

MINUTES OF CONVOCATION

Friday, 27th November, 1992
9:00 a.m.

PRESENT:

The Treasurer (Allan M. Rock), Arnup, Bastedo, Bellamy, Brennan, Campbell, Cullity, Curtis, Elliott, Epstein, Feinstein, Furlong, Goudge, Graham, Hill, Jarvis, Kiteley, Krishna, Lamek, Lamont, Lax, Levy, McKinnon, Mohideen, Murray, O'Brien, D. O'Connor, S. O'Connor, Palmer, Pepper, Peters, Richardson, Scace, Scott, Sealy, Somerville, Spence, Strosberg, Thom, Wardlaw, Weaver and Yachetti.

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IN PUBLIC

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The Treasurer spoke briefly on a number of issues including the submission to the Ombudsman and a review of priority items to the end of June 1993.

The Treasurer also advised that Mr. Thom's motion re: name of the Law Society would be before Convocation in January as well as two motions passed at the Annual General Meeting on November 11th, 1992.

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MOTIONS

It was moved by Joan Lax, seconded by Susan Elliott THAT Theresa McCleneghan and Carol Chouinard be added as non Bencher members and Nora Richardson be added as a member of the Lawyers Fund for Clients Compensation Committee.

Carried

It was moved by Joan Lax, seconded by Susan Elliott THAT Thomas Bastedo be added as a member of the Special Committee on Court Reform.

Carried

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ORDERS

The following discipline ORDERS were filed with Convocation.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF James Frederick Harris Gray, of the City of Toronto, a Barrister and Solicitor

27th November, 1992

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 10th day of September, 1992, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that James Frederick Harris Gray be granted permission to resign.

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Timothy James Hilborn,
of the City of Cambridge, a Barrister and
Solicitor

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 11th day of May, 1992, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Timothy James Hilborn be Reprimanded in Convocation.

DATED this 22nd day of October, 1992.

"Allan M. Rock:"
Treasurer

(Seal - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

27th November, 1992

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Gregory Peter Linton Vanular, of the City of Pickering, a Barrister and Solicitor.

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 29th day of May, 1992, in the presence of Counsel for the Society, and the Solicitor, wherein the Solicitor was found guilty of professional misconduct, and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Gregory Peter Linton Vanular be Reprimanded in Convocation and that he be required to comply with the following conditions:

- 1) that he immediately re-enlist in the Practice Review programme of the Professional Standards Committee;
- 2) that he comply with all of the recommendations resulting therefrom within a reasonable time after they are made; and
- 3) that he pay the costs of the Practice Review up to the sum of two thousand dollars (\$2,000.00).

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(SEAL - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Arthur Chung, of the City of Toronto, a Barrister and Solicitor

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 28th day of September, 1992, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

27th November, 1992

CONVOCATION HEREBY ORDERS that Arthur Chung be suspended for a period of one month, such suspension to commence the 1st day of November, 1992 and that he pay costs in the amount of \$2,500.

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(SEAL - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Mario Giangiooppo, of
the City of Toronto, a Barrister and
Solicitor

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 1st day of October, 1992, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Mario Giangiooppo be reprimanded in Convocation and pay costs in the amount of \$2,000.00.

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(SEAL - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Norman Edward Joseph Roy, of the Town of Oakville, a Barrister and Solicitor

27th November, 1992

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 1st day of October, 1992, in the presence of Counsel for the Society, and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Norman Edward Joseph Roy be Reprimanded in Convocation.

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(SEAL - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Adi Mullan Raman, of
the City of Toronto, a Barrister and
Solicitor

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 24th day of September, 1992, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Adi Mullan Raman be granted permission to resign, such resignation to take effect the 31st day of December, 1992.

DATED this 22nd day of October, 1992.

"Allan M. Rock"
Treasurer

(SEAL - Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

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27th November, 1992

It was moved by Joan Lax, seconded by Susan Elliott THAT the Reports listed in paragraph 4 (Reports to be taken as read) of the Agenda be adopted.

Admissions
Clinic Funding
Communications
Discipline Policy
Equity in Legal Education and Practice
Finance and Administration
French Language Services
Insurance
Investment
Lawyers Fund for Clients Compensation
Legal Aid
Legal Education
Legislation and Rules
Libraries and Reporting
Professional Conduct
Professional Standards
Research and Planning
October Convocation Minutes
Unauthorized Practice
Women in the Legal Profession

Carried

ADMISSIONS COMMITTEE

Meeting of November 12th, 1992

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 12th of November, 1992 at 9:30 a.m., the following members being present: Mr. Brennan (Chair), Ms. Curtis, Messrs. Lerner and Lamont.

Also present: M.J. Angevine, D. Cushing and C. Shaw.

A.
POLICY

A.1. TRANSFER EXAMINATIONS

A.1.1. From time to time over the past few years, the Society's examination process for transfer candidates has been the subject of discussion by members of the Examining Board, members of the Admissions Committee and senior staff. A number of concerns have been raised with respect to the current system and particularly with the Statutes and Procedures Examination. Very briefly these concerns include such issues as:

- A.1.2. (i) the lack of direction provided to candidates regarding preparation for the examination;
- (ii) the fact that the examination is closed book;
- (iii) the requirement that candidates sit the examination in Ontario rather than their home province;
- (iv) the volume of material upon which the examination is based; and
- (v) the nature of the examination questions, i.e. in the focus is on specific details rather than broad principles.
- A.1.3. A Memorandum prepared by the Deputy Secretary, in consultation with the Secretary, the Director of Education and a representative of the Examining Board, was before the Committee. It set out the following proposal for a revised examination process.
- A.1.4 It is recommended that:
- (a) Transfer examinations be offered three times per year in January, May and September.
- (b) The examinations be based upon the course material provided to the Bar Admission Course students in the following subject areas:
- Civil Litigation
Family Law
Business Law
Real Estate
Estates
Professional Responsibility
- (c) The Bar Admission Course material be made available to the transfer candidates to assist in preparing for the examination, at a cost to be determined.
- (d) The examination consist of a written portion and an oral portion.
- (e) Each question on the written portion of the examination be graded on a pass/fail basis.
- (f) Candidates who receive a pass grade on every question on the written portion of the examination be excused from the oral portion.
- (g) The written portion of the examination be open book.
- (h) Candidates be permitted to complete the written portion of the examination in their home province provided the appropriate arrangements can be made.
- (i) Candidates who are unsuccessful on their first attempt be permitted to attempt the examination a second time.

27th November, 1992

- (j) Candidates who are unsuccessful on their second attempt be required, should they wish to proceed, to complete satisfactorily Phase III of the Bar Admission Course.

A.1.5. Your Committee, after discussion, approved the proposal.

Approved

B.
ADMINISTRATION

B.1. DIRECT TRANSFER - COMMON LAW - REGULATION 4(1)

B.1.1. The following candidates have met all the requirements to transfer under Regulation 4(1):

B.1.2. Paul Joseph Brett
Eric Lloyd Burton

Approved

B.2. SPECIAL PETITION FOR TRANSFER UNDER REGULATION 4(1)

B.2.1. Darrell James Burt (B.A. 1983 from Queen's University and LL.B. 1986 from the University of Manitoba) was called to the Bar of the Province of Manitoba on the 25th day of June, 1987 and practised in that province, with the firm of Aikins, MacAulay & Thorvaldson from the 25th June 1987 to the end of July 1990 when he decided to return to school.

B.2.2. October 1st, 1987 to September 30th, 1992 constitutes the relevant 5 year period for the purpose of determining whether he has the requisite three years in practice within that time.

B.2.3. From August 1st, 1990 to September 30th, 1990, prior to leaving for school, Mr. Burt states that he continued to work with the law firm on an as needed basis. He advises that during this period he spent a total of approximately 40 hours engaged in the practice of law.

B.2.4. Your Committee is of the opinion that the work which Mr. Burt performed in the two months prior to leaving for school is sufficient to complete the requirement, under the Regulation, of having practised law for at least 3 years within the past 5 years.

Approved

B.3 DIRECT TRANSFER - QUEBEC - REGULATION 4(2)

B.3.1. Peter Frederick Hoffmann (LL.B. 1988 from McGill University) was called to the Bar of the Province of Quebec on the 15th day of November, 1989 and has practised in that province from the 15th November, 1989 to the present. Mr. Hoffmann presents a Certificate of Good Standing, seeks to proceed under Regulation 4(2) and asks permission to be excused from writing the Common Law examination. The interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 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 of Ontario."

B.3.2. Mr. Hoffmann will have completed three years of active practice in Quebec on November 15th, 1992. He hopes to sit the December 1992 Statutes and Procedure in Ontario examination. His intention is to continue practice with the Quebec law firm while becoming qualified in Ontario.

Approved

B.4. APPLICATION - FOREIGN LEGAL CONSULTANTS

B.4.1. Christopher William Morgan, of the New York law firm Skadden, Arps, Slate, Meagher, & Flom, was licensed as a Foreign Legal Consultant in Ontario ("FLC") in January 1990 pursuant to paragraph 1(b) of the policy which provides that applicants who have been actively engaged in the practice of law in their home jurisdiction for less than three years may be licensed provided they are under the supervision of a FLC and the supervisory arrangement has been approved by the Committee.

B.4.2. Mr. Morgan was admitted to the New York Bar in June of 1986. He then practised with the law firm of Skadden, Arps in New York from that date to July of 1987 (1 yr. 1 mo.) From January 1990 to the present he has been actively engaged in the practice of New York law, employed by the same firm as a FLC in Ontario (2 yrs. 4 mos.)

B.4.3. In his letter dated the 1st October, 1992, Mr. Morgan requested that his status as a FLC be changed to reflect licensing under paragraph 1(a) instead of 1(b) of the Law Society policy respecting FLC's.

B.4.4. This was the first application of this nature to come before the Committee. Your Committee is of the opinion that no distinction ought to be made between practice experience gained in the home jurisdiction and that gained as a FLC in Ontario. Accordingly your Committee concluded that the application was in order and ought to be approved.

Approved

B.5. READMISSION AFTER RESIGNATION AT OWN REQUEST

B.5.1. An application for readmission has been received from Arlene Judith Blatt. Ms. Blatt was called to the Bar on the 10th day of April, 1984 and resigned her membership at her own request on the 27th of March 1992.

27th November, 1992

B.5.2. The applicant is not in any arrears of fees nor is she required to sit requalification examinations. Ms. Blatt asks to be readmitted upon filing all necessary documents with the Finance Department.

B.5.3. The applicant has paid the readmission fee of \$321.00.

Approved

B.6. READMISSION AFTER RESIGNATION AT OWN REQUEST

B.6.1. An application for readmission has been received from Gerard Anthony Ferguson. Mr. Ferguson was called to the Bar on the 21st day of November, 1975 and resigned his membership at his own request on the 29th of September 1989.

B.6.2. The applicant is not in any arrears of fees nor is he required to sit requalification examinations. Mr. Ferguson asks to be readmitted upon filing all necessary documents with the Finance Department.

B.6.3. The applicant has paid the readmission fee of \$321.00

Approved

B.7. READMISSION AFTER RESIGNATION AT OWN REQUEST

B.7.1. An application for readmission has been received from Marie Germaine Gleason. Ms. Gleason was called to the Bar on the 10th day of April, 1986 and resigned her membership at her own request on the 21st of June, 1991.

B.7.2. The applicant is not in any arrears of fees nor is she required to sit requalification examinations. Ms. Gleason asks to be readmitted upon filing all necessary documents with the Finance Department.

B.7.3. The applicant has paid the readmission fee of \$321.00

Approved

B.8. REQUEST TO BE CALLED TO THE BAR IN FEBRUARY 1993 ON UNDERTAKING TO PURSUE PERMANENT RESIDENCY STATUS

B.8.1. John Raymond Mann is currently enrolled in the 34th Bar Admission Course and anticipates being academically qualified to be called to the Bar in February, 1993.

B.8.2. Mr. Mann is not a Canadian citizen. He married a Canadian in August of this year, currently lives here and plans to live in Ontario permanently.

B.8.3. The petitioner is a member of the Michigan State Bar and has practised law in Michigan for 15 years. Mr. Mann successfully completed the examinations of the Joint Committee on Accreditation this past summer and received a Certificate of Qualification on September 9th, 1992.

27th November, 1992

- B.8.4. Mr. Mann requests permission to be called to the Bar with his classmates upon successful completion of the Bar Admission Course. In his letter of petition, dated the 3rd November, 1992, Mr. Mann states that if permitted to be called he will undertake to pursue his application to attain Permanent Residency status in Canada and is willing to satisfy any conditions the Law Society might attach to granting him permission to be called. He also states that he will keep the Law Society advised of the status of his application for Permanent Residency status and if denied will resign his membership with the Law Society of Upper Canada.
- B.8.5. Mr. Mann's letter in affidavit form, dated the 3rd November, 1992 as well as confirmation from the Canada Immigration Centre that he has made application for permanent residency status, were before the Committee for consideration.
- B.8.6. Additional supporting documentation, including letters of reference and a curriculum vitae were available at the request of the Committee.
- B.8.7. Your Committee has approved two similar requests in the past and accordingly it recommends that Mr. Mann be permitted to proceed providing he give an undertaking stating:
- (a) that he will continue to diligently pursue his permanent residency status application;
 - (b) that he will report to the Law Society quarterly on the status of his application; and
 - (c) that he will resign his membership in the Law Society forthwith if his permanent residency status is not approved.
- B.8.8. Your Committee also recommends that the Society review his situation in a year if his application is not yet approved or otherwise dealt with.

Approved

B.9. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.9.1. Bar Admission Course

- B.9.2. The following candidate having successfully completed the 32nd Bar Admission Course and having deferred his Call, now has filed the necessary documents and paid the required fee and applies for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on November 27th, 1992:

William Francis Flanagan

Approved

27th November, 1992

- B.10.1. The following candidates having successfully completed the 33rd Bar Admission Course and having deferred their Call, now have filed the necessary documents and paid the required fee and apply for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on November 27th, 1992:

Randall Norman Rae
Maltaise Esmerelda Marie Lucarda Cini

Approved

- B.11.1. The following candidate expects to complete the 33rd Bar Admission Course in early November, 1992 and wishes to be called to the Bar and granted a Certificate of Fitness, at Regular Convocation on November 27th, 1992:

Chi Wai Yeung

- B.11.2 Your Committee recommends that this application be approved conditional on the candidate successfully completing the course, filing the necessary documents and paying the required fee prior to November 27th, 1992.

C.
INFORMATION

- C.1. No items to report.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"R. Carter"
Chair

THE REPORT WAS ADOPTED

CLINIC FUNDING COMMITTEE

Meetings of November 3 and 21, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of LEGAL AID begs leave to report:

CLINIC FUNDING

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

27th November, 1992

The Director recommends to Convocation that the report of the Clinic Funding Committee dated November 23, 1992 be adopted.

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

ALL OF WHICH is respectfully submitted

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

November 23, 1992

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

The Clinic Funding Committee met via conference call on November 3, 1992. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin. The Committee met again on November 21, 1992. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin.

