



Benchers Bulletin

February 1993 Vol. 1 No. 5

Civil tariff increase urged in 93/94 Legal Aid budget

Law Society benchers approved a \$289 million Legal Aid budget for the 1993-94 fiscal year that includes a 25 per cent increase to the civil tariff which covers primarily family law matters. The increase is necessary to partially offset the erosion in the tariff since it was last adjusted in 1987 and to compensate for the escalating costs associated with family law practice due largely to legislative changes in recent years.

"A civil tariff increase is urgently required if Ontario is to provide adequate levels of service in family law matters which impact primarily on women and their dependent children," said Fran Kiteley, chair of the legal aid committee. "At this point symbolic increases to the tariff will do nothing to alleviate current access problems. We are optimistic that the Ontario government is sensitive to our position and that their commitment to access to justice will allow for a tariff increase that will fairly compensate lawyers for work undertaken on behalf of disadvantaged clients."

Funding for the Plan "has been a disgrace," Sudbury benchers Robert Topp said.

"[Governments] have been guilty of neglect and contempt for the people of Ontario in the way they have funded this plan. And I suggest that the minimum we should ask for in the civil tariff is 25 per cent."

Now that it has received Convocation's approval, the Legal Aid Plan budget will be forwarded to the Ontario government for approval and a decision is expected sometime in the spring.

The following table sets out in dollar terms the effect a 25 per cent increase to the civil tariff would have on the **net hourly fees** (5 per cent statutory deduction applied) charged by lawyers to the Legal Aid Plan:

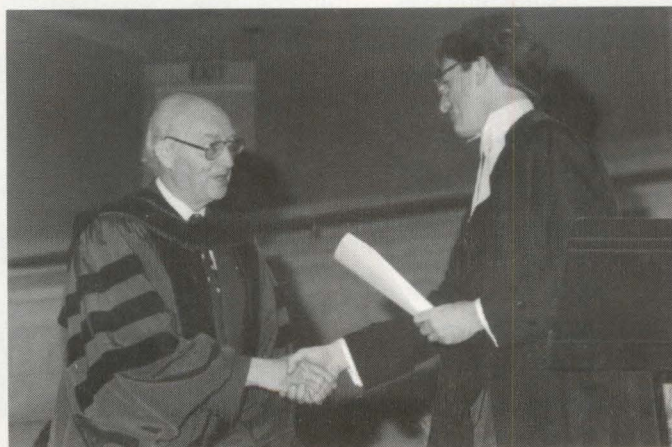
Experience	Current Fee	Proposed Fee
1-4 years	\$63.65	\$79.56
5-10 years	\$71.61	\$89.51
11+ years	\$79.56	\$99.46
Duty Counsel	\$54.15	\$67.69

(Family and criminal, all exp. levels)

After two consecutive years of increases in excess of 25 per cent, overall demand for legal aid certificates is beginning to level off with increases projected at 4.2 per cent in 1992-93 and 2 per cent in

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University of Toronto professor Peter Russell (left) is congratulated by Law Society Treasurer Allan Rock at the call to the bar ceremony in Toronto on February 9. Prof. Russell addressed the afternoon session of the ceremony and received on honorary doctor of laws from the Society. Stories on page 2.

1993-94. While the rate of demand for criminal and immigration certificates is declining significantly, this development is offset by continuing double-digit increases in demand for family and other civil law certificates mostly in those areas of law traditionally handled by clinics, such as landlord and tenant and workers' compensation. The volume of such cases has increased so dramatically in the clinics that many clients have been referred to the certificate system

because clinics can't service the demand.

The Legal Aid Plan expects to issue 221,000 clients with certificates in this fiscal year ending March 31st and 225,400 in the 1993/94 fiscal year.

Fee arrears policy changed

The Law Society's policy on fee arrears has been changed in response to complaints from suspended

Employment prospects encouraging for Feb. bar grads

A total of 1,105 new lawyers were admitted to the Ontario bar at ceremonies held in London, Toronto and Ottawa in early February.

Employment prospects for new graduates remain encouraging despite the continuing recession. An informal student employment survey of 1993 graduates conducted by the Law Society's placement office reveals that 60 per cent of new graduates had secured employment as of last December 15th. The response to the survey was just over 40 per cent and the results are consistent with those obtained over a seven-year period beginning in 1985 which show that, on average, 64 per cent of graduates have jobs to go to following their call to the bar. The vast majority of the remaining find employment during the course of the year.

Law Society membership records indicate that, as of January 1993, 89 per cent of 1992 graduates are gainfully employed—the majority in private practice (66 per cent) and a further 23 per cent in education, government or corporations. The remaining 11 per cent are listed as not working or residing outside Ontario and it is likely that a number of these individuals are furthering their education, pursuing opportunities outside of law, or are assuming full-time parenting responsibilities.

