. Lockwood was present for the Society.

It was moved by Mr. Rock, seconded by Ms. Weaver, that the Report be adopted as amended by Mr. Wardlaw and accepted by the Committee, to provide that the solicitor practise as a partner or employee of another solicitor.

THE REPORT AS AMENDED WAS ADOPTED

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FRENCH LANGUAGE SERVICES

Mr. C. D. McKinnon, Chair, presented the Report of the French Language Services Committee of its Report on December 8, 1988, January 19, 1988, February 22, 1988, March 9, April 18, May 23 and May 31, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Special Committee on French Language Services begs leave to report:

Your Committee is composed of: Colin D. McKinnon (Chair), Denise Bellamy (Vice-Chair), Pierre Genest, Thomas Bastedo, Hugh Guthrie, Patricia Peters, Harvey Strosberg and Robert Topp. Staff persons include Donald Crosbie, Richard Tinsley, Margaret Angevine, Alan Treleaven, Ajit John and Holly Harris. John Richard represents L'AJEFO. Sarah Thomson is the Committee Secretary.

THE ISSUE

Your Committee met on December 8th, 1988, and January 19th, February 22nd, March 9th, April 18th, May 23rd, and May 31st, 1989.

Your Committee has been working on the formulation and implementation of a French Language Services Policy for the Law Society. The issue is not whether we should have such a policy since in fact a number of ad hoc policies are already in place particularly in our Public Information and Legal Education areas. The issue is how this policy or an expansion of it should be publicly described and what steps should be taken to most effectively implement our French Language Services Policy.

BACKGROUND

As noted in our May report to Convocation, the Ontario government is already committed to the provision of a significant level of French language services. This is evidenced by the wording of Sub-Section 135.(1) of the Courts of Justice Act: "The official languages of the courts of Ontario are English and French."

The commitment of the government is further set out in the preamble of the French Language Services Act, 1986, which is as follows:

"Whereas the French language is an historic and honoured language in Ontario and recognized by the Constitution as an official language in Canada; and whereas in Ontario the French language is recognized as an official language in the courts and in education; and whereas the Legislative Assembly recognizes the contribution of the cultural heritage of the French speaking population and wishes to preserve it for future generations; and whereas it is desirable to guarantee the use of the French language in institutions of the Legislature and the Government of Ontario, as provided in this Act;"

The basic statement of government policy under this legislation is found in subsection 5(1) of the Act as follows:

"A person has the right in accordance with this Act to communicate in French with and to receive available services in French from, any head or central office of a government agency or institution of the Legislature that is designated by the regulations, and has the same right in respect of any other office of such agency or institution that is located in or serves an area designated in the schedule."

A copy of the schedule to the Act is attached as Schedule "A" to this report.

The commitment of the Ontario government to provide French language services from its various offices as required by the Act is scheduled to come into effect in November of 1989. Other commitments under this Act provide that the public bills of the Legislative Assembly introduced after the first day of January, 1991 shall be introduced and enacted in both English and French. The Attorney General is required to have the Revised Statutes of Ontario, 1990 produced in bilingual form before the 31st day of December, 1991 and the Attorney General has a similar obligation to have translated into French such regulations as the Attorney General considers appropriate.

The Provincial government's extensive support and encouragement of the use of French language in Ontario, particularly in the courts and in education, has created and will continue to create very significant pressures on the Law Society to reflect these changes.

23 June 1989

For some time, francophone organizations, including l'Association des juristes d'expression française de l'Ontario (l'A.J.E.F.O.) and the Association canadienne-française de l'Ontario (A.C.F.O.), have been encouraging the adoption of French language services by the Law Society of Upper Canada. Attached as Schedule "B" to this report are summaries of the recommendations made by these organizations, prepared by the Secretary to the Committee.

It is now theoretically possible for unilingual francophones, and indeed any students, to complete their legal education including the Call to the Bar in the French language. The University of Ottawa Law School now has a dynamic Common Law Section taught in the French language. Student registration for this program has increased dramatically. In the last 4 years, 85 persons have undertaken their seminar training at Bar Admission Course in Ottawa in the French language.

It should be mentioned that there are many members of the legal profession, most of whom are members of l'A.J.E.F.O., who are willing and able to contribute to C.L.E. programs and Bar Admission courses in the French language on a voluntary basis.

In the next few years there will develop a significant francophone bar concentrated primarily in eastern and northern Ontario. Those members of the bar will practise law almost exclusively in the French language. As a result, demand for bilingual services from the Law Society will dramatically increase. The Society must be prepared to answer this demand.

Certain Law Society personnel will be expected to have a capacity to converse and correspond in the French language. Within each department of the Society, there must be developed a bilingual capacity. This does not mean, however, that all Discipline counsel must be bilingual. What it does mean is that there must be at least one bilingual Discipline counsel. Similarly, there should be such a capability within each department of the Society. Obviously, the Reception desk and Complaints department must have bilingual capacity.

At our facilities in the city of Ottawa, particularly in light of the fact that they constitute the site for the Society's bilingual education program, staff must have bilingual capacity.

To some extent the Society has begun to implement this policy. But the policy must be formalized.

As noted in the statement of the issue, the question is not whether we have a French Language Services Policy but rather what the policy should be. In determining this policy, there are four major areas of consideration:

1. The capacity of the Benchers and staff of the Law Society to provide services in the French language.
2. The cost of providing French language services.
3. The public demand for French language services.
4. The demand from members of the Society to provide French language services.

Attached as Schedule "C" is a report from the Under Treasurer of the Law Society, which in turn is supported by the series of reports from the different program areas of the Law Society, commenting on the extent of services at present available in the French language and their capability of providing additional services. Some comment is also made on the cost.

23 June 1989

With respect to the question of costs, it should be noted that significant contributions can be obtained from the Federal government towards the cost of implementing a French Language Services Policy but these contributions can only be obtained if there is a formal policy commitment to French language services by the Law Society in terms that are satisfactory to the Federal government. The adoption of a French Language Services Policy would make our present ad hoc expenditures on French language services eligible for subsidy from the Federal government.

FRENCH LANGUAGE SERVICES POLICY PROPOSAL

Your Committee recommends that the following French Language Services Policy be adopted by the Law Society.

1. The Law Society is committed to providing services in the French language to its own members and to the public from Osgoode Hall and other Society offices in Toronto and from our facilities in the city of Ottawa.
2. The Law Society is committed to providing instruction and materials in the French language to students pursuing the Bar Admission Course in the city of Ottawa.
3. The Law Society is committed to providing Continuing Legal Education programs in the French language.
4. The Law Society is committed to reviewing its existing programs and future programs with the goal of bringing these programs into conformity with its policy on the provision of French language services.
5. The above commitments are subject to such limits as circumstances make reasonable and necessary with the goal of having the policy substantially implemented within three years.
6. The French Language Services Policy shall be reviewed annually to determine the progress of its implementation and to consider how particular programs might be improved.
7. For the purposes of implementing and monitoring its policy, the French Language Services Committee should be made a Standing Committee of the Law Society of Upper Canada.

IMPLEMENTATION OF POLICY AND COMMITMENT TO FUNDING

Your Committee further recommends that it be directed to prepare a strategy for the implementation of the French Language Services Policy recommended above. Such an implementation plan would identify and cost those elements of the policy that could be implemented in 1989/90 and provide projections for costs in subsequent years. In this regard, a preliminary estimate is that \$200,000 would enable the Law Society to make substantial progress in the implementation of the policy in 1989/90. As noted in the attached staff reports, between \$60,000 and \$70,000 would be required to retain a French Language Services Coordinator who might also serve as a basic translator supported by a bilingual secretary. The translation into French of the Annual Report and various forms, publications and other documents used by the Law Society together with some French language training for key personnel would use the balance of this allocation of monies. It should be noted that with a French Language Services Policy in place, significant amounts of this money may be recovered from the Federal government and a staff translator should reduce translation costs.

23 June 1989

It is also recommended that an application be made to the Ontario Law Foundation to assist the Law Society particularly with regard to those one-time costs that may occur in the initial implementation of this French Language Services Policy.

These recoveries and reductions in cost would offset some of the \$200,000 expenditure.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"Colin McKinnon"
Chair

It was moved by Mr. Wardlaw, that recommendation 1 be immediate but that recommendation 5 be amended to provide for a period of six years rather than three years for implementation of the report.

Not Put

Attached to original Report in Convocation File, copy of:

- Copy of Schedule to the French Language Services Act, 1986, Statutes of Ontario, 1986, Chapter 45
(marked Schedule "A")
- Summaries of recommendations made by various organizations, prepared by the Secretary of the Committee
(marked Schedule "B")
- Report from the Under Treasurer of The Law Society of Upper Canada, supported by series of reports from different program areas of the Law Society
(marked Schedule "C")

THE REPORT WAS ADOPTED

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COMPENSATION FUND COMMITTEE

Mr. Yachetti indicated that Item 1 in the report dealing with claims to both compensation fund and errors and omissions, was to be deleted from the report and referred back to the Committee.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMPENSATION FUND COMMITTEE begs leave to report:

Your Committee met on Thursday, June 8th, 1989 at 11:30 a.m. the following members being present: Messrs. Yachetti (Chair), Ms. Peters (Vice-Chair), Ms. Callwood, Lerner, Mrs. MacLeod, Noble, Strosberg and Thom. Mr. P.B. Bell and Mrs. H.A. Werry also attended.

23 June 1989

A.

POLICY

1. CLAIMS TO BOTH COMPENSATION FUND
AND ERRORS AND OMISSIONS

The Secretary reported that a matter has arisen concerning a claim to the Compensation Fund that is also the subject matter of a claim to the Errors and Omissions Fund. The policy of the Compensation Fund is that claims should be made to the Compensation Fund as a last resort after other avenues of recovery have been attempted.

