

MINUTES OF CONVOCATION

Friday, 28th September, 1990
9:30 a.m.

PRESENT:

The Treasurer, (James M. Spence, Q.C.), Callwood, Campbell, Carey, Epstein, Furlong, Graham, Hall, Howie, Howland, Kemp-Welch, Kiteley, Levy, Lyons, O'Brien, McKinnon, Noble, Pepper, Peters, Rock, Stewart, Strosberg, Thom, Thoman, Topp and Wardlaw.

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"IN PUBLIC"

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MOTIONS

INSURANCE COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Messrs. Michael Hickey, Ronald Cass and Allan Lawrence be added as members of the Insurance Committee.

Carried

WOMEN IN THE LEGAL PROFESSION COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Ms. Diana Hunt and Ms. Anne-Marie Stewart be added as members of the Women in the Legal Profession Committee.

Carried

RESEARCH AND PLANNING COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. John I. Laskin be appointed as a non-Bencher member of the Research and Planning Committee.

Carried

ADMISSIONS COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. Barry Pepper be added as a member of the Admissions Committee.

Carried

SUBCOMMITTEE ON CERTIFIED TRUST CHEQUES

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. J. Douglas Thoman be added as a member of the Subcommittee on Certified Trust Cheques.

Carried

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. Michael O'Dea be appointed as a County & District representative to the Subcommittee on Certified Trust Cheques.

Carried

BUILDING COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. John D. Ground be added as a member of the Building Committee.

Carried

DISCIPLINE AND FINANCE AND ADMINISTRATION COMMITTEES

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mr. Samuel Lerner be added as a member of the Discipline Committee and the Finance Committee.

Carried

PROFESSIONAL STANDARDS COMMITTEE

It was moved by Mr. Topp, seconded by Mr. Noble THAT Mrs. Laura L. Legge be added as a member of the Professional Standards Committee.

Carried

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PROFESSIONAL STANDARDS COMMITTEE

Mr. Thoman presented the in camera Report of the Professional Standards Committee of its meeting on Thursday, June 14th, 1990.

The Report was presented in public.

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 14th of June, 1990 at eleven thirty in the morning the following members being present: Mr. Farquharson (Acting Chair), Mr. Furlong, Mr. Thoman and Mrs. Weaver. Also present were Ms. Angevine, Ms. Ashby, Ms. McCaffrey, Ms. Poworoznyk, and Mr. Kerr.

A.

POLICY

1. PRACTICE REVIEW PROGRAMME AND THE LAWYER REFERRAL SERVICE

At its May meeting the Committee reviewed its practice of asking the Lawyer Referral Service to remove a member's name from the roster once participation in the Review Programme was authorized by the Chair.

The Committee requested further background on this subject and the Chair agreed to review the matter with staff and report back to the Committee.

Attached as A1 - A4 is a copy of a background paper on the Lawyer Referral Service.

The Committee recommended that the policy of notifying the Lawyer Referral Service of the Chair's decision to authorize a member's participation in the Practice Review Programme immediately following the authorization remain unchanged.

C.

INFORMATION

1. UNCLAIMED INTANGIBLE PROPERTY ACT

At its May meeting, the Committee recommended that the Attorney General be approached with a request that proclamation of this legislation be deferred until the Law Society had an opportunity to study it and make representations.

Attached as C1 - C4 are copies of letters from the Treasurer to the Attorney General and the Treasurer of Ontario as well as memoranda from Andrew Brockett on this subject.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of June, 1990

"D. Thoman"
for Chair

Attached to original Report in Convocation file, copy of:

A-Item 1 - Memorandum from Mr. Scott Kerr to Mr. Jeffery Lyons dated May 30, 1990 re: Professional Standards Committee, Practice Review Programme & the Lawyer Referral Service.
(Marked A1 - A4)

C-Item 1 - Letter from the Treasurer, Mr. Lee Ferrier to The Hon. Ian G. Scott and The Hon. Robert Nixon dated May 23, 1990 re: Unclaimed Intangible Property Act, 1989. Memorandum from Mr. Andrew Brockett dated May 25, 1990 to Messrs. Richard Tinsley and Robert Anderson, Ms. Patricia Rogers and Mr. Scott Kerr re: Unclaimed Intangible Property Act. Memorandum from Mr. Andrew Brockett to Mr. Kevin O'Toole dated May 16, 1990 re: Unclaimed Intangible Property Act.
(Marked C1 - C4)

THE REPORT WAS ADOPTED

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LEGAL EDUCATION COMMITTEE

Mr. Rock presented the Report of the Legal Education Committee of its meeting on Thursday, September 13th, 1990.

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

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990. The following members were present: A. Rock (Chair), M. Cullity, D.H.L. Lamont (Vice-chairs), T. Bastedo, D. Bellamy, C. Campbell, P. Epstein, R. Ferguson, D. Hunt, P. Peters, M. Somerville, S. Thom, J. Wardlaw, R. Yachetti.

A.
POLICY

1. JOINT DEGREE APPROVAL: OSGOODE HALL LAW SCHOOL AND THE FACULTE DE DROIT, L'UNIVERSITE DE MONTREAL EXCHANGE PROGRAMME

Osgoode Hall Law School of York University proposes to establish a double law degree program allowing an Osgoode student with an Osgoode LL.B. to apply to the L' Universite de Montreal to undertake a civil law degree in one academic year. The proposal is also to allow a graduate of the Faculte de droit, L' Universite de Montreal to apply to Osgoode Hall Law School to undertake a common law LL.B. in one academic year. Details of the proposal are contained in letters from York University dated May 8, 1990 and July 27, 1990. (pages 1 - 3)

York University seeks approval of the Osgoode Hall Law School LL.B. which would be granted after the one additional year of studies at Osgoode Hall Law School. Students receiving the LL.B. would be required at the end of their four years of study to have completed the seven courses which the Law Society of Upper Canada has in the past mandated must be completed in order for approval for an LL.B.

- a) Constitutional Law of Canada (can be completed at L'Universite de Montreal)
- b) Criminal Law & Procedure (can be completed at L'Universite de Montreal)
- c) Civil Procedure
- d) Contracts
- e) Personal Property
- f) Real Property
- g) Torts

Approval of the York University proposal would be consistent with past approval given to the University of Ottawa and McGill University for their respective LL.B.'s which are granted to students who complete one year of prescribed common law studies after completing the civil law degree.

It is recommended that the Osgoode Hall Law School LL.B. granted to students who satisfactorily complete the prescribed year of studies after completing the civil law degree at L' Universite de Montreal be approved.

Approved

2. EXTENSION OF BAR ADMISSION COURSE TO OTHER LOCATIONS

Douglas Patton of the Hamilton Bar has written to the Director requesting that the Legal Education Committee once again consider offering the one month teaching term of the Bar Admission Course in Hamilton.

The Legal Education Committee and the Bar Admission Reform Subcommittee have on earlier occasions considered requests of the Hamilton Bar to offer the one month teaching term in Hamilton, and have met with Douglas Patton of the Hamilton Bar.

Students enrolled in the one month Bar Admission Course in 1990 have been polled to determine whether they would have preferred the one month teaching term to be offered at another location. Of the 952 responses to the poll, 206 indicated that another location would have been preferred. Out of the 206, 23 students indicated that the availability of another location would have influenced their choice of articling location. A detailed summary of the poll results is attached. (pages 4 -5)

The greatest demand for another location, from the student perspective, appears to be in Windsor and Kingston. Presumably this reflects the particular inconvenience experienced by students attending law school at University of Windsor and Queen's University, all of whom must move in order to complete the one month teaching term. The third highest preference was expressed for a Hamilton-Burlington location.

Given the pressures which have existed in presenting the one month teaching term on a virtually continuous basis in the three existing locations over the summer, it will not be until later this fall that the Legal Education Committee will receive a comprehensive report on the one

month teaching term, together with concrete recommendations with respect to changes. Under those circumstances, it would be difficult to reopen the discussion of further decentralization of the Bar Admission Course at this time. Moreover, the staff and faculty of the Bar Admission Course are now faced with the challenge of the major design of the three month teaching term for 1991 and the reworking of the one month teaching term.

It is recommended that the issue of further decentralization of the Bar Admission Course be referred to the Bar Admission Reform Subcommittee, and that the matter be considered as soon as reasonably possible after a comprehensive report on the one month teaching term is available.

Approved

B.
ADMINISTRATION

PETITIONS

1. Jody Lynn Freeman

Ms. Freeman requests exemption from the one month teaching term of the Bar Admission Course. Ms. Freeman completed her LL.B. at the University of Toronto in 1989 and completed her articling year as a Clerk with the Ontario Court of Appeal in 1990.

Under normal circumstances she would have entered the teaching term of the Bar Admission Course on September 17, 1990, but now wishes to defer the teaching term in order to pursue graduate studies in law at Harvard. She indicates in her letter (page 6) that she plans to remain at Harvard in the summer of 1991 to expand her thesis. Ms. Freeman indicates that this will likely require her to remain out of Canada during the summer of 1991, making it difficult for her to return for the one month session.

Under similar circumstances, the Legal Education Committee and Convocation in May and June of 1990 determined that students must complete both the one and three month sessions before being eligible for admission to the Bar.

The Legal Education Committee and Convocation have not to date approved exceptions.

It is recommended that Ms. Freeman be required to complete successfully the one month teaching term of the Bar Admission Course, and that it be completed before the three month teaching term.

Approved

C.
INFORMATION

1. BAR ADMISSION REFORM SUBCOMMITTEE

James Spence is no longer the Chair of the Bar Admission Reform Subcommittee due to his election as Treasurer. The Chair of the Legal Education Committee has invited Donald Lamont, a member of the Bar Admission Reform Subcommittee from its inception, to serve as its Chair. Mr. Lamont has graciously accepted.

The Bar Admission Reform Subcommittee will be meeting shortly with a number of significant items on its agenda:

- a) Evaluation of Phase One (the one month teaching term);
- b) Modifications to Phase One;
- c) Preparation for and design of Phase Three (the three month teaching term);
- d) Drafting of Rules and Policies in relation to the reformed Bar Admission Course;
- e) Consideration and setting of Bar Admission Course standards;
- f) De-centralization of the Bar Admission Course.

The Bar Admission Reform Subcommittee will report regularly to the Legal Education Committee, seeking approval of its recommendations where appropriate.

2. NEW STAFF

The following lawyers have recently joined the staff of the Department of Education:

- a) Donna Campbell, Bar Admission Course Faculty, June 1990;
- b) Christine Medycky, Bar Admission Course Faculty, June 1990;
- c) Kevin McGuinness, Bar Admission Course Faculty, July 1990;
- d) Janet Oldreive, Continuing Legal Education Program Planner, August 1990.

3. CONTINUING LEGAL EDUCATION REFORM SUBCOMMITTEE

The Subcommittee met most recently on June 11, 1990, June 25, 1990 and August 22, 1990.

Real Estate Core Curriculum

Frances Wright of McCarthy Tetrault, chair of the Real Estate Core Curriculum Committee (Core Committee) made an interim report to the C.L.E. Reform Subcommittee (Reform Subcommittee). Members of the committee include Craig Carter, Brenda Duncan, Duncan McRae, Albert Strauss (all of Toronto), Laird Rasmussen of Ottawa, Robert Smith of Hawkesbury and Paul Kiteley of London. The Core Committee recommended the establishment of particular user groups to be serviced as follows:

- a) lawyers who have experienced too many claims against themselves;
- b) lawyers who want to change from another area of practice (i.e. the person who knows nothing about real estate practice);
- c) generalists (the group probably representing a very large proportion of real property practitioners), who practice in many areas, and need enough knowledge to operate in the real estate field with enough resources to expand their knowledge required for the market in which they practice, and the particular files they have. (This type of person might benefit from a cross discipline course.)
- d) real estate practitioners who want to remain current or gain confidence in their abilities to practice real estate law;
- e) graduates of the Bar Admission Course who are not yet comfortable carrying on a real estate practice;
- f) lawyers who have been in practice for five or more years, who need refresher courses;

g) lawyers who already specialize in real estate law but wish to develop a particular area of expertise;

h) lawyers who need help generally with risk management and law office management. The committee feels that virtually all practitioners could benefit from some assistance in this area.

Further recommendations of the Core Committee are:

1. That the Law Society not develop very advanced courses since only a handful of practitioners would benefit from them.
2. The development of basic levels of courses of general application.
3. That there be a risk control and law office management component included within each substantive law course.

The Core Committee is also discussing long distance education and has three non-Toronto members to provide assistance on this subject. The most recent meeting of the Core Committee was held on September 5, 1990, at which time a list of categories of substantive law, which are to be taught in the curriculum, will be compiled by committee members.

DISTANCE EDUCATION

Cheryl Barr provided the Reform Subcommittee members with a report on Distance Education. A collection of documents on types of teleconference media was presented giving a basic outline of what is available and costs associated with each. The report covered audio conferencing through the use of "Lexitel" - microphone/radio transmission from a given site through a "bridge" to various locations throughout the province; video playbacks; pre-recorded video usage; satellite and interactive audio transmission; computer-assisted instruction, where the participant takes pre-set lessons on his own through the use of a computer terminal. The report also listed the use of cable TV; Bell Alex; a U.S. survey on audio/video usage; and a general report listing how different technologies are used in CLE in the U.S.

The Reform Subcommittee expects to have an interim report of its activities available for the October Legal Education Committee meeting. The next Reform Subcommittee meeting is Thursday, September 13, 1990 at 5 p.m. in the Green Room.

4. ARTICLING REFORM SUBCOMMITTEE

The Articling Reform Subcommittee, chaired by Philip Epstein, has produced a further draft Report. The Report is being tabled for information at the September meeting of the Legal Education Committee, and provided to the Bar Admission Advisory Committee, chaired by Loretta Merritt, for its further review. Portions of the draft Report are being provided to the Law Society Errors and Omissions Department and Discipline Department for review of sections which affect the ability of lawyers to serve as articling Principals.

The draft Report will be presented to the Legal Education Committee together with a draft budget, as required by the Finance Committee, for discussion and approval at the regular October meeting.

5. DEPARTMENT OF EDUCATION FACILITY RENOVATIONS

Renovations to the basement and the first three floors of the Department of Education facility at Osgoode Hall are substantially complete. The Toronto Bar Admission Course staff moved from 20 Queen West back to Osgoode Hall on September 7, 1990. The last session of the traditional Bar Admission Course will begin in Osgoode on September 17, 1990.

Renovations are now beginning to the 34th floor of 20 Queen Street West. A portion of the space will be occupied in the early Fall by the Continuing Legal Education staff after its move from 204 Richmond Street West. The Continuing Legal Education staff will remain in 20 Queen Street West until the move to a new floor in the Osgoode Department of Education facility. The move to Osgoode is scheduled for January of 1992.

Renovations are substantially completed to the first and second floors of the Ottawa Department of Education facility, designed principally to accommodate the two members of faculty in Ottawa, additional support staff, and new seminar space.

There has been a modest renovation to the London Department of Education facility to provide an office for the London member of the Bar Admission Course Faculty.

6. ADVOCATES SOCIETY INSTITUTE

The Advocates Society Institute reports that it is encouraged by steadily increasing course registrations and sales of its course packages in other jurisdictions. The Institute is concerned, however, that it will experience a temporary cash shortage in September of 1990. The Institute requests a contribution of \$25,000 from each of its two founding partners, the Advocates Society and the Law Society.

The Director has reported the request to the Chair of the Finance Committee and the Law Society's Director of Finance. The Director informed the Institute that the Law Society will wish to scrutinize the request very carefully after receiving detailed information about the financial condition and prospects of the Institute.

The requested information has been provided. The Director will confer with the Chairs of the Legal Education and Finance Committees and the Law Society representatives on the Institute Board before reporting to the Legal Education Committee and making any recommendation.

7. COMPUTER EDUCATION FACILITY

The Computer Education Facility Report on Activities for the year ending June 30, 1990 is attached. (pages 7 - 15)

8. CONTINUING LEGAL EDUCATION: REPORT ON COURSES

Video Replay Programs

The following out of town programs were presented to the profession in the form of a video replay:

<u>Date</u>	<u>Program Name</u>	<u>Location</u>	<u>Registrations</u>
June 6	Real Estate for Support Staff (#686)	Bracebridge	11
June 13	Deal Breaking Title Problems (#779)	Barrie	39

The Sault Ste. Marie video replays of "I Came, I Lent, I Lost: Lender Liability" and "Assessment of Damages" were cancelled because of lack of registrations. These two programs have been rescheduled for the Fall.

Flyers For Out of Town Programs

Copies of the newly designed flyers advertising video replay programming in the counties are to be distributed at the meeting for Committee members' information. These are being very well received with the net result of increased registrations at video replay programs.

Live Programs - Toronto

<u>Date</u>	<u>Title</u>	<u>Location</u>	<u>Registrations</u>
June 4/90	Understanding Business Finance	Corporate Centre	33
June 12/90	Financing Alternatives	CBAO	35
June 25/90	GST and Your Law Practice Castle	Westin Harbour	354
August 24/90	Winning Before Trial Hotel	Hilton	117

ALL OF WHICH is respectfully submitted

DATED this 13th day of September, 1990

"A. Rock"
Chair

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

- A-Item 1 - Letter from Dr. Sharon A. Williams, York University, to Mr. Allan Rock dated May 8, 1990, re: Osgoode Hall Law School/Faculte de droit, Universite de Montreal Exchange Programme. Letter from Dr. Williams, York University to Mr. Alan Treleaven dated July 27, 1990. (Pages 1 - 3)
- A-Item 2 - Questionnaire, Law III Survey - Fall 1989. (Pages 4 - 5)
- B-Item 1 - Letter from Ms. Jody Freeman to Mr. Deborah J. Brown, Registrar dated August 1, 1990. (Page 6)
- C-Item 7 - Report on Activities 1989-90 on Computer Education Facility. (Pages 7 - 15)

THE REPORT WAS ADOPTED

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ADMISSIONS COMMITTEE

Ms. Peters presented the Report and Addendum of the Admissions Committee of its meeting on Thursday, September 13th, 1990.

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

The ADMISSIONS COMMITTEE begs leave to report:

You Committee met on Thursday, the 13th of September, 1990 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mr. Farquharson (Vice-Chair) and Messrs. Ground and Lamont.

