



Benchers Bulletin

April 1993 Vol. 1 No. 7

Member fees set to drop in fiscal 93/94

Law Society membership fees are set to drop by \$18 in the next fiscal year beginning July 1st. Full fee paying members will pay \$1,132 next year down from this year's fee of \$1,150.

Every \$1 reduction in the fee represents a \$20,000 cutback in Law Society expenditures—projected at \$28 million for 1993/94.

The budgets of several Law Society departments and programs were trimmed to achieve the fee reduction, some by as much as 50 per cent. These



Kenneth Howie
Chair, Finance Committee

included research and planning, certification, and audit. Funding for the popular Dial-a-Law telephone legal information service which operates province-wide on a 1-800 number, was capped at \$100,000—a decrease of \$150,000 over the current year. The Secretariat budget which provides (among other things) for expenses incurred by benchers on Law Society business was rolled back by nearly 10 per cent.

Modest budget increases were approved for those departments experiencing sharp increases in work load due to the recession, namely complaints, discipline and professional standards. Funds to accommodate expenditure increases in these areas were derived by reordering internal priorities.

The Law Society also boosted its contribution to the County & District Libraries which had suffered a \$155,000 funding loss from the Law Foundation of Ontario whose own revenues have been declining since the onset of the current economic downturn.

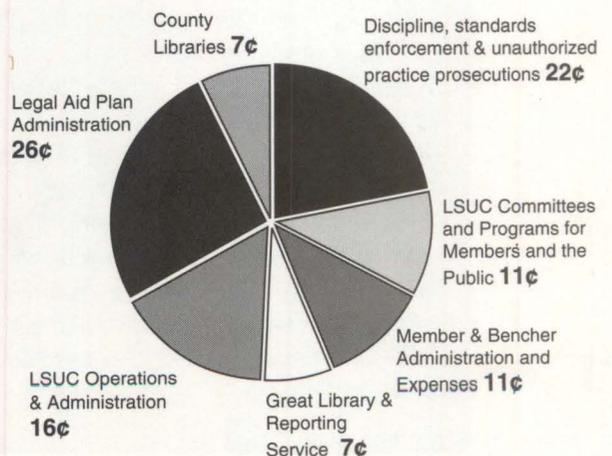
Similarly, the Law Society will cover the bar admission course deficit of \$245,700 that was created largely by the Ontario government's withdrawal of funding for that program. Again, these commitments are being financed through cutbacks in internal Law Society operations.

"Throughout the budget preparation process, benchers and staff were very cognizant of the serious hardship imposed by the recession upon a substantial number of members of our profession," said Finance Chair Ken Howie.

"The reduction in next year's fee reflects the Law Society's commitment to alleviate the financial burden on lawyers while maintaining necessary levels of service to ensure we are executing our mandate to govern the profession in the public interest."

While outlining the budget in Convocation, Mr. Howie reiterated the Society's policy of avoiding deficit financing as a matter of principle. A small surplus of \$200,000 is forecast for this fiscal year and the 1994 budget was prepared on break-even basis.

How Your Law Society \$Dollar is Spent (1993/94 Fiscal Year)



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Committee to review changes to Treasurer's post

The office of the Treasurer of the Law Society will soon, with the Society itself, celebrate its bicentennial. The role and responsibilities of the head of the Law Society have changed greatly since 1797, particularly in recent years with the rapid growth of the profession and the increasingly complex issues that the Society faces.

Although in some sense it remains an honorary office, the Treasurer's task entails a commitment of time and effort that often makes it impossible for the incumbent to continue in practice.

Ten years ago, Convocation voted an annual honorarium of \$50,000 to the Treasurer, and recently decided to increase it to \$75,000 per annum, effective when the next Treasurer takes office. The underlying question remains, however, whether the post is inaccessible to many Benchers simply because it does not provide an income to replace what is lost when a practice is relinquished during the Treasurer's term.

A special committee has been struck to review the office of Treasurer and to examine how its role has changed. The committee will address whether the responsibilities of the office should be defined with greater clarity and whether greater remuneration should be provided.

Government cutbacks, membership criteria for Legal Aid

\$26.6 million chopped in mini-budget

Ontario Treasurer Floyd Laughren's mini-budget announcement on April 22 included approximately \$26.6 million in cutbacks to the Ontario Legal Aid Plan. The Government's blueprint for achieving the target reduction includes the following:

- \$10 million to be collected by offering discount incentives on Legal Aid liens. While the total value of liens currently on the Plan's books is estimated at \$100 million, only \$26 million worth of liens is actually collectible. The Government is asking that 37% of this sum be paid.
- \$8.2 million to be saved by the implementation of changes to criminal procedures many of which are in the developmental stages and will include diversion and early disclosure by the Crown.
- \$1 million to be saved by vigorous post-charge screening of minor indictable offenses.
- An additional \$1 million to be collected from Legal Aid clients through payment agreements. In 1992 the Plan collected \$13.9 million in the form of client contributions and recoveries.
- \$400,000 to be saved by applying tighter discretion when providing legal aid for driving offenses where a person's livelihood is not directly at risk.
- \$6 million has already been saved, funds earmarked to offset the projected 1992 Legal Aid deficit which did not materialize.

