



OSC modifies enforcement proposals

Proposals by the Ontario Securities Commission that would regulate the conduct of lawyers have been substantially modified, a special committee reported to Convocation.

The committee was appointed because of the legal profession's interest in proposed amendments to the Ontario Securities Act, which, if implemented, would have subjected lawyers to disciplinary action by the OSC.

While progress has been made, the committee reported it continues to have some reservations and will file a submission on the current draft of the legislation with the OSC.

The committee made its first submission to the OSC in April 1990 and has maintained contact with the Ontario Institute of Chartered Accountants, the Canadian Bar Association - Ontario and a number of firms engaged in securities law practice during subsequent drafts of the legislation.

The primary concerns of the committee, as set out by Convocation, were:

- lawyers being disciplined by a tribunal they appear before or submit documents to on behalf of clients;

- vague or missing definitions of professional misconduct;
- prevention of lawyers "found to have engaged in misconduct in the marketplace" from practising in the securities law field;
- the extent to which the OSC would exchange information with other regulators in the case of proceedings against professional advisers.

Revisions to date have addressed most of these concerns.

The legislation now provides that no proceedings shall be commenced against a

professional unless the OSC is satisfied that conduct has significantly departed from the standard of integrity and skill of a reasonably competent member of that profession.

The Law Society and the OSC are considering a memorandum of understanding or "protocol" to ensure that any new provisions which affect lawyers would be applied fairly and that the Law Society would be kept fully apprised of any proceedings where a lawyer's conduct is under scrutiny.

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Medal honours service

Convocation recognized the efforts of five members in awarding the Law Society Medal in June.

The Medal, first struck in 1985, honours members who have made a significant contribution to

the legal profession in Ontario through long term service or a single outstanding act.

This year's recipients are:

- John Joseph Broderick, Q.C.; Toronto
- A. Rendall Dick, Q.C.; Thornhill
- John Patrick Nelligan; Ottawa
- Albert Abraham Strauss, Q.C.; Toronto
- Janet Myra Wilson; Toronto



Bar Admission amendments

A new formulation of required standards for students in the teaching term of the Bar Admission Course will become effective in September of this year.

The main changes include:

- increased significance of seminar work – students must achieve a satisfactory assessment in this area to succeed in each section;
- students must achieve a passing grade on all three questions in the written examination – previously, two passes were required.

The Legal Education Committee also recommended a package of student tuition increases to help offset revenue shortfalls resulting from cancellation of Ontario government grant-in-aid.

The package includes:

- the Student Admission Fee will remain at \$101 and the money will be allocated to the Bar Admission Course;
- tuition for Phase Three, due in September this year, will rise \$50 to \$1,555;
- beginning in 1992, fees for Phase One will increase \$50 to \$640.

LSUC en français

Following a number of requests from francophone members of the profession and on the advice of the Law Society's french language specialists, Convocation approved the change of the Society's name in French.

The new name is *Le Barreau du Haut-Canada*. The word *société* was a redundant anglicization, as the word *barreau* means an association or society of lawyers.

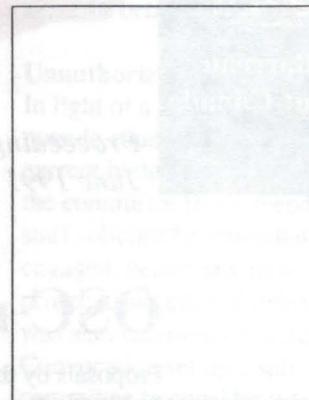
The revised name is also consistent with the nomenclature in other Canadian provinces.

Treasurer acclaimed

James M. Spence has been elected by acclamation as Treasurer for the coming year.

The Law Society will continue with the program of responsible reform it has pursued during the past year, Mr. Spence said following his election.

Mr. Spence is a partner in the Toronto law firm of Tory, Tory DesLauriers and Binnington.



James M. Spence

Certification program to continue operating

A Certification Board recommendation that the legal specialist program continue has been approved by Convocation.

The board will develop a plan to increase awareness of the program among both the public and the profession and will study the question of whether a specialist category should be created for general practitioners throughout the province. Revenue and expense projections for the program indicate it should eliminate its accumulated deficit in five years.

As part of the review process, the board invited all certified specialists and the chairs of all specialty committees to submit their views on specific questions. Nearly 300 specialists responded to the survey (156 were received at time of analysis in mid-June) and the results demonstrated:

- 83 per cent of respondents

consider the program to be of benefit to the public;

- 89 per cent of respondents intend to apply for recertification when their current certificate expires;
- 98 per cent of respondents did not increase their hourly rate upon being certified as a specialist.

The board's report states that it is in the public interest to permit lawyers who have developed special skill and ability to advertise the fact. The program makes it easier for the public to locate and retain lawyers with particular expertise for specific legal problems.

Certification has not made legal services more expensive nor has it created an unjustified elite. Any lawyer can aspire to certification and so long as the standards are appropriate and the program is administered fairly, no group is being preferred over another.

Rulings on networks, advertising, trusts

Proposals to establish an environmental law network and advertise in a real estate brochure don't comply with Law Society rules, reports by the Professional Conduct Committee conclude.

The reports, adopted by Convocation, were in response to two separate requests for advice received by the committee.

The network question came from a Toronto lawyer

who envisages a loose association of lawyers working independently but co-operatively to serve clients either individually or in concert. Also in the proposal was a request for a ruling on the permissibility of using and advertising the name "Environmental Law Network."