B.
ADMINISTRATION

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

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

- John Edward Stuart Briggs
- Ian MacDonald Donahoe
- James Traill Lyon
- Robert John MacKay
- Christopher Ware Morris
- Daniel Paul
- Richard Salter
- Mieke Elisabeth van den Bergh

Approved

2. DIRECT TRANSFERS - QUEBEC - REGULATION 4(2)

The following have met all the requirements to transfer under Regulation 4(2).

- Richard William Elliott
- Stephen James Fogarty
- Leonard Stigler

Approved

3. FULL-TIME MEMBERS OF FACULTIES OF APPROVED LAW SCHOOLS

The following members of approved law faculties ask to be called to the Bar and admitted as solicitors without examination under Regulation 5 respecting full-time members of approved law faculties in Ontario:

- | | |
|---|--|
| Philip Goldman
Faculty of Law,
Queen's University | B.A. 1962 from the University of
Toronto and LL.B. 1983 from
Queen's University. |
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Approved

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| Allan Charles Hutchinson
Osgoode Hall Law School,
York University | LL.B. 1974 from the University of
London, England. |
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Approved

4. EXAMINATION RESULTS - STATUTES AND PROCEDURE

The results of the examination on Statutes and Procedure in Ontario held in July 1990 were before the Committee. Ten candidates sat the examination:

The following candidates passed:

- Lorne Arthur Green
- Sandra Jane Hardy
- Barbara Jane Hollingshead
- Warren John Addison Mitchell
- Michael John O'Keefe
- Robert John Pitt
- Nadine Lian Sandercock
- Muriel Ann Gomer Sunahara
- Harvey John Wiebe

One candidate failed.

Approved

5. EXAMINATION RESULTS - COMMON LAW EXAMINATION

The following candidates were approved by the Committee to proceed under Regulation 4(2). Two candidates sat the common law examination at the offices of the Law Society in May 1990. Both candidates sat the examinations for the second time, both failing. The candidates were identified by number only and the report of the examiners is as follows:

<u>Candidate No.</u>	<u>Paper No.</u>	<u>Marks out of 100</u>
330	4A	56
	4B.3	47
331	4A	51
	4B.3	32
Candidate 330		Province of Quebec
Candidate 331		Province of Quebec

Approved

6. CALL TO THE BAR AND CERTIFICATE OF FITNESS

Bar Admission Course

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

- Graham Frederick Alloway
- Christine Marie Hawrylyshyn-Batruch
- Michele Jo-Anne Buchignani
- Linda Teresa Schofield
- Edward Brian James
- Margaret Anne James
- Aldo Tollis

Approved

Transfer from another province - Regulation 4(1)

The following candidates, having successfully completed the Statutes and Procedure in Ontario Examination, filed the necessary documents and paid the required fee, now apply for call to the Bar and to be granted Certificates of Fitness:

- | | |
|------------------------------|------------------------------|
| Lorne Arthur Green | Province of British Columbia |
| Warren John Addison Mitchell | Province of British Columbia |
| Michael John O'Keefe | Province of British Columbia |
| Nadine Lian Sandercock | Province of Saskatchewan |

Approved

Full-Time Members of Faculties of Approved Law Schools

The following candidates, having filed the necessary documents and complied with the requirements of the Society in their particular cases, are now entitled to be called to the Bar of Ontario and to be granted Certificates of Fitness:

- | | |
|------------------------------------|--|
| Professor Philip Goldman | Faculty of Law, Queen's University |
| | Fee: \$200.00 |
| Professor Allan Charles Hutchinson | Osgoode Hall Law School, York University |
| | Fee: \$200.00 |

Approved

C.
INFORMATION

CORRECTED INFORMATION

In June this year the following item was before the Admissions Committee, the information for which was taken from a sworn Petition for Call to the Bar prepared by Mitchell Marcus:

"Mitchell Marcus (B.A. 1981 and B.C.L. and LL.L. 1985 all from McGill University) was called to the Bar of the Province of Quebec on the 12th day of November, 1986 and has practised in that province from the 12th November, 1986 to the present. Mitchell Marcus presents a Certificate of Good Standing and seeks to proceed under Regulation 4(2). There is nothing unusual about his application."

Mr. Marcus' application was approved by both the Committee and Convocation at that time.

Following Convocation on the 22nd of June, 1990, Mr. Marcus informed the Secretary's office that he had inadvertently given incorrect information and has since filed a corrected Petition for Call to the Bar and Certificate of Fitness form indicating that he received a B.A. in 1981 and a B.C.L. and LL.B. (not an LL.L. as originally indicated) in 1985 all from McGill University.

Having now submitted the correct information, Mitchell Marcus will proceed under Regulation 4(2) on the understanding that he is excused from writing the Common Law examination according to the interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 which states: "Candidates qualified to proceed under Regulation 4(2) and who have obtained an approved LL.B. degree within the eight years preceding their application may be taken to have satisfied the requirements of subparagraph (d) which reads - passes a comprehensive examination on the common law in Ontario."

Noted

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"P. Peters"
Chair

ADMISSIONS COMMITTEE - ADDENDUM - SEPTEMBER 28TH 1990

1. REINSTATEMENT AFTER SUSPENSION - BRENDA CATHERINE SPAULDING

In March of 1990, Convocation accepted the recommendation that Ms. Spaulding be reinstated as a member in good standing on complying with the following conditions:

- (a) that she and her principal file a joint statement detailing what experience and supervision she will receive as an articulated student;
- (b) that she complete with her principal the Professional Responsibility examination that all articling students are required to complete during the term of their articles;
- (c) that her principal file a letter at the conclusion of her articles detailing the experience that she has received and speaking to her ability to practise law as an entry-level lawyer; and

(d) that she undertake that following her reinstatement she will not engage in the practice of law as a sole practitioner for at least 1 year.

Ms. Spaulding has now filed material indicating she has complied with all the requirements and seeks to be reinstated.

THE REPORT AND ADDENDUM WERE ADOPTED

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CALL TO THE BAR

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

Graham Frederick Alloway	31st Bar Admission Course
Michele Jo-Anne Buchignani	31st Bar Admission Course
Edward Brian James	31st Bar Admission Course
Margaret Anne James	31st Bar Admission Course
Linda Teresa Schofield	31st Bar Admission Course
Aldo Tollis	31st Bar Admission Course
Lorne Arthur Green	Special, Transfer, British Columbia
Warren John Addison Mitchell	Special, Transfer, British Columbia
Michael John O'Keefe	Special, Transfer, British Columbia
Nadine Lian Sandercock	Special, Transfer, British Columbia
Philip Goldman	Professor, Queen's University
Allan Charles Hutchinson	Professor, York University

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FINANCE AND ADMINISTRATION COMMITTEE

Mr. Howie presented the Report of the Finance and Administration Committee of its meeting on Thursday, September 13th, 1990 along with the Financial Statements of the Law Society.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September 1990 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Howie (Vice Chair), Furlong, Hall, Harvey, Pepper, Topp and Mrs. Weaver.

A.
POLICY

1. CANADA DEPOSIT INSURANCE CORPORATION (C.D.I.C.)

In June, the Under Treasurer reported to the Committee and to Convocation on the status of a recent request by the Canada Deposit Insurance Corporation (C.D.I.C.) that lawyers report annually details of beneficiaries of monies held in mixed trust accounts.

Confirmation has been received, via the Federation of Law Societies referring to a letter from Kathleen M. Levesque, Director, Insurance and Compliance of the C.D.I.C. that the C.D.I.C. has withdrawn its policy interpretation changing the reporting requirements for lawyers' mixed trust accounts at this time. A copy of relevant correspondence is attached.

Noted

B.
ADMINISTRATION

1. AUDITED FINANCIAL STATEMENTS - JUNE 30TH 1990

Draft Financial Statements together with the Auditors' opinion for the year ended June 30th 1990 will be forwarded to the committee members under separate cover. Mr. David Yule and Mr. Peter Kinch of Ernst and Young attended the meeting.

Approved

(see Financial Statements in Convocation File)

2. BUDGET 1990/91 - ADDITIONAL ITEMS

(i) Subsequent to the approval of the budget in May the Department of Education has proceeded with some renovations to space which was taken over due to the expiry of a tenant's lease in the Ottawa premises. The cost of those renovations is:

Carpentry	\$10,700
Re-wiring for computer network	\$ 2,200
Plumbing, mechanical, electrical	\$ <u>3,500</u>
Total	\$16,400

The total budgeted amount in the Bar Admission Course for fixed asset additions is \$18,000 of which \$11,000 is currently committed, leaving \$7,000 available and therefore a short-fall of \$9,400.

The Director of Finance has discussed this matter with Alan Treleaven, the Director of Education who has asked that, since the expenditure was not budgeted it be included with the building renovations to be undertaken at the Ottawa building.

The Committee was asked to approve this expenditure.

Approved

(ii) Certification Committee - revised budget

The Certification Committee has approved a revised budget of \$220,080.00. The original budget was for \$108,266.00.

The Committee approved the revised budget on the condition that certification fees be set at rates which would allow the program to operate on a "break-even" basis.

3. FEDERATION OF LAW SOCIETIES

At its mid-winter meeting in February 1990, the Board of Directors of the Federation fixed the assessment to be levied on each governing body as of July 1st 1990 at \$7.50 per active member, unchanged from last year.

Our assessment, based on the number of active members (excluding retired members and those located out of the province) is:

19,694 members @ \$7.50 per capita = \$147,705.00

Last year the payment was \$142,665.00 based on 19,022 members.

The budget includes an amount of \$170,000 to cover this assessment for the current year, as well as travelling expenses of the Society's representatives attending Federation meetings.

The Committee was asked to approve this payment.

Approved

4. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 35 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 35 cases all or part of the late filing fee has been outstanding four months or more. The 35 members owe \$19,100 of which \$10,485 has been owing for more than four months.

The Committee was asked to recommend that the rights and privilege of the 35 members be suspended on September 28th 1990 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 112

5. MEMBERSHIP UNDER RULE 50

(a) Retired Members

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

Ralph John Connor	Hamilton
Marvin Cohen Gord	Toronto
Ian Douglas	Toronto
James Jamison Hall	Collingwood
Louis Bertram Fox	Etobicoke
* B Barry Shapiro	Weston
* John James Fitzpatrick	Toronto

* See also Membership Restored

Approved

(b) Incapacitated Members

The following members are incapacitated and unable to practise law and have requested permission to continue their membership in the Society without payment of annual fees:

Elizabeth Anne Carman	Toronto
Donald Allan Bondy	Windsor

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

Approved

6. RESIGNATION - REGULATION 12

Patrick Paul McLaughlin has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the bar on 8th April 1976 and practised law in Ontario only until 1981. His rights and privileges as a member of the Society were suspended on the 24th of February, 1984 for his failure to pay the 1983-84 fees. Arrears of fees now total \$5,449.00. His annual filings are up to date. The member has requested that he be relieved of publication in the Ontario Reports.

His application is in order and the Committee was asked to approve his resignation without publication and without payment of arrears of fees.

Approved

C.
INFORMATION

1. ROLLS AND RECORDS

(a) Deaths

The following members have died:

George Alfred Ault Ottawa (Life Member)	Called June 16th 1938 Died November 26th 1989
Wilmot Ross Draper Westhill	Called June 23rd 1955 Died November 29th 1989
Edward Francis Ryan Toronto	Called November 21st 1969 Died December 1st 1989
Kenneth Elliott Kennedy Mississauga (Life Member)	Called June 21st 1934 Died March 16th 1990
Henry Eden Langford Toronto (Life Member)	Called June 21st 1928 Died April 27th 1990
Clarence Cooper Victoria (Life Member)	Called November 19th 1936 Died May 3rd 1990
Wilson Edward McLean Toronto	Called May 18th 1944 Died May 14th 1990
Charles Edward O'Connor Ottawa	Called April 19th 1963 Died June 12th 1990
William David Mackie Brampton	Called June 28th 1956 Died June 22nd 1990
William J. Hall Amherstburg	Called April 12th 1962 Died July 3rd 1990
William Chasse Toronto	Called March 17th 1967 Died July 31st 1990
John David McGibbon Owen Sound	Called March 29th 1977 Died August 11th 1990

Noted

(b) Membership in Abeyance

Upon their appointments to the offices shown below the membership of the following members has been placed in abeyance under section 31 of The Law Society Act:

AnneMarie Erika Bonkalo Brampton	Called April 4th 1978 Appointed to the Provincial Court, Criminal Division April 1st 1990
Roderick John Flaherty Dryden	Called April 10th 1964 Appointed to the Provincial Court, Criminal Division April 2nd 1990
Dianne Rosemary Pettit Baig Fort Frances	Called March 26th 1971 Appointed to the Provincial Court, Criminal Division April 2nd 1990

Susan Rebecca Shamai Brampton	Called April 13th 1978 Appointed to the Provincial Court, Criminal Division April 2nd 1990
Ronald Edward Sobier Ottawa	Called April 19th 1963 Appointed to the Tax Court of Canada April 12th 1990
Gertrude Fuchs Speigel Brampton	Called March 20th 1975 Appointed to the District Court, Judges Chambers April 12th 1990
George Normand Glaude Elliot Lake	Called April 16th 1980 Appointed to the Provincial Court, Criminal Division April 17th 1990
Sidney Bryan Linden Toronto	Called March 25th 1966 Appointed to the Provincial Court, Criminal Division April 25th 1990
David Reilly Watson Ottawa	Called March 22nd 1968 Appointed to the Tax Court of Canada May 25th 1990
Theo Wolder Brampton	Called March 19th 1970 Appointed to the Provincial Court, Criminal Division June 1st 1990
Colin Richard Westman Kitchener	Called March 20th 1975 Appointed to the Provincial Court, Criminal Division June 1st 1990
David McClelland Stone Pickering	Called March 21st 1975 Appointed to the Provincial Court, Criminal Division June 1st 1990
Kathleen Ellin McGowan St. Catharines	Called March 28th 1977 Appointed to the Provincial Court, Criminal Division June 1st 1990
James Cecil Crawford Oshawa	Called March 29th 1977 Appointed to the Provincial Court, Criminal Division June 1st 1990
Charles David Anderson Brockville	Called March 20th 1975 Appointed to the Provincial Court, Criminal Division July 1st 1990
Tamarin Melda Dunnet Mississauga	Called April 8th 1976 Appointed to the Supreme Court of Ontario, High Court of Justice July 31st 1990

Approved

2. LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society:

		<u>Effective Date</u>
Gordon Harvey Aiken	Orillia	19th September 1990
James Edward Cullen Beatty	Toronto	19th September 1990
Harold George Blanchard	Thunder Bay	19th September 1990
Geoffrey Francis Bonnycastle	Ottawa	19th September 1990
Harry P Botnick	Weston	19th September 1990
John Arkle Dunlop	Markdale	19th September 1990
Mary Helena Gauthier	Timmins	19th September 1990
Samuel Armstrong Goff	Gooderham	19th September 1990
Richard Howard Habbeshaw	Toronto	19th September 1990
Frederic Hope Hamer	Washago	19th September 1990
Walter Humeniuk	Toronto	19th September 1990
Sockley Kamin	Windsor	19th September 1990
William Arthur Sutherland	Toronto	19th September 1990
Beth Lorraine Rowlin Underhill	London	19th September 1990
Benjamin Conroy Unger	Cambridge	19th September 1990
* David Vanek	Willowdale	18th June 1990
Isadore Benjamin Weinstein	Toronto	19th September 1990
Harold Richard Young	St. Catharines	19th September 1990

* See also Membership Restored

Noted

3. CHANGES OF NAME

The following members have requested that their names be changed on the Rolls of the Society:

<u>From</u>	<u>To</u>
Susan Anita Fekete	Susan Anita <u>Easterbrook</u> (Married Name)
Beatrice Zofia Pater	Beatrice Zofia <u>Howell</u> (Married Name)
Barbara Anne Stranak	Barbara Anne <u>Stranak-St-Georges</u> (Married Name)
Nancy Anne MacLeod	Nancy Anne <u>Dawson</u> (Married Name)
Catherine Agness Meanwell	Catherine Agness <u>Laing</u> (Married Name)
Diane Patricia McLeod	Diane Patricia <u>Meikle</u> (Maiden Name)
Teresa Maria Kwasowsky	Teresa Maria <u>Bell</u> (Married Name)
Leslie Catherine Pringle-Wright	Leslie Catherine <u>Pringle</u> (Maiden Name)
Terry Lynn Clegg	Terry Lynn Clegg <u>Zava</u> (Married Name)
Fern Ellen Krausman	Fern Ellen <u>Grech</u> (Married Name)
Sanda Rodgers-Magnet	Sanda <u>Rodgers</u> (Maiden Name)
Lisa Susan Krem	Lisa Susan Krem <u>Winston</u> (Married Name)

Robin Andrea Campbell-Hain	Robin Andrea <u>Campbell</u> (Maiden Name)	
Elaine Ruth Reaume	Elaine Ruth <u>Buckstein</u> (Married Name)	
Cathy Lee Cohen	Cathy Lee <u>Mercer</u> (Married Name)	
Adrienne Vanessa Mary Macartney-Filgate	Adrienne Vanessa Mary <u>Campbell</u> (Married Name)	<u>Noted</u>

4. MEMBERSHIP RESTORED

The following members gave notice under Section 31 of The Law Society Act that they had ceased to hold judicial office and wished to be restored to the Rolls and records of the Society.

	<u>Effective Date</u>
* B. Barry Shapiro (District Court of Ontario)	23rd June 1990
** David Vanek (Provincial Court of Ontario)	18th June 1990
* John James Fitzpatrick (High Court of Justice)	21st June 1990
Thomas Edward Quinlan (District Court of Ontario)	11th June 1990
Richard Estcourt Holland (High Court of Justice)	5th September 1990
* See also Membership Under Rule 50.	
** See also Life Members.	