A. DECISIONS

1. Supplementary legal disbursements

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

Community Legal Services (Ottawa-Carleton) - up to \$2,500
Clinique juridique Stormont, Dundas & Glengarry Legal Clinic
- up to \$3,000
Elliot Lake & Northshore Community Legal Clinic - up to \$3,000
Justice for Children and Youth - up to \$4,000

2. Rexdale re. Move

The Clinic Funding Committee has approved costs associated with the relocation of Rexdale Community Information & Legal Services due to the separation of the legal clinic from the Information Centre. The Committee is therefore recommending Convocation's approval of up to \$45,000 for moving/renovation costs.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Philip Epstein, Q.C.
Chair,
Clinic Funding Committee.

November 23, 1992

THE REPORT WAS ADOPTED

27th November, 1992

COMMUNICATIONS COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992, the following members were present: Denise Bellamy (Chair), Virender Krishna, Allan Lawrence, Ross Murray, Julaine Palmer, and Stuart Thom. Also in attendance: Carolyn Ateah, Theresa Starkes, and Gemma Zecchini.

A.
POLICY

1. Lawyer Referral Service (LRS) Membership Fee

On October 11, 1991 Convocation approved the implementation of an Annual Lawyer Referral Service membership fee of \$25.00 per year. The new fee is to be implemented on January 1, 1993. Notification of this fee is to be enclosed with a new application form which will be distributed to the profession in early 1993.

On the advice of the Law Society's consultant (Manifest Communications), the Communications Committee now recommends increasing that membership fee from \$25.00 to \$50.00. It is anticipated that this would generate a total revenue of \$240,000 (as opposed to \$120,000 with a fee of \$25.00).

An increase in the membership fee will permit greater cost recovery for the Law Society. It will also generate sufficient funds to allow for necessary advertising required to expand the client base into new markets. LRS panel members will be advised that the increased revenue has been marked for use by the Lawyer Referral Service specifically to advertise the availability of the LRS to the public and to make substantial improvements to the service.

The Communications Committee does not believe the increased fee will deter a large number of lawyers from joining the service. Indeed, because lawyers are looking for ways to increase their client base during the recession, the LRS panel membership has been expanding.

On the advice of the Finance Department a twenty percent reduction in panel membership was factored into the calculations to determine the potential revenue to be generated. Given that the twenty percent reduction was a liberal estimate, it is not anticipated that an increase from \$25 to \$50 in the membership fee will further reduce the panel membership.

Many Lawyer Referral Service charge panel membership fees. These include:

Province or State	Panel Membership Fee
Nova Scotia	\$50
New York	\$150 + \$50 per specialty +5-15% of fee paid by client
Rhode Island	\$100
Massachusetts	\$50 Junior Member/\$75 Senior Member +10% of client fee greater than \$100 15% of a client fee greater than \$3,000
Utah	\$150
New Jersey	\$100 for 2 areas of practice \$50 for each additional area
Virginia	\$40
South Carolina	\$50
North Carolina	one time \$45 fee + 10% over the first \$100
West Virginia	\$25
Florida - North Pinellas County	\$50 for 3 areas of law \$15 for each additional area up to a maximum of \$80 per year
California - Santa Ana	\$40 + 10-20% of client fee
California - San Diego	\$135 + 15-25% of client fee
California - Oakland County	\$100 + 15% of client fee
Mississippi	\$90 + 10% of client fee over \$250

Convocation is asked to approve this recommendation.

B.
ADMINISTRATION

1. Recommendations of the Dispute Resolution Subcommittee

The Communications Committee reviewed the recommendations of the Public Information Working Group of the Dispute Resolution Subcommittee, particularly those that will have an impact on the financial and human resources of the Communications staff and has responded to the Chair of the ADR Committee.

27th November, 1992

2. Lawyer Referral Service Application Form

The Committee reviewed a revised Lawyer Referral Service Application Form and approved certain changes. The Committee has been asked to consider some of the discussion points raised at the Committee meeting and submit any further application amendments to the Communications Department.

C.
INFORMATION

1. Media Activity

A summary of the media activity for the months of September and October indicates the following list of popular media issues in order of priority: discipline, legal aid, lawyers general, Ontario government, access to the legal profession (women), law firms, law schools, Law Society and self government, miscellaneous issues.

2. Call Statistics

Dial-A-Law call statistics from January 1, 1992 to October 31, 1992 totalled 275,988 or 905 calls per day.

The Lawyer Referral Service is experiencing a 7% increase in calls. Calls to the service so far this year total 154,035 or 739 calls per day.

3. Dial-A-Law Options Paper

The Communications Department is preparing an options paper concerning the future operations of Dial-A-Law for consideration by the Committee. The paper will outline the various options available for making Dial-A-Law (DAL) a partial cost-recovery, cost-neutral or profit program. In addition, the paper will explore the impact these options will have on the issues of access and advertising. The paper was originally planned for November's meeting date. However, further information must be gathered through Bell Canada and our telephone supplier, TTS, before the paper can be presented. The paper will be presented to the Committee in January, 1993.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"D. Bellamy"
Chair

THE REPORT WAS ADOPTED

DISCIPLINE POLICY COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992, at three o'clock in the afternoon, the following members being present:

H. Strosberg (Chair), D. Bellamy, N. Graham, C. Hill, J. Klotz, J. Palmer, and S. Thom.

S. Hodgett, S. Kerr, G. MacKenzie, G. Macri, J. Yakimovich also attended.

A.
POLICY

A.1. DISCIPLINE MANAGEMENT PROCEDURES

A.1.1. On October 23, 1992, Convocation approved in principle a revised discipline procedure as proposed in the Report of this Committee. The approval was on the basis that the views of the bench and the profession would be sought before implementation.

A.1.2. In furtherance of this consultation, the Committee will send copies of the new procedures, as approved by Convocation, to and invite comment from the following individuals:

- the last 25 counsel to appear before the discipline panel;
- members of the Law Society who were dealt with by the discipline process in 1990-1991;
- a number of complainants as selected by the staff of Discipline, Complaints and Audit departments;
- lay benchers who served within the past five years;
- all Discipline staff.

A.1.2. In addition, an announcement will be placed in the Benchers Bulletin inviting members of the profession to request a copy of the new procedures and to make their views known to the Committee.

A.1.3. The Committee is currently seeking a legal opinion concerning those portions of the revised discipline procedures not put before Convocation on October 23.

B.
ADMINISTRATION

B.1. STANDARDIZED DOCUMENTS AND CRITERIA FOR RULE 20 APPLICATIONS

B.1.1. The Committee discussed Rule 20 applications. Rule 20 of the Rules of Professional Conduct states that a lawyer must have the express approval of Convocation before employing a lawyer who has been disbarred, struck off the Rolls, suspended or permitted to resign owing to disciplinary action. In the course of the discussion, concerns were expressed about the lack of consistent documentation and criteria for the determination of these applications. The Chair expressed the view that there should be a standard form affidavit for Rule 20 applications. Further, a set of criteria should be formulated in order to promote consistency in the process.

B.2.2 The staff will review a number of the most recent Rule 20 applications and report back to the Committee.

C.
INFORMATION

B.2. DELAYS IN THE PREPARATION OF DISCIPLINE REPORTS

B.2.1. The Committee is concerned about the length of time required in some cases for the preparation of reports following discipline hearings. At its November meeting a matter was tabled owing to the lack of such a report. The Committee will be instituting a number of measures to monitor and discourage delay in the preparation of reports.

B.3. AUTHORIZATION OF DISCIPLINE CHARGES

B.3.1. Once a month, the Chair and/or one or both of the Vice-Chairs of your Committee meet with the Complaints and Discipline staff to consider requests for formal disciplinary action against individual lawyers.

B.3.2. The following table shows the number of requests made by Discipline, Complaints and Audit staff for the month of November 1992.

	<u>Sought</u>	<u>Obtained</u>
<u>November</u>		
Discipline	25	22
Complaints	21	15
Audit	7	6

27th November, 1992

Total number of charges authorized to date for 1992:

January	20
February	16
March	31
April	19
May	37
June	30
August	34
September	20
October	27
November	43
Total:	276

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"H. Strosberg"
Chair

THE REPORT WAS ADOPTED

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of November 12, 1992

Mr. Goudge spoke to Item C-1 re: Report on Employment Equity Plan.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November 1992, the following persons being present: Stephen Goudge (Chair), Denise Bellamy, Paul Copeland, Nora Richardson, James Spence, Dean Jeff Berryman, Edmund Clarke, Andrew Ranachan, Adella Rodriguez, Donald Crosbie, Mimi Hart and Alexis Singer.

C.
INFORMATION

1. Report on Employment Equity Plan

Alexis Singer reported that the draft regulations to be made under the Employment Equity Act are not available. These regulations may prescribe what information is needed in the Employment Equity staff survey. Accordingly, it is felt that the survey and the educational program would be premature at this time.

It was agreed that in the interim a preliminary policy shall be implemented. The policy is to keep the underlying objectives in mind and target designated groups in any recruitment efforts.

The subcommittee will have a draft available for the January meeting assuming, the regulations become available between now and then.

2. Attorney General's Initiatives - Stephen Lewis Report

Stephen Goudge has spoken with David Cole, co-chair of the Provincial Task Force. When the task force gets underway, Stephen Goudge will be contacted to determine what assistance the committee may offer.

3. Education Equity Awards Subcommittee

Paul Copeland reported that there is a general view that the awards should be made on a lower key than last year. A notification process will take place through the law deans. He suggested that the awards be based on need in combination with academic achievement and community involvement. These awards would not be open to Bar Admission students. An effort will be made to have the information distributed to the deans by January of next year and the awards made in February. The law deans will be asked for their input on this matter at the law deans meeting on Thursday, November 12, 1992.

Donald Crosbie will speak to Butterworths to determine whether the additional \$2,000 will be available this year. Paul Copeland will present recommendations to the committee in December to allow for distribution to the deans by January.

4. Report on Students Seeking Articles

Mimi Hart reported on efforts related to finding of articling positions for students in the 1992-1993 year. There are currently 12 unemployed students of which 7 meet the equity criteria.

The letters to the profession have been followed up with 75 telephone calls from staff. Philip Epstein, the Chair of the new articling recruitment committee will help in drafting a second letter to go out to the profession.

Discussion took place about the feasibility of obtaining subsidies to employ these students. A concern was raised as to possible long term efforts in guaranteeing positions as it is feared that there may be many more unemployed students next year.

The Legal Education Committee will meet today and discuss whether that committee should be making the telephone calls personally in an effort to obtain the cooperation of senior partners.

5. Initiative to Involve Law Firms in an Articling Program

Donald Crosbie reported on a New York City Bar initiative that involves law firms in articling and hiring programs to assist minority students and lawyers.

A new subcommittee was formed consisting of Denise Bellamy, Mimi Hart and Adella Rodriguez. This subcommittee will look at whether we should introduce a similar program in the Toronto area.

6. Meeting of the Law Deans

Stephen Goudge reviewed the agenda for the meeting with the law deans. Added to the agenda: Curriculum changes within the law schools and the Bar Admission Course to deal with equity issues.

7. Report on Urban Alliance Race Relations

Donald Crosbie reported that the Finance and Administration Committee has refused a request for a \$7,000 subsidy of a conference being organized by the Urban Alliance. The committee agreed that to assist in the conference Brenda Duncan will meet with Paul Milbourn of U.A.R.R. to determine how the Law Society may be of technical assistance and that the committee would pay for the rental cost of rooms at the Law Society. The cost is estimated to be about \$1,000.

9. Budget

The Under Treasurer reported that of the \$18,000 budget for 1992/93, approximately \$6,500 has been spent in the first 1/3 of the year. \$4,000 of this was spent in unusual or non-recurring expenses such as the student program in the summer and the retainer for the lawyer working on employment equity. There are no large expenditures foreseen in the remainder of the year.

10. Toronto Mayor's Committee on Community and Race Relations

Donald Crosbie, on behalf of the committee, wrote to the Mayor's Committee informing it of the work of the Equity in Legal Education and Practice Committee. Many of the recommendations made by the Black Articling Students' Association to the Mayor's Committee were recommendations already adopted by the Law Society through the approval of the Report on Equity in Legal Education and Practice.

Donald Crosbie was invited to attend a public meeting to be held on December 1, 1992 and will attend and report back to the committee.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November 1992

"S. Goudge"
Chair

THE REPORT WAS ADOPTED

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of November 26, 1992

Mr. Wardlaw spoke to the Report of the Finance and Administration Committee's meeting on November 26, re: Budget Guidelines and Fees for 1993/94 which was received as information only.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 26th of November, 1992 at eight o'clock in the morning, the following members being present: J.J. Wardlaw (Vice Chair in the Chair), T.G. Bastedo, D. Bellamy, D.H.L. Lamont, D.J. Murphy, P.B.C. Pepper and M.P. Weaver. Also in attendance were D.A. Crosbie, R.F. Tinsley, D.E. Crack, M.J. Angevine and D.N. Carey.

B.
ADMINISTRATION

1. REPORT OF THE PRIORITIES AND PLANNING SUBCOMMITTEE - RECOMMENDATIONS AS TO BUDGET GUIDELINES AND FEES FOR 1993/94

This report was first presented and discussed at the November 12, 1992 meeting. At that meeting, it was recommended that the objective of the Finance Committee should be a \$36 reduction in the Annual Fee for the 1993/94 fiscal year.

In order to provide a further opportunity to discuss the Subcommittee's Report, the November 26 meeting was held. Your Committee wishes to report on the status of its deliberations for the information of Convocation.

Two objectives have been identified by the Committee, namely, that:

- a) there be no increase in the Annual Fee for 1993/94 (the recommendation of the Subcommittee).
- b) there be a reduction of \$36 in the Annual Fee for 1993/94.

(Note: Convocation is advised that no increase in fact reflects a \$15 decrease in the general fund portion of the Annual Fee to offset a corresponding estimated increase in the Legal Aid levy.)

The Subcommittee will prepare a report for the January meeting of the Finance Committee outlining how each of these objectives might be achieved, making specific proposals with respect to programs which may be eliminated or cut back to realize the necessary savings.

2. EXCESS LIABILITY INSURANCE COVERAGE FOR THE LAW SOCIETY

At its meeting on November 12, 1992 the Insurance Committee considered the matter of excess liability insurance as set out in the following item from their committee report:

27th November, 1992

"As a named Insured under the LPIC Professional Liability Insurance Policy, the Society is insured for damages arising out of the exercise of its rights or the discharge of its duties to a limit of \$1 million per occurrence. The Society does not carry excess insurance coverage over the \$1 million limit, and, in the event of a claim in excess of the LPIC Policy limit, could incur costs for which there is no insurance protection. In response to the potential that the Society could face such an eventuality, the Director of Finance has made inquiries with respect to the cost and availability of excess coverage and advises that \$5 million of insurance protection in excess of the LPIC Policy limit of \$1 million, can be obtained at a cost of \$65,000. Your Committee recommends acquiring such excess professional liability insurance and referral of the matter to the Finance Committee for allocation of the required funds."

The Committee was asked to approve this expenditure.