It is not anticipated that the recently announced cut-

backs will affect the long-overdue increase to the family law tariff. Treasurer Allan Rock has made recent representations on behalf of the Law Society to both the Finance Minister and the Attorney General, in addition to other members of cabinet, urging an immediate increase to the tariff.

Copies of the submission are available by contacting the Communications Department at (416) 947-3465. Supporting letters to the Finance Minister are welcome and should be **faxed** to the Hon. Floyd Laughren, Frost Building South, 7 Queen's Park Crescent, Toronto (416) 325-0374. Please fax us a copy for our files at (416) 947-3991.



Criteria will allow for panel removal

The Provincial Director of the Legal Aid Plan will soon have criteria on which to exercise the statutory power to remove solicitors from legal aid panels.

Subject to the Law Society's approval once drafted, the Legal Aid Committee will establish specific criteria to enable the Provincial Director either to deny admission to panels or remove members when there is a reasonable basis for concern about their professional competence or conduct. Criteria will include:

- if the member has been the subject of a pre-determined number of complaints and/or Errors & Omissions claims
- if the member is facing disciplinary proceedings
- if the member is participating in the Practice Review Program

Panel members would be evaluated on a regular basis.

Sexual harassment of articling students

Principals found to have sexually harassed articulated students may not only lose the privilege of serving as principals but may also face Law Society disciplinary proceedings, according to recommendations contained in the Report of the Joint Sub-Committee on Sexual Harassment adopted by Convocation in April.

Since October 1991, the Society has received four sexual harassment complaints from female articling students against their principals. One complaint was lodged formally and another was settled with the assistance of outside counsel retained by the student. One complainant indicated that she did not wish to pursue any action while another failed to call back following preliminary contact with the Society.

The Joint Sub-Committee on Sexual Harassment established, after much debate, that due to the overriding public interest concern, control of the sexual harassment complaint should rest with the Law Society. While the student's wishes will be carefully considered, the decision whether to refer the matter to Discipline or the Articling Sub-Committee, or both, must rest with the Law Society and not with the complainant.

The Report spelled out formal procedures by which sexual harassment complaints from articling students may be lodged and the route the complaint should take once received. The Articling Director was designated the contact for articling students wishing to lodge sexual harassment complaints. Inquiries should be directed to Marilyn Bode at (416) 947-4063.

Duty counsel needed for discipline and complaint matters

The Law Society is currently in the process of developing a roster of duty counsel to act *pro bono* on behalf of solicitors who would otherwise be unrepresented when facing discipline proceedings before Convocation. Counsel placed on the roster will develop an expertise in appearing before Convocation and will be provided with a small office at the Law Society for use the day before and the day of Convocation. Interested members are asked to contact Gavin MacKenzie, Senior Counsel Discipline at (416) 947-3354.

Similarly, *pro bono* duty counsel are being sought to assist lay benchers with legal and ethical issues that arise when they are presiding as Complaints Commissioners during the complaints review process. Interested members are asked to contact Scott Kerr, Complaints Director (416) 947-3441.

Members' comments sought on requalification draft recommendations

All Law Society members, regardless of their fee-paying status, will be required to complete a "qualification status" form annually, according to the recommendations proposed in the Draft Report on Requalification.

The draft report which is being circulated to members of the profession for comment, issues from the Joint Committee on Requalification which was established last fall to address the issue of competence among practitioners returning to private practice after periods of absence.

It is proposed that members who fall under the following categories should be deemed qualified, whether they work full- or part-time:

- private practice in Ontario
- private practice in another jurisdiction
- in-house corporate counsel
- MP or MPP
- government lawyer
- policy analysis or legislative drafting
- member of an administrative tribunal
- arbitrator, mediator, conciliator
- legal teaching and/or legal writing
- research staff for court, tribunal or other organization

In addition to the above list, an "other" category will also be provided for members who wish to provide explanations as to why their employment would make them eligible for "qualified" status.

The Draft Report on Requalification recommends that those who fail to qualify for a period of five or more years should be required to requalify and specifies requalification procedures and requirements including attendance at CLE courses, writing bar admission course exams, restricting practice to certain areas and practising under supervision. Once approved, the policy will be applied prospectively.

Members are invited to obtain copies of the draft report by contacting the Communications Department at (416) 947-3465. Comments are invited in writing before May 28, 1993 and should be addressed to Susan McCaffrey, Secretary.