Noted

5. LEGAL MEETINGS AND ENTERTAINMENT

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

September 5, 1990	Osgoode Hall Law School Convocation Hall
September 11, 1990	Red Mass Convocation Hall
September 13, 1990	Lawyers' Club Convocation Hall
September 20, 1990	Women's Law Association Convocation Hall
September 24, 1990	The Ontario Association for Family Mediation Small Dining Room
September 27, 1990	Delos Davis Reception Convocation Hall
October 3, 1990	Criminal Lawyers Association Small Dining Room
October 4, 1990	Ministry of Attorney General Convocation Hall

- October 10, 1990 C.L.E. Seminar
 Small Dining Room
- October 11, 1990 Lawyers' Club
 Convocation Hall
- October 17, 1990 Medico-Legal
 Convocation Hall
- October 27, 1990 Class of 1970
 Convocation Hall
- October 29, 1990 A.J.E.F.O. Dinner
 Convocation Hall

(b) The Association of Trial Lawyers of America will be holding its annual convention in Toronto from July 21st to July 25th 1991. They expect 3,000 registrants from Canada, Europe and the United States.

At its convention in 1975, the Law Society sponsored a garden party on the lawn of Osgoode Hall and in 1982, a dinner was held at Osgoode Hall.

Mr. T. H. Rachlin, co-chair of the convention, asks permission to use the Barristers' Lounge for a reception and Convocation Hall for a dinner on the evening of Saturday, July 20th 1991. Approximately 125 people are expected to attend.

The Committee approved the request.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September 1990

"K. Howie"
for Chair

Attached to original Report in Convocation File, copy of:

A-Item 1 - Telefax Memorandum from Mr. Claude Seguin, Executive Director to Secretaries and Executive Officers of the Law Societies dated July 11, 1990 re: Canada Deposit Insurance Corporation (CDIC). Letter from Mr. R.D. Laing, President, Federation of Law Societies of Canada to Canada Deposit Insurance Corporation dated July 4, 1990 re: Canada Deposit Insurance Corporation - Draft Letter to Law Society of Alberta. Letter from Ms. Kathleen M. Levesque, Director, Insurance & Compliance, Canada Deposit to Mr. Robert Laing dated June 26, 1990 re: Canada Deposit Insurance Corporation - Draft Letter to Law Society of Alberta.

(Marked A1)

B-Item 1 - Memorandum from Mr. David Crack to the Chair and members of Finance and Administration Committee dated September 18, 1990 re: Audited Financial Statement Highlights - June 30, 1990.

(Marked B1)

THE REPORT WAS ADOPTED

.....

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

It was moved by Mr. Howie, seconded by Mr. Noble THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from the 28th of September 1990 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

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(See list in Convocation file)

DISCIPLINE COMMITTEE

Mr. Campbell presented the Report of the Discipline Policy Committee of its meeting on Thursday, September 13th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

The Policy Section met on Thursday, the 13th of September, 1990, at 1:30 p.m., the following members being present: P.S.A. Lamek (Chair), C.L. Campbell, R.G. Ferguson, N. Graham, the Hon. A.F. Lawrence, S. Lerner, C.D. McKinnon, A.M. Rock, S. Thom, R.C. Topp.

Also present: M.J. Angevine, A.M. Brockett, R. Cohen, J.R. Conway, J.E. Fedder, L.A. Goodfield, J.S. Kerr, G. MacKenzie, J.W. Southey, T.R. Stephany, J.C. Varro, J.N. Yakimovich.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

1. INVESTIGATION OF COMPLAINTS WHERE LITIGATION IS PENDING

A Subcommittee was appointed in June to consider the procedures to be adopted when the Law Society receives a complaint from a third party opposed in interest to the client of the solicitor against whom the complaint is brought. The Subcommittee has completed its deliberations and expects to report in October.

2. AUTHORIZATION OF DISCIPLINE CHARGES

The following table shows the number of requests for formal disciplinary action that were made by Discipline and Complaints staff for the months of June, July and August 1990.

	JUNE		JULY		AUGUST	
	<u>Sought</u>	<u>Obtained</u>	<u>Sought</u>	<u>Obtained</u>	<u>Sought</u>	<u>Obtained</u>
Discipline	22	22	4	4	0	0
Complaints	26	25	1	1	30	30

Total Number of Charges Authorized to Date for 1990

January	17
February	47 (35 of these February authorizations were for failure to file Forms 2/3)
March	19
April	7
May	4
June	47 (17 of these June authorizations were for failure to file Forms 2/3)
July	5
August	<u>30</u>
	176

3. DEPOSIT OF UNCERTIFIED CHEQUES INTO TRUST ACCOUNTS

Your Committee considered correspondence, and a previous subcommittee report, concerning the practice of making disbursements from a trust account when the funds against which the disbursement is made are in the form of an uncertified cheque which has not yet been cleared. It was said that there is often pressure from clients to make disbursement in these circumstances. It was suggested that a Rule of Professional Conduct, prohibiting disbursement until the cheque has been cleared, might be of assistance to lawyers facing such demands.

Your Committee intends to propose to the Professional Conduct Committee that a joint subcommittee be asked to look into this matter and report as soon as possible. Allan Rock and Robert Topp will represent this Committee and it is hoped to include a member nominated by the County and Districts Liaison Committee.

4. MATTERS TO BE CONSIDERED AT FUTURE MEETINGS

At its next meeting, your Committee intends to consider requests for suggestions and comments that have been received from the Research and Planning Committee and its Alternative Dispute Resolution Subcommittee.

It has been proposed that the Committee address the following matters at forthcoming meetings:

- Whether a conviction, or repeated convictions, for driving while impaired, constitute "conduct unbecoming".
- The possibility of conducting discipline hearings in the county or district where the offence is alleged to have occurred.
- Adjournments of discipline hearings and the ground on which they are allowed.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September 1990

"C. Campbell"
for Chair

THE REPORT WAS ADOPTED

.....

ORDERS

The following Discipline Orders were filed with Convocation.

Re: HAROLD EDWIN STAFFORD, St. Thomas

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Harold Edwin Stafford, of the City of St. Thomas, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 19th day of June, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Harold Edwin Stafford be Reprimanded in Convocation.

DATED this 21st day of June, 1990.

"James M. Spence"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: VICTORY PROUSKY, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 7th day of June, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Victor Prousky be suspended for a period of nine months, such suspension to commence on the 1st day of August, 1990.

DATED this 21st day of June, 1990.

"James M. Spence"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

.....

LEGAL AID COMMITTEE

Ms. Kiteley presented the Report of the Legal Aid Committee of its meeting on Thursday, September 13th, 1990.

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

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990, the following members being present: Thomas G. Bastedo, Chair, Messrs. Bond, Ms. Campbell, Mr. Durno, Ms. Hunt, Ms. Kehoe, Messrs. Koenig, Lalande, Petiquan and Ms. Tsao.

A.

POLICY

1. REPORT OF THE STEERING COMMITTEE

The Legal Aid Committee recommends the adoption of the Steering Committee Report which is attached hereto as SCHEDULE (A).

B.

ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE, JULY 31, 1990

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the four months ended July 31, 1990 takes the form of the following financial statement:

Ontario legal Aid Plan
Statement of Income and Expenditures
Four Months Ended July 31, 1990 (\$000)

	<u>Actual</u> <u>1989/90</u>	<u>Forecast</u> <u>1990/91</u>	<u>Actual</u> <u>1990/91</u>	<u>Favourable</u> <u>Actual (Unfavourable)</u> <u>1990/91 Variance</u>
<u>Opening Balance</u>	369.8	6,925.8	6,925.8	-
<u>Income</u>				
Treasurer of Ontario	44,558.0	47,175.9	47,175.9	-
Northern Legal Services	65.5	450.0	450.0	-
Family Violence Grant	100.0	100.0	100.0	-
Refugee Claimant Grant	367.8	1,500.0	1,443.1	(56.9)
Law Foundation	8,548.6	6,250.0	8,980.6	2,730.6
Client Contributions	3,032.9	3,133.3	3,075.8	(57.5)
Client Recoveries	620.6	666.7	682.5	15.8
Research Sales	39.2	50.0	73.3	23.3
The Law Society	-	-	226.7	226.7
Miscellaneous	522.9	666.7	1,134.8	468.1
	<u>58,225.3</u>	<u>66,918.4</u>	<u>70,268.5</u>	<u>3,350.1</u>
<u>Expenditure</u>				
Certificate Accounts	33,084.6	37,000.0	32,025.1	4,974.9
Refugee Accounts	558.4	1,130.8	1,043.4	87.4
Duty Counsel Fees & Disbursements	2,250.2	2,577.0	2,268.7	308.3
Salaried Duty Counsel	262.4	312.3	457.1	(144.8)
Northern Legal Services	-	450.0	525.0	(75.0)
Community Clinics	6,748.6	8,796.9	7,956.1	840.8
Student Legal Aid Societies	880.2	1,346.0	1,339.5	6.5
Research Facility	446.9	573.6	578.1	(4.5)
Area Office Admin.	3,085.0	3,633.3	3,511.5	121.8
Provincial Office Admin.	1,987.9	2,589.3	2,319.4	269.9
Refugee Administration	86.5	100.0	85.4	14.6
	<u>49,390.7</u>	<u>58,509.2</u>	<u>52,109.3</u>	<u>6,399.9</u>
<u>Closing Balance</u>	<u>8,834.5</u>	<u>11,294.2</u>	<u>18,159.2</u>	<u>6,865.0</u>

Statistics

The following table compares reported activity for the four months ended July 31, 1990 with activity for the previous fiscal year:

	<u>July 31</u> <u>1989</u>	<u>July 31</u> <u>1990</u>	<u>% Change From</u> <u>Previous Year</u>
Summary Legal Advice	17,253	18,400	6.6%
Referrals to Other Agencies	32,910	41,580	26.3%
Applications for Certificates	51,652	61,417	18.9%
Refusals	10,806	11,266	4.3%
As a Percentage of Applications	20.9%	18.3%	
Certificates Issued	40,846	50,151	22.8%
Persons Assisted by Duty Counsel			
Fee for Service	68,678	72,643	5.8%
Salaried	25,246	28,579	13.2%
Telephone Advice Calls		5,132	

(b) ONTARIO LEGAL AID PLAN 1990/91
BUDGET COMPARED TO FORECAST

The Legal Aid Committee reviewed the Ontario Legal Aid Plan 1990/91 Budget Compared to Forecast which is attached hereto and marked as SCHEDULE (B).

(c) REPORT ON THE PAYMENT OF SOLICITORS
ACCOUNTS FOR THE MONTH OF AUGUST, 1990

The Report on the Payment of Solicitors Accounts is attached hereto and marked as SCHEDULE (C).

(d) REPORTS ON THE STATUS OF REVIEWS IN THE
LEGAL ACCOUNTS DEPARTMENT JULY AND AUGUST, 1990

The Reports on the Status of Reviews in the Legal Accounts Department for the months of July and August, 1990 are attached hereto and marked as SCHEDULE (D).

ALL OF WHICH is respectfully submitted

"F. Kiteley"
for Thomas G. Bastedo
Chair

September 13, 1990

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

- A-Item 1 - Steering Committee Report. (Schedule A, Pages 1 - 4)
- B-Item 1(b) Ontario Legal Aid Plan 1990/91 Budget Compared to Forecast. (Schedule B)
- B-Item 1(c) Report on final accounts paid, month of August, 1990. (Schedule C, Pages 1 - 2)
- B-Item 1(d) Legal Accounts Department Monthly Report, July 31st, 1990. (Schedule D, Pages 1 - 2)

THE REPORT WAS ADOPTED

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CLINIC FUNDING COMMITTEE

Mr. Levy presented the Report of the Clinic Funding Committee of its meetings on June 28th, August 10th and September 25th, 1990.

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

The Director of Legal Aid begs leave to report:

CLINIC FUNDING

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

The Director recommends to Convocation that the report of the Clinic Funding Committee dated September 26, 1990 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

September 26, 1990

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

The Clinic Funding Committee met on June 28, 1990. Present were: Philip Epstein, Q.C., Chair, Earl Levy, Q.C., Thea Herman, Jim Frumau. The Committee met again on August 10, 1990. Present were Philip Epstein, Q.C., Chair, Thea Herman, Jim Frumau. The Committee met again on September 25, 1990. Present were Philip Epstein, Q.C., Chair, Earl Levy, Q.C., Thea Herman, Jim Frumau.

1. DECISIONS

A. 1990/91 Funding Decisions

(i) Allocations to clinics

The Clinic Funding Committee approved the allocation of funds to existing clinics, for the fiscal year 1990/91, in an amount up to \$23 million.

(ii) Legal disbursements

The Clinic Funding Committee provides an annual allocation to community legal clinics for the costs of legal disbursements incurred on behalf of clinic clients. Attached as Schedule A is a breakdown of these allocations for the fiscal year 1990/91.

(iii) Capital Purchases

The Clinic Funding Committee reviewed the initial decision of the clinic funding staff in the allocation of funds for capital purchases, and approved up to \$160,000 to community legal clinics. Capital purchases include dictating equipment, office furniture, office equipment and office renovations.

B. Applications to the Clinic Funding Committee

(i) Court Costs

Pursuant to s.10 of the Regulation on clinic funding, the Committee has reviewed and approved applications for the payment of court costs from the following clinics:

Mississauga Community Legal Services - up to \$1,785

Community Legal Services of Niagara South - up to \$435

(ii) Training Funds

The Clinic Funding Committee reviewed the initial decision of the clinic funding staff in the allocation of funds for clinic staff training. Outside Toronto, three regional associations coordinate regular training sessions attended

by staff from across the region, which requires significant travel and accommodation funds. The Metropolitan Toronto Association of Legal Clinics (MTALC) coordinates training sessions for Toronto clinics. The Workers' Compensation Network and Steering Committee on Social Assistance include clinic representatives from clinics across the province with a special interest in these areas of law. The Clinic Funding Committee recommends approval of funding for training, as follows:

- Northern region - up to \$55,000
- Southwest region - up to \$40,000
- Eastern region - up to \$40,000
- MTALC - up to \$12,000
- Workers' Compensation Network - up to \$7,000
- Steering Committee on Social Assistance - up to \$7,000

C. PCLS re. Move

The Clinic Funding Committee has approved an allocation of up to \$30,000 in connection with a move by Parkdale Community Legal Services to 165 Dufferin Street, effective August 27, 1990.

ALL OF WHICH is respectfully submitted

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

September 26, 1990

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

- 1-Item A(ii) - Legal Disbursements for 90/91.

(Schedule A)

THE REPORT WAS ADOPTED

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PROFESSIONAL CONDUCT COMMITTEE

Mr. Thoman presented the Report of the Professional Conduct Committee of its meeting on Thursday, September 13th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990 at three o'clock in the afternoon, the following members being present: Somerville (Chair), Thoman (Vice-Chair), Cullity, Lamek and McKinnon.

Note: Amendment, see page 128

A.

POLICY

1. INQUIRY CONCERNING ATTORNEY PROFILES INTERNATIONAL

A lawyer has asked, in view of the Law Society's position on PITLA taken at the June Convocation, whether he could participate in a proposal being put forward by Attorney Profiles International.

I noted with interest your recent ruling with respect to the U.S. based Personal Injury Trial Lawyers Association.

Recently this firm submitted material to Attorney Profile International which is a computer based listing service, which essentially brings in to the electronic age the type of information previously available through Martindale & Hubbell.

We have requested from Attorney Profile International a copy of their booklet together with their material which describes their format and will forward a copy to you upon receipt of same. Aside from a modest initial fee (which is presently being waived), the only charges incurred are when profiles are sought. Registration is widely available presumably to any law firm who pays the fee. Nevertheless, out of an abundance of caution, we have asked Attorney Profile International not to distribute our profile pending clarification from your Committee. Has your Committee considered the Attorney Profile International material and if so, what decision has been reached?

Counsel for Attorney Profiles International has sent the inquiring lawyer the following letter:

Thank you for sending Mike Nash the article commenting on the recent ruling with respect to the Personal Injury Trial Lawyers Association (PITLA). He asked me to write you about our thoughts on this problem of "steering".

We are typically sending from three to six profiles of attorneys practicing in the appropriate specialty to each requesting party, who usually chooses one of the attorneys after studying their profiles and talking to them and perhaps some of their references.

API makes no effort to "steer" anyone to a particular firm but rather lets the prospective client choose a lawyer from the profiles sent to him by fax. The API data bank is available to all law firms willing to prepare and mail profiles. The firms who are in the API data bank do not pay a large membership fee like the fee exacted by PITLA, but only a modest service fee when the firm's profiles are submitted.

The service provided by API is basically a ministerial clerical act of finding, with the help of the computer, lawyer-specialists with the expertise to handle the particular problem in the locality in question. API is little more than a modern computerized version of the lawyer directories like Martindale-Hubbell, which have been permitted for years, but which are not readily available to the businessman.

Attorney Profiles International has prepared material for lawyers suggesting what they should include for their profile (numbered 1 - 12).

What Attorney Profiles International appears to be doing is to provide prospective consumers of legal services information about a number of lawyers practising in the particular area of law of interest to those consumers. This does not appear to constitute steering in the sense that the individual is not steered to one particular lawyer or law firm.

The steering prohibited in the Rules is described in the following terms:

5. The lawyer shall not:

(f) arrange for or encourage anyone (e.g. a real estate agent) to make a practice of recommending to any person that the lawyer's services be retained;

The Committee recommends to Convocation that Ontario lawyers be permitted to participate provided they observe the following criteria:

- (1) that the participating Ontario lawyers only indicate that they are specialists if in fact they have been so certified by the Law Society;
- (2) and, no list of representative clients be provided unless the clients have given their express approval.

2. INQUIRY RESPECTING THE PUBLICATION OF A BOOK ENTITLED "THE BEST LAWYERS IN CANADA"

Ms Susan Yates of Global Press has before her a proposal for a book entitled The Best Lawyers in Canada. Its inspiration is a book that has been published in the U.S.A., The Best Lawyers in America. She is asking the Law Society's opinion because, if such a book is to be published, it will be necessary to survey Canadian lawyers and this will understandably include many Ontario lawyers. Set out below is her letter of inquiry:

As I mentioned to you in our telephone conversation, I have before me a proposal for a book to be titled The Best Lawyers in Canada, which will be based on the American publication The Best Lawyers in America.

I would welcome the opinion of the Law Society on such a book since its publication will generate interest amongst the members of the legal profession, the general public, as well, of course, in the media.

Firstly, so you can briefly acquaint yourself with The Best Lawyers in America I have attached a copy of the title page, copyright page, introduction and book pages 1-5 from the most recent edition of this work. I believe this shows you the book's general format and tone better than I can describe it to you.