Approved

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"J. Wardlaw"
for Chair

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

B - Item 1 - Memo from Mr. T.G. Bastedo, Chair of the Priorities and Planning Subcommittee to the Chair and Members of the Finance Committee dated November 5, 1992 re: Recommendation as to budget guidelines and fees for 1993/94. Memo from Mr. Donald A. Crosbie to Mr. Kenneth E. Howie, Q.C., Chair, Finance and Administration Committee dated November 11, 1992 re: Recommendations as to Budget guidelines and fees for 1993/94.

(Pages 1 - 7)

Meeting of November 12, 1992

Mr. Wardlaw also spoke to Items B-3,4&5 of the Report of the meeting on November 12 re: suspension of members.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 12th of November, 1992 at three o'clock in the afternoon, the following members being present: K.E. Howie (Chair), A. Feinstein (Vice Chair), J.J. Wardlaw (Vice Chair), R.D. Manes, R.W. Murray, P.B.C. Pepper and M.P. Weaver. Also in attendance were D.A. Crosbie, R.F. Tinsley, D.E. Crack, M.J. Angevine and D.N. Carey.

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the 4 months ended October 31, 1992.

Approved

2. APPOINTMENT OF SALARY & BENEFIT SUBCOMMITTEE

The Chair recommended J. Wardlaw, A. Feinstein and D. Bellamy be appointed members of this committee.

Approved

3. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 18 members who have not complied with the requirements respecting annual filing and who have not paid their late filing fee.

In all 18 cases all or part of the late filing fee has been outstanding four months or more. The 18 members owe \$27,000 of which \$5,950 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of these members be suspended on November 27, 1992 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: Motion, see page 114

4. SUSPENSION OF MEMBERS - N.S.F. CHEQUE

There are 4 members who paid their Errors and Omissions Insurance levy with a cheque which was subsequently dishonoured by the bank.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on November 27, 1992 if the Errors and Omissions levy remains unpaid on that date.

Approved

Note: Motion, see page 114

5. SUSPENSION OF MEMBERS - ARREARS OF ANNUAL FEES

There are many members who have not paid the first instalment of the 1992-93 annual fees which was due on the 1st of August 1992.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on the 27th of November 1992 effective the 1st of December 1992 if the annual fees remain unpaid on that date.

Approved

Note: Motion, see page 114

6. MEMBERSHIP UNDER RULE 50

(a) Retired Members

The following members who are sixty-five years of age and fully retired from the practice of law, have requested permission to continue their membership in the Society without payment of annual fees:

Walter George Baker	North York
Harold Kingsley Boylan	Toronto
Francis Costello	Kitchener
Arthur Lundy	Downsview
Hugh T. Nichol	Whitby
James Kennedy Winters	Willowdale

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

Approved

7. RESIGNATION - REGULATION 12

The following members have applied for permission to resign their membership in the Society and have submitted a Declaration in support:

(a) Sandra Leslie Harris of Ottawa was called to the Bar on the 9th of April 1984 and has worked for the Canadian federal government since her call. Her annual filings are up to date.

(b) David Albert Scriven of Toronto was called to the Bar on the 6th of April 1983. He has not practised law since February 1985 and maintains that he did not handle trust funds or other clients' property during his years of practice. He is currently employed with the Provincial government and does not plan on returning to the practice of law. His rights and privileges as a member were suspended on the 6th of March 1992 for failure to pay his 1991-92 annual fees. Arrears of fees total \$676.24. His annual filings are up to date. The member has asked that his resignation be approved without payment of the arrears.

(c) John Lawrence Kennedy Vamplew of Augusta was called to the Bar on the 25th of June 1959. He has been a Crown Attorney for over thirty years. He has never handled trust funds or other clients property. His annual filings are up to date. He plans to retire from the Ministry on the 31st of December 1992 and requests that his resignation be effective that same day.

(d) William Alexander Walter Neilson of Victoria, BC was called to the Bar on the 19th of January 1968 and has never practised law since his call. His filings are up to date.

Their Declarations are in order and the Committee was asked to approve them without publication in the Ontario Reports.

Approved

C.
INFORMATION

1. LIFE MEMBERS

Pursuant to Rule 49, the following is eligible to become a Life Member of the Society with an effective date of November 19, 1992:

Ian Grant Wahn Toronto

Noted

2. CHANGES OF NAME

(a) Members

From

To

Elizabeth Lynne Mulvenna

Elizabeth Lynne Carson
(marriage certificate)

Christina Maria Ackermann

Christina Maria Ackermann-Swistara
(marriage certificate)

Elizabeth Ann Nowlan

Elizabeth Ann Landrey
(change of name certificate)

Noted

3. MEMBERSHIP RESTORED

The following member gave notice under Section 31 of The Law Society Act that he has ceased to hold judicial office and wishes to be restored to the Rolls and records of the Society:

Effective Date:

John Ross Matheson November 14, 1992
(Ontario Court of Justice, General Division)

Noted

4. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Lawrence Albert Hass
Toronto

Called June 21, 1951
Died September 17, 1990

Martin Berman
Toronto

Called February 20, 1959
Died April 5, 1992

Alan Royal Campbell
Kingston

Called June 19, 1941
Died May 7, 1992

David Charles Ross
Toronto

Called March 10, 1964
Died August 9, 1992

27th November, 1992

Dorothy Joyce Kent Toronto	Called April 10, 1986 Died September 14, 1992
David Ernest Sayeau Dehli	Called March 21, 1975 Died October 2, 1992
Terrence Kenneth Pether Toronto	Called March 30, 1990 Died October 12, 1992
Irvine Philip Dickler Toronto	Called November 15, 1928 Died October 13, 1992
Gordon Weir McLean Toronto	Called June 21, 1951 Died October 20, 1992
William W Warring Laird Mississauga	Called May 17, 1943 Died October 22, 1992
Clifford Marshall Hames North York	Called June 28, 1956 Died October 23, 1992

(b) Permission to Resign

The following member was permitted to resign his membership in the Society and his name has been removed from the rolls and records of the Society:

James Frederick Harris Gray Toronto	Called September 18, 1959 Permitted to resign - Convocation October 22, 1992
--	--

Noted

5. LEGAL MEETINGS AND ENTERTAINMENT

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

November 5, 1992	Criminal Lawyers Barristers Lounge
November 6, 1992	Icomos Reception Barristers Lounge
November 18, 1992	Delos Davis Reception Convocation Hall
November 19, 1992	Court Reform Dinner Small Dining Room
November 19, 1992	Lawyers' Club Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"J. Wardlaw"
for Chair

27th November, 1992

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

- B - Item 1 - Memorandum from Mr. David Crack to the Chair and members of the Finance and Administration Committee dated November 11, 1992 re: October 1992 Financial Statements Highlights.
(Pages 6 - 11)

It was moved by Roger Yachetti, seconded by David Scott that the date for payment of the annual fee be extended to December 4, 1992.

Lost

THE REPORT WAS ADOPTED

MOTION TO SUSPEND: FAILURE TO PAY ANNUAL FEES

It was moved by James Wardlaw, seconded by Abraham Feinstein THAT having not paid their annual fees for the period July 1, 1992 to December 31, 1992, the rights and privileges of each of the members on the attached list be suspended for a period of one year from November 27, 1992 and from year to year thereafter, or until their fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

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

It was moved by James Wardlaw, seconded by Abraham Feinstein THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from November 27, 1992 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(See list in Convocation file)

MOTION TO SUSPEND: FAILURE TO PAY ERRORS AND OMISSIONS INSURANCE LEVY

It was moved by James Wardlaw, seconded by Abraham Feinstein THAT the rights and privileges of the following members who paid their Errors and Omissions Insurance Levy for the period July 1, 1992 to December 31, 1992 with cheques which were subsequently dishonoured by the bank be suspended from November 27, 1992 for one year and from year to year thereafter until the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Robert Douglas Laird Smith
David Mark Adams
Francis Xavier Fay
Kenneth David Lea Lackner

Carried

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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 them by the Treasurer.

William Francis Flanagan	32nd Bar Admission Course
Maltaise-Esmeralda Marie Lucarda Cini	33rd Bar Admission Course
Chi Wai Yeung	33rd Bar Admission Course

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FRENCH LANGUAGE SERVICES COMMITTEE

Meeting of November 12, 1992

Ms. Palmer spoke to Item A-1 re: Bilingual Staff Testing.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992 at 11:40 a.m. The following members attended the meeting: Bencher representation: Ms. K.J. Palmer (Chair), Mr. M.G. Hickey and Mr. S.T. Goudge. Staff representation: Ms. H. Harris, and Ms. D. Paquet (Secretary). Special representation: Mr. T. Keith, CBAO, and Mr. R. Paquette, AJEFO.

A.

POLICY

1. Bilingual Staff Recruitment - Interviewing and Testing

Your Committee recommends that bilingual candidates considered for designated bilingual positions be interviewed and tested, where applicable, in French by the French Language Services Coordinator until such time as there is a bilingual assistant in the Human Resources Department qualified to do this. It further recommends that such interviewing and testing always occur before an offer is made or the actual hiring takes place.

B.

ADMINISTRATION

1. Bilingual Staffing - Designated Bilingual Positions

Your Committee has considered the September 30, 1992 Status Report on Designated Bilingual Positions from the Human Resources Department and will reserve its comments and further recommendations on bilingual staffing activity for the January 1993 Committee meeting, pending further consultation with this Committee's Chair and members, and the submission of the next quarterly status report from the Human Resources Department.

27th November, 1992

C.
INFORMATION

1. Availability of French Language Services in Legal Aid Area Offices

Following up on concerns raised by Francophone lawyers in the Cornwall area regarding the unavailability of French language services in the Stormount, Dundas and Glengarry Legal Aid Area Office, your Committee was pleased to hear from Mr. Robert Holden, Provincial Director of the Ontario Legal Aid Plan. Your Committee is satisfied that the measures taken to correct the situation are appropriate and that other Legal Aid area offices in designated bilingual districts do deliver the services required by the profession and the public in French.

2. 1992 AJEFO Annual Conference

As past president of the Association des juristes d'expression française (AJEFO) and member of your Committee, Mr. Ryan Paquette thanked the Law Society for Mr. Robert C. Topp's participation in the proceedings of the 1992 AJEFO Annual Conference held in Sudbury from October 22 to 24, 1992.

3. Law Society Member Honoured With International Award

Congratulations are in order for Mr. Ryan Paquette, member of your Committee and past president of AJEFO, for receiving the Richelieu International Person-of-the-Year Award. The award is presented to citizens who have "distinguished themselves professionally and socially on a national and international level", reported the *Hamilton Spectator*. Mr. Paquette has been instrumental in the adoption of the Law Society's French Language Services Policy and his continued contribution is truly appreciated.

The meeting was adjourned at 12:15 p.m.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"P. Peters"
Chair

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

C - Item 1 - Letter from Mr. Robert L. Holden, Provincial Director, The Ontario Legal Aid Plan to Ms. Patricia J. Peters, Q.C. dated October 29, 1992 re: Legal Aid French Language Services.
(Pages 1 - 2)

C - Item 3 - Newspaper article re: Ryan Paquette.

(Page 3)

AUX MEMBRES DU CONSEIL DU BARREAU DU HAUT-CANADA

RÉUNIS EN ASSEMBLÉE

LE COMITÉ DES SERVICES EN FRANÇAIS a l'honneur de faire son rapport.

Votre Comité s'est réuni le jeudi 12 novembre 1992 à 11 h 40. Étaient présents, en qualité de conseillers et conseillères, M^{re} K.J. Palmer (présidente), M^{re} M.G. Hickey et M^{re} S.T. Goudge, en qualité de membres du personnel, M^{re} H. Harris et M^{me} D. Paquet (secrétaire) et, à titre d'invités spéciaux, M^{re} T. Keith de l'ABCO et M^{re} R. Paquette de l'AJEFO.

A.

POLITIQUE

1. Recrutement du personnel bilingue - entrevues et évaluation des compétences

Votre Comité recommande de confier à la Coordinatrice des services en français les entrevues et l'évaluation en français des personnes qui se présentent à des postes désignés bilingues en attendant que le Service des ressources humaines dispose d'une personne bilingue compétente. Le Comité recommande également de faire systématiquement passer l'entrevue et l'évaluation avant l'étape de l'offre d'emploi ou de l'embauche.

B.

ADMINISTRATION

1. Dotation en personnel bilingue - postes désignés bilingues

Votre Comité a étudié le rapport du 30 septembre 1992 que lui a remis le Service des ressources humaines sur les postes désignés bilingues. Désireux d'en discuter plus longuement et de prendre connaissance du prochain rapport trimestriel du Service des ressources humaines, votre Comité attendra la prochaine réunion de janvier 1993 pour se prononcer et faire ses recommandations sur cette question.

C.

INFORMATION

1. Disponibilité des services en français dans les bureaux régionaux d'aide juridique

Votre Comité, qui avait été informé par des avocats et avocates francophones de Cornwall de l'indisponibilité des services en français dans le bureau d'aide juridique de Stormount, Dundas et Glengarry, a reçu un bref rapport de M^{re} Robert Holden, directeur du bureau provincial du Régime d'aide juridique de l'Ontario. Votre Comité est satisfait des mesures de redressement qui ont été prises et il a l'assurance que les autres bureaux régionaux situés dans des districts désignés bilingues offrent les services nécessaires aux membres de la profession et au public.

2. Conférence annuelle de l'AJEFO (1992)

M^{re} Ryan Paquette, président sortant de l'Association des juristes d'expression française de l'Ontario (AJEFO) et membre de votre Comité, a remercié M^{re} Robert C. Topp du Barreau d'avoir participé à la conférence annuelle de l'AJEFO de 1992 qui s'est tenue à Sudbury du 22 au 24 octobre 1992.

3. Décernement d'un prix international à un membre du Barreau

Félicitations à M^{re} Ryan Paquette, membre de votre Comité et président sortant de l'AJEFO, qui a reçu le prix d'excellence du club Richelieu International à titre de Personne de l'année. Ce prix est décerné à ceux et celles qui, comme l'écrit le journal *Hamilton Spectator*, «se sont distingués dans leur vie professionnelle et sociale sur les plans national et international». M^{re} Paquette a joué un rôle vital dans l'adoption de la politique des services en français du Barreau, et sa contribution continue est appréciée à sa juste valeur.

La séance a été levée à 12 h 15.

FAIT le 27 novembre 1992.

La présidente

THE REPORT WAS ADOPTED

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INSURANCE COMMITTEE

Meeting of November 12, 1992

Mr. Campbell spoke to all items in the Report.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992 at 4:00 in the afternoon, the following members being present: Messrs. Campbell (Chair), Hickey, Feinstein, Epstein, Howie, Cass, Wardlaw, Somerville, Pepper, Murray, Manes and Mesdames Elliott, Weaver, Murphy and Bellamy.

Also in attendance were Messrs. Crosbie, Tinsley, Crack, Whitman, Carey and O'Toole.

ITEM

1. DIRECTOR'S MONTHLY REPORT

The Director presented a detailed report on the 1993 Errors & Omissions levy requirements to a joint meeting of the Finance and Insurance Committees. Full details of the Director's report including his recommendations, which are supported by both Committees, are attached as Appendix "A".