Your Committee recommends that no claim by a client against the Compensation Fund shall be proceeded with until the claimant has exhausted all reasonable remedies against the solicitor or solicitors, including any claim against the solicitors' Innocent Partners' Liability Insurance.

A Memorandum explaining the background to this policy decision is attached.

(Pages A - 1 & A - 2)

Note: See amendment on page¹⁰⁰.

B.

ADMINISTRATION

1. SOLICITORS NUMBERED 2, 6, AND 8

Solicitors numbered 2, 6, and 8 are suspended for non-payment of the Errors and Omissions levy. The three solicitors were acquitted on criminal charges by the Court of Appeal. The Discipline department decided not to proceed with Discipline complaints against the above three solicitors. The Compensation Fund has three claims totalling \$190,847. against each of solicitors numbered 2, 6, and 8. These are duplicate claims filed against each of the three lawyers because it was uncertain as to which lawyer had the solicitor/client relationship with the clients. In 1983 the Referee, J.S. Boeckh, Q.C., heard the claims of the three claimants against solicitor number 2. The Hearing proceeded on the basis that all three claims against solicitor number 2 would be heard, and that if it was necessary to have the same three claims heard against solicitors numbered 6 and 8, this could be done at a later date, and these claims were adjourned sine die.

The Referee agreed to hear the three claims on the understanding that his Report would not be considered by the Compensation Fund Committee or be made public until after the Discipline investigation which was to be completed after the disposition of the criminal charges.

The Referee made his Report in 1983, and recommended grants to the three claimants totalling \$36,400. (the balance of the \$190,847. to be written-off).

The Referee's recommendation for grants from the Fund was made on the condition that there not be any payment to the claimants until all avenues of recovery, including the sale of the property, have been, to the satisfaction of the Society, fully exhausted. The Society has learned that the property was sold in June of 1986 for \$125,000. and the three claimants received \$10,377.42 in cash, and a 50% interest in a first mortgage-back of \$85,000.00 interest only, quarterly at 8.5% per annum, due June 30th, 1991. The mortgage is presently in good standing and if it is completely paid off by June 30th, 1991, there will be no loss to the claimants, and no payments out of the Fund.

23 June 1989

Your Committee recommends that the Admissions Committee be advised that the reinstatement application of Solicitor number 6 be considered without regard to the claims to the Compensation Fund. Your Committee feels that it is very unlikely that the Compensation Fund will pay any grants out of the Fund concerning solicitor number 6.

Mr. Yachetti took no part in the discussion and did not vote.

2. GUIDELINES USED BY STAFF IN
RECOMMENDING A GRANT BY A MEMORANDUM

The Secretary reported that the Guidelines used by staff in recommending payment of a grant by a Memorandum to the Compensation Fund Committee were before the Committee for approval.

Your Committee approved of the Guidelines used by staff in recommending the payments of grants.

3. AMERICAN BAR ASSOCIATION
CLIENTS' INDEMNITY FUND - CONFERENCE

Mrs. MacLeod and Mrs. H.A. Werry reported to the Committee on attending the above conference in Chicago on May 19th, 1989.

Your Committee instructed the Secretary to ask the Public Information Committee to add a tape on the Compensation Fund to the Dial-a-Law collection.

4. MEMORANDA OF ASSISTANT SECRETARIES

The Secretary reported that six Memoranda of Assistant Secretaries were approved by the Review Committee. The grants are shown on Schedule "A" attached hereto.

(marked Page B - 1)

C.

1. The total amount of accounts approved by Assistant Secretaries for the month of May 1989 was \$3,516.23

2. The Financial Summary, and Activity Report for the month of May 1989 are attached.

(Pages C - 1 & C - 2)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"Roger Yachetti"
Chair

23 June 1989

Attached to original Report in Convocation File, copy of:

A-Item 1 - Memorandum to Convocation Re: Claims to Both - Compensation Fund and Errors and Omissions

(marked A1 and A2)

B-Item 4 - Compensation Fund Grants Approved by the Review Committee and by the Compensation Fund Committee, Thursday, June 8th, 1989

(marked B1)

C-item 2 - Financial Summary and Activity Report for the period July 1st, 1988 - May 31st, 1989 and Activity Report dated May 31st, 1989

(marked C1 & C2)

THE REPORT AS AMENDED WAS ADOPTED

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LEGAL AID COMMITTEE

Mr. T. G. Bastedo, Chair, presented the Report of the Legal Aid Committee of its meeting on Thursday, the 8th June, 1989.

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, June 8, 1989, the following members being present: Thomas G. Bastedo, Chair, Mr. Bond, Ms. Callwood, Ms. Curtis, Mrs. Fleming, Ms. Garton, Messrs. Gilchrist, Hartnett, Ms. Janczaruk, Dr. Lamb, Messrs. McDowell, Paisley, Ms. Poulin and Mr. Topp.

The following observer member was also present: Ms. Alison Fraser, representing the Ministry of Community and Social Services.

A.
POLICY

1. (a) Report of the Sub-Committee on Disbursements

The Legal Aid Committee reviewed the Report of the Sub-Committee on Disbursements which is attached hereto as Schedule "A".

(b) Report on the Status of Reviews in the Legal Department

The Legal Aid Committee reviewed the Report on the Status of Reviews in the Legal Accounts Department which is attached hereto as Schedule "B".

B.
ADMINISTRATION

1. REPORT OF THE DEPUTY DIRECTOR, FINANCE, MARCH 31, 1989

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the twelve months ended March 31, 1988 takes the form of the following financial statement:

Ontario Legal Aid Plan

Statement of Income and Expenditure
Twelve Months Ended March 31, 1988

	12 Mo. Actual 1987/88	Revised 12 Mo. Budget 1988/89	12 Mo. (Unfavourable) Actual 1988/89	Favourable Variance 1988/89
<u>Opening Balance</u>	80.1	190.9	190.9	
<u>Income</u>				
Treasurer of Ontario	88,535.6	98,466.0	105,316.2	6,850.2
Family Violence Grant		275.0	275.0	-
Law Foundation	13,986.0	14,000.0	23,084.0	9,084.0
Client Contributions	5,781.0	6,800.0	7,781.8	981.8
Client Recoveries	1,458.7	1,458.0	1,630.4	172.4
Research Sales	166.6	150.0	119.4	(30.6)
The Law Society	3,307.6	3,469.0	3,564.6	95.6
Miscellaneous	343.1	319.0	915.9	596.9
	<u>113,658.7</u>	<u>125,127.9</u>	<u>142,878.2</u>	<u>17,750.3</u>
<u>Expenditure</u>				
Certificate Accounts	72,213.3	97,440.0	98,769.4	(1,329.4)
Duty Counsel Fees				
& Disbursements	7,116.6	7,626.0	7,486.1	139.9
Salaried Duty Counsel	621.8	663.6	662.4	1.2
Community Clinics	18,169.3	19,038.0	19,069.3	(31.3)
Student Legal Aid Societies	752.4	831.6	789.6	42.0
Research Facility	1,235.5	1,313.1	1,330.6	(17.5)
Area Office Administration	7,922.9	8,392.0	8,377.5	14.5
Provincial Office				
Administration	5,436.1	5,484.0	5,958.3	(474.3)
Refugee Administration	-	-	65.2	(65.2)
	<u>113,467.8</u>	<u>140,788.3</u>	<u>142,508.4</u>	<u>(1,720.1)</u>
<u>Closing Balance</u>	<u>190.9</u>	<u>(15,660.4)</u>	<u>369.8</u>	<u>16,030.2</u>

.....

23 June 1989

Statistics

The following table compares reported activity for the twelve months ended March 31, 1989 with activity for the previous fiscal year:

	12 Months Ended 1989	March 31 1988	% Change from Last Year
Summary Legal Advice	53,973	54,724	(1.4%)
Referrals to Other Agencies	91,845	85,029	8.0%
Applications for Certificates	138,215	132,321	4.4%
Refusals	28,705	29,528	(2.8%)
As a Percentage of Applications	20.8%	22.3%	
Certificates Issued	109,515	102,816	6.5%
Persons Assisted by Duty Counsel:			
Fee for Service	229,039	219,083	4.5%
Salaried	72,288	N/A	-

LEASES

Lindsay	Address:	22 Peel Street, Lindsay
	Term:	Renewal - June 1, 1989 to May 31, 1994
	Rent:	\$960.00 per month, net
	Area:	768 square feet
Orangeville	Address:	22-28 Mill Street, Orangeville
	Term:	New - July 1, 1989 to June 30, 1992
	Rent:	\$800 per month, net
	Area:	597 square feet

2. (a) REPORT ON THE PAYMENT OF SOLICITORS
ACCOUNTS FOR THE MONTH OF MAY, 1989

A Report on the Payment of Solicitors Accounts for the month of May, 1989 is attached hereto as Schedule "C".

(b) REPORT ON THE STATUS OF REVIEWS FOR
THE MONTH OF APRIL AND MAY, 1989

A Report on the Status of Reviews for the months of April and May, 1989 is attached hereto as Schedule "D".

ALL OF WHICH is respectfully submitted

DATED this 8th day of June, 1989

"T. G. Bastedo"
Thomas G. Bastedo, Q.C.
Chair

Attached to original Report in Convocation File, copy of:

A-1 (a) - Report of the Disbursements Sub-Committee, Prepared For
The Legal Aid Committee Meeting of June 8, 1989

(marked Schedule "A" - Pages 1 - 7)

23 June 1989

A-1 (b) - Report of the Legal Aid Committee, Re: Status of Reviews
In the Legal Accounts Department, June 8, 1989

(marked Schedule "B" - Pages 1 - 4)

A-2 (a) - Report on Final Accounts Paid, Month of May, 1989

(marked Schedule "C" - Pages 1 & 2)

A-2 (b) - Legal Accounts Department, Monthly Report, April 30th, 1989
and May 31st, 1989

(marked Schedule "D" - Pages 1 & 2)

THE REPORT WAS ADOPTED

.....