Upcoming Events

Osgoode Hall, Toronto
May 27/28 Special Convocation/Convocation

Treasurer's Diary

Allan Rock looks forward to addressing members in the following locations:

May 13 County & District Law Presidents' Plenary Session
Holiday Inn, Chestnut St., Toronto

May 27 Lawyers' Club, Toronto

WCB specialist designation

The Workers' Compensation Law Specialty is the most recent addition to the specialist certification program. It is estimated that up to 200 lawyers throughout Ontario are eligible to qualify for certification in the workers' compensation area, a substantial and distinct body of law that is evolving at a rate that demands a current restatement of appropriate standards of practice. It is estimated that 15,000 to 20,000 of the claims heard annually by the WCB involve complex issues and significant awards.

Text of Motions

- Moved by Robert Topp, seconded by Fran Kiteley that the review of the Professional Conduct Rules proceed in the current budget year. Adopted 23 to 11.
- Moved by David Scott, seconded by Susan Elliott that a committee be struck to study the office of Treasurer to determine whether the nature of the position and its duties had changed sufficiently to warrant the payment of a salary rather than an honorarium and to determine whether the quantum should be increased. The committee is to report to Convocation as soon as possible. Adopted 31 to 2, with one abstention.
- Moved by Robert Topp, seconded by Rino Bragagnolo that the honorarium be increased from \$60,000 to \$75,000 to take effect following the election of the next Treasurer. Adopted 17 to 12, with five abstentions.
- Moved by James Wardlaw, seconded by Abraham Feinstein that the sum to be made available for staff salary adjustments be increased to \$400,000 from \$200,000. Adopted 18 to 12, with one abstention.

The Law Society
of Upper Canada



Le Barreau
du Haut-Canada

Benchers Bulletin

is published nine times annually by
The Law Society of Upper Canada
Communications Department
Osgoode Hall,
130 Queen Street West
Toronto, Ontario M5H 2N6
Tel: (416) 947-3465
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Printed on
paper containing
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Convocation attendance and roll-call votes

Apr. 23, 1993	Attend		Motions*			
	a.m.	p.m.	1	2	3	4
Arnup, John	✓	✓	F	F	Ab	Ab
Bastedo, Thomas						
Bellamy, Denise	✓	✓	A	F	F	F
Bragagnolo, Rino	✓	✓	F	F	F	A
Brennan, Lloyd	✓	✓	F	A	F	F
Campbell, Colin	✓	✓	F	F	F	F
Carter, Robert						
Copeland, Paul	✓	✓	F	F	F	A
Cullity, Maurice	✓	✓	F	F	A	A
Curtis, Carole						
Elliott, Susan	✓	✓	A	F	F	A
Epstein, Philip	✓	✓	F	F	A	A
Feinstein, Abraham	✓	✓	F	F	F	F
Finkelstein, Neil						
Goudge, Stephen	✓	✓	F	F	A	F
Graham, Netty						
Hickey, Michael	✓					
Hill, Casey						
Howie, Kenneth	✓	✓	A	F	F	F
Howland, William	✓					
Kiteley, Frances	✓	✓	F	F	A	F
Krishna, Virender	✓					
Lamek, Paul	✓	✓	F	F	Ab	A
Lamont, Donald	✓	✓	A	F	A	A
Lax, Joan						
Legge, Laura	✓	✓	A	F	A	
Lerner, Samuel						
Levy, Earl	✓	✓	F	F	A	Ab
McKinnon, Colin	✓	✓	F	Ab	Ab	F
Manes, Ronald						
Martin, Arthur						
Mohideen, Fatima	✓	✓	F	F	F	F
Murphy, Daniel	✓	✓	A	F	F	A
Murray, Ross	✓	✓	F	F	F	F
O'Brien, Brendan						
O'Connor, Dennis	✓	✓	F	F	F	F
O'Connor, Shirley						
Palmer, Julaine	✓	✓	A	F	A	F
Peters, Patricia	✓	✓	F	F	F	F
Richardson, Nora	✓	✓	F	F	Ab	
Robinette, John						
Ruby, Clayton	✓	✓				
Scace, Arthur						
Scott, David	✓	✓	F	F	A	A
Sealy, Hope	✓	✓	F	F	A	F
Somerville, Marc	✓	✓	F	F	Ab	F
Strosberg, Harvey	✓	✓	F	F	F	F
Thom, Stuart	✓	✓	A	F	F	F
Topp, Robert	✓	✓	F	F	F	A
Wardlaw, James	✓		A	F	A	F
Weaver, Mary	✓	✓	A	F	F	A
Yachetti, Roger	✓	✓	A	A	A	A
Rock, Allan (Treas.)	✓	✓				

Non-voting Benchers in attendance

R. Cass, A. Lawrence, G.H. Farquharson, P.B. Pepper.

*Motions A=against, F=for, Ab=abstain

Text of motions resulting in a roll call vote are outlined in an article on this page