



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

# Benchers Election 1995 Candidate Guide



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The Law Society of Upper Canada  
Osgoode Hall, 130 Queen Street West  
Toronto, Ontario M5H 2N6



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Recycled Paper

# Voting Information

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## **Conduct of Election**

The 1995 election of benchers is being conducted pursuant to ss.15-22 of *The Law Society Act* and the rules made thereunder.

## **Candidate information**

This booklet is published by the Law Society of Upper Canada for the assistance of its members in voting to elect the benchers of the Society in 1995. It is divided into two sections, the first being the list of candidates outside Metropolitan Toronto and the second being the list of candidates from within Metropolitan Toronto.

The Society does not accept any responsibility for the accuracy of the biographical information or election statements contained herein which were provided by the candidates.

## **Ballot secrecy and security**

To ensure the secrecy of your ballot please do not make any identifying markings on your ballot or ballot envelope. The ballot must be sealed within the ballot envelope provided. The ballot envelope must then be sealed inside the return postage-paid envelope which must be signed on the reverse in the space provided.

When your ballot is returned, your member number (which appears on the address label on the reverse of the return envelope), will be entered into our computer records to indicate you have voted. The ballot envelope is then removed **unsealed** from the return envelope and is stored until the tabulation of votes commences on May 2, 1995.

This process ensures that:

- each member submits only one ballot
- your votes remain confidential

## **Return postage and envelopes**

In order to facilitate the voting process, the Law Society will assume postage costs for returned envelopes. A specially designated return envelope has been provided for that purpose.

Do not use any envelopes other than those provided for the purpose of returning your ballot.

## **Ballot return deadlines**

Your ballot must be returned by **5 p.m. on Monday, May 1, 1995**, in order to be counted. Please ensure that you mail your ballot in sufficient time for it to arrive by the due date. Ballots received after the designated time will be invalid.

## **Announcement of results**

The tabulation of votes will begin on May 2, 1995. Depending on the number of ballots received, this process should be completed within one week. Successful candidates will be notified first by telephone. The election results will then be announced in the media and the *Benchers Bulletin* as soon as they are finalized.

# Candidates from Outside Metropolitan Toronto





## H. Clark Adams, Q.C.

*Orangeville*

During the 35 years I have been in practice, I have never felt that the L.S.U.C. was there for the profession, but rather was bending over backwards to protect the public interest. I think it is time that more attention was paid to the concerns of the profession.

The current financial mess, in part I am sure, has come about as a result of the total disregard by the L.S.U.C. of the practitioner and in particular the financial status of the practitioner. There are many solicitors who are having trouble making a living without the added burden of unconscionable charges by the Law Society. The Benchers should be accountable to the profession and must not allow any further debt to occur.

The L.S.U.C. has become an uncontrolled bureaucracy not unlike provincial and federal governments and has lost touch with the views of the members whose interests it should be protecting and furthering. It is time that the L.S.U.C., and in particular the Benchers, refocus on the basic task of ensuring the competence and integrity of its members. In my view, this need not require the L.S.U.C. to become involved in the insurance business, nor to consistently ignore and undermine the views of its members under the guise of protecting the public.

Called to Bar 1960; General Practice in Orangeville since 1962; Trustee Dufferin County Board of Education 1979-1985, Chair 1981 and 1983-85; President of Dufferin Law Association 1972-73; Member of Senate University of Guelph 1984-86; Chairman of Orangeville Police Commission 1990 and 1991; served on Orangeville Planning Board; Dufferin Area Hospital Board; Canadian Cancer Society; Chairman Dufferin County Legal Aid Committee; Deputy Judge 1993 to present.



## W. Michael Adams

*Stroud*

### Professional Associations:

1990 to present: Canadian Bar Association elected representative to Council (served on Institute, Distance Education and Access to Justice Committees)

1987-89: President, Simcoe County Law Association and member of County and District Law Presidents Association (on Executive 1985-91)

1993 to present: CBAO Executive-at-Large  
Professional:

1976 to present: Gibson & Adams, Stroud, Ont.