Our objective in publishing The Best Lawyers in Canada is to produce a highly credible reference which will list by province and areas of expertise those lawyers who have been selected by their peers as the best in their fields.

To achieve the credibility which is so essential to such a book, we plan to use a research methodology designed by DECIMA RESEARCH which will provide a sample response of 1,000 lawyers nationwide, disproportionate to the population of practising lawyers, to ensure adequate representation by province. In order to obtain the 1,000 sample group, we will distribute 9,705 surveys; this survey group is based on the number of lawyers practising in Canada as listed in the Canada Law Book of February 1990.

A survey of this size produces results which are accurate for the universe as a whole $\pm 4.5\%$, 19 times out of 20.

The design of the survey questionnaire and tabulation of responses will also be provided by DECIMA, to further ensure statistical validity and overall credibility.

The lists in the book will follow the American example and will be by province and area of expertise; it is anticipated that each area of expertise will have a number of lawyers' names listed. This number, of course, can't be predicted; it will be based solely on the survey results.

Additionally, we propose a separate section in the book which will profile some of the law firms in Canada whose names come continually to the forefront through the best lawyer's listing.

We plan to install a General Editor of the book who will have legal credentials since the author who has proposed the work does not have a legal background. In this case, the author will be responsible for obtaining an introduction to the book by a well-known member of the legal profession, and will write chapters for the layperson on choosing and using a lawyer. The General Editor will be responsible for the book's overall content.

Ideally, *The Best Lawyers in Canada* will be published with revised and updated content every two years, but this, of course, will depend on the success of the first volume.

We believe a market for this information exists, not only among lawyers who may want and need ready access to such information to better serve their clients but also among laypeople who, when they have need for a lawyer, are faced with a plethora of names, but little in the way of guidance to assist them in their choice.

The Best Lawyers in Canada will not claim in any way to be recommending those lawyers whose names appear in the book; a disclaimer to this effect may be necessary.

This book will be a very costly undertaking for its publisher. As such, I anticipate a selling price of about \$100 per copy in order to recoup our expenses and provide an adequate profit margin.

Finally, a word about Global Press. We are the annuals publishing division of the Canada Publishing Corporation, a company which traces its history back to the 1800s. Global Press publishes the recognized leader of biographical directories in this country, *Who's Who in Canada*, and the highly-respected *Canadian World Almanac*. Our expertise in publishing such a volume as *The Best Lawyers in Canada* comes from our experience in research, collecting accurate and reliable data and our understanding of the need for discretion and propriety in dealing with thousands of individuals of the stature of those who will comprise *The Best Lawyers in Canada*.

Attached are several pages taken from *The Best Lawyers in America* (numbered 13 - 22).

Lawyers in Ontario will wish to know if and how they can respond to this survey and will look for some direction from the Law Society.

Although Global Press has indicated that they will not be specifically recommending the lawyers listed in the book and will so indicate that in the preface to the book, the appearance of their names will be tantamount to a recommendation.

The Committee discussed this matter at some length.

The Committee recommends to Convocation that Ontario lawyers be permitted to participate in the survey provided that the information they supply accurately describes their practices and is in conformity with the other provisions contained in Rule 12, more specifically that concerning the designation of specialization.

3. RECOMMENDATION OF THE SPECIAL COMMITTEE ON COMPLAINTS PROCEDURES THAT NECESSITATES AN AMENDMENT TO THE RULES OF PROFESSIONAL CONDUCT

The following is an excerpt from one of the recommendations of the Special Committee's three reports that was adopted by Convocation on June 28th 1990:

That Rule 2 in the Society's Professional Conduct Handbook be amended to incorporate, where necessary, the appropriate references to Unsatisfactory Professional Practice. The following revisions are proposed:

(a) Amending Rule 2(b) to read as follows:

"The lawyer should serve the client in a conscientious, diligent and efficient manner and should avoid Unsatisfactory Professional Practice."

(b) The title for Rule 2, Commentary 8 be changed to read:

"Unsatisfactory Professional Practice"

(c) The introductory paragraph of Rule 2, Commentary 8 be changed to read:

"Numerous examples could be given of Unsatisfactory Professional Practice which do not meet the standard of practice required by the Rule. The list which follows is illustrative, but not by any means exhaustive."

(d) The text of Commentary 9 be changed to read as follows:

"It will be noted that the Rule does not require a standard of perfection. A mistake, even though it might be actionable for damages in negligence, would not necessarily constitute a failure to maintain the standard set by the Rule, but evidence of gross neglect, or Unsatisfactory Professional Practice or a pattern of neglect or mistakes in different matters may be evidence of such a failure regardless of tort liability. While damages may be awarded for negligence, incompetence or Unsatisfactory Professional Practice can give rise to the additional sanction of disciplinary action."

The Committee discussed the matter and is of the opinion that the recommended amendments be changed in two particulars.

Rule 2(b) should be amended to read:

The lawyer should serve the client in a conscientious, diligent and efficient manner, and should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation and should avoid unsatisfactory professional practice.

The Committee believed that keeping the words "and should provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation" gave this provision greater strength in addressing the problem of unsatisfactory professional practice.

The second recommendation that the Committee makes is that in Rule 2 Commentaries 8 and 9 the upper case "Unsatisfactory Professional Practice" be changed to the lower case "unsatisfactory professional practice". This second recommendation is purely editorial in nature.

The Committee asks Convocation to adopt these amendments to Rule 2.

B.
ADMINISTRATION

1. REQUEST TO BE SHOWN ON THE LETTERHEAD OF
AN ACCOUNTING FIRM AS ITS "TAX COUNSEL"

A lawyer wishes to be shown as tax counsel on the letterhead of an accounting firm. His proposal is set out below:

I write to you to inquire whether it is considered "acceptable" by the Law Society for a lawyer to allow his name to be used by a non-lawyer client in the latter's stationary, (sic) letterhead, and literature.

I have been asked by a firm of accountants, for whom I act as income tax counsel, whether they can publicize the fact of our relationship. Specifically, I think it is important to keep in mind that I will not be doing the advertising or promotion. Rather, the accounting firm wants it to be known that I am their legal counsel on income tax matters, which, of course, is a fact.

The Committee's Secretary said in replying to the inquiry: "I have some concern with the proposal by the accounting firm because it could be said to be a form of advertising that would lead to steering (contrary to Rule 12 of the Rules of Professional Conduct)".

This prompted the lawyer to send a further letter:

I. Rule 12

I have read through Rule 12 reasonably carefully and I would welcome the guidance of the Professional Conduct Committee on the interpretation of the rule and their ruling on my request.

I am not at all clear which of the various rules set out in Rule 12 take precedence. Generally speaking, I understand that the general thrust of the rules is to permit and not to prohibit advertising. That is, a lawyer is legally entitled to advertise unless specifically prohibited, and not vice versa. The general rule permitting advertising is subject to various rules of prohibition in the circumstances set out, for example, in Rule 12(5).

Thus, Rule 12(2) allows individual lawyers or firms to advertise their services in any medium including the use of brochures and similar documents. This right to advertise is subject only to the requirements in that subsection that the advertising should not be false, misleading, unverifiable, or in poor taste. Further the advertising should not be such to bring the profession or administration of justice into disrepute.

For the present purposes, I shall presume that the appearance of my name on an accounting firm's letterhead and professional literature constitutes advertising that is in good taste, not false, not misleading and verifiable. Further assurances, proof and documents in support of good taste, etc. can be furnished later.

Rule 12(5) says that:

"The (surely this should read "A") lawyer shall not:

(g) act for or accept a brief from, or on behalf of a member of a club or organization, as for example an automobile club which makes a practice of "steering"

its members, ..."

I hope that this rule does not apply to my proposal to have my name included on the letterhead of a professional firm of accountants. The firm of accountants is neither a club nor an organization in the sense used in that paragraph. The firm would not be "steering" its clients to me. Rather, I would be acting as counsel to the firm and would bill the firm directly for services rendered to the firm. In other words, the firm would retain my legal services in respect of problems which they consider more appropriately handled by legal counsel than by accounting professionals, particularly in the field of income tax law. They wish to publicize the fact that they retain legal counsel to answer legal questions instead of addressing these issues themselves. That form of advertising is neither false nor misleading. Indeed, it appears to me that it would be a rather succinct statement of verifiable facts displayed both accurately and, I assure you, tastefully in their literature: a form of truth in advertising.

The Committee identified the following issues as relevant:

- (1) The accounting firm would have to be satisfied that the Institute of Chartered Accountants had no objection to this being done.
- (2) Assuming that the Institute did not object and assuming that the advertisement did not offend Rule 12, the lawyer could appear as counsel with an asterisk indicating that the lawyer restricted his practice to tax law. The Professional Conduct Committee last year told a lawyer that he could not use the term tax counsel because it could give rise to the inference he was a specialist in tax law. At the present time there is no specialist designation in tax law.
- (3) The lawyer does legal work for the accounting firm and bills the firm for his work. He does not bill clients of the accounting firm.
- (4) Rule 12 does not specifically address this lawyer's inquiry. Could it be said that the appearance of this lawyer's name on the letterhead of the accounting firm could give rise to the inference that the accounting firm was also engaged in the private practice of law?

The Committee's Secretary was of the opinion that this lawyer's name could appear on the accounting firm's letterhead provided the requirements noted in 2 above are met. He also did not think that there could be an inference that the accounting firm was practising law.

The Committee is of the opinion that the lawyer can be shown on the letterhead as counsel provided that:

- (1) he does not use the term tax counsel. He may, however, indicate that he restricts his practice to Income Tax Law or that he practises in the field of Income Tax Law;
- (2) and, the Institute of Chartered Accountants of Ontario does not object to an accounting firm having a lawyer shown on its letterhead.

The Committee asks Convocation to adopt its position.

2. PROPOSALS FROM THE CANADIAN BANK OF
COMMERCE TO ATTRACT CUSTOMERS WISHING MORTGAGES

The Canadian Imperial Bank of Commerce has submitted two proposals for the Committee's consideration. In a competitive mortgage market the bank is anxious to interest consumers in its mortgages. One way is for the bank to underwrite the legal fees involved in the mortgage transaction.

Set out below is the submission from the bank:

As you are aware the mortgage market is extremely competitive and in order to attract new business and to retain its market share, CIBC Mortgage Corporation ("CMC") would like to offer a legal fees saving to customers. The proposals in this regard are as follows:

1. CMC will specify a price which will include both legal fees and disbursements. Any law firms which are prepared to do the work required by CMC in respect of a refinancing will be permitted to participate in the program. A list of firms which do the work for the specified price will be provided to customers or in the alternative they may approach the solicitor of their choice. The customer would be expressly advised that a participating law firm is acting solely for CMC.
2. CMC will arrange with a designated law firm for a legal fee package which can be offered to customers purchasing a home and obtaining a mortgage from CMC. Such a legal fee package would represent a considerable saving to the customer and would include the work to be done on behalf of the customer as purchaser and on behalf of CMC as mortgagee. Alternatively, rather than designating a firm, CMC could set a fixed price. Any law firms may participate which are prepared to do the work at the specified price.

The above proposals benefit CMC because of the potential to attract new customers and to offer superior service and financial benefits than could be obtained elsewhere. The participating law firms will benefit by attracting a volume of work which will justify the lower than usual fees and also by the exposure to customers who may require further legal services in the future.

We are satisfied that lawyers participating under the first proposal would not infringe the Rules of Professional Conduct since they will clearly be acting for CMC. The second proposal presents more difficulties, however we feel that if any law firm may participate there can be no question of steering.

The Committee concluded that the first proposal was in order and that the first part of the second proposal was not in order. The Committee also concluded that the second part of the second proposal beginning with the words "Alternatively" was completely in order. The approval is given on the basis of the freedom of choice of lawyers.

The Committee asks Convocation to adopt its conclusions.

Note: Item deleted, see page 128

C.
INFORMATION

1. ALTERNATIVE DISPUTE RESOLUTION

Various Committees have been asked to address the question of alternative dispute resolution. Attached is a memorandum from the former Chair of the Research and Planning Committee (numbered 23 - 28).

The Rules of Professional Conduct address both arbitration and mediation.

Paragraph 11 under Rule 5 recognizes the role of the lawyer as arbitrator. It reads:

The Rule will not prevent a lawyer from arbitrating or settling, or attempting to arbitrate or settle, a dispute between two or more clients or former clients who are sui juris and who wish to submit the dispute to the lawyer.

Rule 25 acknowledges the role of the lawyer as a mediator:

The lawyer who functions as a mediator must ensure that the parties to the mediation process understand fully that the function being discharged is not part of the traditional practice of law and that the lawyer is not acting as a lawyer for either party. The lawyer as mediator acts to assist the parties to resolve the matters in issue.

COMMENTARY

1. The lawyer-mediator should suggest and encourage the parties to seek the advice of separate counsel before and during the mediation process if they have not already done so.

2. Where in the mediation process the lawyer-mediator prepares a draft contract for the consideration of the respective parties the lawyer-mediator should expressly advise and encourage them to seek separate independent legal advice concerning the draft contract.

3. The lawyer-mediator must at the outset inform the parties to the mediation that although communications pertaining to and arising out of the mediation process may be covered by some other common law privilege, they will not be covered by the solicitor-client privilege.

4. In acting in the capacity of a mediator the lawyer as a general rule should not give legal advice as opposed to legal information to the parties during the mediation process.

5. As a general rule, neither the lawyer-mediator nor a partner or associate of the lawyer-mediator should render legal representation or give legal advice to either party to the mediation bearing in mind the provisions of Rule 5 and its Commentaries and the common law authorities.

The question the Professional Conduct Committee addressed was this: was there a need to add to the existing Rules?

The Committee sees no need to add to our existing Rules more provisions respecting alternative dispute resolution. It is well recognized within the profession that there is a need to explore options of alternative dispute resolution.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"D. Thoman"
for Chair

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

- A-Item 1 - Material from Attorney Profiles International re: Suggestions for preparing profiles of your law firm and each of its specializing attorneys. (Pages 1 - 12)
- A-Item 2 - A number of pages taken from the book "The Best Lawyers in America, Steven Naifeh and Gregory White Smith. (Pages 13 - 22)
- C-Item 1 - Memorandum from Mr. James M. Spence, former Chair of the Research and Planning Committee to the Chairs of the Standing Committees dated May 10, 1990 re: Alternative Dispute Resolution. Enclosure to this memorandum is a synopsis of the Sub-Committee's proceedings to March 1990. (Pages 23 - 28)

Item B-2 re: Proposals from the Canadian Bank of Commerce was deleted as further information had been received which the Committee wanted to consider.

It was moved by Ms. Kiteley, and failed for want of a seconder that Item A-2, last paragraph re: Inquiry respecting the Publication of a book entitled "The Best Lawyers in Canada" be amended to read "the Law Society has no objection to members participating in the survey" rather than "lawyers be permitted to participate in the survey".

The Report was also amended to show that Mr. Campbell had attended the Committee meeting on September 13th, 1990.

THE REPORT AS AMENDED WITH THE EXCEPTION OF B-2 WAS ADOPTED
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UNAUTHORIZED PRACTICE COMMITTEE

Mrs. Graham presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, September 13th, 1990.

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 13th of September, 1990 at 10:30 a.m., the following members were present: Mr. Carter (Chair), Messrs. Cass, Farquharson, Ms. Graham, Ms. Harvey, Messrs. Hickey, Lawrence, Ruby and Shaffer. Also in attendance were: Messrs. Ballantyne, Bell, Ms. Gerber and Ms. West.

B.
ADMINISTRATION

1. ACCOUNTS

Accounts of counsel and investigators were approved in the total amount of \$11,361.96.

2. INVESTIGATIONS

The Society does not have sufficient evidence in any of these three cases to commence prosecutions. In the last two cases the Committee authorized a request to the Treasurer for the use of investigators who will not disclose that he/she is from the Law Society and to authorize the commencement of prosecutions when the necessary evidence is obtained.

3. INCORPORATION - MUSKOKA LEGAL CLINIC

Your Committee is asked to review the Application for Incorporation to determine whether it has any objections to same. Your Committee approved this Application provided the Secretary satisfied herself that this was one of the clinics funded by Legal Aid.

C.
INFORMATION

4. AMENDMENTS TO THE LAW SOCIETY ACT - SECTION 50

As of June 28, 1990, the Law Society Act amendments to section 50 were approved. The maximum fine is now \$10,000 which was increased from \$1,000 and the proceedings shall not be commenced after a two year period which was increased from a six month period.