CLINIC FUNDING

Mr. P. Epstein, Chair, presented the Report of the Clinic Funding
Committee of its meeting on May 16, 1989.

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 June 9, 1989 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

June 9, 1989

ATTACHMENT:

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

The Clinic Funding Committee met on May 16, 1989. Present were:
Philip Epstein, Q.C., Chair, Helen King MacLeod, Oliver Carroll, Thea
Herman.

23 June 1989

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Training funds

(i) Ontario Tenants Organize

The Clinic Funding Committee has reviewed an application from Dundurn Community Legal Services for training funds to assist clinic staff involved in landlord and tenant and rent review work to attend a conference on tenants' organizations and tenants' legal rights. The Committee recommends that Convocation approve the allocation of up to \$3,000 for this purpose.

2. Capital Purchases

a. The Clinic Funding Committee has reviewed the initial decisions of the clinic funding staff on the allocation of funds for capital purchases, and has approved the allocation of a total of \$75,833 to 35 community legal clinics. Capital purchases in this category include dictating equipment, office furniture, office equipment, and some minor office renovations. As is the Committee's normal practice, surplus funds held by clinics at March 31 of the previous fiscal year are allocated for these purposes rather than using funds from the Committee's current operating budget.

b. Taking into account the availability of surplus funds held by community legal clinics at the end of the last fiscal year, the Committee has approved the allocation of up to \$100,000 for the purpose of 20 personal computers, and up to \$87,500 for the purchase of 35 additional fax machines. The personal computer purchase is part of an overall plan previously approved by the Clinic Funding Committee to automate the bookkeeping in community legal clinics which, when completed, will reduce bookkeeping expenses by approximately \$100,000 per year, and improve the quality of bookkeeping in the clinic system.

3. Application for Incorporation

a. Rainy River District Community Legal Clinic

Pursuant to the directions of Convocation, the Clinic Funding Committee has reviewed, as to name and objects, an application for incorporation from Rainy River District Community Legal Clinic. The Committee recommends Convocation's approval of this application.

B. INFORMATION

1. Designation of 1989/90 Budget

Attached for the information of Convocation is a letter from the Honourable Ian G. Scott, Attorney General for Ontario, designating the Committee's budget, on an interim basis in the amount of \$20,697,550.

23 June 1989

Discussions are currently ongoing between the Clinic Funding Committee, the Legal Aid Committee and the Ministry of the Attorney General concerning the allocation of up to \$2.5 million in additional funds for expansion of clinic services, which were announced in the recent provincial budget. It is anticipated that a further designation of funds will be made by the Attorney General once plans for use of those additional expansion funds have been approved.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Chair
Clinic Funding Committee

June 9, 1989

Attached to original Report in Convocation File, copy of:

B-1 - Letter dated May 19, 1989 from Ian Scott, Attorney General, to
Mr. Philip Epstein, Chair, Clinic Funding Committee, Ontario
Legal Aid Plan

THE REPORT WAS ADOPTED

.....

SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Mr. F. M. Cass, Chair, presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, the 8th June, 1989.

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

The SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST begs leave to report:

Your Committee met on Thursday, the 8th of June, 1989 at 9:30 a.m., the following members being present: Mr. Cass (Chair), Mrs. Weaver, Ms. Callwood and Mr. Furlong (ad hoc).

B.
ADMINISTRATION

The Committee reviewed continued periodical payments made by the J. Shirley Denison Fund and requested that up-to-date financial statements be obtained from the recipients.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"F. M. Cass"
Chair

THE REPORT WAS ADOPTED

.....

23 June 1989

LIBRARIES AND REPORTING COMMITTEE

Mr. R. C. Topp, presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, the 8th June, 1989.

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, June 8th, 1989 at 9:30 a.m. the following members being present: Messrs. Murphy (Chair), Bragagnolo (Vice-Chair), Ms. Bellamy, Cullity, Farquharson and Topp. P. Bell and G. Howell also attended.

B.

ADMINISTRATION

1. ONTARIO REPORTS - CASE SELECTION GUIDELINES

The Secretary reported that a number of complaints were received concerning the length of a case reported in the Ontario Reports. The Committee met with representatives of the publisher and discussed these concerns. The representatives of the publisher acknowledged the problem and agreed to discuss it with the Editorial Board of the Ontario Reports and the Judges involved.

C.

INFORMATION

1. BOOK LIST

The Great Library will be adding 72 new titles to its book collection for June 1989.

2. FINANCIAL STATEMENT

The Financial Statement for the eleven months ended May 31st, 1989 was approved.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"R. C. Topp"
Chair

THE REPORT WAS ADOPTED

.....

FINANCE COMMITTEE

Mr. J. D. Ground, Chair, presented the Report of the Finance Committee of its meeting on Thursday, the 8th June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th day of June 1989 at three o'clock in the afternoon, the following members being present: Messrs. Ground, (Chair), Guthrie, (Vice-Chair), Furlong, Lamek, Lamont, Lerner, Noble, Topp and Mrs. Weaver.

B.

ADMINISTRATION

1. ADVOCACY SYMPOSIUM - MAY 1990

John A. Olah, on behalf of the organizing committee of the Advocacy Symposium, has asked the Society to consider contributing \$15,000 towards the Advocacy Symposium. In particular he seeks sponsorship of a special dinner in honour of the three Chief Judges from the United States, Canada and England on Saturday, May 5th 1990. A letter from Mr. Olah was before the May meeting.

The Chair has written to Mr. Olah for more detail but has not yet received a response. The Chair will report back to the Committee in September.

Noted

2. GRANT TO JOINT COMMITTEE ON COURT REFORM

In January the Committee approved a payment of \$10,000 to the C.B.A.O. to cover the work of Joint Committee on Court Reform. A letter from Dennis O'Connor was attached and indicated that this money would be reimbursed to the Society once the Committee's application to the Law Foundation was approved.

It has come to our attention subsequently that it was not the understanding of the C.B.A.O. that the \$10,000 advance would be reimbursed to the Society, but was part of the total funding of the Court Reform project. A letter from Linda Manning, Executive Director of the C.B.A.O., describes their understanding of the \$10,000 payment which the Committee has approved. The C.B.A.O. also seeks a further \$10,000 from the Society's upcoming budget year as operating funding. Attached to the letter from Linda Manning are the budgets for the Joint Committee.

The Committee was asked to consider the payment of \$10,000 for the 1988/89 fiscal year as not being refundable, and to approve a further \$10,000 for the 1989/90 fiscal year.

Approved

3. ANNUAL FEES - BILLING DATE

A memorandum concerning changing the billing date was before the Committee.

The Director asked that no change be made to the billing date and that members be allowed until December 31st each year to claim adjustment of fees based upon a change in membership status.

Approved

23 June 1989

4. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 59 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 59 cases all or part of the late filing fee has been outstanding four months or more. The 59 members owe \$34,055.00 of which \$5,110.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 59 members be suspended on June 23rd 1989 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: See note on page 116.

5. RULE 50

(a) Miscellaneous Fees

Rule 50 sets out the following miscellaneous fees:

Special petitions	\$10
Certificate of good standing	\$10
Transcript of class standing and rating in individual subjects	\$10
Additional copies	\$ 2
Duplicate diploma	\$10
Letter certifying that a member is in good standing	\$10

These fees were last changed in October 1980, and had remained unchanged for many years prior to that.

It is suggested that all these fees be increased as follows:

Special petitions - name changes	\$10
Special petitions - legal education	\$25
Certificate of good standing	\$25
Transcript of class standing and rating in individual subjects	\$25
Additional copies	\$ 5
Duplicate diploma	\$25
Letter certifying that a member is in good standing	\$25

The charges represent a recovery of costs, for instance a duplicate diploma costs approximately \$25.00 for the document, calligraphy, postage and administrative time.

Approved

(b) Indemnity for Professional Liability

Rule 50 sets out the ratios of levies payable by members through the fiscal year. The current information is incorrect as it reflects the ratios on a calendar year basis. Therefore, the ratio of levies payable by members entering the practice throughout the term should read as follows:

- (i) By any member who commences practice in July, August or September of any year
.....100 % of the prescribed levy;

23 June 1989

- (ii) By any member who commences practice in October, November or December of any year
.....75% of the prescribed levy;
- (iii) By any member who commences practice in January, February or March in any year except those called to the bar in March of any year
.....50% of the prescribed levy;
- (iv) By any member who is called to the bar and commences practice in March of any year
.....25% of the prescribed levy.
- (v) By any member who commences practice in April, May or June of any year
.....25% of the prescribed levy;

Approved

6. CHANGES OF NAME

The following members and student members have requested that their names be changed on the Rolls of the Society and have submitted the required documentation:

Members

<u>From</u>	<u>To</u>
Jill Elizabeth Scrutton	Jill Elizabeth <u>Scrutton-Fulford</u> (Married Name)
Tamarin Melda Dunnet Sagel	Tamarin Melda <u>Dunnet</u> (Maiden Name)
Sandra Jill Langer-Mann	Sandra Jill <u>Mann</u> (Married Name)
Frank Michael	<u>Ephraim</u> Michael (Name Change Certificate)
Kelly Patrice Taylor	Kelly Patrice Taylor <u>Edmonds</u> (Married Name)
Deborah Nadine Sole	Deborah Nadine <u>Silver</u> (Married Name)
Janice Ivy Heft	Janice Ivy <u>Sheiner</u> (Married Name)

The petitions submitted by the members are in order and the Committee was asked to recommend that the changes be entered in the Rolls.