2. LPIC: 1993 REINSURANCE RENEWAL

The Director reported that reinsurance renewal negotiations are continuing with LPIC's Reinsurers. In addition to seeking terms for renewal of the current insurance program, consideration is also being given to possible alternatives to assure that LPIC's requirements are met by the most appropriate and financially competitive vehicle. If renewal terms are consistent with the existing program, the Director will complete the necessary arrangements with approval of the Insurance Subcommittee. If renewal terms are not consistent with the existing program, the Director will complete the necessary arrangements with approval of the Insurance Committee.

3. OUTSTANDING ITEMS

a) Excess Liability Insurance Coverage For The Law Society

As a named Insured under the LPIC Professional Liability Insurance Policy, the Society is insured for damages arising out of the exercise of its rights or the discharge of its duties to a limit of \$1 million per occurrence. The Society does not carry excess insurance coverage over the \$1 million limit, and, in the event of a claim in excess of the LPIC Policy limit, could incur costs for which there is no insurance protection. In response to the potential that the Society could face such an eventuality, the Director of Finance has made inquiries with respect to the cost and availability of excess coverage and advises that \$5 million of insurance protection, in excess of the LPIC Policy limit of \$1 million, can be obtained at a cost of \$65,000. Your Committee recommends acquiring such excess professional liability insurance and referral of the matter to the Finance Committee for allocation of the required funds.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"C. Campbell"
Chair

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

Item 1 - Report on the 1993 Errors & Omissions levy requirements Re:
OBJECTIVE - To estimate 1993 costs of the Lawyers' Professional
Liability Insurance Program - to determine required revenue and - to
establish the E & O levy. (Appendix "A", Pages 1 - 8)

Convocation adjourned for a brief recess.

Convocation resumed at 11:15 a.m.

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IN CAMERA

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IN CAMERA Content Has Been Removed

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IN PUBLIC

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Mr. Campbell continued with the Insurance Report.

It was moved by Harvey Strosberg, seconded by David Scott that the supplementary levy of \$250.00 be postponed for six months.

Lost

ROLL CALL VOTE

Arnup	Abstain
Bastedo	Against
Bellamy	Against
Campbell	Against
Cullity	Against
Curtis	For
Elliott	For
Epstein	Against
Feinstein	Against
Goudge	Against
Graham	Against
Kiteley	Against
Lamek	Against
Lax	Against
McKinnon	Against
Mohideen	Against
Murray	Against
D. O'Connor	Against
S. O'Connor	Abstain
Palmer	Against
Richardson	Against
Scott	Against
Sealy	Against
Strosberg	For
Thom	Against
Wardlaw	Against
Weaver	Against
Yachetti	Against

THE REPORT WAS ADOPTED

INVESTMENT COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair), and Feinstein. Staff members present were David Crack and David Carey.

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee an investment report summary for the various Law Society Funds together with supporting documentation for the month ended October 31, 1992 (Schedule A).

Approved

2. Investment Activity - Errors and Omissions Investment Fund

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Cost</u>	<u>Yield</u>
\$1,000,000 9.0% Ontario Hydro Hydro Bonds due June 24/2002	Midland Walwyn	103.000	\$1,056,136	8.540%

3. Investment Activity - Compensation Fund

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Cost</u>	<u>Yield</u>
\$500,000 9.0% Ontario Hydro Bonds due June 24/2002	Midland Walwyn	103.000	\$ 528,068	8.540%

27th November, 1992

These investments were made on the advice of Martin, Lucas and Seagram Ltd., our independent investment counsel, and with the Director of Finance's approval. The Committee was asked to ratify the purchase of these investments.

Ratified

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"J. Wardlaw"
Chair

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

B - Item 1 - Investment Report Summary for the month ended October 31, 1992.

(Schedule A)

THE REPORT WAS ADOPTED

LAWYERS FUND FOR CLIENTS COMPENSATION COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 12th of November, 1992, at 11:45 a.m. the following members being present: N. Finkelstein (a Vice-Chair in the Chair), V. Krishna (Vice-Chair), L. Brennan, K. Howie, S. Lerner and S. Thom; H. Werry also attended.

A.
POLICY

No items

27th November, 1992

B.
ADMINISTRATION

1. DISPUTE RESOLUTION - CAN IT BE USED TO MEDIATE CLAIMS
TO THE LAWYERS FUND FOR CLIENT COMPENSATION

The Committee had a general discussion on whether Alternative Dispute Resolution (A.D.R.) techniques might be appropriate for resolving some claims to the Fund. Mr. Brennan reported that the Sub-Committee of Research and Planning on A.D.R. is, among other things considering how A.D.R. could be implemented in the various Law Society proceedings and will be reporting to Convocation in due course. The Staff are to provide the A.D.R. Sub-Committee with an outline of the current processes for resolving claims made to the Fund.

C.
INFORMATION

1. JOINT MEETING OF LAWYERS FUND FOR CLIENT COMPENSATION
AND ERRORS AND OMISSIONS INSURANCE FUND

The Chair of the Joint Committee reported on the results of the joint meeting as follows:

- (a) There was no enthusiasm for amalgamating the two Funds with respect to the processing and adjusting of claims.
- (b) The Lawyers Fund for Client Compensation should consider the consequences of increasing the per claimant limit to \$1,000,000. together with an aggregate limit of \$2,000,000. per lawyer to make potential recovery from the two Funds more comparable. Staff is to prepare information on the financial implications of such a change.
- (c) The Committee should look at means of restricting or limiting grants from the Lawyers Fund for Client Compensation when the primary function of the dishonest solicitor is investing the claimant's money.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"C. Ruby"
Chair

THE REPORT WAS ADOPTED

LEGAL AID COMMITTEE

Meeting of November 12, 1992

Ms. Kiteley spoke to Item A-1(a) re: Establishment of criminal law standards. A memorandum from the Treasurer regarding this matter was distributed to the Benchers.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992 at two-thirty o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Ally, Brennan, Bond, Ms. Campbell, Mr. Carter, Ms. Cohen, Ms. Curtis, Messrs. Copeland, Durno, Ms. Kehoe, Messrs. Koenig, Lalande, Panico and Petiquan.

A.
POLICY

1.(a) STANDARDS OF PROFESSIONAL PRACTICE SUB-COMMITTEE

At the meeting in September, 1992 of the Legal Aid Committee, on motion, the Standards of Professional Practice Sub-Committee was created with the following terms of reference:

To determine whether the Plan should establish standards of professional practice for entry on or retention on criminal legal aid panels.

At this meeting in November, Bruce Durno, Chair of the Sub-Committee, reported orally on the work of the Sub-Committee:

- a small Sub-Committee met and more recently had been increased to 14 people for wider consultation
- to assist in the decision as to whether such standards should be established, the Sub-Committee had prepared draft standards for discussion purposes
- the draft standards had been circulated to members of the profession who received cheques from Legal Aid over a 3 week period and to any other members of the profession on request
- commentary had been solicited and over 200 responses already received
- the Sub-Committee expected to report to the Legal Aid Committee in February or March, 1993

A lengthy discussion ensued on the following issues:

- standards should be consistent for all lawyers, whether or not the client is legally-aided
- Convocation is required by regulation to approve standards; the Legal Aid Committee is without authority to do so on its own
- Standards are required in order to respond to Section 27 of the Legal Aid Regulations which states as follows:

"The Law Society may establish standards of professional practice, training and experience for entry to and retention on any panel or sub-division of a panel."

- standards had been in effect in Toronto in criminal law for many years
- notwithstanding the decision taken in September that the issue of standards should be initiated in the area of criminal law (other areas to follow dependent on the outcome of the Legal Aid Committee deliberations in criminal law, that decision should be revisited and steps should be taken to consider the issue now in family and immigration law
- the feedback to date indicated that the draft standards require significant revision as to the point system
- the officials of the Ministry of the Attorney General were observing progress on the issue of standards as a response to concerns raised about quality of service to legally-aided clients.

Arising out of this discussion, it was moved by Carole Curtis and seconded by Bruce Ally as follows:

THAT the name of the existing Sub-Committee be changed to the Sub-Committee to Explore the Feasibility of Standards in Criminal Law Practice and THAT the text of the terms of reference be altered slightly as follows: to make recommendations to the Legal Aid Committee as to whether standards of professional practice in criminal law should be established for purposes of entry on and retention on the Legal Aid panel.

THAT a further Sub-Committee be appointed to Explore the Feasibility of Standards in Family Law Practice and THAT the terms of reference will be: to make recommendations to the Legal Aid Committee as to whether standards of professional practice in family law should be established for purposes of entry on and retention on the Legal Aid panel.

THAT a further Sub-Committee be appointed to explore the Feasibility of Standards in Immigration Law Practice and THAT the terms of reference will be: to make recommendations to the Legal Aid Committee as to whether standards of professional practice in immigration law should be established for purposes of entry on and retention on the Legal Aid panel.

The motion was carried by a vote of 8 to 2.

A copy of the draft standards of criminal law and the notice which was circulated to the bar is attached hereto and marked as SCHEDULE (A).

(b) REPORT OF THE STUDENT LEGAL AID SOCIETIES SUB-COMMITTEE

The Legal Aid Committee received the Report of the Student Legal Aid Societies Sub-Committee, but due to the lengthy debate on the Standards of Professional Practice, the Report of the Student Legal Aid Societies Sub-Committee was deferred to the January, 1993 meeting.

(c) RESPONSE TO THE ABT REPORT

The Legal Aid Committee received the Response to the Abt Report but due to the lengthy debate on the Standards of Professional Practice, the response was deferred to the January, 1993 meeting.

(d) PROPOSED STAFF OFFICES TO SERVE REFUGEE CLAIMANTS

The Chair reported orally on this matter as follows:

- In July, 1992, the Deputy Attorney General had invited the Law Society to embark upon discussions about pilot project staff models in immigration/refugee law.
- the Law Society representatives responded at the time that they would canvass the views of the profession engaged in that area of law in an effort to determine in a preliminary way whether such pilot projects would be appropriate
- written feedback has been received from various sources and orally from the Refugee Lawyers' Association. Copies of the written commentaries are attached as SCHEDULE (B). The CBAO Immigration Law Sub-Section had been preoccupied with making submissions to the Federal Justice Committee on the pending legislation and had not had an opportunity to respond.
- the responses indicated that there was no strong opposition in principle, but there were concerns about resources and independence safeguards
- the Federal legislative changes are anticipated in early 1993. Those changes may reduce demand on Legal Aid in this area of law by 40% to 60%.

A lengthy discussion ensued with respect to the position which the Legal Aid Committee should take on this matter. It was moved by Paul Copeland and seconded by Judy Campbell:

THAT the Legal Aid Committee not engage in discussions with officials of the Ministry of the Attorney General with respect to the feasibility of such pilot projects in immigration/refugee law until after proclamation of the pending legislation; and

THAT the Legal Aid Committee would give consideration to this issue as a priority on the first Committee Day after proclamation of the new Act.

The motion was carried.

(e) FUNDING FOR THE CURRENT FISCAL YEAR

The Chair reported orally as follows:

- due to demand increasing at considerably reduced rates than expected and due to other sources of revenue (Law Foundation \$8,500,000. and Criminal Tariff adjustment \$700,000) and due to changes in G.S.T. reporting, the shortfall for the current fiscal year was anticipated at \$5,000,000
 - the Deputy Attorney General had given assurances that the shortfall would be met
- the Deputy Attorney General had not given any assurances with respect to the requested restructuring of the family law tariff or family law tariff increases
- the Clinic Funding Committee anticipated a shortfall for the current fiscal year of approximately \$600,000
 - the Deputy Attorney General had given assurances that the shortfall would be met
 - the Deputy Attorney General had not given any assurances that the funding would be provided to the Clinic Funding Committee which was necessary to implement the recommendation for 18 additional positions to meet existing demand and to provide a 1% salary increase for staff

27th November, 1992

- in a meeting with the Treasurer of the Law Society, the Chair of the Clinic Funding Committee and the Chair of the Legal Aid Committee, the Deputy Attorney General had been advised that the Law Society would have difficulty justifying continued involvement in the family law pilot project initiative if the reasonable needs of the Plan and of the Clinic Funding Committee were not addressed satisfactorily.

The Chair also advised that the Treasurer intended to confirm to the Deputy Attorney General in writing the position which had been taken at the meeting.

(e) FREEDOM OF INFORMATION AND PROTECTION OF
PRIVACY POLICY FOR THE ONTARIO LEGAL AID PLAN

The Committee received the Freedom of Information and Protection of Privacy Policy for the Ontario Legal Aid Plan, but due to the lengthy debate on the Standards of Professional Practice, this was deferred to the January, 1993 meeting.

B.
ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE
FOR THE SIX MONTHS ENDED SEPTEMBER 30, 1992

The Report of the Deputy Director, Finance for the Six Months Ended September 30, 1992 is attached hereto and marked as SCHEDULE (C).

(b) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS
FOR THE MONTH OF OCTOBER, 1992

The Legal Aid Committee reviewed the Report on the Payment of Solicitors Accounts for the month of October, 1992 which was presented by the Deputy Director, Legal. The Report is attached hereto and marked as SCHEDULE (D).

(c) REPORT ON THE STATUS OF REVIEWS IN THE
LEGAL ACCOUNTS DEPARTMENT, OCTOBER, 1992

The Deputy Director Legal presented the Report on the Status of Reviews in the Legal Accounts Department for the month of October, 1992. The Report is attached here to and marked as SCHEDULE (E).

(d) AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS

Algoma

Lorna E. Rudolph, solicitor

Grey

Audrey Jenkinson, community volunteer
Roger McAlpine Morris, solicitor

Thunder Bay

Freda McDonald, staff development craft instructor

27th November, 1992

York County

Gladys MacPherson, solicitor
Toni Schweitzer, solicitor
Julie Louise Bolton, Assistant Grants Officer
Paul Clayton Foser, Project Officer
Godwin Chan, Co-ordinator
Lisa A. Silver, solicitor
Gail S. Dykstra, Senior Director, Policy & Programs
Gregory James, solicitor
Brenda J. Wemp, solicitor
Douglas D. Lehrer, solicitor
Iryna Revutsky, solicitor
Stanley Sherr, solicitor
Norma William Ronka, solicitor

RESIGNATIONS

Wellington

John Valeriote

ALL OF WHICH is respectfully submitted

"F. Kiteley"
Chair

November 12, 1992

Attached to the original Report in Convocation file copies of:

- A - Item 1.(a) - Copy of the draft standards of criminal law and notice
circulated to the bar. (Schedule A, Pages 1 - 9)
- A - Item 1.(d) - Copies of written commentaries on views of the profession
about pilot project staff models in immigration/refugee law.
(Schedule B, Pages 10 - 36)
- B - Item 1.(a) - Report of Deputy Director, Finance for six months ended
September 30, 1992. (Schedule C, Pages 37 - 39)
- B - Item 1.(b) - Report on the Payment of Solicitors Accounts for the month of
October, 1992. (Schedule D, Pages 40 - 41)
- B - Item 1.(c) - Report on the Status of Reviews in the Legal Accounts
Department, October, 1992. (Schedule E)

It was moved by Fran Kiteley, seconded by Carole Curtis that the Report be
amended by including the memorandum from the Treasurer.