### Education:

1976 Called to Bar

1974 LL.B. (Queen's)

1971 B.A. (Toronto)

### Personal:

Married to Ellen Anderson (second year law student)

Children: Emily (10) and David (7)

Founder Hound Dog Software producing software for lawyers since 1984.

Endorsed by the Simcoe County Law Association and Ontario Real Estate Lawyers Association

Law is not just a business, but it is a business. And as it gets tougher and tougher, it is vital to remind ourselves of a very basic notion: the Law Society is not THEM; it is US.

More frequently than not, the interests of the public and lawyers are not in conflict. But the Law Society in properly acknowledging that the public interest must prevail when such conflicts occur, too easily forgets that it is also there to protect our interests in the majority of cases where our interests and those of the public are in harmony. The move to impose mandatory continuing legal education on an already beleaguered profession without first determining whether it would benefit either the public or lawyers is an example of this. The Law Society should be doing more to make it easier for us to meet our increasing challenges and not putting unnecessary regulations in our way.

The Law Society should take advantage of opportunities to press vigorously for changes to help both lawyers and the public. The phasing out of the Masters is costly to the public and lawyers alike. The same can be said for the needless waste resulting from the ridiculous line ups to file documents at the court offices in Toronto.

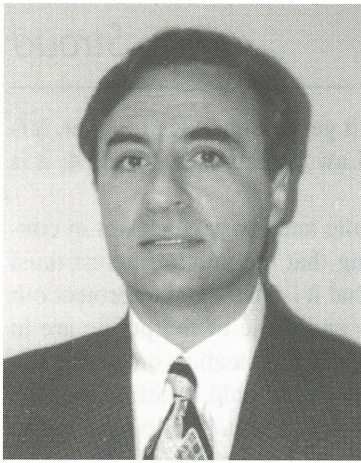
Negative feeling toward the Law Society only harms its efforts in doing its job. A practical way of improving relations with the profession would be to maintain and develop its links with our professional organizations including the Canadian Bar Association, the Advocates' Society, the Ontario Real Estate Lawyers Association and the Criminal Lawyers Association, to name a few. Joining in the lobbying efforts to obtain the changes which would be of obvious benefit to both the public and lawyers would accomplish practical results and develop needed trust from lawyers.

The single most important issue facing the profession today is the cost of errors and omissions insurance. The once perceived benefit of owning our own insurance company has turned into a distinct liability. It is urgent that we reduce the Law Society's operating and insurance costs. We must avoid dividing the profession on the issue of premiums at the same time that we look for ways to make them fairer and more reflective of general insurance principles. It is also time to reconsider whether the Law Society can continue in the insurance business.

We cannot allow the ever increasing demands on our legal aid budget to be used to justify a move to a public defender regime. Our certificate based plan is widely viewed as a model for other jurisdictions and we should work to preserve it in Ontario. It is the public which demands and receives services from the Legal Aid Plan and it is the public, and not the lawyers who provide them at already much reduced cost, which should pay for them.

It is ironic that we are having difficulty absorbing our newest graduates at the very same time that our older lawyers, who had expected to be able to wind down their practices, worry that high liability insurance premiums and tail fees will prevent them from doing so. We want to make the profession more accepting of family responsibilities; we do not want to put anything other than conventional full time practice out of reach. We have a duty to ensure that our colleagues most affected by the many economic challenges that we are now facing are not driven from our profession.

I have enjoyed participating in the Simcoe County Law Association and the Canadian Bar Association for over 10 years in various elected and other positions and hope to continue serving the profession as bench.



## Joseph A. Bisceglia

*Sault Ste. Marie*

### ADDRESS:

1886 Queen Street East  
Sault Ste. Marie, Ontario  
P6A 2H1

### TELEPHONE:

(705) 946-4202 (res.)  
(705) 942-5856 (bus.)