Approved

7. MEMBERSHIP UNDER RULE 50

(a) Retired Members

John Louis Den Ouden of Niagara Falls, Ontario who is sixty years of age or over and fully retired from the practice of law, has requested permission to continue his membership in the Society without payment of annual fees.

23 June 1989

Charles Frederick Paul Robertson of Ottawa, Ontario, was called to the Bar on the 14th of September 1951. Mr. Robertson paid annual fees to the Society up to and including the 1985-86 year. Because of the cost of maintaining membership, Mr. Robertson let it lapse unaware that he could have applied for retired status under Rule 50. The retirement age under the Rule was changed to 60 in January 1984. Arrears of fees now total \$2,098.00. He is up to date in annual filings.

Mr. Robertson asks for consideration of his request to continue membership as a retired member, without payment of annual fees, beginning with the period of 1986-87.

The applications of the above members are in order and the Committee was asked to approve them.

Approved

RESIGNATION - REGULATION 12

Kenneth James Gorman of Gloucester, Ontario has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 25th of March 1977 and practised law for only one year or so. His rights and privileges as a member of the Society were suspended on the 1st of February 1979 for his failure to pay the 1978-79 fees. Arrears of fees now total \$6,759.00. His annual filings are up to date. Mr. Gorman has submitted a special request to be relieved of publication in the Ontario Reports giving for reasons the very short time that he practised law and the expense of publication.

Mr. Gorman's declaration is in order and the Committee was asked to approve it without payment of the arrears of fees and without publication in the Ontario Reports.

Approved

8. LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of June 15, 1989:

Stanley Champion Biggs	Toronto
Walter Halcro Calvin Boyd	Toronto
Ronald George Burrows	Don Mills
Donald William Mass Cooper	Toronto
* Gregory Thomas Evans	Toronto
Alfred William Grant Farwell	Port Hope
Kenneth Archibald Foulds	Willowdale
Arthur Nixon Kearns	Guelph
Samuel Lerner	London
Mervin Mirsky	Nepean
David James Ongley	Caesaria
Rupert Alfred Parkinson	Toronto
Roy Clement Sharp	Kitchener
James Innes Stewart	Toronto
Edgar Seton Thorne	White Rock, B.C.

* See also membership restored

Noted

9. MEMBERSHIP RESTORED

The Honourable Goldwin Arthur Martin, Q.C. gave notice under section 31 of The Law Society Act that he had retired as a Judge of the Supreme Court of Ontario and that he wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective 16th May 1989. Mr. Martin is entitled to life membership having been called to the Bar on 16th June 1938.

23 June 1989

The Honourable Gregory Thomas Evans, Q.C. gave notice under section 31 of The Law Society Act that he had retired as a Judge of the Supreme Court of Ontario and that he wished to be restored to the Rolls of the Law Society. Accordingly, his membership was restored effective 1st June 1989. *See also Life Member

Garry John Guzzo, Q.C. gave notice under section 31 of the Law Society Act that he had retired as a Judge of the Provincial Court, Family Division and that he wished to be restored to the Rolls of the Law Society. Accordingly, his membership will be restored effective 1st July 1989.

Noted

C.
INFORMATION

1. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Rupert Beatty Carleton Westmount, Quebec	Called September 19th 1958 Died January 31st 1989
Arthur Campbell Burgess Toronto	Called June 29th 1948 Died March 16th 1989
Eric William Scott Toronto	Called June 28th 1956 Died March 17th 1989
George Allan Guthrie London	Called March 26th 1971 Died April 10th 1989
Edna Yuet-Lui Chan Toronto	Called April 8th 1987 Died April 28th 1989
Henry Borden Toronto (Life Member)	Called November 24th 1927 Died May 5th 1989
John David Hilton Niagara-on-the-Lake	Called June 19th 1947 Died May 12th 1989
Peter Gilles Picherack Toronto	Called March 29th 1977 Died May 21st 1989
Heather Louise Main North York	Called April 5th 1979 Died May 21st 1989

Noted

(b) Membership in Abeyance

Upon his appointment to the office shown below the membership of the following member has been placed in abeyance under section 31 of The Law Society Act:

Andre Leo Guay Sudbury	Called March 25th 1977 Appointed Judge, Provincial Court, Family Division, District of Sudbury
---------------------------	------------------------------------------------------------------------------------------------------

Noted

23 June 1989

2. STAFF CHANGES

The Director reported the following staff changes.

Legal Education

Ms. Ambreen Bhola has commenced employment as a clerk-typist in the Continuing Legal Education department effective May 8th 1989.(R)

Ms. Margaret Redding has resigned as an assistant registrar in the Ottawa Bar Admission Course effective April 21st 1989.

Ms. Helen Woolgar has resigned as a secretary in the Bar Admission Course effective May 5th 1989.

Mr. Joseph McDonald has resigned as an accounts clerk in the Continuing Legal Education Department effective May 19th 1989.

Mr. George Thomson has resigned as Director of Legal Education effective March 31st 1989.

Ms. Brenda Good has resigned as a xerox operator in the Printing Department effective April 14th 1989.

Ms. Karen Phillips has commenced employment as a secretary in the Bar Admission Course effective April 25th 1989.(R)

Ms. Paula Zorzi has resigned as a secretary in the Bar Admission Course effective May 5th 1989.

Ms. Mary Lum has commenced employment as a word processor in the Continuing Legal Education Department effective May 15th 1989.(R)

Ms. Natalie Lehkyj has resigned as a programme co-ordinator in the Continuing Legal Education Department effective June 2nd 1989.

Mr. Leon Mesa has resigned as a pressman in the Printing Department effective May 19th 1989.

Secretariat

Mr. John Beaufoy has resigned as Public Information Officer effective May 15th 1989.

Ms. Marilyn Bayley has commenced employment as a secretary in the Discipline Department effective May 8th 1989.(R)

Mr. Thomas Ranton has resigned as a secretary in the Compensation Fund Department effective May 9th 1989.

Ms. Marion Telesford has commenced employment as a secretary in the Complaints Department effective April 6th 1989.(R)

Mr. Peter Guest has resigned as an investigator in the Discipline Department effective April 15th 1989.

Ms. Robin Spencer has resigned as a secretary in the Audit Department effective April 21st 1989.

Ms. Joyce Hatch has resigned as a secretary in the Secretary's Office effective April 14th 1989.

Ms. Christine Shaw has resigned as a secretary in the Discipline Department effective April 28th 1989.

23 June 1989

Mr. Vittorio Centofanti has resigned as a caretaker in the Maintenance Department effective April 14th 1989.

Ms. Julianna Foster has commenced employment as an examiner in the Audit Department effective May 29th 1989.(R)

Ms. Janine Parent has resigned as a secretary in the Discipline Department effective June 2nd 1989.

Finance

Ms. Wendy Cook has resigned as a secretary in the Records Department effective May 9th 1989.

Ms. Fanny Liao has commenced employment as a programmer in the Computer Department effective May 29th 1989.(N)

Ms. Cynthia Reyes has commenced employment as a secretary in the Records Department effective May 23rd 1989.(R)

Great Library

Mr. Alex Schmidt has resigned as a library assistant effective May 29th 1989.

Noted

3. LEGAL MEETINGS AND ENTERTAINMENT

The Canadian Dispute Resolution Corporation, a private company, is planning three Lawyer's Information Sessions on Mediation in the Motor Vehicle Litigation area. The sessions will be held during June at three different locations. Members of the plaintiff bar are being invited to attend. They are requesting permission to use the Small Dining Room for one session on June 21st 1989 from 8:30 a.m. - 10:00 a.m.

The Committee was asked to consider the request from the Canadian Dispute Resolution Corporation for use of the Small Dining Room.

Denied

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June 1989

"John D. Ground"
Chair

THE REPORT WITH THE EXCEPTION OF ITEM B - 4 WAS ADOPTED

.....

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

It was moved by Mr. Ground, seconded by Mr. Lerner, that the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the following list be suspended from the 23rd of June, 1989 for one year and from year to year thereafter or until that fee has been paid together with any other fee

23 June 1989

or levy owing to the Society which has then been owing for four months or longer.

LIST A

MEMBERS IN DEFAULT IN ANNUAL FILING AND
WHO HAVE NOT PAID THE LATE FILING PENALTY

<u>Name</u>	<u>Location</u>	<u>Late Filing Penalty Position as at June 23, 1989</u>	
		<u>Outstanding Over 4 Months</u>	<u>Total Owing</u>
Altman, Samuel Godfrey	Toronto	\$ 70.00	\$600.00
Deroux, James Keith	Orangeville	140.00	600.00
Hickman, Rodney Jerome	Toronto	70.00	600.00
Koster, Nancy Grace	Newmarket	70.00	600.00
Levy, Harold Joseph	Toronto	70.00	600.00
Martin, Stephen Paul	Toronto	70.00	600.00
Milroy, Thomas Voysey	Toronto	70.00	600.00
Plamondon, Susan Norma Mary	King	70.00	600.00
Strachan, Ian James	Agincourt	70.00	600.00
Wong, Marion Yuen Yee	Toronto	70.00	600.00

LIST B

MEMBERS WHO HAVE FILED BUT HAVE
FAILED TO PAY THE LATE FILING PENALTY

<u>Name</u>	<u>Location</u>	<u>Late Filing Penalty Position as at June 23, 1989</u>	
		<u>Outstanding Over 4 Months</u>	<u>Total Owing</u>
Black, Christopher Charles	Hamilton	\$70.00	\$405.00
Kernerman, Robert Maurice	Toronto	70.00	160.00

Carried

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PROFESSIONAL STANDARDS

Mr. R. G. Ferguson presented the Report of the Professional Standards Committee of its meeting on Thursday, the 8th June, 1989.

