

8th November, 1989

MINUTES OF SPECIAL CONVOCATION

Wednesday, 8th November, 1989
9:15 a.m.

PRESENT:

Acting Treasurer (Jack Ground), Bellamy, Carey, Cullity, Epstein, Graham, Harvey, Hickey, Kiteley, Legge, Lerner, Levy, McKinnon, Peters, Rock, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver, Yachetti.

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"IN PUBLIC"

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DISCIPLINE COMMITTEE

Re: HARRY KOPYTO, Toronto

Convocation was called to order at 9:15 a.m. with Mr. Jack Ground the Chair of Finance in the Chair.

The reporter was sworn.

The solicitor was present and represented by Mr. Charles Roach and Mr. Silvano Del Rio. Mr. Frank Marrocco appeared for the Society together with Ms. Janet Leiper and Mr. Thomas Lockwood.

Convocation dealt first with a preliminary matter regarding Mr. Marrocco's application for exemption which was before Convocation on October 27th. As of November 1st Mr. Marrocco became a partner in the law firm of Smith, Lyons where Ms. Frances Kiteley, a Benchler is a partner. Mr. Marrocco advised that he was prepared to withdraw as counsel but asked Convocation to waive the ruling.

Mr. Roach had no objection to Mr. Marrocco continuing to act for the Law Society nor Ms. Kiteley participating.

There were no objections from the Bench and the matter continued with Mr. Marrocco acting for the Law Society.

Mr. Del Rio continued with his submissions as to penalty and made reference to the following cases:

- Lorenzo Jose Andres Girones, Toronto - from Minutes of Convocation - January 19, 1973
- Browne v. Dunn - from the Court of Appeal, England
- Palmer and Palmer v. The Queen - Dominion Law Reports
- Peters v. Perras et al - Supreme Court of Canada, Vol. XL11
- Jarvis v. Hall - The Ontario Weekly Notes
- Jarvis v. Connell - Ontario Law Reports
- Regina v. Jackson and Woods - Canadian Criminal Cases
- Regina v. Mete - Western Weekly Reports

Questions were put to Mr. Del Rio by Messrs. Strosberg and Epstein

Mr. Del Rio continued with reference to the following:

- Excerpt from a book called The Presumption of Innocence by James C. Morton and Scott C. Hutchison - pages 126, 128 and 129
- Regina v. Gardiner - Canadian Criminal Cases
- Ronald Jasper Reid, Preston - Minutes of Special Convocation - November 12, 1969
- Regina v. McNabb - Canadian Criminal Cases

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- Regina v. Fraser and Louie - Canadian Criminal Cases
(copies of cases in Convocation file)

CONVOCATION ADJOURNED AT 11:15 A.M.
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CONVOCATION RECONVENED AT 11:30 A.M.
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Ms. Janet Leiper then made submissions as to penalty. She made reference to the following:

- Agreed Statement of Facts
- Cross-examination at Discipline Committee
- Cross-examination at Convocation

Counsel for the Society stated that the case of Browne v. Dunn was not applicable and contradicts the Agreed Statement of Facts.

There were questions from the Bench.

CONVOCATION ADJOURNED AT 1:20 P.M.
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CONVOCATION RECONVENED AT 1:30 P.M.
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PRESENT

Acting Treasurer, (Jack Ground), Bellamy, Carey, Cullity, Epstein, Graham, Harvey, Hickey, Kiteley, Legge, Lerner, Levy, McKinnon, Peters, Rock, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.
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Ms. Leiper continued with her submissions and referred to portions of the transcripts of March 7th, June 13th and July 5th, 1989.

Mr. Roach in reply stated that the case was one of negligence and not fraud, civil or otherwise.

Submissions ended at 2:15 p.m. Mr. Ground, the Acting Treasurer asked counsel to leave their telephone numbers where they could be reached. Convocation then retired to consider its decision.

Convocation resumed in camera at 3:00 p.m.

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"IN CAMERA"
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"IN PUBLIC"

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PRESENT:

Acting Treasurer (Jack Ground), Bellamy, Carey, Cullity, Graham, Epstein,
Harvey, Hickey, Kiteley, Lerner, Levy, McKinnon, Peters, Rock,
Sommerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.
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The Acting Treasurer announced the decision of Convocation.

Mr. Roach asked if the Order could be stayed.

It was moved by Mr. Rock, seconded by Mr. Epstein that the effective date
for disbarment be November 19, 1989.

Carried

CONVOCATION ROSE AT 5:35 P.M.

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Confirmed in Convocation this day of , 1989.

Acting Treasurer