Carried

THE REPORT AS AMENDED WAS ADOPTED

LEGAL EDUCATION COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE LEGAL EDUCATION COMMITTEE asks leave to report:

The Committee met on Thursday, the 12th of November, 1992, at 10:30 a.m.

The following members were in attendance: Paul Lamek (Chair), Donald Lamont (Vice-chair), Lloyd Brennan, Stephen Goudge, Casey Hill, Vern Krishna, Colin McKinnon, Louis Radomsky (non-Bencher member). Representing the law schools were: Dean Jeffrey Berryman, Dean Donald McRae. Representing the Bar Admission Advisory Committee was: Jan Divok. Staff in attendance were: Marilyn Bode, Brenda Duncan, Holly Harris, Mimi Hart, Alexandra Rookes, Alan Treleven.

A.

POLICY

- A.1. PROCEDURES GOVERNING THE RECRUITMENT OF SUMMER STUDENTS FOR THE SUMMER OF 1993 AND ARTICLING STUDENTS FOR THE 1994-1995 ARTICLING TERM
- A.1.1. Philip Epstein chairs the newly created Recruitment Procedures Review Subcommittee, which will review the current articling recruitment program and make recommendations affecting recruitment in 1994 and beyond.
- A.1.2 On October 26, 1992, the Annual Articling and Summer Recruitment Procedures Review Meeting was held at Osgoode Hall, chaired by Paul Lamek. Approximately 250 firm and student representatives were invited to attend the meeting to discuss and evaluate their experience with the 1992 summer and articling student recruitment process, and to discuss the 1993 program. Approximately fifty firm representatives (mostly from Metropolitan Toronto) and representatives from six law schools (Osgoode, Queen's, Windsor, Ottawa, Toronto, and New Brunswick) attended the meeting.
- A.1.3 Donald Lamont, Chair of the Summer Student Review Committee, reported on the survey conducted of firms and students involved in the 1992 summer student recruitment program in Metropolitan Toronto. Mr. Lamont reported that firms and students seem to be satisfied with the existing recruitment process for summer students. The following draft recommendation flowing from the program review was outlined, discussed and received general approval by those in attendance:
- A.1.4 Draft Recommendation #1: Firms with offices outside Metropolitan Toronto should be reminded that interviewing at those offices outside of the prescribed time periods for summer students positions within Metropolitan Toronto is prohibited.

- A.1.5 The recommendation is made to ensure that firms with offices outside Metropolitan Toronto do not circumvent the summer student recruitment procedures by recruiting for Metropolitan Toronto positions from offices which are not covered by the Procedures.
- A.1.6 Elliott Peranson, President of National Matching Services (the independent contractor engaged by the Society to conduct the Articling Student Matching Program), provided statistical and other data concerning the 1992 Matching Program and responded to questions from the group.
- A.1.7 Mimi Hart, Director of Placement for the Law Society, reported that the Law Society received a few allegations of breaches of the Procedures which are being investigated. The allegations include:
1. Interviewing prior to the dates for interviews in Metropolitan Toronto (by a firm outside the Match and by several students);
 2. Not treating all applications received prior to July 15, 1992 without regard to the date of receipt;
 3. Failure to honour ranking intentions (by a firm);
 4. Recruitment activity during the moratorium period between the Match deadline and the date when the Match results are released (by a firm in the Match); and,
 5. Pressuring of students to reveal ranking intentions.
- A.1.8 Ms Hart provided background and Mr. Treleaven lead a discussion of the following three draft recommendations to amend the articling procedures:
- A.1.9 Draft Recommendation #2: The Law Society should make clear to firms that they must not participate in the articling student recruitment process unless they are confident that they will be able to offer a position to a qualified student.
- A.1.10 This recommendation was made to ensure firms consider the financial and other implications of hiring an articling student before engaging in the recruitment process. In 1992, some firms withdrew from the recruitment process after conducting interviews, which disadvantaged students who had allocated interview time to these firms.
- A.1.11 Draft Recommendation #3: Any firm enrolled in the Matching Program by July 14, 1993 should not be permitted to withdraw from the matching program to participate in the 1993 articling student recruitment program as a non-participating firm.
- A.1.12 This recommendation was made to ensure firms do not receive the advantages of enrolling in the matching program, and then withdraw to recruit outside the match and have the advantage of making offers during the interview week. This is a preventative recommendation based on an enquiry received in 1992.
- A.1.13 Draft Recommendation #4: The Procedures should be amended to state that firms may not communicate the intention to interview a student and subsequently not do so.

- A.1.14 This recommendation was made following reports from students that they had been told they would be interviewed by firms and subsequently were not called for interviews.
- A.1.15 Brief discussion ensued, after which each recommendation received general approval.
- A.1.16 Mr. Epstein addressed the group outlining the mandate of the newly formed Procedures Review Subcommittee. Volunteers were invited to join the group.
- A.1.17 Mr. Treleaven reminded the group that 10 students continue to seek articles in the 1992-1993 term and asked firms which could offer a position for the full term or a portion thereof to contact Ms Hart in the Society's Placement Office.
- A.1.18 Draft Procedures for the 1993 recruitment process incorporating the recommendations are attached (pages 1 - 8).
- A.1.19 Recommendation: The Legal Education Committee recommends that the attached draft Procedures Governing the Recruitment of Summer Students for the Summer of 1993 and Articling Students for the 1994-1995 Articling Term be approved.
- A.2 AMENDMENT TO REGULATION 573, SECTION 22 (5a) MADE UNDER THE LAW SOCIETY ACT
- A.2.1 Regulation 573, section 22 (5a) has been amended, and now reads as follows:
- Where three years have elapsed after a person has completed the Bar Admission Course during which the person has not been called to the bar and enroled as a solicitor, the Bar Admission Course is not completed until the person successfully completes such further experience and studies as Convocation considers necessary to ensure that the person remains current with the law.
- A.2.2 The amendment to the Regulation was filed and in force effective September 21, 1992.
- A.2.3 Peter Bell, the Assistant Secretary, asks in a memorandum to the Director of Education, Alan Treleaven: "...what refresher courses the Society will have in place when this amendment is approved and signed..." and "...if the Director of the Bar Admission Course has a discretion re what is considered 'such further experience and studies as Convocation considers are necessary to ensure that the person is familiar with the current law and practice' ". Mr. Bell indicates that the request for information concerning the refresher courses and the Director's discretion comes from the Deputy Attorney General, George Thomson.
- A.2.4 To plan refresher courses in anticipation of the need arising would be time-consuming and involve expense, and would not necessarily produce courses which would be responsive to the specific needs of affected persons. It would be more effective for the Director to exercise discretion in each case, subject to the Director's decisions being approved by the Legal Education Committee and by Convocation.

A.2.5 Recommendation: The Legal Education Committee recommends that the following procedure apply to any person affected by Regulation 573, section 22 (5a):

- 1) The person must apply to the Director of Education to determine what further conditions, if any, must be satisfied in order to be called to the bar and enroled as a solicitor.
- 2) The Director of Education will consider the following factors in reaching a decision:
 - a) The length of time that has elapsed since the expiry of the three years.
 - b) The person's activities since first being eligible to be called to the bar and enroled as a solicitor, and in particular the degree to which those activities have kept the person current in the law and the practice of law.
 - c) The Director of Education's decision may include any of the following conditions:
 - i) Completion of a part or all of the teaching portions of the Bar Admission Course.
 - ii) Completion of examinations and assignments.
 - iii) Completion of an entire or abridged articling term.
 - iv) Completion of specified continuing legal education programs.
- 3) The Director of Education's decision is subject to approval or variation by Convocation.

B.

REGULAR BUSINESS AND ADMINISTRATION

B.1 BAR ADMISSION COURSE FEES FOR LATE DOCUMENT FILING AND LATE TUITION PAYMENT

B.1.1 On Thursday, October 10, 1991 the Legal Education Committee approved the following item:

AMENDMENT TO RULE 50 OF THE RULES MADE UNDER THE LAW SOCIETY ACT

Rule 50 of the Rules made under the Law Society Act requires amendment because it specifies fees and dates which are applicable only to the old Bar Admission Course.

A draft amendment to the Student Members section of Rule 50 is as follows:

STUDENT MEMBERS

Upon filing an application for admission as a student member of the Society--Non-refundable Application Fee....\$101

Upon commencing Phase One or Phase Three of the Bar Admission Course, payable on or before the first day thereof, a tuition fee in the amount set by Convocation from time to time.

In any event of late filing of an application, late payment of tuition fees, or late filing of any of the documentation required by Subsection 22 (9) of Regulation 573, a late filing fee of \$50 is payable. For late tuition fees, an additional late filing fee of \$5 is payable for each day late to a maximum of \$200 per fee.

The draft amendment is worded to be consistent with the schedule of the reformed Bar Admission Course and to permit Convocation to set the fees each year.

It is recommended that the draft revision to the Student Members section of Rule 50 be approved for referral to the Legislation and Rules Committee and then to Convocation.

- B.1.2 The item was not placed on the agenda of the Legislation and Rules Committee until its November 12, 1992 meeting.
- B.1.3 In the meantime, the Bar Admission Course administration, by memorandum of May, 1992 to all students entering Phase Three in September of 1992, informed the students as follows: "All documents and fees received after September 8, 1992 are subject to a late filing fine". The memorandum does not specify the quantum of the fine.
- B.1.4 Recommendation: The Legal Education Committee recommends:
- 1) The draft amendment to Rule 50 be approved by the Legislation and Rules Committee and by Convocation.
 - 2) The Bar Admission Course administration enforce the collection of the late fines pursuant to the notice to the students in the memorandum of May, 1992 and on the scale contained in the draft amendment to Rule 50.

C.
INFORMATION

C.1. DISPUTE RESOLUTION SUBCOMMITTEE RECOMMENDATIONS

- C.1.1 The Dispute Resolution Subcommittee of the Research and Planning Committee has been meeting for approximately 18 months to consider the role and responsibilities of the Law Society in respect of Alternative Dispute Resolution. The Subcommittee is preparing its final Report to be presented to the Research and Planning Committee at its January, 1993 meeting. A number of the recommendations address issues within the mandate of the Legal Education Committee.

- C.1.2 The Chair of the Dispute Resolution Subcommittee, Lloyd Brennan, requests the Legal Education Committee to consider the draft recommendations relating to the mandate of the Legal Education Committee and to provide its comments to the Subcommittee.
- C.1.3 The Director of Education, Alan Treleaven, and a member of the Bar Admission Course Faculty, Deborah Glatte, have been involved in preparing the draft recommendations. The Director of Continuing Legal Education, Brenda Duncan, has also consulted with the Subcommittee.
- C.1.4 The Legal Education Committee decided to express to the Dispute Resolution Subcommittee approval of the draft recommendations.
- C.2 SEXUAL HARASSMENT SUBCOMMITTEE
- C.2.1 The Sexual Harassment Subcommittee is a joint-subcommittee of the Legal Education Committee, the Discipline Policy Committee, and the Women in the Legal Profession Committee. The Subcommittee has been struck to develop policies and procedures to deal with allegations of sexual harassment made by articling students against articling principals, other lawyers, and other articling students. The Subcommittee met on Wednesday, November 4, with all members in attendance: Stephen Goudge (representing the Legal Education Committee), Neil Finkelstein (representing the Discipline Policy Committee), and Joan Lax (representing the Women in the Legal Profession Committee). Staff in attendance were: Marilyn Bode (secretary to the Subcommittee, and Articling Director), Barbara Dickie (staff lawyer with the Articling Director's office), and Alan Treleaven (Director of Education).
- C.2.2 The Subcommittee intends to consult with Senior Counsel Discipline, Gavin MacKenzie, and to provide recommendations shortly.
- C.3 ARTICLING SUBCOMMITTEE
- C.3.1 The Subcommittee had two meetings in October. It met on October 5 and 23, 1992. The October 5, 1992 meeting was to consider the balance of the Subcommittee's agenda for its September, 1992 meeting. In attendance were Marc Somerville (Chair), Maurice Cullity and Jay Rudolph. Staff in attendance were Marilyn Bode, Barbara Dickie and Mimi Hart.
- C.3.2 The Subcommittee considered a number of policy matters. The Subcommittee was informed that approximately 25 members of the profession had filed Articles of Clerkship for more than two students. Under the Proposals for Articling Reform, section 9.2 each principal should supervise no more than two students in order that effective supervision of students is provided. It was agreed that the Articling Director would write a letter to the 25 members inviting other members of the firm to apply as principals. Alternatively, principals were to be invited to make written submissions to the Subcommittee as to why only one individual should serve as principal to a number of students.

- C.3.3 The Subcommittee also discussed whether to consider applications from members of the Law Society who had less than three years of practice experience. The Proposals for Articling Reform require three years of experience to serve as a principal. Given the current economic situation, the Subcommittee decided to consider applications on an individual basis. It might, in appropriate cases, approve someone with less than three years practice experience.
- C.3.4 The Subcommittee was provided with a copy of the Supreme Court of Canada's Education Plan. It was approved for the 1992-93 articling year.
- C.3.5 The Subcommittee authorized the Articling Director to approve all abridgment applications in the first instance. To date, the Articling Director had been approving all applications for abridgment excepting those for a complete waiver of articles or those from individuals with experience other than in articling or practice. All abridgment applicants may appeal the decision of the Articling Director to the Articling Subcommittee, pursuant to section 14.1 of the Proposals for Articling Reform.
- C.3.6 The Subcommittee was advised that a firm that had refused to comply with the new requirements to file an Education Plan and submit an application to serve as articling principal for the 1992-93 articling year had recently complied with the requirements.
- C.3.7 The Articling Subcommittee met on Friday, October 23, 1992 at 8:00 a.m. In attendance were Marc Somerville (Chair), Maurice Cullity and Stephen Goudge, Paul Lamek (Chair, Legal Education Committee) also attended. Staff members attending were Marilyn Bode, Barbara Dickie and Mimi Hart.
- C.3.8 The Subcommittee gave conditional approval to a further 11 applications from prospective articling principals for the 1992-93 articling year. To date, approximately 1144 members of the profession have applied.
- C.3.9 The Subcommittee denied approval to one principal. The Law Society has authorized two separate discipline proceedings against the member. The proceedings have been adjourned on the member's request due to medical problems. The Subcommittee expressed concern about the member's current ability to train and supervise an articling student.
- C.3.10 The Subcommittee considered the application of another member with some negative history with the Law Society. The member had been authorized to participate in the Peer Review Program in the past but declined to participate. The Subcommittee approved the member as a principal provided the member agreed to participate in the Peer Review Program.
- C.3.11 The principal application of a member who was called to the bar in February, 1992 was denied.