23 June 1989

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on the 8th day of June, 1989 at eleven thirty in the morning the following members being present: Mr. Lyons (Chair), Mr. Farquharson (Vice-Chair), Ms. Bellamy, Mr. Ferguson, Mr. Furlong, Mr. Guthrie, Ms. Harvey, Ms. Poulin and Mrs. Weaver. Also present were Ms. Angevine, Ms. Duncan, Ms. Poworoznyk, Ms. Rose and Messrs. Kerr, Marshall and Stephany.

B.

ADMINISTRATION

1. SOLICITOR NUMBER 6

An initial practice review of the solicitor's practice revealed a number of deficiencies and subsequently remedial steps were recommended to deal with them. A follow-up practice review indicated that the solicitor had satisfactorily implemented the remedial programme. The Committee therefore recommended that the file be closed.

2. SOLICITOR NUMBER 17

The solicitor retired from practice effective April 30, 1989. The Committee recommended that the file be closed.

C.

INFORMATION

1. SUB-COMMITTEE ON THE COMPETENCY OF CRIMINAL LAWYERS - JURISDICTION OVER CROWN ATTORNEYS

At its May 11 meeting, the Committee considered a legal opinion prepared by John F. Howard, Q.C., of the firm Blake, Cassels & Graydon on the above referenced subject. A letter has been sent to Mr. Howard summarizing concerns raised by the Committee at that meeting and seeking clarification on a number of issues.

2. SUB-COMMITTEE ON THE COMPETENCY OF CRIMINAL LAWYERS - CRIMINAL LAW DEFENCE COUNSEL CHECKLIST

The checklist was recently included as part of a mailing for purposes of updating the Law Society Manual. Every law office in Ontario has at least one copy of the manual.

3. SUB-COMMITTEE ON FAMILY LAW

Ms. Harvey reported to the Committee on the sub-committee's activities. Its next meeting is scheduled for June 20, 1989.

4. PRACTICE REVIEW PROGRAMME - LIST OF REVIEWERS

The Committee considered an updated list of Professional Standards Practice Reviewers. It was recommended that the list be sent to the Standards Committee of the County and District Law Presidents' Association for its review.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"R. G. Ferguson
for" Chair

THE REPORT WAS ADOPTED

.....

23 June 1989

UNAUTHORIZED PRACTICE COMMITTEE

Mr. C. D. McKinnon, Vice-Chair, presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, the 8th June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The UNAUTHORIZED PRACTICE DEPARTMENT begs leave to report:

Your Committee met on Thursday, the 8th of June, 1989 at 10:30 a.m., the following members were present: Mr. McKinnon (Vice-Chair), Ms. Callwood, Messrs. Carter, Cass, Farquharson, Ms. Harvey, Messrs. Hickey, Lawrence, Shaffer and Ms. Weaver. Also in attendance were: Messrs. Ballantyne and Traviss.

B.

ADMINISTRATION

1. ACCOUNTS

Accounts of counsel and investigators were approved in the total amount of \$20,218.92.

2. INVESTIGATIONS

The Society does not have sufficient evidence in certain cases to commence prosecutions. The Committee authorized a request to the Treasurer for the use of investigators who will not disclose that they are from the Law Society and to authorize the commencement of prosecutions when the necessary evidence is obtained.

3. LEGAL WORK PERFORMED BY MUNICIPAL PLANNERS AND PLANNING FIRMS

The Department has received correspondence from William C. Grant, Barrister and Solicitor, in which he expresses concern that municipal planners and planning firms are engaged in the practice of law in the course of their other responsibilities. Your Committee has asked its Secretary to seek the opinions of other solicitors involved in this type of work in order to determine the extent of this practice throughout the province.

4. REFERRAL FROM PROFESSIONAL CONDUCT

Stephen Traviss has asked your Committee to consider a letter from a member which outlines a practice proposal from his firm that raises both professional conduct and unauthorized practice issues. Your Committee considered the letter from a member and satisfied itself that it had no objections to the proposals outlined therein.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"Colin McKinnon
Vice-"Chair

Attached to original Report in Convocation File, copy of:

A list of matters pending

(Pages 2 & 3)

THE REPORT WAS ADOPTED

.....

23 June 1989

LEGISLATION AND RULES COMMITTEE

Mr. F. M. Cass presented the Report of the Legislation and Rules Committee of its meeting on Friday, the 23rd June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee considered this matter on Friday, the 23rd of June, 1989 the following members being consulted: Messrs. Noble (Chair), Cass, Cullity and Lerner.

A.

1. Proposed Amendment to S.47 of the Rules Made Under the Law Society Act

At the Convocation held in June 1988, the request of the Legal Aid Committee to seek an amendment to the above-noted section of the Rules through the Legislation and Rules Committee was approved. At present, subsection (1) of section 47 reads as follows:

- 47(1) There shall be a standing committee known as the Legal Aid Committee composed of 25 members as follows:
- (a) eight members who shall be Benchers appointed by Convocation;
 - (b) eight members who shall be non-Bencher members of the Society appointed by Convocation;
 - (c) eight members who shall be persons who shall be appointed by the Lieutenant Governor in Council;
 - (d) one member who shall be a member of a Student Legal Aid Society and appointed by Convocation annually.

As proposed by the Legal Aid Committee, subsections (1) and (2) of section 47 would read as follows:

- 47(1) There shall be a standing committee known as the Legal Aid Committee composed of 22 members as follows:
- (a) seven members who shall be Benchers appointed by Convocation;
 - (b) seven members who shall be non-Bencher members of the Law Society appointed by Convocation;
 - (c) seven members who shall be persons who shall be appointed by the Lieutenant Governor in Council;
 - (c) one member who shall be a member of a Student Legal Aid Society and appointed by Convocation annually.
- (2) On November 13, 1989, 2 members of categories (a), (b) and (c) shall retire resulting in a Committee composed of 16 members.

(The present s.47(2) would become s.47(3); s.47(3) would become s.47(4), etc.)

23 June 1989

While the proposed amendment of s.47(1) met with the Committee's approval, the Committee recommended that, in order to provide more clarity, s.47(2) should be amended to read as follows:

47(2) On and after November 13, 1989, the Committee shall be composed of 16 members as follows:

- (a) five members who shall be Benchers appointed by Convocation;
- (b) five members who shall be non-Bencher members of the Law Society appointed by Convocation;
- (c) five members who shall be persons who shall be appointed by the Lieutenant Governor in Council;
- (d) one member who shall be a member of a Student Legal Aid Society and appointed by Convocation annually.

At the Convocation held September 23, 1988, the report of the Legislation and Rules Committee, recommending the above noted amendment of s.47 of the Rules proposed by the Legal Aid Committee as further amended by the Legislation and Rules Committee was amended to read "that subject to such variations in wordings of section 47 as may be agreed upon with the Chair of Legal Aid" and adopted. The Chair of the Legal Aid Committee has agreed with the wording proposed by the Legislation and Rules Committee (see letter attached).

It is, therefore, recommended that pursuant to paragraph 10 of subsection 62(1) of the Law Society Act section 47 of the rules be amended to read as follows:

47(1) There shall be a standing committee known as the Legal Aid Committee composed of 22 members as follows:

- (a) seven members who shall be Benchers appointed by Convocation;
- (b) seven members who shall be non-Bencher members of the Society appointed by Convocation;
- (c) seven members who shall be persons who shall be appointed by the Lieutenant Governor in Council;
- (d) one member who shall be a member of a Student Legal Aid Society and appointed by Convocation annually.

(2) On and after November 13, 1989, the Committee shall be composed of 16 members as follows:

- (a) five members who shall be Benchers appointed by Convocation;
- (b) five members who shall be non-Bencher members of the Law Society appointed by Convocation;
- (c) five members who shall be persons who shall be appointed by the Lieutenant Governor in Council;
- (d) one member who shall be a member of a Student Legal Aid Society and appointed by Convocation annually.

(3) There shall be a Chair who shall be a Bencher and two Vice-Chairs of whom one shall be a Bencher.

(4) The Treasurer is ex officio a member of the Committee.

- (5) The committee is responsible to Convocation for the supervision of the Ontario Legal Aid Plan under The Legal Aid Act.
- (6) The Committee shall hold,
 - (a) regular meetings once in each month, other than July and August, and at least once in the period of July and August;
 - (b) special meetings as may be required from time to time by the chair, vice-chair or secretary of the committee;
 - (c) the chair of the meeting shall have a vote on all questions and in the event of a tie vote shall also have the casting vote.
- (7) Nine members present at a meeting of the Committee constitute a quorum for the transaction of business.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"R. W. Cass"
Chair

THE REPORT WAS ADOPTED

.....

PUBLIC INFORMATION COMMITTEE

Ms. J. Callwood presented the Report of the Public Information Committee of its meeting on Thursday, the 8th of June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PUBLIC INFORMATION COMMITTEE begs leave to report:

Your Committee met on Thursday, June 8, 1989, the following members were present: Mr. Outerbridge (Chair), Ms. Callwood, Messrs. Guthrie, McKinnon, Shaffer, Thom and Yachetti. Also in attendance were Ms. Angevine, Ms. Starkes, Messrs. Daniher, Traviss, Barker and Jenkins.

A.
POLICY

1. Lawyer Referral Service - Refusing to Provide Referrals

From time-to-time, the Lawyer Referral Service operators receive calls from individuals who are rude and abusive or who seem to be mentally unstable. At the present time, the caller is provided with a referral. However, the operator immediately calls the lawyer that the caller was referred to and explains the situation. The lawyer is requested to call back after the telephone/office consultation with an opinion about the caller - did they have a legal problem; are they unable to instruct counsel in their present state; etc. The LRS lawyers have been quite willing to assist in this way and as a result those callers who seem to be abusing the system are placed on a "regulars" list. Should an individual on that list call, the LRS operator will refuse to provide a referral and explain why.