LSUC confers honours at bar call ceremonies



Rt. Hon. Brian Dickson

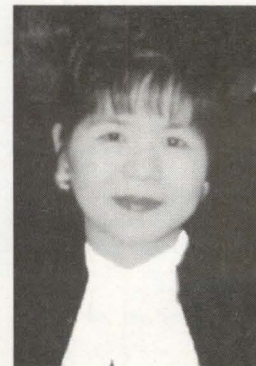
The degree of doctor of laws *honoris causa* was conferred upon the former Chief Justice of Canada, the Right Honourable Brian Dickson at the call to the bar ceremony in Toronto on February 8th. Mr. Dickson was the guest speaker at the morning ceremony. "As Chief Justice of Canada at a critical and exciting time in the development of the law he brought a keen and incisive intellect to the crafting of judgements which gave substance and life to the Charter of Rights and Freedoms," said Paul Lamek, chair of the legal education committee, in his citation.

Professor Peter Russell, noted University of Toronto political scientist, addressed new graduates in the afternoon call to the bar ceremony in Toronto. He also received the degree of doctor of laws *honoris*

causa for his scholarly contributions on the Constitution and the Supreme Court as well as his pivotal role as the first chair of the Ontario Judicial Appointments Committee.

The Honourable Pierre Blais, Minister of Justice, Attorney General of Canada and Minister of State for Agriculture, was made an honorary member of the Law Society on February 26th. Prior to his election, Mr. Blais was partner in a law firm in Montnagny, Quebec.

Congratulations are extended to recent graduate Shu-Tai Cheng, for attaining the highest grades in the bar admission course. Ms. Cheng, who is with the firm Gowling, Strathy & Henderson, was awarded the Treasurer's Medal at the bar call ceremony in Ottawa.



Shu-Tai Cheng

members alleging that it constitutes a financial barrier to reentry to the profession and is discriminatory towards women.

Under the former policy, fees continued to accrue for the entire period of time a member was suspended.

Under the new policy which took effect February 26, 1993, members suspended on or after that date will be required to pay fees only for the year in which they were suspended and the year of reinstatement together with an administrative fee penalty, the amount of which has yet to be determined.

Members suspended prior to February 26, 1993 will be required to pay all fees accrued up to that date in addition to the fee for the year in which they seek reinstatement, together with an administrative fee.

While the Law Society will continue to allow for arrears to be paid in installments in the event of financial hardship, fee arrears and reinstatement penalties will not be waived.

Subject to legislative amendment, the new policy also provides that those members who fail to bring their membership into good standing within 12 months will have their membership in the Society cancelled upon order of Convocation.

Insurance update

- *Claims outlook improves*

Claims totalling \$1.3 million were reported in January 1993 as compared with \$2.4 million received during the same month of 1992, giving rise to cautious optimism that a trend towards overall reduction in claim costs will be sustained throughout the balance of the year. Falling interest rates and the high frequency and severity of claims in 1992, created a \$23.9 million deficit in the E&O fund which resulted in an increase to the insurance levy and the imposition of a supplemental levy in order to eliminate the deficit by 1997.

- *Coverage for sexual impropriety/misconduct*

Discussions with insurance brokers are under way to determine whether insurance coverage is available to indemnify members in the event of a suit, claim or criminal charge involving sexual improprieties with clients. The Insurance Committee will report on the availability, details and costs of such coverage once the information becomes available.

AAAdvertising rule examined

In an effort to get as close to the front of the Lawyers Listing as possible, a number of lawyers, primarily in metropolitan areas, have been placing an "A" or a series of "A"s before their name or firm name in the Yellow Pages.

The Professional Conduct Committee will be examining Rule 12 on advertising in response to recent complaints to determine whether this practice is misleading, inaccurate or in bad taste. The matter will be considered within the context of lawyers' rights of commercial free speech under the Charter of Rights and Freedoms.

During a recent meeting with Law Society staff, Bell Canada representatives disclosed that recent advertising studies show that adding "A"s in order to jump the queue does not produce the advantage it is perceived to have.

Conflict of interest draft rule

The Federation of Law Societies committee examining the *Martin v. Gray* case has, after lengthy deliberation, agreed upon a draft rule to address problems created by the migrating lawyer.

The rule is intended to regulate partners and employees who transfer between law firms including lawyers and non-lawyer support staff such as legal assistants and secretaries, as well as government employees and in-house counsel. The onus will be on the transferring lawyer or employee and the new law firm to determine, **before transfer**, whether any conflicts of interest will be created. The proposed rule provides for matters to be considered before hiring a potential transferee in cases where a conflict exists, where no conflict exists and where a conflict is uncertain.