- C.3.12 The Subcommittee also considered several policy issues at its meeting of October 23. It considered whether any sanctions should be imposed on lawyers who applied for principal approval beyond the deadline of October 31, 1991. The Subcommittee noted that applications from members who had articling students commencing employment with their firms in the summer of 1992 are still arriving daily. This has occurred despite best efforts to publicize the Proposals for Articling Reform. After some discussion, the Subcommittee decided not to impose any sanctions against principals filing beyond the deadlines for the 1992-93 articling year.
- C.3.13 The Subcommittee discussed the fact that to date the rights of appearance before courts and tribunals for articling students has not been made a rule of the Law Society. The issue is that some judges in Metropolitan Toronto will not hear from anyone who is not gowned. This precludes students from appearing on simple contested interlocutory motions before Ontario Court (General Division) judges. Articling students outside Metropolitan Toronto are not similarly restricted. Furthermore, articling students inside Metropolitan Toronto may appear when gowning is not required. Mr. Somerville will speak to the Treasurer regarding this matter in the hope that further discussion with the courts will resolve the issue.
- C.3.14 The Subcommittee approved the recommendation of the Articling Director regarding the filing of education plans by firms for the 1993-94 articling year. Only those whose firms or principals who have not previously filed a plan that was approved by the Law Society and those firms wanting to make changes to their 1992-93 plan will need to file a plan for the 1993-94 articling year.
- C.4 CONTINUING LEGAL EDUCATION REPORT ON COURSES
- C.4.1 The Report is attached. (page 9)
- C.5 CONTINUING LEGAL EDUCATION REPORT ON COURSES (OTTAWA)
- C.5.1 A program entitled: "Estates and Trusts for the General Practitioner - New Developments" was held in Ottawa on October 27, 1992. Ninety-five registrants attended this half day program and evaluations were excellent.
- C.5.2 Holly Harris, Ottawa Area Director of Education, introduced Robert Murray, Chair of the program. Speakers included Kenneth J. Webb, David C. Simmonds, Bernard G. Roach, David C. Thompson and Gail S. Nicholls. Topics included problems in interpretation and drafting of wills, issues of incapacity, recent changes in taxation, the process of probate and administration and estate litigation. The program was videotaped. The materials for the registrants included papers and precedents on the above topics.

27th November, 1992

C.6 BAR ADMISSION COURSE: BUSINESS LAW EXAMINATION

- C.6.1 The Committee agreed to the Director making adjustments to the Business Law examination grades to account fairly for the examination having been too lengthy.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"P. Lamek"
Chair

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

- A - Item A.1. - Draft Procedures for the 1993 recruitment process incorporating the recommendations. (Pages 1 - 8)
- C - Item C.4 - Report on courses re: Continuing Legal Education. (Page 9)

THE REPORT WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992, at 10:30 a.m., the following members being present: M. Cullity (Chair), J. Palmer (Vice-Chair), and A. Lawrence; A. Brockett also attended.

A.
POLICY

All Items

B.
ADMINISTRATION

1. INCORPORATION OF LAW PRACTICES - AMENDMENT OF RULE 50

The Insurance Committee at its October 8th, 1992, meeting considered the report of the Special Committee on the Incorporation of Law Practices. On October 23rd, 1992, Convocation adopted the following recommendations of the Insurance Committee:

- (1) that members who act as counsel or solicitor to a law corporation should not be entitled to an exemption from the Errors & Omission levy; and
- (2) that members who are shareholders in a law corporation should not be entitled to an exemption from the levy.

The Insurance Department had also asked that Rule 50 be amended to reflect the fact that the pro-rating of the Errors and Omissions levy is now based on the calendar year.

IT IS RECOMMENDED that the section of Rule 50 headed "Indemnity for Professional Liability" be amended by adding after the word "corporation" in paragraph (a) the words "(except a law corporation)" and adding after the word "member" in paragraph (b) the words "(except a member who is a shareholder of a law corporation)".

IT IS FURTHER RECOMMENDED that in the same section of Rule 50 the word "and" be added at the end of paragraph (a).

IT IS FURTHER RECOMMENDED that in the same section of Rule 50 the schedule providing for a pro-rating of the levy be amended so that the entire section will read as follows (changes underlined):-

"INDEMNITY FOR PROFESSIONAL LIABILITY

A levy for indemnity for professional liability to be used for an insurance fund to cover insurance premiums, reserves, group deductibles, adjusting costs, counsel and legal fees, administration costs and other expenses reasonably incurred in connection with indemnity for professional liability payable by every member who engages in active practice in any year to be paid to the Society at such time and in such amount in any year as Convocation may from time to time determine as follows:

- (i) By any member who commences practice in January, February or March of any year except those called to the Bar in February of any year
.....100% of the prescribed levy;
- (ii) By any member who is called to the Bar and commences practice in February of any year
.....75% of the prescribed levy;
- (iii) By any member who commences practice in April, May or June of any year
.....75% of the prescribed levy;
- (iv) By any member who commences practice in July, August or September of any year
.....50% of the prescribed levy;
- (v) By any member who commences practice in October, November or December of any year
.....25% of the prescribed levy;

The following are eligible to apply for exemption from payment of the levy:

- (a) full-time counsel or solicitor to the Government of Ontario or of Canada or to any corporation (except a law corporation), a Crown Attorney, City Solicitor or law teacher, unless in any year the member engages in practice apart from such employment; and
- (b) any member (except a member who is a shareholder of a law corporation) not engaging in practice during the year in respect of which the levy is prescribed.

If at the end of the year the insurance fund is not entirely used up the surplus remaining shall be carried forward into the next year."

2. FEES PAYABLE BY STUDENT MEMBERS - AMENDMENT OF RULE 50

The Legal Education Committee at its October 10, 1991, meeting approved an amendment to Rule 50 to reflect the fees applicable to the new Bar Admission Course and the dates on which they are payable. It is understood that the matter will be reported to Convocation in the November 1992 report of the Legal Education Committee.

IT IS RECOMMENDED that the section of Rule 50 headed "Student Members" be amended by revoking the existing wording and substituting the following:

"STUDENT MEMBERS

Upon filing an application for admission as a student member of the Society--Non-refundable Application Fee\$101

Upon commencing Phase One or Phase Three of the Bar Admission Course, payable on or before the first day thereof, a tuition fee in the amount set by Convocation from time to time.

In the event of late filing of an application, late payment of tuition fees, or late filing of any of the documentation required by Subsection 22(9) of Regulation 573, a late filing fee of \$50 is payable. For late tuition fees, an additional late filing fee of \$5 is payable for each day late to a maximum of \$200 per fee."

C.
INFORMATION

1. It was reported that the Trustees of the Law Foundation of Ontario at their meeting of October 8th, 1992, considered that part of the Report of the Special Committee on the Incorporation of Law Practices which referred to Regulation 574. The Law Foundation have advised that, in the opinion of the Trustees, no amendments to Regulation 574 are necessary.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"M. Cullity"
Chair

THE REPORT WAS ADOPTED

27th November, 1992

LIBRARIES AND REPORTING COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992, at 9:00 a.m., the following members being present: D. Murphy (Chair), M. Cullity, G. Farquharson, A. Feinstein, K. Golish, R. Lalande, B. Pepper and M. Weaver; D. Crosbie and G. Howell also attended.

A.
POLICY

No Items

B.
ADMINISTRATION

1. COUNTY AND DISTRICT LAW ASSOCIATIONS - GRANTS FOR 1993

The Chief Librarian has received two documents (projected 1992 Finances and 1993 Budget Estimates) from 47 County Law Associations. The Chief Librarian's two-page Revised Memorandum (along with five charts) was reviewed by the Committee, along with an extract from the Report of the October 9th meeting of C.D.L.P.A.'s Library Committee, relating to Distribution of Central Funding. Your Committee recommends approval of the grant distribution scheme to the counties for 1993 as contained in the November 5th, 1992 memorandum of the Chief Librarian. A summary of this memorandum is attached.

2. SEARCH-LAW

The Chief Librarian reported to the Committee on the revenues and expenditures of Search-Law. The figures after 4 months indicate that Search-Law is operating at a slight surplus after substantially increasing its service charge effective July 1st, 1992. Financial results will continue to be closely monitored.

27th November, 1992

C.
INFORMATION

1. ONTARIO REPORTS - MEETING WITH BUTTERWORTHS

A meeting was held between representatives of the Society and Butterworths on October 22nd, 1992, which provided an opportunity to review several aspects of the publishing contract for the Ontario Reports with the new President of Butterworths, Derek Day.

2. C.D.L.P.A. LIBRARY COMMITTEE MEETING (OCTOBER 9TH)

The Committee reviewed the 4-page Report of the C.D.L.P.A.'s October 9th Library meeting, in particular items 2 and 3 on Mandatory Collection of Local Dues and the Law Society's County Library Levy respectively, both regarding funding of the county library system for 1994.

3. COUNTY LIBRARIANS' ANNUAL MEETING (OCTOBER 16TH)

Librarians from almost all of the 47 county law associations attended the annual educational seminar held in Toronto. By all accounts, the October 16th meeting was another success, with librarians from three different counties assisting the Chief Librarian with the informational and discussion sessions.

4. NEGOTIATIONS WITH CARSWELL ON THE CANADIAN ABRIDGMENT
AND THE OTHER SUBSCRIPTION SERVICES

The Committee reviewed the following documents:

- a) Chief Librarian's October 13th letter to Carswell
- b) Carswell's October 22nd letter to Chief Librarian
- c) Chief Librarian's November 5th letter to Carswell

Negotiations with Carswell already have been successful in part, resulting in savings of some \$80,000 on the cost to the county libraries of the Canadian Abridgment in 1993. Further negotiations will be continued in order to realize additional savings. In addition, letters to Canada Law Book and Butterworths will be sent to seek similar savings.

5. COPYRIGHT IN JUDGMENTS

The Chair stated that the Committee will be asked to review the Law Society's position on Copyright in Judgments at the January, 1993 meeting of the Committee. Materials will be distributed in December, well in advance of the January 14th, 1993 meeting.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"D. Murphy"
Chair

27th November, 1992

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

- B - Item 1 - Summary of memorandum dated November 5, 1992 from the Chief Librarian re: County Libraries - 1993 Budgets.

THE REPORT WAS ADOPTED

PROFESSIONAL CONDUCT COMMITTEE

Meeting of November 12, 1992

Mr. Somerville spoke to Item A-1 re: Revision of the Rules of Professional Conduct, and Items A-2&3 re: inquiries from the profession regarding Corporate law department letterhead and setting up a consulting company separate from law firm.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November, 1992 at three o'clock in the afternoon, the following members being present: Somerville (Chair), Cullity (Vice-Chair), Campbell, Elliott, Finkelstein, Hickey, Rowe (non-bencher member) and Topp.

A.
POLICY

1. REVISING THE RULES OF PROFESSIONAL CONDUCT -
CREATION OF A SPECIAL COMMITTEE TO DO THE
REVIEW - REPORT FROM THE CHAIR

The Professional Conduct Committee held a dinner meeting on November 10th that was attended by the Treasurer.

The result of that meeting was the approval of the following recommendation:

Recommendation

1. That Convocation establish a Special Committee to Review the Rules of Professional Conduct.
2. That the terms of reference of the Special Committee be:

To co-ordinate a review of the Rules of Professional Conduct and to make recommendations to Convocation in answer to the following questions:

1. In respect of each of the existing rules
 - 1.1. Does the rule set forth a standard of conduct that is appropriate for lawyers as members of a self-governing profession when considered from the standpoints of
 - a. the public; and
 - b. the legal profession?
 - 1.2. If the rule does not set forth an appropriate standard, what should the standard be?
 - 1.3. Are the structure and wording of the rule adequate to communicate the appropriate standard and to give guidance to members of the profession?
 - 1.4. If the structure and wording of the rule are not adequate, how should it be structured and worded?
2. In respect of the rules as a whole
 - 2.1. Are there aspects of professional conduct not included in the current rules which ought to be addressed?
3. That Marc Somerville be appointed Chair of the Special Committee.
4. That a list of at least ten persons to serve as members of the Special Committee be prepared by the Treasurer and the Chair and presented to Convocation for approval, the list to include representation from among the lay benchers and to be composed so as to ensure a balance between barristers and solicitors.
5. That the Special Committee draw up a timetable for its work and present a budget to Convocation for approval.

The Committee endorsed the recommendation and requests Convocation to do likewise.

2. CORPORATE LAW DEPARTMENT LETTERHEAD -
BELL CANADA LAW DEPARTMENT LETTERHEAD
LOOKS LIKE PRIVATE LAW FIRM WHEN
COLLECTION LETTERS SENT OUT

In April 1983 the Professional Conduct Committee gave the lawyers in the law department at Bell Canada permission to use their names in a fashion that would resemble those of a private law firm.

Set out below is the item as it was reported to Convocation: (Convocation adopted the Committee's position.)

CORPORATE LAW DEPARTMENT LETTERHEAD

Mr. H. P. Eccles, one of the lawyers in the law department of Bell Canada has asked if it would be proper for there to be a separate letterhead in the same fashion as the letterhead of a firm in private practice. Mr. Eccles' letter is attached together with a sample letterhead.

The Committee was of the opinion that this would not be improper in that a number of corporate law departments already have separate letterhead for their lawyers collectively or for individual lawyers which is normally used when corresponding on behalf of an individual employee or a subsidiary corporation.

There has been a complaint made that collection letters are being sent from an office other than that of the Bell law department and it would appear to the recipients that the department is a private law firm.

The Committee's Secretary has suggested to one of the lawyers at Bell Canada that a change to the letterhead should be made whereby the words "Bell Law Department" would appear. Mr. James Varro of the Complaints Office has made the same suggestion.

Attached are two copies of the letterhead used by the lawyers at Bell Canada (numbered 1 & 2). One is used for day to day correspondence. The other is sent out for collection purposes from an office of Bell Canada that is located in a building several miles from the building housing the law department.

Also attached is the most recent letter from Bell Canada's law department (numbered 3 & 4).

The Committee, after much discussion, concluded that a corporate law department should not be permitted to have a letterhead similar to that of a private law firm because it was misleading. In reaching this conclusion the Committee was mindful that it was repudiating a position taken 9 years ago by the Committee.

The Committee asks Convocation to adopt its position.

3. LAWYER TO SET UP A CONSULTING COMPANY SEPARATE
FROM HIS LAW FIRM - CONSULTING COMPANY TO
GIVE BUSINESS ADVICE TO CLIENTS OF A FOREIGN
LEGAL CONSULTANT - REQUEST FOR ADVICE

The Committee discussed the proposal from a lawyer who wishes to set up a consulting firm in addition to his law practice. He will have an association with an American law firm which has a Toronto branch office that is licensed as a foreign legal consultant.

Set out below are the details of how he proposes to operate.

1. ABC, a member of The Law Society of Upper Canada, currently carries on, or may establish, a sole proprietorship for the practice of law in Ontario. Additional lawyers qualified to practise in Ontario may become partners, associates or employees of ABC in the future. "ABC" refers to ABC or the ABC firm, as the case may be.

2. ABC will practise law in Ontario in accordance with the rules and subject to the jurisdiction of The Law Society of Upper Canada. ABC's books and accounts pertaining to his or her practice in Ontario will be available in Ontario to The Law Society's auditors or agents.
3. ABC may enter into an agreement with XYZ, a foreign legal consultant firm registered or to be registered in Ontario, whereby ABC would use the Toronto office premises of XYZ. ABC would use the office space, furnishings, secretarial and para-legal assistance of XYZ, as well as record keeping, accounting, billing, library and research and other office management services and facilities of XYZ.