In other situations, the Lawyer Referral Service becomes aware of callers who call to frequently. These callers are hoping to obtain more than one free "initial consultation" at different stages of their legal matter. The caller is hoping to obtain free legal advice for their entire matter. This is an obvious abuse of the system. These individuals are added to the "regular" list and are refused further referrals in relation to that matter.

The Committee reviewed and approved the existing policy followed by the LRS operators. This Committee recommends that the existing policy be approved by Convocation.

2. Lawyer Referral Service - Second Opinions

On occasion, callers referred to LRS lawyers want the lawyer to provide a second opinion about another lawyer's opinion. A number of complaints have been received from lawyers who do not believe that they should provide a second opinion free of charge.

The Lawyer Referral Service has adopted the practice of advising LRS lawyers that opinions are classified as "work", just like drafting a will, preparing a Deed, etc. Callers are routinely advised that "work" done by a lawyer is billed at the Lawyer's regular rates. In those situations where the LRS operator is able to deduce that the caller has legal counsel and is seeking another opinion, the operator explains that a referral can be provided, but the lawyer will be entitled to charge his higher rates. The decision as to whether to provide the second opinion for free is left up to the discretion of the individual lawyer.

The Committee reviewed and approved the existing policy followed by the LRS operators. This Committee recommends that the existing policy be approved by Convocation.

B.

ADMINISTRATION

The Professional Conduct Committee has asked the Public Information Committee to consider two proposals recently made to the Society. Both proposals are from private companies. The first involves a television advertising scheme combined with a private lawyer referral program; the second combines a Dial-A-Law program with an advertising scheme.

The Committee reviewed both proposals. This Committee reported to the Professional Conduct Committee that it takes no position in relation to the proposals.

C.

INFORMATION

1. DIRECTOR OF PUBLIC INFORMATION

The Director of Public Information, Mr. John Beaufoy, resigned his position effective May 15, 1989.

2. INWATS COSTS

Calls to the Dial-A-Law program continue to show strength. Cost savings on the INWATS charges may be realized by installed "satellite" Dial-A-Law computerized systems in other area codes outside of Toronto and the 416 area code. The first proposed "satellite" would be in Ottawa. A fully automated computer system could be installed in the Bar Admission Offices there to handle all touch tone calls from the 613 area. Any call that required assistance from an operator would be automatically transferred to the operators in Toronto.

23 June 1989

For the next Committee meeting, the Public Information Department will be assembling information relating to the costs and terms of establishing "satellite" automated systems, together with the latest statistics for the INWATS calls and an estimate of the potential savings. The Committee will be reviewing the proposition.

In the meantime, the Society has renegotiated the INWATS contracts for the 416, 519, 613, and 705 areas. The flat monthly rate will increase, but the overtime rates will be greatly reduced. In the end, a cost saving will be realized.

3. FRENCH LANGUAGE DIAL-A-LAW

The translation of the Dial-A-Law scripts is proceeding. The first of the French translations will soon be entered into the automated system.

The current disc drive for the Dial-A-Law automated system is near full capacity. A new disc drive will be required once all of the scripts are translated and ready to be entered into the system. For the next Committee meeting, the Public Information Department will obtain proposals and estimates for the expansion of the system's capacity.

4. DIAL-A-LAW COMPUTER BACK-UP

In light of the number of topics available through Dial-A-Law and the expanding variety of languages that the topics are available in, the Committee requested that the Public Information Department review and report back about the back-up and protection systems that are in place or should be instituted.

5. LAWYER REFERRAL SERVICE

To keep the Benchers, the profession and the public advised of the success of the Lawyer Referral Service, the Committee will be reviewing updated statistics and information about the service at the next meeting, in order to report to Convocation.

6. GENDER NEUTRAL COMMUNICATIONS MANUAL

The Research and Planning Committee approved the adoption by the Society of a policy of gender neutral communications. At the meeting of that Committee it was recommended that this Committee be responsible for the preparation of a manual.

A subcommittee of this Committee has been established to review the development of a manual suitable for distribution, subject to the approval of Convocation.

7. STATISTICS

The up-dated statistics for Lawyer Referral and Dial-A-Law are attached (Appendix C-1). The LRS figures remain virtually static due to the program having reached its capacity. The two new operators requested in the budget should help relieve the capacity crunch.

Dial-A-Law shows continuing strength compared to last year. The Committee is reminded that advertising was discontinued in early to mid-March 1989.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"June Callwood
for the" Chair

23 June 1989

Attached to original Report in Convocation File, copy of:

C-Item 7 - Up-dated Statistics for Lawyer Referral and Dial-A-Law

(Appendix C-1)

THE REPORT WAS ADOPTED

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COUNTY & DISTRICT LIAISON COMMITTEE

Mr. R. G. Ferguson, Vice-Chair, presented the Report of the County & District Liaison Committee Report of its meeting on Thursday, the 8th day of June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The County & District Liaison Committee begs leave to report:

Your Committee met on Thursday, the eighth day of June, 1989 at four o'clock in the afternoon, the following members being present: Messrs. Ferguson (Vice-Chair), Carey, Lamek, Shaffer and Ms. Peters. Also present from the County & District Law Presidents' Association Executive were Ms. Mossip (Chair), Messrs. Lalande, Lovell, McDowell, Morin and Smith. Ms. Angevine of the Law Society acted as Secretary.

I. COUNTY & DISTRICT LAW PRESIDENTS' ASSOCIATION RESOLUTIONS

A. Library Committee

The CDLPA Library Committee Resolution dealing with the benefit package was discussed. A member of the CDLPA Executive informed the Committee that the CDLPA rather than the Law Society would be holder of the policy and that the Chief Librarian was prepared to provide the necessary bookkeeping assistance.

Attached as Appendix "A" is a copy of the CDLPA Library Committee's Resolution.

Note: See notes on page 126 & 127.

B. Court Reform

The Court Reform Committee Resolution was placed before the meeting. The Vice-Chair advised the CDLPA Executive of the position adopted by Convocation in May regarding Court Reform.

Attached as Appendix "B" is a copy of the CDLPA Court Reform Committee's Resolution.

II. BUSINESS ARISING FROM COUNTY & DISTRICT EXECUTIVE MEETING

A. Dates for the Plenary Session in October were discussed and a preference expressed for October 11, 12 and 13, provided that arrangements can be made for the Annual General Meeting to be held on October 11.

B. A long-range planning meeting of the CDLPA was proposed for August of this year. The CDLPA extended an invitation to the Bencher members of the Committee and welcomes their input.

23 June 1989

C. There was some discussion regarding a proposal submitted by Laurentian University to the Law Foundation for funding of its Law & Justice Program.

ALL OF WHICH is respectfully submitted

DATED this 23rd of June, 1989

"R. G. Ferguson"
Vice-Chair

Item I-A - CDLPA Library Committee Resolution (Appendix "A")

Item I-B - CDLPA Court Reform Committee Resolution (Appendix "B")

The matter was stood down while Mr. Ferguson obtained further information regarding the insurance question and the participation of the Law Society in the insurance program being developed for the County & District law libraries.

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CONVOCATION ADJOURNED FOR LUNCH AT 12:45 P.M.

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The Treasurer, Mr. L. K. Ferrier, and Benchers had as their guests for the luncheon in the Benchers' Dining Room Chief Justice and Mrs. Parker; Mr. Ross Irwin of the Clinic Funding Committee; Mr. Jean Richard, the President of the l'association of Francophone juristes; and Mr. John Tait, the Deputy Attorney General for Canada.

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CONVOCATION RESUMED AT 2:45 P.M.

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PRESENT:

The Treasurer, Mr. L. K. Ferrier, Ms. Bellamy, Ms. Callwood, Messrs. Carey, Cass, Ferguson, and Furlong, Mrs. Graham, Messrs. Ground and Guthrie, Ms. Kiteley, Messrs. Lamek, Lamont, Lawrence, Manes, McKinnon, O'Connor, Rock, Shaffer, Somerville, Spence, Thom, Wardlaw and Yachetti.

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LEGAL EDUCATION COMMITTEE

Mr. A. M. Rock, Chair, presented the Report of the Legal Education Committee of its meetings on Thursday, the 8th June, 1989 and Thursday, the 22nd June, 1989.

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 June 8th, 1989, the following members being present: Messrs. Rock (Chair), Lamek (Vice-Chair), Lamont (Vice-Chair), Cullity, Epstein, Ferguson, Spence, Thom, Yachetti, Ms. Bellamy, Ms. King MacLeod, Dean Gold, Dean MacPherson, Ms. Tari, (Chair, Bar Admission Advisory Committee).

23 June 1989

A.
POLICY

1. ADVOCATES' SOCIETY INSTITUTE

Attached to these materials is the proposed Members' Agreement between the Advocates' Society and the Law Society.

(Pages 1 - 3)

The Committee recommends that the Agreement be executed by the Law Society.

2. PROPOSED AMENDMENT TO REGULATION 573

Attached is a memorandum outlining the sections of the Law Society Act, Regulations and Rules, which must be changed as a result of Bar Admission Course Reform. The Committee amended the wording of the memorandum under Section 22.-(4) Sub Sections (a) and (b) by deleting the word "compulsory" from the beginning of the Sub Sections.

(Pages 4 - 9)

The Committee recommends that Convocation be asked to refer the matter to the Legislation and Rules Committee for further refinement and final approval by Convocation, early in the fall of 1989.

3. CO-OPERATIVE LEGAL EDUCATION PROGRAM, QUEEN'S UNIVERSITY

Dean John Whyte of Queen's University Faculty of Law requests approval in principle of a proposal for a program in co-operative legal education. A pilot program would begin in the fall of 1990 for twenty-five students.