Approved

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"N. Graham"
for Chair

<u>Prosecutions</u>	<u>Next Court Date</u>
Personal Paralegal Toronto	September 4, 1990 at 2 p.m. Courtroom 126 Trial Continuation
Christian Vadum (Personal Paralegal) Toronto	September 4, 1990 at 2 p.m. Courtroom 126 Trial Continuation
Fred May (Paralegal Associates) Downsview	September 14, 1990 at 10 a.m. Courtroom - Old City Hall For judgment
Natalie MacPhee Ottawa	September 17, 1990 at 10 a.m. Courtroom 140 - Old City Hall To be spoken to
John Galbreath Ottawa	September 17, 1990 at 10 a.m. Courtroom 140 - Old City Hall To be spoken to
Dorothy Thiry (Divorce Aid) London	September 24, 1990 at 10 a.m. Courtroom 3 Trial

Thomas Walker (Ontario Paralegal) Owen Sound	September 27, 1990 at 9 a.m. Courtroom Trial
Robert Livingstone (Paralegal Associates) Peterborough	September 28, 1990 at 9 a.m. Courtroom 2 To set a date
Frank Sysel (Paralegal Associates) Chatham	October 12, 1990 at 10 a.m. Courtroom 2 Trial
Shelley Hisey (Paralegal Associates) Orillia	October 18, 1990 at 10 a.m. Courtroom Judgment
Richard Perry (Regional Paralegal) Hamilton	October 24, 1990 at 10 a.m. 140 Hunter Street, Hamilton To set a date
Fred Charles May Pickering	November 7, 1990 at 9:30 a.m. Courtroom 4 Trial
Susan Merchant (Paralegal Associates) Ottawa South	November 14, 1990 at 9 a.m. Courtroom 1 Trial
Marc Monson (Action Paralegal) Downsview	November 27, 1990 at 10 a.m. Courtroom 305 Trial
786301 Ontario Ltd. (Action Paralegal) Downsview	November 27, 1990 at 10 a.m. Courtroom 305 Trial
Peggy Wilson Divorce Easy London	December 11, 1990 at 10 a.m. Courtroom 2 Trial
Norine Earl Toronto Divorce Services Toronto	December 17, 18, 1990 at 9 a.m. Courtroom 111 - Old City Hall Trial
Paralegal Associates . Inc. c.o.b. "Paralegal Associates" Mississauga	January 7, 8, 9, 1991 at 9 a.m. Courtroom 2 - St. Catharines Trial
Randy Mitter "Paralegal Associates" Mississauga	January 7, 8, 9, 1991 at 9 a.m. Courtroom 2 - St. Catharines Trial
Heather Daer "Paralegal Associates" Mississauga	January 7, 8, 9, 1991 at 9 a.m. Courtroom 2 - St. Catharines Trial
Alain De Cole Toronto	January 23, 1991 at 10 a.m. Courtroom 140 Trial
Thomas Walker Owen Sound	February 11, 1991 Courtroom Trial
Natalie MacPhee Ottawa	February 27, 28, 1991 at 10 a.m. Courtroom - Sault Ste. Marie To set a date

John Galbreath Ottawa	February 27, 28, 1991 at 10 a.m. Courtroom - Sault Ste. Marie To set a date
Natalie MacPhee (Paralegal Consultants Inc.) Ottawa	March 25, 1991 at 10 a.m. Courtroom 7 Trial (1 day)
Paralegal Consultants Inc. Ottawa	March 25, 1991 at 10 a.m. Courtroom Trial (1 day)
Andrew Czornyj (Jacobi & Myers) Toronto	May 20, 1991 at 10 a.m. Courtroom 8 - Brampton Prov. Court Trial
Douglas Traill (Jacobi & Myers) Toronto	May 20, 1991 at 10 a.m. Courtroom 8 - Brampton Prov. Court Trial
Jacobi & Myers Toronto	May 10, 1991 at 10 a.m. Courtroom 8 - Brampton Prov. Court Trial
Julian T. Shumka (Paralegal Associates) Kitchener	May 27, 1991 at 10 a.m. Courtroom 2 Trial
834259 Ontario Inc. (Paralegal Associates) Kitchener	May 27, 1991 at 10 a.m. Courtroom 2 Trial
Sandra Sheldrick (Paralegal Associates) Nepean	June 14, 1991 at 10 a.m. Courtroom 7 Trial

THE REPORT WAS ADOPTED

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COMMUNICATIONS COMMITTEE

Mr. McKinnon presented the Report of the Communications Committee of its meeting on Thursday, September 13th, 1990.

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, September 13, 1990, the following members were present: Mr. McKinnon (Chair), Ms. Kiteley, Messrs. Manes, Ruby, Shaffer, Thom and Yachetti. Also in attendance were Messrs. Daniher, Tinsley, Windsor and Ms. Angevine and Ms. Starkes.

B.

ADMINISTRATION

1. COMMUNICATIONS DIRECTOR

The Committee was informed of the interview process surrounding candidates for this position. Initial interviews will be conducted by Messrs. Crosbie and Tinsley. Final interviews will be conducted by the Treasurer together with Messrs. McKinnon, Bastedo, Crosbie and Tinsley. It is anticipated that the entire process will be completed within the month.

2. LAW SOCIETY BOOKLET

The Committee approved the most recent draft of this document. Committee members were afforded seven further days to submit any final suggested word changes to Theresa Starkes, after which the Booklet will be sent for publication.

3. UNDERSTANDING YOUR LAWYERS FEES BOOKLET

The Committee reviewed an initial draft of this document based upon information contained in the British Columbia model. Committee members were requested to submit their editorial comments to Ms. Starkes within the next two weeks. It is anticipated that a final decision on the wording of this brochure may be made at the next Committee meeting.

4. 1990-91 DIAL-A-LAW PROMOTION

The Committee was informed of and approved the advertising program for the current fiscal year. Newspapers and radio will continue to be utilized in view of the success of previous campaigns.

5. NEWS CANADA SERVICE

The Committee was informed of an opportunity to distribute columns to more than 400 English and French language newspapers throughout the province through the offices of News Canada. This service will enable the Society to extend its communications profile. The Committee approved this proposal.

6. DIRECTION AND MANDATE OF THE COMMITTEE

Mr. Daniher provided the Committee with an updated outline of strategic considerations and recommended activities surrounding the Law Society's communications profile. Mr. Manes forwarded the recommendations of the Research and Planning Committee in this matter, noting that their Committee views communications policy as a very high priority. Members agreed that the Law Society's communications policy constitutes the highest priority to be addressed. A revised document will be presented at the next Committee meeting.

Discussion focused on the feasibility of arranging a day long communications seminar, in the late fall, at which communications issues could be addressed.

C.
INFORMATION

1. REVISED DIAL-A-LAW TAPES

The Complaints tape has been updated by Scott Kerr and June Callwood. The tape reflects changes to the Complaints process as adopted by the Society.

Tape #30 entitled, "Law As A Career" has been updated by Alan Treleven the Society's Director of Education.

2. CALL USAGE STATISTICS

The most recent call usage statistics for the Lawyer Referral Service and Dial-A-Law programs are attached (A-1).

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"C. McKinnon"
Chair

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

C-Item 2 - Call Usage Statistics for Dial-a-Law and the Lawyer Referral Service to August 31, 1990. (Marked A-I)

THE REPORT WAS ADOPTED

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ADMISSIONS SUB-COMMITTEE REPORT RE: READMISSION OF DONALD COLLVER BRADBURY

Mr. Strosberg presented the Report of the Admissions Sub-Committee regarding the readmission of Mr. Bradbury.

THE LAW SOCIETY OF UPPER CANADA

The Admissions Committee

Harvey T. Strosberg, Q.C. (Chair)
Kenneth E. Howie, Q.C.
Maurice Cullity, Q.C.

In the matter of
the Law Society Act
and in the matter of the
Application of
Donald Collver Bradbury
of the Town of Beamsville
for Readmission

Janet L. Brooks
for the Society

Donald Collver Bradbury
in person

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

The ADMISSIONS COMMITTEE begs leave to report:

Nature of Application

Donald Collver Bradbury ("Mr. Bradbury") seeks readmission to the Law Society of Upper Canada ("Society") pursuant to section 46 of the Law Society Act.

Disbarment

Mr. Bradbury misappropriated monies from various clients in the period October, 1979 to and including January, 1982. In a report dated February 8, 1983, the Discipline Committee found Mr. Bradbury guilty of professional misconduct based upon these misappropriations, as well as his failure to maintain in his trust account a sufficient balance to meet his trust liabilities, to produce books and records of account within a reasonable time of being requested to so do, to account to a client, to cooperate with the Society's auditor, and to report truthfully to an executor the quantum of legal fees charged.

The Discipline Committee reported its reasons for the finding of professional misconduct as follows:

The entirety of the evidence was embodied in a thoroughly detailed and comprehensive "Agreed Statement of Facts". In this document, the Solicitor acknowledges misappropriating approximately \$72,000.00 for his personal benefit. The said misappropriation created shortages which spawned continuous "rolling over" of clients' trust funds.

That is to say, the Solicitor misappropriated the funds of one client to meet the trust liability to another client whose funds had been misappropriated earlier. In order to conceal the Solicitor's continuous misappropriation, he made false entries in his books and records throughout a two-year period and thereafter. Some of these false entries were made after the Society requested production of the Solicitor's books and records. The Solicitor admits to further attempts to conceal the misappropriation by falsely informing the Society's auditor that certain clients' trust funds were in a trust account at a different bank. It was discovered there was no such account.

The Solicitor also admitted misappropriating money given to him for the purpose of discharging a mortgage. He also misappropriated money from an estate over a period of years. He did this by making false entries in his books and records with respect to the amounts due to him for executor's and solicitor's fees. The amount he deducted for this far exceeded his actual executor's and solicitor's fees to the estate. The Solicitor also admitted to misappropriating money from various other clients by different means.

Having read the "Agreed Statement of Facts", and having heard evidence concerning the complaint, the Discipline Committee recommended disbarment as the appropriate penalty. Convocation however, did not accept this recommendation and directed the Discipline Committee to reconvene to hear character evidence. The Discipline Committee did so, ultimately recommending in a report dated May 12, 1983 that Mr. Bradbury be permitted to resign. But this was not to be: by order of Convocation made on May 27, 1983, Mr. Bradbury was disbarred.

General Background

Mr. Bradbury was born on October 15, 1926. He is presently 63 years of age. He graduated from Osgoode Hall in 1954 and was called to the Bar and admitted as a solicitor of the Supreme Court of Ontario on June 24, 1954. In 1973, he received the degree Master of Divinity from the Toronto School of Theology, Wycliffe College.

Although he had established a successful practice as an Associate within the firm of Osler, Hoskin & Harcourt, and later as a sole practitioner, Mr. Bradbury apparently decided by the Fall of 1979 that he no longer wished to practice law. Fired by his Anglican faith and his theological studies, the focus of his life since 1962 was his driving ambition to become a church minister. Near the end of 1979, he moved with his wife and family from Toronto to Beamsville, motivated by the belief that his chances of being nominated to the Anglican church by a sympathetic bishop were greater in the Diocese of Niagara.

Reasons for Misconduct

At the time of his disbarment, Mr. Bradbury could provide no reason or explanation for his conduct. Nor could Dr. Andrew Malcolm, who examined Mr. Bradbury, explain his patient's behaviour between 1979 and 1981 as a function of any kind of psychiatric disorder. Essentially, Dr. Malcolm concluded that Mr. Bradbury was afflicted by and responded poorly to a "a number of stressful circumstances" in his life. Stated simply, there is as yet no rational or cogent explanation for Mr. Bradbury's misconduct.

Activities Since Disbarment

Since December, 1982, Mr. Bradbury and his wife have operated a Satellite Home for Senior Citizens in Beamsville ("Home") under the auspices of the Regional Municipality of Niagara Program for the Senior Citizens. Their Home is located in an historic edifice known as "Woodburn College", built in 1834.

Mr. Bradbury and Mrs. Bradbury divide responsibilities for the Home: she is responsible for the day to day operations; he is in charge of transportation of the seniors under their care. Mr. Bradbury speaks empathetically and proudly in integrating "their seniors" into the Beamsville community. Independent evidence corroborated the responsible care and dedication the Bradburys have given to senior citizens since 1982.

In letters dated January 16, 1989 and January 20, 1989, respectively, the Most Reverent John C. Bothwell, Archbishop of Niagara and the Right Reverend Allan A. Read, Bishop of Ontario, wrote to the Society in support of Mr. Bradbury's application for readmission. Bishop Bothwell describes Mr. Bradbury as "a man of good character" for whom readmission to the Bar would be a "personal lift and vindication". Bishop Read's letter ends with the observation that Mr. Bradbury "is a fine, upright, honest person."

Mr. Donald Pattison, a retired partner in the Osler, Hoskin & Harcourt firm who has known Mr. Bradbury as a colleague and friend for more than 40 years, wrote and testified enthusiastically in support of Mr. Bradbury's application for readmission.

Mr. Bradbury's Aspirations

Mr. Bradbury is a man content, at long last, with his lot in life. He draws immense satisfaction and strength from participating in the operation of his Home for seniors, singing in church choirs, and playing the organ. These activities are more satisfying to him than practising law. Indeed, he no longer wishes to practise law.

Mr. Bradbury accurately perceives his disbarment as a blemish upon an otherwise fine reputation. Disbarment is his "scarlet letter", a painful, ineffable reminder of his guilt and of the season of his discontent. He seeks readmission to this Society to purge the guilt, to remove the scarlet letter, and, coincidentally, to improve his prospects for ordination in the Anglican Church of Canada. If readmitted, he has undertaken not to practice law altogether and to immediately apply for the status of a retired member. In essence, he seeks absolution.

Decision

Mr. Bradbury bears the onus of showing that he is now of good character. Since his disbarment, Mr. Bradbury has devoted himself unstintingly to community service and his church. While he and his wife have earned their livelihood, they have provided valuable community service. Their efforts on behalf of the community stand as a model of rehabilitation.

The Committee believes that the public interest requires the readmission of Mr. Bradbury to the Society. He is an example of how with selfless humility and effort a former solicitor can become rehabilitated while making an important contribution to his or her community. By his good works, Mr. Bradbury has earned the privilege of being once again a member of the Law Society of Upper Canada.

Attached hereto is a copy of Mr. Bradbury's undertaking.

ALL OF WHICH IS HUMBLY SUBMITTED TO CONVOCATION THIS
17TH DAY OF SEPTEMBER, 1990

"Harvey T. Strosberg"
Harvey T. Strosberg, Q.C.
(Chair)

(See Undertaking in Convocation File)

The reporter was sworn.

Mr. Bradbury was present with his counsel Ms. Janet Brooks.

Mr. Bradbury made submissions on his own behalf.

The solicitor, counsel, the reporter and the public withdrew.

It was moved by Mr. Strosberg, seconded by Mr. Howie that the Report be adopted.

Carried

Mr. Bradbury and counsel were recalled and informed of the decision.

Mr. Bradbury and counsel retired.

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LEGISLATION AND RULES COMMITTEE

Mr. Noble presented the Report of the Legislation and Rules Committee of its meeting on Thursday, September 13th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990, at 11:15 a.m. the following members being present: B. Noble (Chair), S. Lerner (Vice-Chair), R. Cass, M. Cullity; D. Crosbie, P. Bell and M. Bode also attended.

A.

POLICY

1. THE RULES UNDER THE LAW SOCIETY ACT - GENDER NEUTRAL

The Secretary reported that Convocation had asked this Committee to draft the Rules under the Law Society Act in a gender neutral form. Counsel for the Society, Arthur Stone, has redrafted the Rules so that they are gender neutral.

RECOMMENDATION: It is recommended that the existing Rules under the Law Society Act be repealed and that the gender neutral Rules be approved and adopted. A copy of the Rules is attached. (Pgs. A1 - A37)

Note: Item deleted, see page 138

B.

ADMINISTRATION

1. AGENTS TO BE APPOINTED IN ONTARIO ON OCCASIONAL APPEARANCE APPLICATIONS

The Secretary reported that Convocation on May 25th, 1990 approved the Report of the Admissions Committee of May 10th, 1990, in which it was recommended that the Society seek an amendment to Regulation 573, subsection 6(2) requiring an applicant for an occasional court appearance in Ontario to provide the name of an agent who is a member of the Law Society in good standing and resident in Ontario who will serve as the applicant's agent for service of documents in Ontario.

The Secretary reported that Convocation on June 22nd, 1990 asked this Committee to consider a change in its Report to Convocation of June 22nd, 1990, of subsection 6(2) of Regulation 573 drafted by Arthur Stone, Counsel for the Society, from "who is a resident of Ontario" to "who has an office in Ontario."

RECOMMENDATION: It is recommended that subsection 6(2) of Regulation 573 be amended by adding at the end thereof "and shall file with the Society the name and address of a member of the Society who has an office in Ontario and who will act as the applicant's agent for service in Ontario."

With this amendment, subsection 6(2) will read as follows:

- (2) The applicant shall undertake to Convocation that he will not otherwise engage in the practice of law in Ontario and shall file with the Society the name and address of a member of the Society who has an office in Ontario and who will act as the applicant's agent for service in Ontario.

Note: Amendment, see page 138

2. ARTICLED STUDENTS' RIGHT TO APPEAR BEFORE COURTS AND TRIBUNALS

The Secretary reported that the amendments to the rule governing articulated students' right to appear before courts and tribunals was being considered by the Legal Education Committee on September 13th.

RECOMMENDATION: It is recommended that the rules made under Section 62(1) of the Law Society Act be amended by adding a Rule as approved by the Legal Education Committee governing articulated students' right to appear before courts and tribunals, subject to the opinion of Counsel for the Society, Arthur Stone, as to drafting.

C.
INFORMATION

1. BILLS 45 AND 164 RE AMENDMENTS TO THE
LAW SOCIETY ACT AND THE SOLICITORS ACT

The Secretary reported that the above Bills were given third and final reading in the Ontario Legislature and royal assent on June 28th, 1990. The amendment to Section 31 of the Law Society Act to include, Ontario Municipal Board members and members of other similar quasi-judicial tribunals (approved by Convocation by Regulation) in abeyance, the same as judges, was included in Bill 45 as passed.

Copies of Bills 45 and 164 are attached. (Pgs. C.1 - C13)

ALL OF WHICH is respectfully submitted

DATED the 28th day of September, 1990

"B. Noble"
Chair

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

- A-Item 1 - Copy of the Rules under the Law Society Act. (Pages A1 - A37)
- C-Item 1 - Copies of Bills 45 and 164. (Pages C1 - C13)

The Report was amended by deleting Item A-1 re: The Rules under the Law Society Act, pending review by the Committee on Women in the Legal Profession.

The Report was further amended by adding the words "or she" under B-1(2) so that it would now read "The applicant shall undertake to Convocation that he or she".

THE REPORT AS AMENDED WAS ADOPTED

.....

INSURANCE COMMITTEE

Mr. Furlong presented the Reports of the Insurance Committee of its meetings on Thursday, June 14th and Thursday, September 13th, 1990.

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 14th of June, 1990 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Howie, Epstein, Noble, Wardlaw, Bragagnolo, Lamont and Murphy.

Also in attendance were Messrs. Whitman and O'Toole and Ms. June Callwood.

ITEM

1. DIRECTOR'S MONTHLY REPORT

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

2. LEVY CALCULATIONS

In the setting of a member's E & O levy, that member's claims experience for the previous five years is considered. To assure timely distribution of levy notices, the practice has been to consider each members' claims experience up to the end of May of the year immediately preceding the new policy period. The result is that the initial levy calculation is based on four years and eleven months of claims experience rather than the full five years. If it happens that a new claim is reported during the month of June, immediately preceding the upcoming policy period, that member's levy amount would be subject to an adjustment. To avoid the problems associated with increasing a member's levy mid-term, the Director has developed a method of levy calculation that avoids this predicament, and in addition will reduce the time and effort required to administer the levy program. Your Committee unanimously approves of these changes as enumerated in Ms. Johnstone's June 5, 1990 memo. See Appendix "B".