ABC would be publicly listed separately as an occupant of the building in which the offices of XYZ would be located. ABC would have a separate phone listing and telephone number which would be answered so as to identify the practice of ABC.
4. ABC, or ABC Limited, an Ontario corporation to be owned by ABC or members of his or her family, may have an agreement with XYZ whereby the services of ABC would be available to provide consulting and advisory services to XYZ with respect to its international law practice. In providing such services, ABC may be identified as consultant to XYZ.
5. In providing consulting and advisory services to XYZ's clients on matters not involving the rendering of advice on Ontario law, ABC may use XYZ's letterhead and be identified as consultant to XYZ.
6. To the extent that clients of XYZ require advice on Ontario law, such advice would be provided to the client directly by ABC as part of ABC's law practice.
7. The letterhead of ABC may identify ABC as associated with XYZ. The letterhead of XYZ may identify XYZ as associated with ABC.

The following points were identified as needing possible clarification.

Points 1 and 2

Do not present a problem.

Point 3 - sharing office space with a foreign legal consultant

ABC (the law firm) proposes sharing office with a registered foreign legal consultant.

Should foreign legal consultants be permitted to share office space with Ontario lawyers? What is the harm in their sharing office space?

The Committee concluded that there would be no harm with an office sharing arrangement.

Point 4 - the consulting company

ABC (the law firm) is going to set up a consulting firm, ABC Ltd., which will provide "consulting and advisory services to XYZ with respect to its international law practice".

Should the name of the consulting company operate under a name that is different from that of the ABC law firm to avoid confusion?

In providing consulting services to the international law practice of XYZ, can the consulting company of ABC be identified "as consultant to XYZ"?

The Committee was of the opinion that it would be prudent for the consulting company to operate under a name that was different from that of the law firm as it would clarify the respective roles the lawyer was playing and would avoid any confusion.

Point 5 - billing of XYZ's clients by ABC's consulting firm

- (a) Should the ABC consulting firm bill XYZ's clients on the letterhead of XYZ as is proposed?
- (b) Or, would it be preferable to have the ABC consulting firm bill the clients of XYZ directly?
- (c) An alternative to the above would be for the ABC consulting firm to bill the XYZ firm for its services. XYZ in turn would show the consulting fees as a disbursement on its account to their clients.

Options (b) and (c) would serve to clarify the role of the consulting company.

The Committee did not have any concerns with the billing proposals.

Point 6

The clients of XYZ can go to the ABC law firm for advice on the laws of Ontario. No problem here.

Point 7 - indication of an association between the ABC law firm and the foreign legal consultant XYZ

There are really two points to this point.

- (1) The Professional Conduct Committee in the past has taken the position that a law firm can refer to its affiliation with another law firm whether that law firm is in Ontario or not so long as there is an affiliation or an association. Hence the ABC law firm can show its association with the XYZ law firm in the U.S.
- (2) The lawyer here would like to show on its letterhead that it is associated with the foreign legal consultant XYZ in Toronto. He would also like to have the XYZ foreign legal consultant show its association with the ABC law firm.

Is there any harm in permitting this association to be shown on either letterhead?

The Committee concluded that there was no harm.

The Committee asks Convocation to adopt its assessment.

C.
INFORMATION

1. FEDERATION OF LAW SOCIETIES
COMMITTEE ON MARTIN V. GRAY
(S.C.C. CASE ON CONFLICTS OF INTEREST)

The Federation of Law Societies Committee on Martin v. Gray case held its fourth meeting on Monday, November 2nd. Agreement on a rule that would address the migrating lawyer issue appears possible.

Mr. Campbell reported that the Board of Directors of the Federation of Law Societies will consider the proposed rule at its December meeting. The Federation Committee has requested the Board of Directors to consider sending it to all the law societies across Canada for the purposes of receiving feedback from their respective members.

The Professional Conduct Committee will be reporting further on this matter to Convocation in January.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"M. Somerville"
Chair

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

A - Item 2 - Copies of letterheads used by lawyers at Bell Canada. Letter from Bell Canada dated November 11, 1992 to Mr. James C. Varro re: Norman Dierenfeld, Complainant.
(Pages 1 - 4)

It was moved by Mr. Somerville, seconded by Mr. Strosberg that a Special Committee be established to review the Rules of Professional Conduct and that the members be as follows: Hope Sealy, Colin Campbell, Susan Elliott, David Scott, Dennis O'Connor, Colin McKinnon, Fatima Mohideen, Laura Legge, Denise Bellamy, and James Wardlaw and that additional member(s) be appointed with Family and/or Criminal practice.

Carried

It was moved by David Scott, seconded by Roger Yachetti that Item A-3 re: Lawyer to set up consulting company separate from law firm, be sent back to Committee.

Carried

THE REPORT WITH THE EXCEPTION OF ITEM A-3 WAS ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of November 12, 1992

Mr. McKinnon spoke to Item A-A.1 re: Reinstatement of review program participation and Item A-A.2 re: Accessibility of information.

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 Thursday, the 12th of November, at 11:30 a.m., the following members being present: C. McKinnon (Chair), M. Weaver (Vice Chair), N. Graham, C. Hill, D. Murphy, M. Trofimenko.

Also present: M. Devlin, S. Kerr, S. McCaffrey, A. Rodomar, P. Rogerson.

A.
POLICY

- A.1. LAWYER REFERRAL SERVICE AND REINSTATEMENT OF REVIEW PROGRAMME PARTICIPANTS
- A.1.1 This issue has arisen in a particular case where the member was referred to the Programme by the Complaints Department. The member had received 10 complaints over a four-year period, two of which were received since authorization was granted. This member has no errors & omissions claims, nor any past discipline history. When the member was invited to participate in the Programme, he declined. The member's file was closed by the Committee on May 14, 1992, as a result of his unwillingness to participate. The member has now written to the Committee objecting about his continued exclusion from the Lawyer Referral Service.
- A.1.2. The Lawyer Referral Service was established as a pilot project in 1970, the primary function of which appears to be to facilitate access by the public to competent legal counsel. The Special Committee report had recommended that lawyers on the Service roster should have at least 3 years' experience at the Bar. This stipulation arose from a belief that the public would assume that the Society was warranting a certain level of competence in lawyers participating in the service. As well, the Special Committee recommended that participating members be restricted to accepting referrals in 2 areas of law; present practice allows members to stipulate up to 3 areas.
- A.1.3. When a lawyer is authorized for participation in the Practice Review Programme, pursuant to Committee policy the Lawyer Referral Service is so notified, and the Communications Department will ordinarily remove the lawyer's name from the Service's roster. This issue was re-addressed in June, 1990, and was reaffirmed by the Committee on the basis of the following rationale:

- a) the purpose in notifying the Lawyer Referral Service is to protect the public and, to a lesser extent, the Law Society, from the danger of creating a solicitor/client relationship involving a lawyer whom the Society, based on a significant body of data, believes may have a competency problem;
 - b) the Referral Service should be made aware of the names of all lawyers authorized, regardless of whether they agree to participate in the programme so that they can make an informed decision on the suitability of the lawyer to continue as a participant in the Service.
- A.1.4. Upon the successful completion of the Practice Review Programme, the Standards Department notifies the Lawyer Referral Service and the lawyer's name is ordinarily restored to the Service's roster.
- A.1.5. To date, only a very small percentage of the matters authorized have resulted in the prompt termination of a review on the basis of inaccurate Law Society data.
- A.1.6. An issue which the Committee has not addressed thus far, is in what circumstances, if any, a member's name should be restored to the Lawyer Referral Service where the member declines to participate in the Practice Review Programme, or withdraws from the Programme prior to the successful completion thereof.
- A.1.7. While it is acknowledged that the exclusion of a member from the Service's roster is likely to have adverse financial consequences for a lawyer, it is submitted that the Lawyer Referral Service was established primarily to benefit the public.
- A.1.8. By declining to participate, a lawyer effectively prevents the Society from properly evaluating the information which resulted in the invitation to participate in the programme. The rationale which caused the Committee to re-affirm its current policy in 1990 would therefore seem to apply in this case as well.
- A.1.9. In the absence of the legislative reforms recommended by the Reforms Implementation Committee, and in circumstances where a referral to discipline may be inappropriate, there are few mechanisms available by which to protect the public from members who appear, from data collected by the various Law Society departments, to provide less than competent services.
- A.1.10. The Committee therefore recommends that the following procedure be implemented:
- a) If a member authorized to participate in the Practice Review Programme refuses to do so, and the member's Standards file is accordingly closed by the Committee, Professional Standards staff will continue for the following year to monitor the member's profile for complaints, errors and omissions claims, audits, and other information. If there are no additions to the profile, the member's name will be restored to the Lawyer Referral Service roster at the end of that one year period. If the Law Society continues to receive complaints, claims and other information about the member, the member's name will not be restored to the roster.

- b) In circumstances where a member commences participation in the Practice Review Programme, but subsequently withdraws, and the file comes before the Committee to be closed, each member's situation will be assessed on an individual basis by the Committee in order to determine the length of time during which that member's profile should be monitored.

A.2. ACCESSIBILITY OF INFORMATION GATHERED THROUGH THE PRACTICE REVIEW PROGRAMME

- A.2.1. The Special Committee on the Exchange of Information within the Society recommended in January 1985, and Convocation approved, a policy of open communication between Law Society departments. In light of this policy, it was decided in 1987 that there should not be confidentiality of standards proceedings within the Society.
- A.2.2. The Professional Standards Department frequently acts, therefore, as a "clearing house" of information for other departments and programs within the Law Society. For example, prospective articling principals are vetted by the Programme Co-ordinator, as are members applying for certification as specialists. The information provided in response to enquiries indicates only whether the member is now, or has in the past been, a participant in the Practice Review Programme. It is then in the discretion of the appropriate Committee or Department to decide what use should be made of the information provided, and what impact that information should have upon the individual member concerned.
- A.2.3. The Departmental Situation Sheet prepared by the Programme Co-ordinator is forwarded to those departments in the Society which have a particular interest in a member's status, including Discipline, Complaints, Audit and Investigation, and Errors & Omissions. Again, the Situation Sheet indicates only who is now, or has been, a participant in the Programme.
- A.2.4. Members invited to participate in the Programme are advised, in accordance with Committee policy, that the issue of confidentiality is recognized as a valid concern, as a result of which procedures have been implemented that restrict the numbers of individuals who are made aware of the identity of participating members. In essence, these procedures ensure that only other departments within the Law Society are made aware of a member's participation in the Programme; the public, and other members of the profession, are not so advised. This policy was implemented in recognition of the remedial focus of the Programme.
- A.2.5. Because of the information gathered through the Review Programme, and the access by the Standards Department to information gathered by other departments, the Standards Department is uniquely positioned to be able to assist other departments, groups or authorities within the broad umbrella of the Law Society who have enquiries as to a member's status. Both the Ontario Legal Aid Plan and the pending Requalification mechanism would presumably be assisted by the release of information from the Professional Standards Department.

- A.2.6. The issue of release of Law Society information to external agencies has also arisen, as a result of which a sub-committee of the Discipline Policy Committee was established. The sub-committee has engaged in discussions with policing agencies with respect to this question.
- A.2.7. The Committee tabled further discussion of the issue, and recommends that the matter be referred to the Treasurer for the constitution of a Special Committee to address concerns arising from the exchange of information within the Law Society itself, and to consider the issue of disclosure of Law Society information to outside agencies.
- A.3. PRACTICE REVIEW PROGRAMME AND LEGAL EDUCATION
- A.3.1. It occasionally comes to the attention of Standards staff that a member authorized for participation in the Practice Review Programme has been engaged by the Society to speak at Continuing Legal Education programs, or to lecture in the Bar Admission Course. Currently, potential instructors for the Bar Admission Course (both Phases I and III) are vetted through the Standards Department.
- A.3.2. Some participants in the Practice Review Programme are proficient in the law, but are involved in the programme as a result of poor practice management procedures. While these participants may be appropriate speakers or lecturers, there will be other circumstances where it is inappropriate for a participant in the programme to be involved in educational activities of the Law Society such as Professional Responsibility and Practice Management instruction.
- A.3.3. The Committee therefore recommends that a similar procedure be instituted with respect to potential speakers in Continuing Legal Education programmes, and further recommends that this issue be referred to the Education Committee for its consideration.

C.
INFORMATION

- C.1. DISPUTE RESOLUTION SUB-COMMITTEE
- C.1.1. The Dispute Resolution Sub-Committee of the Research and Planning Committee has been considering the role and responsibilities of the Law Society in respect of Alternative Dispute Resolution. One issue which has been discussed by the Sub-Committee is whether the Law Society should require particular standards of competence (or evidence of participation in suitable educational courses) before a member is held out as a mediator, arbitrator or third-party neutral. The Chair of the Sub-Committee will be meeting with the Chairs of the Professional Conduct and Professional Standards Committees in order to discuss this issue further in the formulation of draft recommendations to be presented to the Research and Policy Committee.

C.2. WILLS AND TRUSTS CHECKLIST

- C.2.1. A final draft of the Wills and Trusts Checklist was distributed to Committee members for review and discussion at the January 1993 Committee meeting.

C.3. PROFESSIONAL STANDARDS - DEPARTMENTAL UPDATE

- C.3.1. There are at present 97 open files in the Practice Review Programme, 10 of which are in abeyance as a result of suspension, disciplinary proceedings or financial difficulties.
- C.3.2. The Professional Standards Department and the Practice Advisory Service jointly offer a workshop for lawyers who are considering setting up a practice. The workshop has been offered monthly since February, 1990, and registration, limited to 20 participants, is virtually always fully subscribed. The workshop recently moved to a full-day format, covering issues such as client communications, office systems, books and records and the practical (and financial) realities of starting a law practice.
- C.3.3. The tendering process for the contract with the LINK - Lawyers' Assistance Programme has been completed, and interviews held with respect to three of the tenders received. The LINK Board is in the process of assessing the interview results, in order to determine the future service provider.

C.4. PRACTICE ADVISORY SERVICE - STATUS REPORT

- C.4.1. The Service responded to and assisted in resolving 364 requests for assistance in the month of September, 1992. The Service typically is able to respond to calls within 24 hours of receiving same, although the increase in volume of calls at month end results in some delays in responding to less urgent matters.
- C.4.2. The September, 1992 edition of the Adviser has elicited some comments from the profession, particularly with respect to the mortgage discharge guidelines.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"C. McKinnon"
Chair

It was moved by Colin McKinnon, seconded by Netty Graham that Items A-A.1 and A-A.2 be adopted.

Carried

THE REPORT WAS ADOPTED

RESEARCH AND PLANNING COMMITTEE

Meeting of November 12, 1992

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 12th of November, 1992, at 8:00 a.m, the following members being present: L. Brennan (in the Chair), M. Cullity, C. Curtis, S. Elliott, A. Feinstein, J. Herbert, C. Hill, P. Lamek, the Hon. A. Lawrence, R. Manes, C. McKinnon, F. Mohideen, M. Somerville.