### DATE OF BIRTH:

November 1, 1946

- Graduate of Osgoode Hall Law School 1971
- Member of the Law Society of Upper Canada March 23, 1973
- Partner with the firm of Wishart & Noble from 1973 to 1982
- Formed present firm 1982.
- Certified Specialist in Civil Litigation
- Member of Advocates Society
- Member of Criminal Lawyers Association
- Member of Canadian Bar Association
- Councillor and Complaints Review Officer for the Association of Professional Engineers for the Province of Ontario, awarded the Order of the Sons of Martha
- Chairman and member of the Sault Ste. Marie Transit Commission
- Held positions of President, Treasurer and Director of the Algoma Law Association

Dear Colleague:

I seek the privilege of serving the profession and the public of the Province of Ontario. I seek election as a Benchers of the Law Society of Upper Canada in order to contribute to the important issues facing the profession. The delivery and receipt of legal services in this Province is now at a critical point. I do believe that I have the legal and general background to contribute in a positive way to the challenging issues facing us.

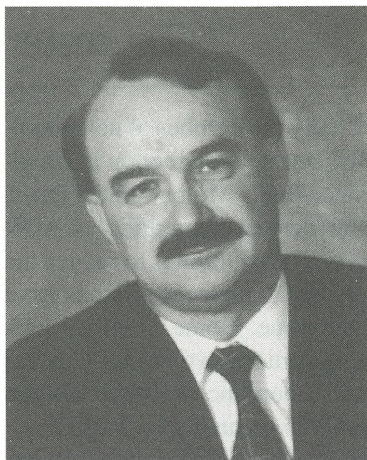
The most pressing and challenging issue is that of Liability Insurance/Errors and Omissions coverage. I do believe that there must be a real debate as to the role of the Law Society of Upper Canada in providing such coverage and, in fact, how it is administered. In the past, the system that we had, served the public and the profession. At present, however, that is not so. I am unable, in the space allocated, to detail in full my position in the matter. I do, however, say that having reviewed the subject carefully, it would appear to me that the following considerations must be brought to the subject:

- (a) To keep an open mind, not be bound to any historical precedent.
- (b) The involvement of third parties in providing certain levels of insurance coverage and participation in the processing of a claim is vital and necessary. I do not think that the Law Society of Upper Canada is best equipped to handle that matter.
- (c) The processing of claims and the delivery of Errors and Omissions coverage must be much more cost efficient and should not necessarily involve lawyers to the extent that they are presently involved.
- (d) To determine and implement a much more cost efficient way to review, investigate and ultimately settle claims.

I promise to work diligently, honestly and in the best interest of all parties in considering the issues that must be decided by the Benchers of the Law Society. I hope to bring to bear on any such debate and discussion a background that will consider the public interest and the interests of the lawyer who is attempting to achieve and generate a reasonable level of income for an efficient law practice so that in the end, that practitioner will personally receive a reasonable level of net income for his or her efforts.

Yours truly,  
Joseph A. Bisceglia





## Gordon Z. Bobesich

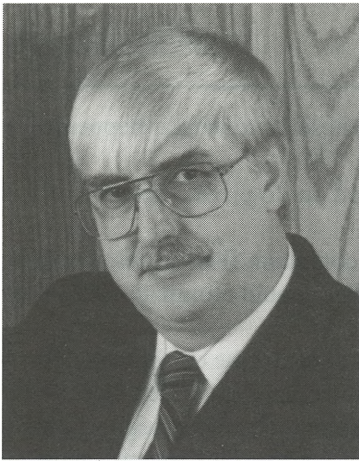
*Mississauga*

Married, One Child  
1971-1974 Faculty of Law,  
Queen's University,  
Kingston, Ontario

Sole practitioner since 1988 at  
918 Dundas Street, East,  
Mississauga, Ontario L4Y 2B8

- Member of the Refugee Lawyers Association.
- Member of the Board of Directors - Canadian Croatian Artists Society Inc. (4 years).
- Past Trustee on the Sudbury Board of Education.
- Past President of Sudbury Regional Soccer Association.
- Past Chairman of the Local Roads Board for the Townships of Hendrie and Burwash.
- Past president of Law '74, Queen's University and Commissioner of the Janis Joplin Law School Hockey League.
- 1989, 1992 and 1994 lecturer at Bar Admission Course, Osgoode Hall.
- 1991 teaching position at Humber College, Real Estate Law.