Law firms would be required to implement reasonable measures to ensure that confidential information pertaining to a former client is not disclosed to any member of the new law firm. A set of guidelines is provided, adapted from the Canadian Bar Association's Draft Discussion Paper on *Martin v. Gray* Conflicts, which is intended to serve as a checklist of relevant factors to be considered.

Copies of the draft rule will be published for comment in the Ontario Reports. Interested members may also obtain copies by contacting the Communications Department at (416) 947-3465. Members wishing to make submissions are asked to do so in writing to Stephen Traviss, Secretary, Professional Conduct Committee.

Upcoming Events

Osgoode Hall, Toronto

March 25 Special Convocation

March 26 Convocation

Treasurer's Diary

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

March 8 Kirkland Lake
Timiskaming Law Association

March 12 Ottawa
U of O Law School Alumni

March 29 Muskoka Law Association

March 31 York Law Association

April 15 Hastings Law Association

Mr. Rock welcomes the opportunity to speak at your local law association or professional organization's meeting. Requests should be directed to Richard Tinsley, Secretary, at (416) 947-3344.

Former Treasurers to retain vote

A motion to rescind the voting privileges of former and current Law Society Treasurers not elected in the preceding bench election, was defeated in Convocation by a vote of 16 to 8.

The motion was put forward by members of the Committee for Bench Accountability at the Law Society's Annual General Meeting on November 11, 1992 together with another motion which provided that only benchers elected in the most recent bench election be eligible to serve as Treasurer. The latter motion was passed in Convocation by a vote of 17 to 8. Legislative amendments to the Law Society Act are required to implement this change.

Two other motions to restrict voting rights to immediate ex-Treasurers only were tabled for future discussion.

The Law Society
of Upper Canada



Le Barreau
du Haut-Canada

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Convocation attendance and roll-call votes

Feb. 26, 1993	Attend		Motions*		
	a.m.	p.m.	1	2	3
Arnup, John					
Bastedo, Thomas	✓	✓	F	F	F
Bellamy, Denise	✓	✓	Ab	F	F
Bragagnolo, Rino					
Brennan, Lloyd	✓	✓	A	A	A
Campbell, Colin	✓		F		
Carter, Robert		✓		A	A
Copeland, Paul					
Cullity, Maurice	✓	✓		A	F
Curtis, Carole	✓	✓	F	F	F
Elliott, Susan	✓	✓	F	Ab	F
Epstein, Philip	✓		F		
Feinstein, Abraham					
Finkelstein, Neil	✓	✓	A	A	A
Goudge, Stephen					
Graham, Netty					
Hickey, Michael	✓	✓	F	A	F
Hill, Casey	✓	✓	Ab	A	F
Howie, Kenneth	✓		A		
Howland, William	✓		Ab		
Kiteley, Frances	✓	✓	A	F	F
Krishna, Virender	✓	✓	F	A	F
Lamek, Paul	✓	✓	A	A	A
Lamont, Donald	✓	✓	A	A	A
Lax, Joan					
Legge, Laura	✓		F		
Lerner, Samuel					
Levy, Earl					
McKinnon, Colin					
Manes, Ronald					
Martin, Arthur					
Mohideen, Fatima	✓	✓	F	F	F
Murphy, Daniel	✓	✓	F	A	A
Murray, Ross					
O'Brien, Brendan					
O'Connor, Dennis					
O'Connor, Shirley					
Palmer, Julaine	✓	✓	F	F	F
Peters, Patricia	✓	✓	F	A	F
Richardson, Nora					
Robinette, John					
Ruby, Clayton	✓	✓	F	F	F
Scace, Arthur					
Scott, David	✓	✓	F	A	F
Sealy, Hope	✓	✓	F	A	F
Somerville, Marc	✓	✓	F	F	F
Strosberg, Harvey	✓	✓	F	A	A
Thom, Stuart	✓	✓	Ab		
Topp, Robert	✓	✓	F	A	F
Wardlaw, James					
Weaver, Mary	✓	✓	F	A	A
Yachetti, Roger	✓		A		
Rock, Allan (Treas.)	✓	✓			

Non-voting Benchers in attendance

A. Lawrence, P.B. Pepper.

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

1. That the Legal Aid civil tariff be increased by 25 per cent. Carried by 19 to 7 with four abstentions.
2. That former and current Treasurers not elected in most recent election not have a vote in Convocation. Lost by 16 to 8 with one abstention.
3. That no person be eligible to be Treasurer who has not been elected as a benchman in most recent election. Carried by 17 to 8.