3. LOSS PREVENTION BOOKLET

To encourage the practice of Loss Prevention, the Errors and Omissions program has, in the past, sponsored the creation and distribution of several publications which have provided a variety of practical considerations and suggestions on how the pitfalls giving rise to professional liability claims can be avoided. Your Committee is of the view that the Law Society's membership would be well served by a current booklet on this subject, and to this end the Director has been requested to proceed with the necessary arrangements for its production.

4. ALTERNATE DISPUTE RESOLUTION

In his correspondence of May 10, 1990, the Chair of the Research and Planning Committee requested that each Committee review this subject with a view to providing comments on the issues as identified by the Research and Planning Committee, and to make suggestions on other issues that might be considered in relation to Alternate Dispute Resolution. Your Committee's response is directed to the impact of Alternate Dispute Resolution on a mediator's entitlement to coverage under the Errors and Omissions Program. While The Law Society's Professional Liability insurance program is a comprehensive statement of the rights and obligations of both the Insurer and the insured, one's entitlement to coverage is most accurately assessed in light of a detailed analysis of the circumstances and issues relating to each situation. Mr. Furlong will correspond with the Chair of the Research and Planning Committee in this regard. See Appendix "C".

5. AMERICAN HOME ASSURANCE COMPANY

The society's previous professional liability insurer, American Home Assurance Company, continues to play a major role in the Errors and Omissions program in light of the number of active claim files that were reported during the period that American Home was on risk. To assure a positive and amiable working relationship with American Home, the Director recently attended a meeting in New York to address several issues that have been ongoing over the past year. The Director reports the meeting was successful in reaffirming the intentions of both parties to continue a close working relationship in the handling and resolution of active claim files involving American Home.

6. OUTSTANDING ITEMS

(a) Sub-Committee on Women in the Legal Profession - The above-noted Sub-Committee has sought input in identifying and responding to concerns resulting from the increase in the number of women lawyers. The Research Director in corresponding with the Chair of the Insurance Committee suggested consideration be given to the possibility of establishing reduced Errors and Omissions levies for members engaged in the practice of law on a part-time basis. Your Committee is of the view that the current program requiring that all members engaged in the private practice of law pay the appropriate levy is reasonable, and does not recommend any further action be taken in this regard.

The Sub-Committee also initiated a review of the Errors and Omissions claims experience to discern whether or not the frequency of claims varies depending on one's gender, and concluded the pattern of claim frequency distribution does not vary sufficiently to warrant further consideration at this time. See Appendix "D".

(b) Research Bank - Pursuant to the Committee's request, the Director has reviewed the cost and benefits of providing the Errors and Omissions Department with access to the Legal Aid Research Department. The Director concludes that access to this research facility has proven to be both beneficial and economical. The recent invoice from The Ontario Legal Aid Plan is structured on a pay as you go basis, the result of which is a highly competitive billing rate of \$49.00 per hour. Your Committee has accepted the Director's proposal that this program continue. See Appendix "E".

(c) Compensation Fund - Errors and Omissions Insurance Fund - The Compensation Fund policy requires claimants pursue the Errors and Omissions Insurance Fund to claim against innocent partners. The Committee has requested the Director contrast this practice with an alternate method which would have the Compensation Fund bear the primary obligation to pay such losses. The Director reported that the benefits arising out of changing the current Compensation Fund policy would be short-term, and relatively minor. Your Committee does not recommend amending the present Compensation Fund policy, and has ceased its review of this issue.

A request was also made to address the feasibility and cost-effectiveness of providing insurance to protect the Society from catastrophic claims against the Compensation Fund. The Society's Brokers have been approached to obtain premium estimates for various stop-loss limits. No additional information is available at this time.

(d) Undertaking - Agreement of Purchase and Sale - A
Sub-Committee was appointed to address the problems associated with undertakings related to mortgage discharge provisions. The Treasurer elected to postpone further consideration of possible remedies until an analysis of The Law Society's claims experience could be made. The statistics presently available reveal that the total exposure relating to claims involving these undertakings represents a very small percentage of the total claims reported to date. Your Committee decided that the frequency and severity of these claims do not warrant further consideration by the Sub-Committee. See Appendix "F".

(e) Errors and Omissions In-House Legal Advisor - Your
Committee has given consideration to the employment of a senior In-House Legal Advisor for the Errors and Omissions Department. The Director reported his findings with respect to the need for the creation of such a position. Your Committee recommends that further consideration of this subject be postponed indefinitely or until such time as the benefits arising out of an In-House Legal Advisor warrant further discussion. See Appendix "G".

(f) Special Committee on the Complaints Process - In its review
of the Complaints Process, the Special Committee considered the formation of a summary procedure for handling claims arising out of acts of minor negligence. The nature of this subject matter necessitated the involvement of the Insurance Committee in creating a procedure to handle minor claims. The Special Committee's proposals were brought before the Insurance Committee at which time the Director suggested certain changes which have been reviewed and accepted by both Committees. The details of these minor revisions to the procedures already in use by the Errors and Omissions Program are contained in Section 2 of the Special Committee's third report to Convocation. See Appendix "H".

(g) Selection and Instruction of E & O Defence Counsel -
Questions have periodically arisen with respect to The Errors and Omissions Department's criteria for the selection of defence counsel. Due to time constraints, further discussion of this subject has been postponed until the next regularly scheduled meeting of the Insurance Committee.

(h) Lawyers Professional Indemnity Company - Your Committee was informed that changes to The Law Society Act necessary for the formation and operation of the Lawyers Professional Indemnity Company should be completed by June 28, 1990, and that the licencing and incorporation procedures continue to advance.

(i) Directors and Officers Insurance - Pursuant to a question
concerning the need for Directors and Officers Insurance for the Directors of the Society's Insurance Corporation, the Director of Insurance has obtained premium estimations from two markets detailing policy limits and deductibles. Your Committee has referred this subject to the Board of Directors of the Lawyers Professional Indemnity Company for a decision on the appropriate measures to be taken in this regard.

ALL OF WHICH is respectfully submitted

DATED this 15th day of June, 1990

"P. Furlong"
Chair

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

- Item 1 - Director's Monthly Report for April 1990.
(Appendix A, pages 1 - 3)
- Item 2 - Memorandum from Ms. Linda Johnstone to Mr. Lin Whitman dated June 5, 1990 re: Programming changes required for new levy/claims periods.
(Appendix B, pages 1 - 3)
- Item 4 - Memorandum from Mr. James Spence, former Chair of the Research and Planning Committee to the Chairs of the Standing Committees dated May 10, 1990, re: Alternative Dispute Resolution.
(Appendix C, pages 1 - 4)
- Item 6 - Letter from Mr. Andrew Brockett to Mr. Patrick Furlong dated May 8, 1990 regarding Women in the Legal Profession.
(Appendix D, pages 1 - 3)
- Item 6(b) - Memorandum from Mr. G. Kevin O'Toole to Mr. David Carey dated May 29, 1990 re: Legal Aid Research.
(Appendix E, pages 1 - 3)
- Item 6(d) - Memorandum from Mr. G. Kevin O'Toole to Mr. Lin Whitman dated June 6, 1990 re: Undertaking - Agreement of Purchase and Sale.
(Appendix F, pages 1 - 3)
- Item 6(e) - Memorandum from Mr. Lin Whitman to Mr. Patrick Furlong dated June 11, 1990 re: In-house Legal Advisor.
(Appendix G)
- Item 6(f) - Memorandum from Mr. Lin Whitman to Mr. Patrick Furlong dated June 4, 1990 re: Special Committee on the Complaints Process.
(Appendix H, pages 1 - 6)

THE REPORT WAS ADOPTED

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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 13th of September, 1990 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Howie, Epstein, Noble, Hickey, and Wardlaw.

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

ITEM

1. DIRECTOR'S MONTHLY REPORT

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

2. ENTITLEMENT TO EXEMPTION FROM E & O LEVY

From time to time questions have arisen with respect to one's entitlement to an exemption from the Errors and Omissions levy. Members occasionally take the position that the application for exemption portion of the levy form is inadequate. The result is a requirement to pay the levy in circumstances where members feel an exemption is

justified. The Director sought the Committee's advice with respect to the application of the exemption portion of the levy form, and whether or not changes to the wording were advisable. Your Committee has requested the Director prepare an alternate wording for the application for exemption to be reviewed by your Committee before a recommendation is made. See Appendix "B".

3. EXCHANGE OF INFORMATION BETWEEN ERRORS AND OMISSIONS AND DISCIPLINE

An integral part of Convocation's direction with respect to the exchange of information within The Law Society addressed the question of the Errors and Omissions department reporting to Discipline, and other departments, members whose behavior warrants such action. A question has been raised with respect to whether or not the Errors and Omissions department should notify a member when a decision has been made to report that member to Discipline. The current practice of the Errors and Omissions department is to advise all members, following report of a new claim, that information provided to or obtained by the Errors and Omissions department or defence counsel appointed under the terms and conditions of the professional liability insurance policy is knowledge to the Law Society for all purposes. Your Committee is of the view that such a communication is sufficient, and that no specific, additional communication with a member is required in the event that the member is reported to Discipline or any other department of the Law Society. See Appendix "C".

4. INTERJURISDICTIONAL PRACTICE - PROFESSIONAL LIABILITY INSURANCE

The Federation of Law Societies is seeking agreement amongst all member Societies that professional liability insurance obtained through the members' society of residence or principal practice apply to such members' practice of law in any other jurisdiction in Canada. In light of the complexities and importance of this proposal, your Committee has decided to arrange for a special meeting of the Insurance Committee to consider this matter further.

5. DIVISION OF RESPONSIBILITIES - COMMITTEE MEMBERS/LAW SOCIETY STAFF

In his memo of August 17, 1990, Mr. Crosbie requested all Benchers review the subject of Committee structure and management responsibilities for discussion at the September 7, 1990 Special Convocation. The Chair requested Committee members review Mr. Crosbie's memo and related material with a view to discussing this matter, and its impact on the operation of the Insurance Committee, during the September 13, 1990 Committee meeting. Due to time constraints, consideration of this topic has been postponed until the next regularly scheduled Committee meeting.

6. AMERICAN HOME ASSURANCE COMPANY

Representatives of American Home attended the offices of the Errors and Omissions department during August and September to review various files, and to address several issues relating to the ongoing handling of claim files. By written agreement, the Law Society has full control over the investigation and settlement of claims up to the limit of the Law Society's group deductible or until such time as claim payments exceed the stop loss limit. American Home requested the Law Society turn over to them any files clearly exceeding the group deductible limit as well as claim files for any Fund Year where the stop loss has been reached. Files in these categories were turned over to American Home for future handling with the understanding that the Law Society would be kept fully updated on all developments and would have an opportunity to provide appropriate input when necessary.

The Errors and Omissions department is maintaining its close ties and communications with American Home to assure the continuation of an amiable, productive work environment.

7. OUTSTANDING ITEMS

(a) Loss Prevention Booklet - Pursuant to the Committee's recommendation with respect to the Director's proposal that the Errors and Omissions department produce a current Loss Prevention Booklet, the Director advises that the steps necessary for its production are currently underway. The Director will keep the Committee apprised of additional developments on a regular basis.

(b) Selection and Instruction of E & O Defence Counsel - Questions have been raised periodically with respect to The Errors and Omissions Department's criteria for the selection of defence counsel. Your Committee is unanimous in its view that the current policy on the selection and instruction of Errors and Omissions defence counsel is quite acceptable, and should not be altered. See Appendix "F".

(c) Failure to give notice of a claim - A question has been raised regarding the effect that failing to give notice of a claim or potential claim has on a member's entitlement to insurance coverage, and therefore the public's entitlement to compensation under the Errors and Omissions program. The Director advises that the professional liability insurance policy allows The Law Society of Upper Canada to give notice of a claim or a potential claim on behalf of any member should that member be incapable or unwilling to give notice, and, subject to the terms and conditions of the policy, this provision functions to protect the public in the event a member fails to give notice.

(d) Directors and Officers Insurance -In response to a concern regarding the need for Directors and Officers insurance for the Directors of The Lawyers' Professional Indemnity Company, your Committee requested the Director obtain cost estimations for arranging such coverage. In light of the high cost of Directors and Officers insurance, your Committee recommends the Law Society enter into an Indemnifying Agreement whereby the Law Society will indemnify and hold harmless the Insurer's Directors and Officers.

ALL OF WHICH is respectfully submitted

DATED this 14th day of September, 1990

"P. Furlong"
Chair

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

- Item 1 - Director's Monthly Report for June 1990.
(Appendix A, pages 1 - 3)
- Item 2 - Memorandum from Mr. G. Kevin O'Toole to Mr. Lin Whitman dated August 31, 1990 re: Members' entitlement to exemption from E & O levy.
(Appendix B, pages 1 - 4)
- Item 3 - Example of notice sent to a solicitor following a report of a new claim.
(Appendix C, pages 1 - 3)
- Item 7(b) - Memorandum from Mr. Lin Whitman to Mr. Patrick Furlong dated June 12, 1990 re: Criteria for selection of E & O counsel.
(Appendix F, pages 1 - 2)

THE REPORT WAS ADOPTED

.....

PROFESSIONAL STANDARDS COMMITTEE

Mr. Lyons presented the Report of the Professional Standards Committee of its meeting on Thursday, June 14th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of June, 1990 at eleven thirty in the morning the following members being present: Mr. Farquharson (Acting Chair), Mr. Furlong, Mr. Thoman and Mrs. Weaver. Also present were Ms. Angevine, Ms. Ashby, Ms. McCaffrey, Ms. Poworoznyk, and Mr. Kerr.

A.

POLICY

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

At its March meeting, the Committee considered a Discussion Paper containing a number of proposals which, if implemented, would effect significant changes in the Review Programme. At that time, the Committee approved the proposals in principle and recommended that various Committees and other interested parties be canvassed on this question so that the matter could be revisited at the June meeting.

Attached as A1 - A8 is a copy of the Discussion Paper as amended to reflect some of the concerns raised by the various respondents.

The Committee made the following recommendations:

- i) that the proposals in the Discussion Paper be approved as amended.
- ii) that said proposals be presented to the Legislation and Rules Committee for re-drafting in legislative form.

2. EMERGING POLICY ISSUES

Attached as A9 - A10 is a copy of a memorandum from James Spence, Chair of the Research and Planning Committee. He is presently canvassing various Committees for emerging issues of concern to them which might be considered by his Committee.

The Committee discussed the question of the type of services offered by the Law Society to the growing number of corporate or "in house" counsel and recommends that the Research and Planning Committee consider what additional programmes or services could be devised to address the specific needs of this segment of the Bar.

3. ALTERNATIVE DISPUTE RESOLUTION

Attached as A11 - A14 is a copy of a memo from James Spence, Chair of the Research and Planning Committee.

The Committee determined that there were no issues within its mandate that might appropriately be considered in relation to Alternative Dispute Resolution at this time.

C.
INFORMATION

1. PRACTICE ADVISORY SERVICE
STATUS REPORT

Attached as C1 - C2 is a copy of the monthly report.

2. LINK INC.

Ms. Ashby provided the Committee with a status report on developments in the programme.

Attached as C3 - C10 is a copy of the report.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of June, 1990

"J. Lyons"
for Chair

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

- A-Item 1 - Discussion Paper re: Proposed changes in format to the Practice Review Programme, dated March 8, 1990, (Revisions June 1, 1990). (Marked A1 - A8)
- A-Item 2 - Memorandum from Mr. James Spence, former Chair of the Research and Planning Committee to the Chairs of the Standing and Special Committees dated May 11, 1990 re: Emerging Policy Issues. (Marked A9 - A10)
- A-Item 3 - Memorandum from Mr. James Spence, former Chair of the Research and Planning Committee to the Chairs of the Standing Committees dated May 10, 1990 re: Alternative Dispute Resolution. (Marked A11 - A14)
- C-Item 1 - Practice Advisory Service Status Report (Meeting of June 14, 1990). (Marked C1 - C2)
- C-Item 2 - Report of the Sub-Committee of LINK Lawyers' Assistance Program. (Marked C3 - C10)

THE REPORT WAS ADOPTED

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COMPENSATION FUND COMMITTEE

Mr. Strosberg presented the Report of the Compensation Fund Committee of its meeting on Thursday, September 13th, 1990.

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

The COMPENSATION FUND COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990 at 11:45 a.m. the following members being present: C. Ruby (Chair), G. Farquharson (Vice-Chair), H. Strosberg (Vice-Chair), R. Hall, S. Lerner, B. Noble, S. Thom; P. Bell and Mrs. H.A. Werry also attended.

A.
POLICY

No items.

B.
ADMINISTRATION

1. IMPLICATIONS FOR THE COMPENSATION FUND
OF A POSSIBLE RECESSION

The Chair has asked that a discussion take place as to whether the Society should retain an independent consultant to do an analysis for the Compensation Fund to see whether the Fund will be paying out more money in grants in this, and future fiscal years, because of a possible recession.

RECOMMENDATION: The Committee decided that a quotation should be obtained from Tillinghast, a firm of actuaries, to update the figures from their Report dated February 16th, 1990 on the expected loss experience of the Compensation Fund for this fiscal year. The Secretary was instructed to discuss the matter with the Director of Finance. The Secretary was also instructed to recirculate the Tillinghast Report at the October meeting of the Committee.

2. ROGER MORRIS COMPENSATION FUND
REQUEST FOR SOCIETY TO WAIVE ITS RIGHT TO SUBROGATION

The Secretary reported that a letter was received from counsel for Mr. Morris requesting that the Society waive its right, under the Law Society Act, to be subrogated in respect of a payment of \$50,000 that Mr. Morris will raise from friends. Two claimants who will receive \$25,000 each from that payment, have already received grants of \$50,000 each from the Compensation Fund. This amount of \$25,000 each would be over and above the grants paid to the claimants by the Society from the Compensation Fund. Mr. Morris is being prosecuted on a charge of a criminal breach of trust. If the Society agreed to the request, Roger Morris would assign to the Law Society the first \$100,000 that he is entitled to receive from the estate of his late father.

RECOMMENDATION Your Committee recommends that the Society should refuse the request to waive its subrogation rights because under section 51(8) of the Law Society Act, the Society has no authority to accede to the request. Moreover there is some uncertainty whether Mr. Morris will in fact eventually receive monies from this estate.