Also present: A. Brockett, S. Hodgett, A-M Langlois.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

C.1 STRATEGIC PLANNING CONFERENCE: CONCLUSIONS, RECOMMENDATIONS AND PUBLICATION

C.1.1 The Strategic Planning Conference Subcommittee (A. Feinstein, D. Scott, T. Bastedo, C. Campbell, S. Goudge, R. Manes) has arranged a meeting in late November with the group facilitators (J. Claydon, M. Pilkington, R. Sharpe, G. Watson) to finalize the text of the conclusions and recommendations from the September 1992 Strategic Planning Conference. A proposal will be prepared for the January 1993 meeting of the Research and Planning Committee, allocating responsibility for each of the recommendations to an appropriate committee or other body.

C.1.2 The Strategic Planning Conference Subcommittee and the facilitators will also be asked to recommend to your Committee whether any parts of the proceedings of the Strategic Planning Conference should be considered for publication.

C.2 INDEX OF PAST REPORTS AND POLICY DOCUMENTS

- C.2.1 Members of the Committee have suggested that benchers would find it useful to have access to an index of past reports, policy decisions and policy documents received by Convocation.
- C.2.2 A-M. Langlois (Manager, Law Society Archives) presented the following proposal:
- C.2.2.1 A fully cross-referenced subject index of policy documents adopted or considered by Convocation over the period 1980-1992, to be prepared.
- C.2.2.2 The index to be in paper format and also on a searchable database, compiled using Archives Department equipment and software.
- C.2.2.3 Copies of documents listed in the index to be available from the Archives Department on request.
- C.2.2.4 The Secretary of the Law Society to review documents that appear to be confidential (e.g. legal opinions, information submitted in confidence) to determine whether they should remain confidential. If necessary, a separate index of confidential documents to be produced.
- C.2.3 Ms. Langlois suggested that the project might start in the summer of 1993. A student librarian could be hired to work under the supervision of the Archives Department on the preparation of an index, commencing with the most recent documents.
- C.2.4 The cost of hiring a student librarian for sixteen weeks and printing the index was estimated at \$8,500.00.
- C.2.5 The following course of action was agreed:
- C.2.5.1 The staff to commence immediately with the compilation of an index of policy documents adopted by Convocation in 1992.
- C.2.5.2 When the 1992 index is ready, the Research and Planning Committee to assess its usefulness and decide whether to proceed with the summer project outlined by Ms. Langlois.
- C.2.5.3 If the summer project is to proceed, funds in the 1992-1993 budget of the Research and Planning Committee to be used to cover the cost of the first eight weeks up to June 30, 1993. An estimate for the remaining eight weeks to be included in the Committee's budget proposal for 1993-1994.

C.3 VOLUNTARY PRO BONO SUBCOMMITTEE: INTERIM REPORT

- C.3.1 R. Manes, Chair of the Voluntary Pro Bono Subcommittee, presented an interim report on the twelve-month Pro Bono Lawyer Referral Service pilot project being conducted in co-operation with the Law Associations in Hamilton and Middlesex. By means of the Lawyer Referral Service, eligible non-profit organizations in the two areas can be put in touch with lawyers who are willing to offer their services on a *pro bono* basis.

- C.3.2 Adequate numbers of lawyers in the two areas had agreed to offer their services. Difficulties, however, had been encountered in making the availability of the service known among non-profit organizations and in assessing the eligibility of the organizations that had applied. Demand for the service had therefore been limited.
- C.3.3 The Needs Assessment Survey conducted by the Subcommittee in 1990 had established that a need for such a service existed. It was becoming clear, however, that if the scheme were to succeed, greater administrative resources and more active publicity would be required.
- C.3.4 It was agreed that it was essential to have active participation from representatives of non-profit organizations and co-ordinating groups such as the United Way. It was suggested that such groups might be able to provide assistance with administration and publicity. The Community Legal Clinics were also suggested as a possible means of publicizing the service.
- C.3.5 R. Manes will prepare a proposal for consideration by your Committee.
- C.4 INSURANCE LEVY REQUIREMENT FOR MEMBERS OTHERWISE EXEMPT WHO WISH TO PROVIDE PRO BONO SERVICES
- C.4.1 The work of the Voluntary Pro Bono Subcommittee has brought to light the fact there are a number of members who are exempt from payment of the errors and omissions insurance levy (in particular, those who are employed by corporations) who wish to make their legal services available to non-profit organizations on a part-time and *pro bono* basis. If they are to provide legal services in this way, however, they are required to pay the errors and omissions insurance levy. It has been argued by members in this situation that the requirement to pay the levy is a disincentive to undertaking *pro bono* work.
- C.4.2 Inquiries have been made as to the practice in other Canadian jurisdictions. It appears that in British Columbia, members who restrict their practice to the provision of *pro bono* services are not required to be insured: this exemption is granted on the basis that the provision of free legal services is not defined as the "practice of law" in B.C. In other provinces, as in Ontario, such members are required to pay for errors and omissions insurance.
- C.4.3 In discussing the matter, your Committee saw an important distinction between those members exempt from the levy who wish to provide *pro bono* legal services free of charge and those members exempt from the levy who wish to undertake Legal Aid duty counsel work.
- C.4.4 Your Committee will ask the Insurance Committee to study the situation of those members, otherwise exempt from the insurance levy, who wish to provide *pro bono* legal services free of charge.

C.5 SUBCOMMITTEE ON THE ROLE OF THE LAW SOCIETY

- C.5.1 As a result of discussions during the past year concerning the respective responsibilities of benchers, staff and committees, and the need for a structure for the determination of Law Society priorities, the Research and Planning Committee is considering a draft statement on the role of the Law Society.
- C.5.2 C. Hill, P. Lamek and F. Mohideen have agreed to serve on a Subcommittee to consider the drafting of a role statement.
- C.5.3 The Subcommittee has been asked to take into consideration the conclusions and recommendations of the September 1992 Strategic Planning Conference as well as information on role statements of law societies in other Canadian and Commonwealth jurisdictions.

C.6 A STUDY OF THE HOURS OF WORK REQUIRED OF LAWYERS

- C.6.1 In the context of its findings on "Lifestyle and Alternative Career Options" the Transitions Report (1991) recommended that the Law Society study "the matter of the long hours of work that are reported to be required of lawyers". At a meeting with representatives of the Women in the Legal Profession Committee earlier this year, it was agreed that the Research and Planning Committee would consider this recommendation.
- C.6.2 The Women in the Legal Profession Committee is now planning a major project on "Workplace Policies" and their impact on the lives of all lawyers. In light of this initiative, it was agreed that the study of "long hours of work that are reported to be required of lawyers" would be referred back to the Women in the Legal Profession Committee for action.

C.7 FUTURE BUSINESS

Your Committee has the following items of business for its future agendas:

- C.7.1 Dispute resolution (a subcommittee report is expected in January 1993).
- C.7.2 Rules of order for the Law Society Annual Meeting.
- C.7.3 Revised standard format and numbering system for Convocation reports.
- C.7.4 Survey of County and District Law Libraries and Law Presidents to evaluate the scheme whereby a copy of the Convocation transcript is sent to every County Law Library (survey under way).
- C.7.5 Keeping the profession informed on technological developments (a subcommittee is in existence).
- C.7.6 Structure for determining Law Society priorities (a subcommittee is in existence).
- C.7.7 Non-bencher representation on Law Society committees (a subcommittee is in existence).

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- C.7.8 Survey of hours spent by benchers on Law Society business (a report is being prepared).
- C.7.9 Consideration of the report on expenditures incurred by candidates and law associations in the 1991 bencher election.
- C.7.10 A review of the rules of order for Convocation.
- C.7.11 A consideration of whether life benchers may move and second motions in Convocation.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"T. Bastedo"
Chair

THE REPORT WAS ADOPTED

DRAFT MINUTES

The draft Minutes for October 8, 22 and 23, 1992 were approved.

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of November 1992 at 10:30 a.m., the following members were present: M. Hickey (Acting Chair), R. Cass, G.H.T. Farquharson, N. Finkelstein, N. Graham and M. Weaver. Also in attendance was: A. John.

B.
ADMINISTRATION

1. COMPLAINTS/INVESTIGATIONS

Your Committee authorized four further investigations.

2. PARALEGALS HIRED AS AGENTS BY LAWYERS

The Practice Advisory Department has brought to the attention of the Unauthorized Practice Department, a case in which a lawyer has received from a paralegal notes of a preliminary interview conducted with a client charged with impaired driving. The paralegal had sent the Summary to the lawyer with the bill and referred the client to the lawyer for further work. The lawyer called the Law Society to inquire whether he could accept the retainer.

Rule 16 of the Rules of Professional Conduct which relates to fee-splitting and delegation to non-lawyers assumes that the delegating lawyer has some realistic opportunity to supervise the work of the non-lawyer. There is the assumption that the notes drafted by the non-lawyer are satisfactory and that the lawyer can assume responsibility for the work done.

The scenario described by the Practice Advisory Department is not similar to the "in-house" relationship of several clerks and paralegals, and it does raise further questions, chief of which is whether the paralegal has recorded all the salient facts to allow the lawyer to rely upon the Summary. It would be very difficult for the lawyer to know this without going over the facts with the client once more. This would result in an increased bill.

Your Committee recommends that this matter be referred to the Professional Conduct Committee as it affects the conduct of lawyers who have dealings with independent paralegals.

3. DISBARRED LAWYERS

The Law Society has recently received four complaints concerning activities of disbarred lawyers who appear to be continuing in the practice of law. In each case, the former lawyer continues to hold himself out as a barrister and solicitor and on occasion provides legal services. Law Society staff in both the Unauthorized Practice Department and the office of the Staff Trustee, suspect that the problem is widespread. Conducting investigations and prosecutions under S. 50 of the Law Society Act may not be the most efficient way of responding.

There is currently an appeal pending in the Junger matter where the Law Society attempted to enforce an Order of Convocation by way of injunction. Mr. Justice Mandel, however, refused injunctive relief and required the Law Society to proceed, as it does with paralegals, by way of a prosecution in the Provincial Division for breach of S. 50 of the Law Society Act. The appeal from Mr. Justice Mandel's decision is not expected to be heard for another nine months.

Your Committee recommends that where circumstances warrant, the Society should continue to prosecute disbarred lawyers for breach of S.50.

4. USE OF LEGAL ACADEMIC DEGREES BY NON-LAWYERS

The Society regularly receives information from members of the public who say they have been deceived into thinking a person was a member of the Law Society and qualified to practise in Ontario because academic degrees, either an LL.B. or an LL.M. appeared after the person's name on a business card or on letterhead.

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The position of the Law Society to date has been that it has no power to prevent someone from listing his or her academic degrees. Nevertheless, the context in which the degree is used is of great significance. If business cards are distributed in an office where paralegal services are offered or if misleading letterhead is used in communications with members of an ethnic community, there is a good chance that S. 50 is being breached and that the paralegal is holding himself out as a barrister or solicitor qualified to practise in Ontario.

Your Committee recommends that no action be taken at this time.

C.
INFORMATION

5. CURRENT PROSECUTIONS

Attached hereto is a list of current prosecutions.

ALL OF WHICH is respectfully submitted

DATED the 27th of November, 1992

"R. Carter"
Chair

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

C - Item 5 - List of current prosecutions.

THE REPORT WAS ADOPTED

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Meeting of November 12, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

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

Your Committee met on Thursday, the 12th of November 1992, at 9:30 a.m., the following members being present: S. Elliott (Chair), E. Goodman, S. Goudge, J. Lax, J. Monaghan, F. Mohideen and J. Spence.

Also present: J. Herbert, and S. Hodgett.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

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

B.1.1. Your Committee will be undertaking a review of *A Recommended Personnel Policy Regarding Employment-Related Sexual Harassment*. At the time of the release of the Policy, The Law Society undertook to review it in light of experience. The Policy will be assessed in terms of its substantive content and its impact within the profession. The Women in the Legal Profession Committee will make such a review a priority.

B.1.2. On February 13, 1992, the Policy was sent with a memorandum from the Treasurer, James M. Spence, to all managing partners of law firms in Ontario. A law firm was defined as an office with 2 or more lawyers. The Policy was publicized by placing advertisements in the *Ontario Reports*. It was made available to any member of the Law Society who requested a copy. As of November 12, 1992 there have been 381 requests for the Policy.

B.1.3. The views of the profession are being sought:

- a questionnaire and accompanying letter from the Treasurer is being drafted to elicit the views of managing partners who received the Policy in the initial mailing;
- a notice is to be placed in the Benchers Bulletin inviting members of the profession to make submissions regarding the Policy.

Views expressed will be considered by the Committee at a future meeting.

B.2. PART-TIME LAWYERS AND THE INSURANCE LEVY

B.2.1. Your Committee was asked to consider whether to recommend to the Insurance Committee that it revisit the issue of possible reduced insurance levies for part-time and job-sharing lawyers. Recently The Law Society of British Columbia instituted a 50% insurance rate for part-time lawyers.

B.2.2. The Women in the Legal Profession Committee will request that the Insurance Committee consider instituting a reduced fee for part-time lawyers.

C.
INFORMATION

C.1. PROJECT ON WORKPLACE POLICIES

C.1.1. The Committee continues the planning process for the project on workplace policies. The Chair and the Treasurer have discussed the matter, and a meeting of a planning group will take place in the near future. Members of the Committee reaffirmed their support for the project, especially in light of recent discussions at the Canadian Bar Association Gender Equality Task Force Conference. These discussions underlined the concern in the profession about workplace policies and the work environment.

C.2. ACTIVITIES OF THE COMMITTEE

C.2.1. The Committee was represented by several members at the Canadian Bar Association Gender Equality Task Force Conference held on October 29-31, 1992. The members reported to the Committee on the discussions at the Conference.

C.2.2. Joan Lax reported that the Joint-Subcommittee on the Harassment of Articling Students has met and is working on a policy to deal with this pressing issue.

ALL OF WHICH is respectfully submitted

DATED this 27th day of November, 1992

"S. Elliott"
Chair

THE REPORT WAS ADOPTED

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IN CAMERA

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

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27th November, 1992

CONVOCATION RESUMED AT 2:00 P.M.

PRESENT:

The Treasurer, Bellamy, Brennan, Cullity, Curtis, Elliott, Feinstein, Goudge, Graham, Jarvis, Kiteley, Krishna, Lamek, Lamont, McKinnon, Murray, S. O'Connor, Peters, Richardson, Scott, Sealy, Thom and Weaver.

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SPECIAL COMMITTEE ON ACCESS TO LEGAL SERVICES

Ms. Kiteley asked that the Report on Access to Legal Services be put over for consideration by Convocation in January 1993.

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REPORT ON SMALL CLAIMS COURT JUDGES

The Treasurer presented for consideration by Convocation the response to the Attorney General's Consultation Paper on Small Claims Court Judges. A discussion followed whereby a consensus developed regarding the role of lay persons in the Small Claims Court process. The Treasurer undertook to incorporate the views of Convocation in his letter to the Attorney General.

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CONVOCATION ROSE AT 2:40 P.M.

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Confirmed in Convocation this day of 1993.

Treasurer