Dean Whyte seeks approval in principle of two elements of the proposed program.

Exemption from articling: the first is that the five placement terms of approximately four months each will satisfy the articling requirement. Students would be in four different placements for the five placement terms, with two consecutive terms spent in one placement.

Exemption from one-month teaching term: the second element of the proposed program is that the students be exempted from the one-month pre-articling teaching term of the Bar Admission Course, on the basis that the requirement be satisfied by the Introduction to Co-op and Skills courses taken within the program.

Students graduating from the Queen's Co-operative Legal Education Program would then be entitled to a Call to the Ontario Bar on completion of the three-month teaching term of the Bar Admission Course. (They would not have been required to complete the one-month teaching and the articling requirement.) The supporting documentation is attached, and is as follows:

(Pages 10 -28)

(a) A letter to Philip Epstein, Q.C., together with two pages of information, for consideration by the Articling Reform Sub-committee.

(b) A letter from Philip Epstein, Q.C., on behalf of the Articling Reform Sub-committee approving, in principle, exemption from the articling requirement.

(c) A letter to James Spence, Q.C., together with three supporting pages, seeking exemption from the one-month teaching term, for consideration by the Bar Admission Reform Sub-committee,

23 June 1989

(d) A letter from James Spence, Q.C., on behalf of the Bar Admission Reform Sub-committee approving, in principle, exemption from the one-month teaching term of the Bar Admission Course.

(e) A letter from Dean John Whyte to James Spence, Q.C., acknowledging the approval in principle by the Bar Admission Reform Sub-committee of exemption from the one-month teaching term of the Bar Admission Course for those students who successfully complete the Co-operative Legal Education Program of Queen's University.

The Committee recommends approval in principle of the proposal that registrants in the Queen's University Faculty of Law Co-Operative Legal Education Program who successfully complete the program be eligible to enroll in the second portion of the Bar Admission Course teaching term without completing the Bar Admission Course one month teaching term or the articling requirement. The Program must comply with the Queen's proposal, and more specifically:

- a) The content of the curriculum must cover the elements taught in the Bar Admission Course one month teaching term.
- b) The five placements must include two consecutive four month terms in a setting that would qualify as an articling position with each student being assigned to a lawyer serving as the student's Principal.

ALL OF WHICH is respectfully submitted

DATED THIS 8th day of June, 1989

"Allan Rock"
Chair

Attached to original Report in Convocation File, copy of:

- A-Item 1 - Proposed members' Agreement between the Advocates' Society and the Law Society
(Pages 1 - 3)
- A-Item 2 - Memorandum dated June 1, 1989 from Marilyn Bode, Project Manager, B.A.C. Reform to Chair and Members of the Legal Education Committee Re: BAC Reform - Changes to Regulation 573
(Pages 4 - 9)
- A-Item 3 - Supporting documentation re students graduating from Queen's Co-operative Legal Education Program being entitled to a Call to the Ontario Bar on completion of the three-month teaching term of the Bar Admission Course
(Pages 10 - 28)

It was moved by Mr. Thom, seconded by Ms. MacLeod that the approval of the Queen's University program be deferred.

Lost

Ms. MacLeod raised the issue that it be made clear that the pilot project is to be brought back to Convocation after the end of four years for review. Mr. Rock indicated that this was already provided for. At the end of four years the Society does not want to be in a position of having to continue the program because other students were in mid-stream. This is to be made clear to the University.

THE REPORT WAS ADOPTED

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23 June 1989

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 June 22nd, 1989, the following members being present: Messrs. Rock (Chair) Manes, Spence, Ms. Tari, (Chair, Bar Admission Advisory Committee).

A.

POLICY

1. DISPOSAL OF 30th BAC TEACHING TERM EXAMINATIONS

The Committee recommends the disposal of the written answer booklets of the candidates from the 30th BAC teaching term, with the exception of the written answer booklets for all failures of an examination.

The Committee further recommends that the Director be authorized to dispose of the written answer booklets of the candidates at the end of June of each year, with the answer booklets being retained for all examination failures.

Storage space is limited in the Department of Education. There is a particularly pressing space problem because the course materials are being printed at an accelerated rate to account for Bar Admission reform.

2. SPECIAL LECTURES, 1990

It is recommended that the Chair appoint a Bencher to serve as Chair of a special Planning Committee for the 1990 Special Lectures.

3. BAC TEACHING TERM ENROLMENT, 1989 - 90.

It is recommended that the Acting Director be authorized to limit the number of students enrolling in the 1989 - 90 Toronto BAC teaching term. The Director would be permitted to limit the Toronto enrolment to 900, with discretion to add additional numbers in instances where individual applicants have pressing compassionate reasons.

There are currently approximately 900 students who have been admitted into the Toronto teaching term, a figure exceeding the previous record high number of approximately 840 in the 1988 - 89 Teaching Term. Both the Ottawa and London teaching terms are under-subscribed. Physical space and effective co-ordination of volunteer instructors from the profession do not reasonably accommodate unlimited numbers. The enrolment of 900 students in itself will place considerable strain on the Toronto facility and administration.

Approved

C.

INFORMATION

1. CONTINUING LEGAL EDUCATION - COMPLETED PROGRAMS

The Committee reviewed the summary of evaluations of past continuing legal education programs.

23 June 1989

3. SUBCOMMITTEE ON BAR ADMISSION COURSE REFORM

(Members: Spence, (Chair), Bastedo, Epstein, Lamont and
Director of Education)

Recruitment of the paid teaching faculty has begun. It is expected that two lawyers will join the faculty in the late summer and that the balance of the faculty will be recruited effective early 1990. The two lawyers who begin in 1989 will be active in the course design process, with Alan Treleaven and Ainslie Lamb. Ms. Lamb will join the design team for ten months, commencing July of 1989.

4. SUBCOMMITTEE ON ARTICLING REFORM

(Members: Epstein, (Chair), Bellamy, Doran, Ferguson, Rock, Yachetti, Chair of the Bar Admission Advisory Committee, Director of Education, Director of Bar Admission Course.

No report this month.

ALL OF WHICH is respectfully submitted

DATED THIS 22nd day of June, 1989

"Allan Rock"
Chair

THE REPORT WAS ADOPTED

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LEGAL EDUCATION

Mr. A. M. Rock, Chair, presented the report of the Legal Education Committee of its meeting on Monday, the 10th April, 1989.

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 April 10, 1989 and on June 23rd, 1989, as a Committee constituted under Section 27(4) of the Law Society Act to consider the appeal of the candidate who failed the 30th Bar Admission Course. The following members were present: Ms. Bellamy (Chair), Messrs. Manes and Ferguson.

B.
ADMINISTRATION

1. PATRICK LEROY BARRY

Mr. Barry failed the regular Bar Admission Course examinations in Civil Procedure, Estate Planning and Administration, and Creditors' and Debtors' Rights. He successfully passed supplemental examinations in Civil Procedure and Estate Planning and Administration, but failed the supplemental examination in Creditors' and Debtors' Rights.

Mr. Barry appeared before the Committee on April 10th, 1989 with counsel. The Committee directed him to write a third examination in Creditors' and Debtors' Rights. Mr. Barry wrote the third Creditors' and Debtors' Rights examination and failed.

23 June 1989

The Committee met again on June 23rd, 1989, to consider Mr. Barry's appeal.

A number of issues have been raised on his behalf:

1. Mr. Barry enrolled in the University of Windsor Faculty of Law in 1984 and graduated in 1987, having passed all of his courses.
2. Mr. Barry was under considerable financial stress during the teaching term of the Bar Admission Course, and was required to accept a bursary and loan from the Law Society in order to pay his fees.
3. Mr. Barry worked three midnight shifts per week (Friday, Saturday, and Sunday nights) as a credit card authorization clerk with the Royal Bank during the Bar Admission Course teaching term, and during the Christmas break worked at the Bank of Christmas Day, Boxing Day, New Year's Eve and New Year's Day.
4. During the Christmas break Mr. Barry researched and wrote a 33 page paper entitled "Radioactive Waste Disposal Under the Canadian Constitution" for consideration for a prize.
5. Mr. Barry has explained that he suffered from being "burned out" due to his demanding schedule. His being "burned out" was particularly a problem after the Christmas break.
6. Mr. Barry was required to re-write the three failed examinations and the Criminal Procedure examination (which he had been unable to write for pressing personal reasons on the earlier scheduled date) on February 20, 21, and 22. He succeeded in three examinations, but failed the Creditors' and Debtors' examination.
7. Mr. Barry suffered considerable stress due to the delays before writing the second supplemental Creditors' and Debtors' Rights examination on June 5th.

The Committee is not satisfied that Mr. Barry is a competent candidate to enter into the practice of law. The Committee recommends that Mr. Barry be required to attend the Creditors' and Debtors' Rights portion of the Bar Admission Course in the 1989-90 session and that he be required to complete the examination successfully without further supplemental examination, before being permitted to enter into the practice of law.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"Denise Bellamy"
Chair

THE REPORT WAS ADOPTED

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RESEARCH AND PLANNING COMMITTEE

Mr. J. M. Spence, Chair, presented the report of the Research and Planning Committee of its meeting on Thursday, the 8th June, 1989.

23 June 1989

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the eighth day of June, 1989, at 8:00 a.m., the following members being present: J. Spence (Chair), T. Bastedo, D. Bellamy, S. Birenbaum, F. Kiteley, R. Manes, C. McKinnon, and I. Outerbridge. Also present were: L. Ferrier, T. Carey, D. Crosbie, R. Tinsley, M. Angevine and D. Ashby.

A.