The committee raised two concerns about the proposal. The first concern relates to problems with steering as addressed in paragraph 5 of Rule 12.

The second concern is with respect to the name "Environmental Law Network." The committee reported there is the possibility that those seeing the name would conclude that all attached to the network were certified specialists in environmental law. There are currently no certified specialists in this area of law, although there is work being done in the certification area to recognize those practitioners with this expertise.

In response to this initial finding the lawyer replied that files and clients would not be referred to another solicitor. The lawyer added there would be no attempt to indicate network members were certified as specialists and also pointed out that the major Toronto law firms are advertising "Environmental Law Departments."

The committee noted the alternatives open to the proposed network include indicating their affiliation with their respective firms and that they practice in a particular area of law as set out in paragraph 8 of Rule 12.

In the real estate brochure request, the committee recommended that a possible purchase of advertising by four London firms was unacceptable in its current form.

The brochure is given to prospective home buyers and contains an advertising section, where small ads are inserted by various firms that might be of interest to prospective purchasers.

In its submission to the committee, one of the firms approached to advertise noted concern over this type of advertising, suspecting it might constitute a contravention of Rule 12.

The committee concluded there was an appearance of steering to the brochure and there were other problems with some of its wordings that suggested the firms were working "together" with the realtor.

Convocation has also accepted a committee recommendation relating to mixed trust accounts.

It was not thought necessary to create a rule to address the issue, but information giving direction to lawyers in this area is being prepared to assist them in understanding their obligations in this regard.

The committee noted that lawyers are careful to explain that clients will not receive the benefit of interest on trust money unless it is deposited into a special interest bearing account. The interest in the lawyer's regular mixed trust account is paid to the Law Foundation of Ontario as required by law.

Fee installments

Commencing with the 1992-1993 fiscal year, members will be permitted to pay their annual fees and insurance levy by installments.

The recommendation by the Finance and Administration Committee is a step to assist members who find a single payment a burden.

With the proposed unified billing, statements will be sent more frequently and section 36 of the Law Society Act will be amended to allow shortening the payment schedule. The current eight months in which payments must be made before suspensions take effect will be changed to 90 days.

The new procedure allows for four notices, four due dates and four suspension dates over the year as outlined below:

Month	Notice	Payment	Suspension
June	E&O		
July		E&O	
Sept.	Annual Fee		E&O
Oct.		Annual Fee	
Nov.			
Dec.	E&O		Annual Fee
Jan.		E&O	
Feb.			
March	Annual Fee		E&O
April		Annual Fee	
May			
June			Annual Fee

Committee briefs...

Selected news and information from committee reports submitted to Convocation.

Women in the Legal Profession

A detailed model policy for law firms on the subject of sexual harassment is being developed by the committee. A document relating to sexual harassment in the workplace will be distributed to all members of the profession.

Communications

The Lawyer Referral Service received an average of 677 calls per day so far this year, up four per cent on 1990. As studies indicate LRS consumers are increasingly facing busy signals, the committee has recommended additional Wats telephone service be added. The cost for this and

other improvements to the telephone system could be offset by an annual \$25 membership fee for each participating lawyer.

Calls to Dial-A-Law averaged about 1,114 per day during the first five months of 1991, representing a two per cent increase over the same period last year.

Legislation and Rules

It was proposed that the time for giving notice of the Law Society Annual Meeting be increased from 40 days to 60 days and the time for the Secretary to receive members' notices be changed from 25 days to 40 days.

The recommendation is in response to complaints from members that the Ontario Reports containing the notice have not been

received in time for the members to plan to attend the meeting or consider the motions being presented.

Unauthorized Practice

In light of a serious overrun of outside counsel costs and current budgetary restraints, the committee recommended a staff solicitor be immediately engaged, before any new prosecutions are authorized. It was also recommended that Convocation set up a sub-committee to consider ways of controlling the fees for prosecutions, as well as considering a method for selecting outside counsel.

Libraries and Reporting

Annual grants to the 47 County and District Law Associations have been approved. The grant is for \$3,000 to each county (Cochrane at \$4,500), minus the insurance premium for property loss and liability coverage.

Legal Aid restructures tariff

Amendments proposed by the Legal Aid Committee should encourage lawyer acceptance of legal aid certificates for family law clients.

Billing, reporting, authorization and disbursement requirements will all be made less onerous with the restructuring of the civil tariff and clients should have easier access to the justice system.

Among the 23 recommendations approved by Convocation are:

- creation of a special section in the tariff to deal with
- retention of tariff maxi-

mums but adapting them to broader definitions of the average family law case;

- removal of maximums on court attendance;
- increased maximums for discretionary fees;
- every family law matter will be allowed a total maximum of 15 hours up to the end of the first pre-trial hearing;
- additional time allotments when custody/access, support, property/equalization payments or restraining orders are an issue between the parties;
- current tariff maximums for preparation for trial will be allowed if the pre-trial hearing

fails to resolve the matters at issue between the parties.

- block fee for uncontested divorce is reduced from \$500 to \$400 at the basic rate, in view of the pro forma nature of the divorce.

Convocation schedule

Upcoming assemblies of Convocation are scheduled as follows:

- Friday, September 27, 1991
- Friday, October 25, 1991

For more information contact Richard Tinsley at 947-3344.



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