Note: Item deleted, see page 148

C.
INFORMATION

1. MEMORANDA OF ASSISTANT SECRETARIES

The Secretary reported that the following memoranda of Assistant Secretaries were approved by the Review Sub-Committee and are before the Committee for information purposes, the amounts of the grants are shown on Schedule "A" attached hereto:-

Peter B. Bell - Assistant Secretary

- a) KALMEN N. GOLDSTEIN (indefinite suspension October 26th, 1989)
three claims

- b.) HOWARD GASOI (disbarred April 26/90)
three claims

Heather A. Werry - Assistant Secretary

- a.) ROGER MORRIS (disbarred May 26/90)
one claim
- b.) PETER KRAWEC (disbarred Feb. 22/89)
one claim

2. PRESS RELEASE CONCERNING INCREASE IN
THE PER CLAIMANT LIMIT TO \$100,000

The Secretary reported that the press release of July 23rd, 1990, concerning the new \$100,000 per claimant limit was sent to a network of Ontario media by the Communications Department. It appeared in a number of newspapers. Philip Epstein, Q.C., appeared on the CBC radio program, Radio Noon, to outline the purposes of the Fund, method of making a claim and the increase of the per claimant limit from \$60,000 to \$100,000.

3. ENGLISH LAW SOCIETY - INCREASE IN DEFALCATIONS

The Secretary reported that an article in the English Law Society newspaper indicated that in 1989 the number of defaulting solicitors increased from 49 to 64 and the amount of claims from 6,000,000 to 14,000,000. Another article suggesting earlier investigative audits of solicitors be commenced in order to save the compensation fund claims was before the Committee. An article in the English Law Society Gazette, indicates a special levy of 295, will be paid by solicitors.

4. The total accounts approved by Assistant Secretaries for the months of June, July and August, 1990 was \$19,304.99.

5. The Financial Summary, and the Activity Report for the months of June, July and August are attached.

(Pgs. C1 - C9)

6. The Secretary reported that Mr. Yachetti had forwarded the 1989 Annual Report of the New York State Clients' Security Fund.

ALL OF WHICH is respectfully submitted

DATED this 28th of September, 1990

"H. Strosberg"
for Chair

SCHEDULE "A"

COMPENSATION FUND GRANTS APPROVED BY THE REVIEW COMMITTEE AND
BY THE COMPENSATION FUND COMMITTEE, THURSDAY, SEPTEMBER 13TH, 1990

ASSISTANT SECRETARY	SOLICITOR	NUMBER OF CLAIMANTS	TOTAL
P.B. Bell	Kalmen N. Goldstein (indefinite suspension Oct. 26/89)	three	10,481.

P.B. Bell	Howard Gasoi (disbarred Apr. 26/90)	three	22,300.
H.A. Werry	Roger Morris (disbarred May. 26/90)	one	15,000.
H.A. Werry	Peter Krawec (disbarred Feb. 12/89)	one	5,123.
TOTAL		eight	<u>52,904.</u>

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

- C-Item 1 - Schedule 'A' Compensation Fund Grants approved by the Review Committee and by the Compensation Fund Committee, September 13, 1990. (Schedule A)
- C-Item 5 - Financial Summary for the Period July 1, 1989 to June 30, 1990. (Marked C1 - C9)

The Chair deleted Item B-2 re: Roger Morris Compensation Fund.

THE REPORT WITH THE EXCEPTION OF B-2 WAS ADOPTED

.....

PROFESSIONAL STANDARDS COMMITTEE

Mr. Lyons presented the Report of the Professional Standards Committee of its meeting on Thursday, September 13th, 1990.

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

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mrs. Weaver (Vice Chair), Mr. Carter, Mr. Ferguson, Mr. Furlong, Ms. Graham, Mr. Manes, and Mr. Wardlaw. Also present were Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Godden, Kerr, Stephany, and Yakimovich.

A.

POLICY

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

At its March meeting, the Committee considered a Discussion Paper containing a number of proposals which, if implemented, would effect significant changes in the Review Programme. At that time, the Committee approved the proposals in principle and the Paper was tabled at June Convocation but has not yet been debated.

Attached as A1 - A8 is a copy of the Discussion Paper as amended to reflect some of the concerns raised by the various respondents.

2. PRACTICE REVIEW PROGRAMME - REPORTS TO DISCIPLINE

The Committee considered how and what information should be relayed to the Discipline process when a solicitor, for what ever reason, fails to successfully complete the Review Programme. The Committee decided to continue discussion of this issue at its October meeting.

B.

ADMINISTRATION

1. PRACTICE ADVISORY SERVICE - STATUS REPORT

The Committee considered the report which included a draft copy of "The Adviser". The Committee approved the report but recommended that the issue of solicitors acting for either a mortgagor or mortgagee in power of sale or foreclosure proceedings after previously acting for both be referred to the Professional Conduct Committee for clarification.

C.

INFORMATION

1. PROFESSIONAL STANDARDS COMMITTEE - POLICY MANUAL

In giving effect to its broad mandate, the Professional Standards Committee has, to date, formulated policies on a wide range of topics. In large part, the heavy volume of activity was a product of the Committee's efforts to implement and administer the Practice Review Programme while at the same time developing standards of general use to the Profession.

A Manual was distributed to Committee members which contained a complete collection of all policy proposals made by the Committee that were subsequently approved by Convocation. It was recommended that a copy of the Manual be given to every Benchler after Committee members have had an opportunity to vet it.

2. LINK INC.

Mr. Manes updated the Committee on recent developments within the Link programme.

3. SUB-COMMITTEE ON REAL ESTATE LAW

Mr. Lamont, the Chair of the sub-committee is in the process of finalizing a draft Real Estate Law checklist.

It is hoped that a copy of the checklist will be available for review by the Committee at its October meeting.

4. SUB-COMMITTEE ON FAMILY LAW

A preliminary draft of the Family Law checklist was sent to the CBAO Family Law Section Executive for their consideration and comment. Changes recommended by them have been incorporated into the checklist and the Sub-committee is in the process of preparing a final draft.

5. PRACTICE REVIEW PROGRAMME - REVIEWER'S QUESTIONNAIRE

Over the summer, a questionnaire was circulated among lawyers who have acted as Reviewers. The general purpose of the questionnaire was to obtain some critical feedback from Reviewers on various aspects of the Review Programme. Staff are in the process of compiling the data and a report will be ready in time for the October meeting.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"J. Lyons"
for Chair

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

A-Item 1 - Discussion Paper, re: Proposed changes in format to the Practice Review Programme dated March 8, 1990 (Revisions June 1, 1990). (Marked A1 - A8)

THE REPORT WAS ADOPTED

.....

COUNTY AND DISTRICT LIAISON COMMITTEE

Mr. Lyons presented the Reports of the County and District Liaison Committee of its meetings on Thursday, June 14th and Thursday, September 13th, 1990.

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

The COUNTY & DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of June, 1990 at four o'clock in the afternoon, the following members being present: Messrs. Somerville (Chair), Shaffer and Wardlaw. Ms. Mossip and Messrs. Bode, Lalonde, Lovell, O'Dea and Weekes from the County & District Executive attended. Ms. Angevine from the Law Society was also in attendance.

1. RESOLUTIONS OF COUNTY & DISTRICT LAW PRESIDENTS' ASSOCIATION

The Executive of the County & District Law Presidents' Association presented the resolutions passed at the May meeting for the information of the Committee and Convocation. Copies are attached at Appendix 1, pg. 1 - 9. Please note that Resolution #6 was withdrawn and accordingly does not appear in the material.

2. EMERGING POLICY ISSUES MEMORANDA

The Committee received two Memoranda, one from the Subcommittee on Alternate Dispute Resolution and one from the Research & Planning Committee on emerging policy issues.

The Executive of the County & District Law Presidents' Association will consider issues raised and report to the next meeting of the Committee.

3. SUBCOMMITTEE ON DELIVERY OF LEGAL AID SERVICES IN FAMILY LAW

Randy Lalande presented a report on the work of the Subcommittee to date. He indicated that the Subcommittee hopes to be in a position to report in the fall of 1990.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of June, 1990.

"J. Lyons"
for Chair

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

Item 1 - Resolutions passed at the May meeting of the Executive of the County & District Law Presidents' Association.
(Appendix 1, pages 1 - 9)

THE REPORT WAS ADOPTED

.....

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

The COUNTY & DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of September, 1990 at four o'clock in the afternoon, the following members being present: R.G. Ferguson, Vice-Chair in the Chair, B. Shaffer and P.S.A. Lamek. N. Mossip, H. Arrell, L. Brennan, R. Lalande, R. Lovell, M. O'Dea and R. Weekes were also present from the County & District Executive. Staff members present were: G. Howell and M. J. Angevine.

1. Resolutions passed by the County & District Law Presidents' Association at the May 1990 Plenary Session.

Your Committee reviewed the resolutions passed by the County & District Law Presidents' Association and reported on the action taken by the Law Society to date.

Your Committee, after discussion, passed a further resolution requesting that the Legal Aid Committee prepare a further submission to the Attorney General of Ontario requiring that the Fact Finder's report be implemented, in full, immediately.

2. Report on Professional Standards Committee Practice Review Programme

The Chair reported on the matters discussed in the meeting of the Professional Standards Committee regarding the voluntary participation of members in the Practice Review Programme.

3. Special Committee on Benchers' Elections

The Chair reported at length on the work of this Special Committee and the progress of its deliberations to date.

After some discussion it was agreed that the brief prepared by the County & District Law Presidents' Association and submitted to the Special Committee would be appended to that Committee's report to ensure that all Benchers were fully apprised of the views of the County & District Law Presidents' Association.

4. Joint Subcommittee on the deposit of uncertified funds to lawyers' trust accounts

It was resolved that Michael O'Dea be appointed to this subcommittee as the representative of the County & District Law Presidents' Association.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"J. Lyons"
for Chair

THE REPORT WAS ADOPTED

.....

RESEARCH AND PLANNING COMMITTEE

Mr. Strosberg presented the Reports of the Research and Planning Committee of its meetings on Thursday, June 14th and Thursday, September 14th, 1990.

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

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of June, 1990, at 8:00 a.m., the following members being present: Mr. Spence (Chair), Mr. Bastedo, Ms. Bellamy, Ms. Chapnik, Mr. Furlong, Ms. Kiteley, Mr. McKinnon, Mr. Smith.

Also present: Ms. Angevine, Mr. Brockett, Mr. Tinsley.

A.

POLICY

1. OPEN CONVOCATION

Your Committee has reviewed the experience of the first twelve months under the policy which provides that the proceedings of Convocation are to be open to the profession and the public. The Committee has formulated a number of recommendations to Convocation: they are presented in a separate report entitled "Open Convocation: A Review."

B.
ADMINISTRATION

1. THE NEED FOR CO-ORDINATION OF THE
REPORTS LIKELY TO BE RECEIVED FROM
SPECIAL COMMITTEES

The Subcommittee on Benchers' Responsibilities has presented a first interim report in which it draws attention to the need to co-ordinate the implementation of the reports of the Special Committee on Complaints Procedures, the Special Committee on Discipline Procedures and the Special Committee on Benchers Elections. It is anticipated that the reports of those special committees will have a significant impact upon the workload of Benchers.

Your Committee adopted the first interim report of the Subcommittee and accordingly recommends that Convocation address the need for a co-ordinated approach to the implementation of the special committee reports. A copy of the Subcommittee's first interim report is attached as pages A1-A3.

2. ISSUES RELATED TO LAW FIRM SIZE

Arising from the discussion at the May meeting of the Committee, it has been decided:

- (a) To recommend to the Director of Continuing Legal Education that the Law Society provide continuing education programs dealing with the practice of law, focusing in particular upon small firm practice in an environment of advancing technology and specialization.
- (b) To recommend to Chairs of Committees that they consider holding meetings, on occasion, outside Toronto.

3. BENCHER COMMUNICATION WITH THE MEDIA

Your Committee has given preliminary consideration to the extent to which it is appropriate for Benchers to speak to the press and other mass media about matters before Convocation. The practice of conducting meetings of Convocation in public has led to a greater interest by the press.

It was noted that the matter is under active consideration by a Subcommittee of the Public Information Committee. It was decided to postpone further discussion of this topic until the guidelines being drafted by that Subcommittee are available.

4. PUBLIC IMAGE OF THE LAW SOCIETY

In future meetings, the Committee will consider whether the long-term public image of the Law Society is a matter that requires research and study. In the meantime, your Committee is of the view that there is, currently, an urgent need to develop a co-ordinated and effective approach to promoting a positive public image of the Society.

5. SECOND BENCHERS' RETREAT

At the May meeting, the possibility of arranging a Benchers' Retreat for November 1990 or February 1991 was discussed. Several members of the Committee were of the view that the proposed timing was inappropriate. There was no consensus on the matter: some members favoured a retreat before the end of the current 4-year term, others suggested that it should be after the 1991 Benchers' election.

In light of the fact that Convocation, at its May meeting, deferred discussion of the issue, your Committee does not consider it appropriate to consider it further at this time.

C.
INFORMATION

1. GENDER NEUTRAL COMMUNICATION POLICY

The Standing Subcommittee on Women in the Legal Profession had prepared a response to certain criticisms of the letter in which members of the profession had been informed of the Society's Gender Neutral Policy. The intention was that the response be sent to the legal press for publication and that it also be included in this Committee's report to Convocation so that it might be communicated to members of the profession in the published proceedings of Convocation.

Your Committee decided that the response should not be published and that no further action should be taken.

2. STANDING SUBCOMMITTEE ON WOMEN IN THE LEGAL PROFESSION

It was reported that there had, to date, been a response rate of 54% to the questionnaire "Survey of Transitions in the Legal Profession". It is expected that a draft report on the survey will be available in October.

Subject to discussions with a subcommittee of the Discipline Policy Committee, which is considering the problem of sexual harassment and other discipline issues specific to women, the Standing Subcommittee on Women in the Legal Profession intends to undertake a study of the problem of sexual harassment with a view to developing a policy statement.

3. VOLUNTARY PRO-BONO SUBCOMMITTEE

The Voluntary Pro-Bono Subcommittee is preparing to undertake a feasibility study with a view to ascertaining the extent of the need for co-ordination of pro-bono legal services.

4. ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE

The Alternative Dispute Resolution Subcommittee has asked certain Committees of Convocation to make comments and suggestions in relation to its work. It is hoped that the Subcommittee will be able to meet, over the summer, with the Director of Education and with a representative of the Attorney General.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of June, 1990

"H.T. Strosberg"
for Chair

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

B-Item 1 - First interim report of the Benchers' Responsibilities Subcommittee dated June 1990. (Marked A1 - A3)

THE REPORT WAS ADOPTED

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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 13th of September, 1990, at 8:00 a.m, the following members being present: H. Strosberg (Chair), D. Bellamy, C.L. Campbell, P. Furlong, D. Hunt, R. Manes, R. Smith.

Also present: J.I. Laskin, R.Tinsley, M. Angevine, A. Brockett.

A.

POLICY

No matters to report.

B.

ADMINISTRATION

1. SUBCOMMITTEES IN EXISTENCE DURING 1989-1990

Alternative Dispute Resolution: Your Committee intends to review the mandate and membership of the Alternative Dispute Resolution Subcommittee.

Benchers' Responsibilities: Ronald Manes, Chair of the Benchers' Responsibilities Subcommittee, reported that he expected that the Subcommittee would shortly present a report, and conclude its work. He understood that many of the matters under consideration by the Subcommittee were to be taken up by the newly appointed Special Committee on Committee Responsibilities Review.

Voluntary Pro-Bono: Ronald Manes, Chair of the Voluntary Pro-Bono Subcommittee, reported that a feasibility study was under way to determine the need for pro-bono services. A report was expected to be ready in October. It was agreed that the Subcommittee should continue its work, with the following membership: Ronald Manes (Chair), June Callwood, Mary Eberts, Philip Epstein, Anne Giardini, Robert Holden, Frances Kiteley, Ruth Lawson, Garth Manning, Roderick McDowell, Clayton Ruby, Stephanie Thomas.

C.

INFORMATION

1. SUITABILITY OF TITLES

Your Committee had been asked by its predecessor committee to consider the suitability of titles currently employed by the Law Society.

Your Committee has appointed Denise Bellamy to serve as a one-person subcommittee to make recommendations concerning the continued use of the term "Treasurer" and other titles.

2. ACCESS TO LEGAL SERVICES

Your Committee intends to review the matter of access to legal services and, if necessary, to make recommendations to Convocation.

3. AUTOMATION WITHIN THE LAW SOCIETY

Your Committee will be making inquiries of the Senior Management Committee to see whether there is a need to study the possibilities of enhancing automation and computer facilities in the Law Society administrative operation.

4. PUBLIC IMAGE OF THE LAW SOCIETY

Your Committee discussed the importance of the public image of the Law Society and the need for policies governing the Society's dealings with the mass media. It was agreed that these matters might more appropriately be dealt with by the Communications Committee. It was suggested that a joint subcommittee, including also representatives of the Policy Section of the Discipline Committee, might be appropriate. Ronald Manes undertook to bring these matters to the attention of the Communications Committee.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"H.T. Strosberg"
Chair

THE REPORT WAS ADOPTED

.....

Mr. Strosberg presented the Report of the Research and Planning Committee dated June 22nd, 1990 re: Open Convocation.

OPEN CONVOCATION: A REVIEW

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to submit the following Report on Open Convocation:

1. INTRODUCTION

At its meeting on March 8, 1990, the Research and Planning Committee reviewed the experience of the first twelve months under the policy which provides that the proceedings of Convocation are to be open to the profession and the public. The Treasurer was present for this discussion.

The Committee is encouraged by the steps which Convocation has taken to implement the policy. Not surprisingly, however, since the policy is new, its application has brought to light a number of issues and concerns.

These practical concerns were discussed at the meeting on March 8, 1990. At subsequent meetings, the Committee formulated a number of recommendations. In this Report:

- a. We give a brief historical background.
- b. We list some of the issues that have arisen.
- c. We make a series of recommendations to Convocation.

2. BRIEF HISTORY

The recent history of the debate concerning Open Convocation begins in September, 1987, when the Research and Planning Committee appointed a Sub-Committee to consider the matter. Shortly thereafter, but independently of this initiative, the Annual Meeting of the Law Society on October 7, 1987, adopted the following resolution:

That Convocation enact a rule that all regular meetings of Convocation be open to attendance by members of the Law Society, unless an issue before it can be justifiably demonstrated to be one necessitating private discussion and a majority of Convocation votes to hear such matter in camera.