POLICY

1. REPORT OF SUBCOMMITTEE ON STRESS AND ASSISTANCE PROGRAM

Attached at Appendix 1, pages 1 to 11, is the Report with appendices. Since the interim report was endorsed by Convocation in January, the subcommittee has assisted in the formation of an inter-organization committee, their report is attached to your committee's report as Appendix "A", pages 5 to 11. The recommendations of your committee are summarized as follows:

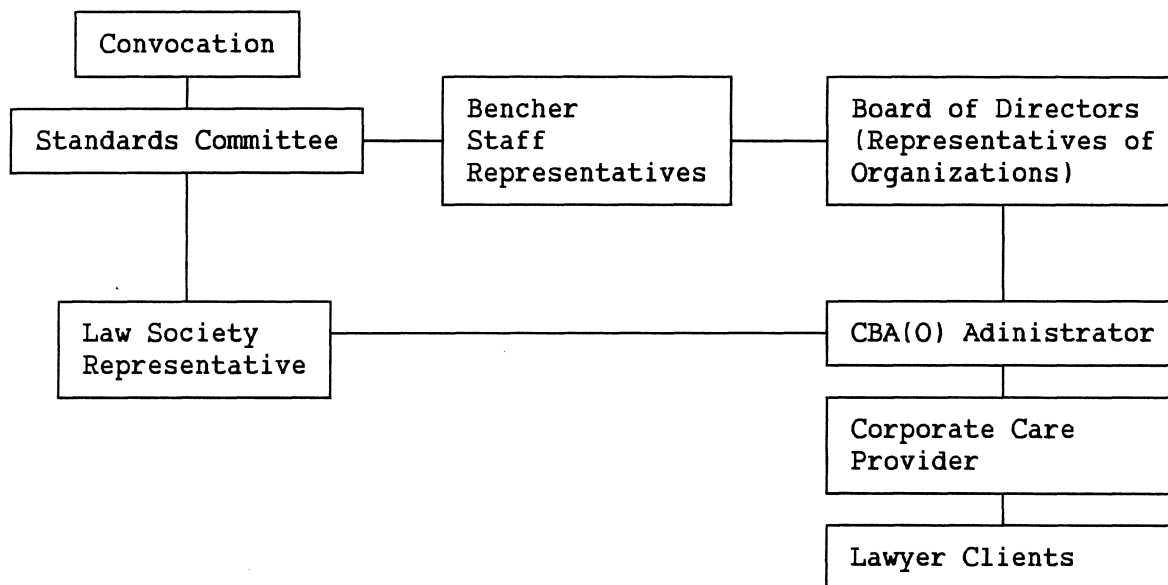
(a) Service Provider

Final negotiations be commenced with Corporate Health Consultants to provide a 24 hour/7 days per week intake, assessment referral or counselling service to the members of the Society commencing in September, 1989.

(b) Administrative Structure

Law Society Organizational Chart

Programme Organizational Chart



(c) Funding Structure

(i) The Law Society will provide funding for the direct service (counselling) costs of the programme at approximately \$9,000 per month.

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(ii) The C.A.B.(O) will provide the administrative infrastructure and in addition, assume the promotional costs of the service to a maximum amount to be negotiated beyond which the member organizations excluding the Law Society shall be required to contribute their fair share.

(iii) The cost of evaluation, (which will include at a minimum a financial audit), will be assumed by the member organizations excluding the Law Society.

(d) Reporting Within the Law Society

Your committee will continue its participation in the development and implementation of the programme, until the service commences after which the Law Society's representatives will report to the Standards Committee and liaise with the Practice Advisory Programme.

Note: See motion page¹⁴².

2. REPORT OF THE SUBCOMMITTEE ON WOMEN IN THE
LEGAL PROFESSION ON GENDER NEUTRAL COMMUNICATIONS

Attached at Appendix 2, at pages 12 to 21 is the report with appendices which recommends adoption of the proposed policy on Gender Neutral Communication attached to the report as Appendix "A" at page 13.

C.
INFORMATION

1. ALTERNATIVE DISPUTE RESOLUTION

The subcommittee composed of Mr. Spence as Chair, Ms. Kiteley and Mr. Brennan has met two times this year in addition to an initial planning meeting in late 1988. The subcommittee's mandate is to examine the Law Society's role in the development of alternatives to judicial proceedings in the resolution of disputes. (A.D.R.)

The subcommittee has discussed in a general way the recent growth in A.D.R. techniques. Some contact has been made with individuals active in A.D.R. to get a general idea of the amount of A.D.R. activity.

The subcommittee was of the opinion that given the level of activity in the field, it is necessary for the subcommittee to focus very clearly on only those issues that are of concern to the Law Society. The subcommittee has identified the following issues:

- 1) Education at the Law School, Bar Admission Course, and Continuing Legal Education levels;
- 2) Unauthorized practice;
- 3) Professional conduct and in particular questions of privilege and conflict of interest;
- 4) Insurance;
- 5) Advertising;
- 6) Public Information;
- 7) Specialization;
- 8) Impact on the Rules of Civil Procedure.

23 June 1989

The subcommittee has corresponded with other Law Society committees for advice and suggestions of additional issues to be considered.

The subcommittee has defined A.D.R. for its purposes to be mediation, conciliation, arbitration and private judicial determination. The subcommittee's concerns in the area relate to both those who act for disputants and those who act as decision makers.

In addition, the subcommittee will be contacting the Canadian Judicial Centre, the Canadian Bar Association and the Law Reform Commission for any advice or assistance they can provide.

2. BENCHERS' RESPONSIBILITIES STUDY

The subcommittee, composed of R. Manes as Chair, S. Birenbaum, C. McKinnon, G. Mew, I. Outerbridge and Dr. D. Stager has met to consider its mandate which is to look at the functions performed by benchers with a view to determining what assistance needs to be provided to them in fulfilling their tasks.

The subcommittee's next meeting is scheduled for June 9th, 1989, which will consist of an orientation to the Law Society's departments and a tour of the building. The following meeting will look at statutory materials defining the tasks of the benchers and recent court decisions affecting their role in discipline hearings.

3. BENCHERS' RETREAT

The Committee will meet during the summer and make its report to Convocation in September. The preliminary responses from participants are quite positive.

The Committee will submit recommendations flowing from the Retreat to Convocation as part of its report.

4. VOLUNTARY PRO BONO

The subcommittee, composed of R. Manes as Chair, J. Callwood, M. Eberts, R. Holden, F. Kiteley, G. Manning, I. Outerbridge and C. Ruby has met on April 7th, 1989 and May 8th, 1989, in addition to a planning meeting in late 1988.

The subcommittee's mandate is to consider the possibility of establishing a program to regularize the provision of pro bono services, now provided to the public on an ad hoc basis.

The subcommittee has arranged for a search of current literature dealing with pro bono issues. This material has been provided to the members of the subcommittee for their review.

The subcommittee will be contacting the larger law firms to determine the extent to which they provide pro bono services and the extent of their interest in participating in any program established by the subcommittee.

One of the major concerns of the subcommittee is the relationship of any program to the Legal Aid Plan. The subcommittee has therefore requested the assistance of Mr. Holden in planning this program.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"James M. Spence"
Chair

23 June 1989

Attached to original Report in Convocation File, copy of:

A-Item 1 - Report of the Sub-Committee on Stress and Assistance Program with attached Proposal to Inter Organizational Committee on Lawyer Counselling Program, May 25, 1989 as Appendix "A"

(Appendix 1 - Pages 1 - 4 & Appendix A - pages 5 - 11)

A-Item 2 - Report with Appendices 2 "A" and 2 "B" recommending adoption of the proposed policy on Gender Neutral Communication

(Appendix 2 - Pages 12 - 21)

Mr. Manes spoke to the item in the report on the stress assistance program.

It was moved by Mr. Ground, seconded by Mr. Lamek that the item regarding the approval of the stress assistance program be subject to the approval of the Finance Committee.

Carried

THE REPORT AS AMENDED WAS ADOPTED

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MOTION - FEDERATION OF LAW SOCIETIES

It was moved by Mr. Lamek, seconded by Mr. Ground, that Mr. James M. Spence be appointed the Law Society Representative to the Federation of Law Societies' Executive effective on the retirement of Ms. Laura Legge in August.

Carried

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CERTIFICATION BOARD

Mr. A. M. Rock, Vice-Chair, presented the Report of the Certification Board of its meeting on Wednesday, the 7th June, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Wednesday, June the 7th, 1989 at four o'clock in the afternoon, the following members being present: Mr. Howie (Chair), Mr. Rock (Vice-Chair), Messrs. Bragagnolo, Gold, Lyons, Murphy, Webb, Yachetti and Ms. Pilkington. Ms. Thomson from the Law Society was also present.

ITEM 1: Structure Committee Report

Further to the Report of the Structure Committee, which was adopted by Convocation on May 26, 1989, the Treasurer will undoubtedly be appointing the new Certification Board and determining the makeup of the three Specialty Committees (civil litigation, criminal litigation, and civil and criminal litigation) prior to July 1st.

ITEM 2: Certified Specialists

The Board is pleased to report to Convocation of the recent certification as Specialists of the 24 members listed in Schedule "A".

ALL OF WHICH is respectfully submitted

DATED this 23rd day of June, 1989

"T. G. Bastedo"

Attached to original Report in Convocation File, copy of:

Item 2 - Certification Program, Assessment of Applications, Decisions of
of the Certification Board, June 7, 1989

(Schedule "A")

THE REPORT WAS ADOPTED

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PRACTICE AND INSURANCE COMMITTEE

Deferred to September Convocation.

DISCIPLINE POLICY COMMITTEE

Deferred to September Convocation.

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CONVOCATION ADJOURNED AT 5:25 P.M.

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Confirmed in Convocation this day of , 1989

Treasurer