The Sub-Committee duly recommended to the Research and Planning Committee that Convocation be made more accessible and open. Convocation considered this recommendation in November, 1987, and resolved to hold several open meetings as an experiment.

The first regular meeting of Convocation open to the public was held on April 18, 1988 in Ottawa. Open meetings of Convocation subsequently took place in Toronto on September 23, 1988 and November 25, 1988.

The Sub-Committee reviewed the experience of these three experimental Open Convocations and submitted a report to the Research and Planning Committee dated January 12, 1989. A copy of that Report, without its appendices, is attached as an appendix to this paper. The Report recommended:

That Convocation endorse the principle that the proceedings of Convocation be open to the profession and the public, subject only to certain matters being dealt with in camera.

The Report was adopted by Convocation on February 23, 1989. By its adoption of the Report, Convocation also adopted the following guidelines concerning the matters that are to be dealt with in camera:

- a. Agenda items dealing with personnel matters;
- b. Matters of litigation or negotiation, including negotiations with government;
- c. Agenda items which reveal information of a personal nature in which the need for privacy outweighs the public interest in disclosure;
- d. At the instance of the Treasurer, any other matters shall be dealt with in camera subject to the Treasurer being overruled by a majority vote of Convocation taken in camera that the matter be heard in open Convocation.

The first regular meeting of Convocation to be held under the new policy took place on March 17, 1989.

3. THE ISSUES ARISING

a. Timing

Members of the profession and the public often do not know at what time of day a particular item on the agenda will be discussed. This can pose a particular problem for people from outside Toronto who have an interest in an agenda item and who have come for the express purpose of hearing it debated. There have been occasions when members of the profession or the public have apparently had to wait outside Convocation Room for unduly long periods of time, not knowing when Convocation will move into open session.

b. Identifying when Convocation is in Open Session and when it is sitting In Camera

Members of the profession and the public who are interested in attending have experienced difficulty, when arriving outside Convocation Room, in knowing whether Convocation is sitting in open session or in camera.

c. Presentation of the Agenda

Members of the profession have expressed the view that the Convocation agenda, as it is currently presented, does not give sufficient information to enable them to identify the issues that are likely to be discussed.

d. Record of Attendance and Record of Votes

The Committee for Bencher Accountability has taken the position that published proceedings of Convocation should record attendance and should record how each Bencher votes on each issue.

e. The Need for Directions in the Building

Members of the public and also members of the profession who are not familiar with Osgoode Hall, frequently have difficulty in finding Convocation Room.

f. The Perspective of Members outside Toronto

Since Convocation meets in Toronto, members who live outside the city have not found it very easy to take advantage of the new policy.

4. RECOMMENDATIONS TO CONVOCATION

The Research and Planning Committee makes the following recommendations to Convocation:

(a) For an experimental period of three months, commencing with the regular meeting in September 1990:

(i) That Convocation adopt the following timetable:

9:30 - 10:30 a.m. In camera matters.

10:30 a.m. - 12:30 p.m. Open meeting.

Note: Amendment, see page 160

12:30 - 2:00 p.m. Lunch

2:00 p.m. Resume open meeting.

(ii) That public notice be given that the open session will commence at 10:30 a.m..

(iii) That any in camera matters not completed by 10:30 a.m. be taken up again at the end of the day, after all open matters have been completed.

(iv) That where there are items to be dealt with in open session that are deemed to be of significant public or professional concern, every effort be made to schedule them for 10:30 a.m. and that, where possible, notice of the items and the starting time be given to the profession.

- (v) That a status report on the agenda be available between the hours of 1:00 and 2:00 p.m. on Regular Convocation days to persons who call the main Law Society telephone number.
- (vi) That the agenda indicate any specific items that are deemed to be of significant interest.
- (vii) That copies of the agenda be sent by fax in advance of the meeting, to an established list of persons, including the County and District Law Association Presidents.
- (b) That a sign be provided on the outside of the north door to Convocation Room, indicating whether Convocation is in open session or sitting in camera.
- (c) That the Receptionist be in a position to inform enquirers whether Convocation is in open session or sitting in camera.
- (d) That all agenda items be included on a single agenda with an indication of which items are to be dealt with in camera.
- (e) That where an item is to be dealt with in camera the agenda specify, by reference to one or more of the four established criteria, the reason why the matter is not to be dealt with in public.
- (f) That where an item is to be dealt with in camera the agenda give as much information about the topic as is reasonably possible, without disclosing confidential details.
- (g) That there be a sign on the outside of the north door to Convocation Room indicating that it is, indeed, Convocation Room.
- (h) That there be signs near entrance doors and at Reception indicating the way to Convocation Room.
- (i) That Convocation should meet, on occasion, in cities other than Toronto.

5. RECORD OF ATTENDANCE AND RECORD OF VOTES

The Committee has not concluded its discussion on the proposal that the published proceedings of Convocation should record attendance and should also record how each Benchers votes on each issue.

The concern has been expressed by several Benchers that, if votes are to be recorded, it will be necessary also to have a full Hansard-type record of the debate so as to explain why named Benchers voted as they did.

It has also been suggested that "party" politics may inhibit Benchers from responding in the manner in which they believe appropriate in the public interest if each Benchers' vote is reported without an accompanying full record of the debate.

As a compromise position, it has been suggested that the names of all Benchers present for an item be reported, together with the numbers (but not the names) for each vote.

It has also been proposed that where a matter is dealt with in camera the names of those Benchers who speak to the issue should be listed in the public record.

The Committee expects to bring recommendations to Convocation on this matter in the fall of 1990.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of June, 1990

"H.T. Strosberg"
Chair

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

Item 2 - Report from Research and Planning Committee: "Open Convocation: A Review", June 22, 1990 - a Report dated January 12, 1989. (Pages 1 - 2)

Item 4(a)(i) of the Report was amended to read "9:30 - 10:00 a.m. - In camera matters" rather than 10:30 a.m. with special notice where in camera matters are expected to be lengthy.

THE REPORT AS AMENDED WAS ADOPTED

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FRENCH LANGUAGE SERVICES COMMITTEE

Mr. Topp presented the Report of the French Language Services Committee of its meeting on Thursday, September 13th, 1990.

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

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report.

Your Committee met on Thursday, the 13th of September, 1990 at 11:30 a.m. The following members attended the meeting: Bencher representation: Ms. D.E. Bellamy (Chair), Mr. R.C. Topp (Vice Chair), Mr. J.D. Ground, Ms. P.J. Peters, Mr. A.M. Rock. Staff representation: Ms. M. Angevine, Mr. A. Treleaven, Ms. H. Harris, Ms. Dominique Paquet (Secretary). Special representation: Mr. R. Paquette for AJEFO, Mr. A. Keith for CBAO and Ms. Gwen Cortis for Legal Aid.

The following non-members attended the meeting: Mr. C.D. McKinnon (past Chair), Mr. Michel Landry (staff) & Mr. Ray Windsor for Advance Planning Communications.

C.
INFORMATION

1. Joint CLE Task Force in French

The past Chair updated the Committee on a series of meetings that had transpired involving, at various times, the Association des juristes d'expression française (AJEFO), the Canadian Bar Association-Ontario (CBAO) and the Law Society, and the discussions that ensued in their attempts to design a joint continuing legal education programme for the French Bar.

It became apparent during the meeting that it would be necessary for representatives of each organization to meet in a less formal environment to resolve some of the difficulties that had arisen. Accordingly, it was agreed that a meeting would be established as soon as possible to resolve the outstanding matters and a report would be presented to the committee at its next meeting.

2. French Language Services Implementation Plan

The Secretary reviewed the revised French Language Services Implementation Plan and highlighted important or contentious issues. The Secretary reported that implementation was going according to plan, that budget expectations had been met and that the programme had so far received a highly favourable response from members and the public. She confirmed that both government grants had come through, with \$50,000 from the Ministry of the Attorney General and \$30,000 from the Department of the Secretary of State for this fiscal year.

It was suggested that special attention be given to the centralization of French language services requests in order to ensure appropriate budget monitoring, development of a bilingual communications policy, identification of present and future bilingual positions, proposed French language skills upgrading programme and general recommendations outlined on p. 25 of the plan.

The Chair asked members to forward their comments on the implementation plan within two weeks after this meeting and requested that the plan be revised accordingly and re-submitted at the October meeting for final approval by committee members.

3. Programme de l'administration de la justice dans les deux langues officielles (PAJLO)

The Chair suggested that a report on the June PAJLO meeting was not timely and that a report on the next meeting which will be held in November, would be more appropriate.

4. Professional Conduct Handbook

It was announced that the French version of the Professional Conduct Handbook would be edited in view of earlier concerns regarding its accuracy and integrity. The cost for this will be substantially lower than the original expectation; it should not be higher than \$5,000.00.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"R. Topp"
for Chair

THE REPORT WAS ADOPTED

.....

CERTIFICATION BOARD

Mr. Rock presented the Report of the Certification Board of its meetings on Thursday, June 21st and Wednesday, August 15th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Thursday, the 21st of June, 1990 at three o'clock in the afternoon, the following members being present: A.M. Rock (Chair), J. Callwood and M.L. Pilkington. P. Webb (Chair) and K. Chalmers of the Civil Litigation Specialty Committee attended. A. Brockett and S. Hasham of the Law Society were also present.

Your Board met on Wednesday, the 15th of August, 1990 at three thirty in the afternoon, the following members being present: A.M. Rock (Chair), J. Callwood, P.G. Furlong, M.L. Pilkington. P. Webb (Chair) of the Civil Litigation Specialty Committee and S. Thomson of the Law Society were also present.

Specialty Committees met as follows:

The Civil Litigation Specialty Committee met on Tuesday, the 19th of June, 1990 at two o'clock in the afternoon.

The Criminal Litigation Specialty Committee met on Friday, the 29th of June, 1990 at one o'clock in the afternoon.

The Civil Litigation Specialty Committee met on Wednesday, the 1st of August, 1990 at ten o'clock in the morning.

The Civil Litigation Specialty Committee met on Thursday, the 9th of August, 1990 at four o'clock in the afternoon.

A.

POLICY

1. SUB-SPECIALTIES, WITH PARTICULAR REFERENCE TO CIVIL LITIGATION

The Board has decided to amend the practice of certifying lawyers who specialize in narrow fields of civil litigation in the following manner:

D.(i) Whenever the Committee is of the view that an applicant meets the standards for certification but with experience only in a narrow field, it shall recommend that the certification be granted only in that particular field.

E.(ii) This will be achieved by specifying, in parentheses after the words "Certified by the Law Society as a Specialist in Civil Litigation", a description of the particular field. For example:

"Certified by the Law Society as a Specialist in
Civil Litigation (Municipal Law)"

F.(iii) The Committee will designate sub-specialty fields as it sees fit. However, the Board will continue to oversee the designation and use of sub-specialties by the Civil Litigation Specialty Committee as well as any other Committees wishing to introduce sub-specialties.

G.(iv) The rules are to make clear that where certification has been granted in a particular field only, the certification is never to be cited without the full designation, including the words in parentheses.

It has been noted that some of these sub-specialty areas may be established as areas of specialization in their own right.

Note: Item withdrawn, see page 164

2. ASSESSMENT OF APPLICATIONS - TIME LIMIT

The Board resolved to make every effort to determine applications within a four-month period from the date of their receipt.

B.

ADMINISTRATION

1. CONTINUATION OF BOARD MEMBERS

The term of service of non-Bencher member Marilyn Pilkington was to have expired on June 30, 1990. However, because of the need for continuity and the fact that the implementation of the Certification Program is at a critical stage, it is proposed that Marilyn Pilkington should continue to serve on the Board for at least one more year.

2. APPOINTMENT TO CRIMINAL LITIGATION SPECIALTY COMMITTEE

The Board recommends that Norman Peel (of London) be invited to sit on the Criminal Litigation Specialty Committee to replace Kathleen McGowan (of St. Thomas), who has been appointed to the Bench.

3. NEW SPECIALTY COMMITTEES

The following lawyers have agreed to serve as Chairs of new Specialty Committees:

- Bankruptcy and Insolvency Law: R.N. Robertson, Q.C. (of Toronto)
- Entertainment Law: Peter E. Steinmetz, Q.C. (of Toronto)
- Environmental Law: Roger Cotton (of Toronto)
- Immigration Law: Mendel M. Green, Q.C. (of Toronto)
- Labour Law: Roy Fillion, Q.C. (of Toronto)
- Workers' Compensation Law: David W. Brady (of Toronto)

The Board recommends to Convocation that the six new Specialty Committees listed above be established and that the proposed Committee Chairs be appointed.

The first task of the Committee Chairs will be to recommend five to eight additional Committee members, bearing in mind that members "shall be representatives of the various facets and interests of that particular specialty and shall be comprised of members from across the province insofar as that is practicable, having regard to the nature of that particular specialty" (Structure Committee Report - May 10, 1989). The Specialty Committee members are appointed by the Treasurer in Convocation upon recommendation of the Certification Board.

4. CERTIFICATION BUDGET

The Certification Board has approved the amended Certification budget. The budget has been forwarded to the Finance Committee for its consideration.

C.
INFORMATION

1. CERTIFICATION OF CIVIL LITIGATION SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Specialists in Civil Litigation:

- Appotive, Stephen S. (of Ottawa)
- Banack, Larry A. (of Toronto)
- Barrie, Brian D. (of Owen Sound)
- Berkow, Jack B. (of Toronto)
- Bisceglia, Joseph A. (of Sault Ste. Marie)
- Cancellara, Kenneth C. (of Toronto)
- Davison, J. Murray (of Toronto)
- Grossman, Barbara L. (of Toronto)
- Haines, Bruce M. (of Toronto)
- Head, Michael F. (of Pickering)
- Hornak, John H. (of Thunder Bay)
- Houston, Robert E. (of Ottawa)
- McGoey, Michael T.J. (of Toronto)
- Morris, S. Wayne (of Toronto)
- Morse, Jerome R. (of Toronto)
- Nolan, Dermot P. (of Hamilton)
- Papazian, Barry B. (of Toronto)
- Read, John R. (of Ottawa)
- Reisler, Daniel I. (of Toronto)
- Samworth, Philippa G. (of Toronto)
- Spies, Nancy J. (of Toronto)
- Wainwright, Guy A. (of Kapuskasing)
- Wires, David E. (of Toronto)

2. CERTIFICATION OF CRIMINAL LITIGATION SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Specialists in Criminal Litigation:

- Norman D. Boxall (of Ottawa)
- Brian Heller (of Toronto)
- S. Casey Hill (of Toronto)
- T. David Little (of London)

3. INTERVIEW TRAINING VIDEO

A two-part video, which was filmed at the interview training workshop in June 1990, is being edited and will be available for distribution province-wide in October 1990.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"A. Rock"
Chair

It was moved by Mr. Noble, seconded by Mr. Topp that Item A-1 be deleted. Not Put

Mr. Rock withdrew Item A-1 from the Report for further consideration by the Committee.

THE REPORT WITH THE EXCEPTION OF A-1 WAS ADOPTED

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WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Kiteley presented the Report of the Women in the Legal Profession Committee of its meeting on Thursday, September 6th, 1990.

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 (which, at the time, was a Standing Subcommittee of the Research and Planning Committee) met on Thursday, the 6th of September, 1990, at 8:00 a.m., the following members being present: F. Kiteley (Chair), D. Bellamy, S.R. Birenbaum, C.L. Campbell, M.A. Eberts, M.J. Mossman.

Also present: A.M. Brockett, L.M. Johnstone, F. Kay, R.F. Tinsley, A.D. Treleven.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

1. GENDER NEUTRAL GUIDELINES

Your Committee plans to review the response by members of the profession to the circulation of the Gender Neutral Communications Policy and to report to Convocation.

2. ARTICLING COMMITMENTS AND CHILDBIRTH PLANS

Your Committee has been asked to consider the ethical implications which arise when a student participates in the articling matching program whilst, at the same time, planning a pregnancy which, if it comes to pass, will lead to the student withdrawing from the articling commitment for the year in question. It has been noted that the situation has similarities with that of students who participate in the matching program whilst, at the same time, planning to make application for graduate studies.

Your Committee will discuss the matter further with staff from the Bar Admission Course, and will then forward recommendations to the Legal Education Committee.

3. PARENTAL LEAVE AND DAYCARE FOR LAW SOCIETY EMPLOYEES

Your Committee is undertaking a survey of parental leave and daycare policies, with a view to making recommendations as to appropriate policies that might be adopted by the Law Society for its own employees.

4. NATIONAL CONFERENCE ON WOMEN AND THEIR PLACE IN THE LEGAL PROFESSION

The Minister of Justice for Canada is organizing a national conference on women and their place in the legal profession. Your Committee, which has sponsored significant research on this topic, will be offering its support and cooperation.

5. SURVEY OF TRANSITIONS IN THE LEGAL PROFESSION

A questionnaire was mailed to 2,358 members of the Law Society in April and June. It dealt with: education and professional training; professional work history; professional duties and responsibilities; household and family history. Replies are anonymous and confidential. 67% of those to whom the survey was sent have responded.

The responses are currently being analyzed by the consultant who was hired by your Committee to design the survey. Your Committee will be meeting in November and December and expects to present a report to Convocation in January, 1991.

6. POLICY STATEMENT CONCERNING SEXUAL HARASSMENT

Your Committee is reviewing materials and policy statements concerning the problem of sexual harassment. The intention is to produce two documents:

- (a) a staff policy for the Law Society;
- (b) guidelines for law firms.

ALL OF WHICH is respectfully submitted

DATED this 28th day of September, 1990

"F. Kiteley"
Chair

THE REPORT WAS ADOPTED

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"IN CAMERA"

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IN CAMERA Content Has Been Removed

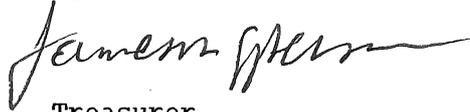
CONVOCATION ADJOURNED AT 11:45 A.M.

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The Treasurer, Mr. James Spence and Benchers had as their luncheon guests, Mr. John T. Evans (Advocates Society) and Dr. H.B. Nelles, Chair of the Ontario Council on University Affairs.

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Confirmed in Convocation this *26th* day of *October*, 1990.



Treasurer