1. After 19 years at the bar I have finally become so upset as to what is happening in our Society that I have decided to run.
2. Errors and Omissions insurance should be farmed out to private insurers, if this will bring us cheaper rates.
3. There should be a \$25.00 fee required for each complaint filed which would be returned if the complaint is found to be valid. This should eliminate 90% of the nuisance complaints.
4. It has now been revealed that 50 to 100 matters are sent by the complaints department every month to Errors and Omissions, on any complaint which there is any indication whatsoever that the client believes the solicitor has been negligent without the slightest assessment of the merit of such belief. This practise must be terminated immediately. Especially since historically Errors and Omissions has followed the procedure of reserving every file at a minimum of \$10,000.00 that it opens.
5. "To Serve and Protect Lawyers" should be the motto of the Society.
6. There are just too many reports, studies, papers and discussions which no average lawyer is interested in and serves us no useful purpose.
7. The Society is just too big and too bureaucratic for the job it should be doing.
8. I will never vote for a fee increase, and I will endeavour to remove the new billings surtax.
9. If there is to be insurance work by the private bar then it should be at legal aid rates and should be designated on a rotation basis just like Lawyer Referral work among qualified solicitors.
10. More spot audits and more vigilant pursuit of minor complaints is not what lawyers want or need as is suggested by the latest policy paper from the Society.
11. Discipline proceedings should be a **means** of making money for the Society. Suspending people for a period of time serves no useful social purpose. Why not fine them as well? It appears they work as lawyers anyway so we might as well have them pay us instead of themselves. The Society definitely could use the money.
12. The Society should look into starting up a pension plan for its members.
13. The Society should set minimum fees for doing real estate work and anyone doing work below these rates will not receive Errors & Omissions coverage for that work.



## Les Bunning

Gloucester

Age: 49, married, 4 children  
Senior Partner -

Bunning & Farnand, Ottawa

- Technical officer, Ottawa University, Physics Dept. (1967-76)
- Business manager - Chess Federation of Canada (1973-75); founded national business office; edited national magazine; co-ordinated chess movement across Canada
- Chess columnist, Ottawa Citizen Newspaper (1975-83)
- Vice-President, Condominium Corporation (1981-84)
- Vice-President, Blackburn Hamlet Preschool (1985-87)
- Executive member, Chess Federation of Canada (1988-94)
- President, Chess Federation of Canada (1990-92)

### PROFESSIONAL BACKGROUND

- LL.B. - University of Ottawa (1976-79)
- Articled - Karam, Greenspon (1979-80)
- Called to the Bar 1981
- Litigation lawyer - Karam, Greenspon (1981-82)
- Started own law practice - Oct. 1982
- Vice-President Greater Orleans Lawyers Association (1988-89)
- Instructor Bar Admission Course

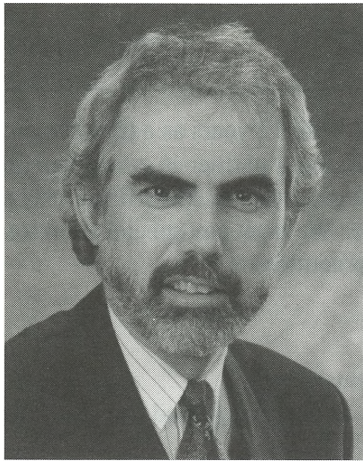
The biggest problem facing the Law Society is undoubtedly the number of new members admitted to the profession. This has resulted in fee cutting, a reduction in standards and as a result increased claims against our insurance fund. Motor vehicle insurance legislation has reduced the amount of work and the increased popularity of ADR will further reduce the demand for litigators in the future. The solution is to reduce the number of new members admitted by raising our standards. Other professions have successfully followed this route and it is time we did the same. Some countries such as Britain require new solicitors to practice in an existing firm for two years. This has the effect of controlling the number of new members in accordance with the amount of work available. This whole matter should be looked into on an urgent basis.

The long term answer to insurance costs would appear to be transaction fees because they can be adjusted in accordance with the risk for different types of law and accordingly will be fair to all branches of the profession. I am opposed to the concept of tail fees. Lawyers retiring through old age or ill health or dropping out of the profession temporarily to raise a family or taking a sabbatical or moving on to different employment should not have obstacles put in their way. I suspect in many cases there will be collection difficulties. This is a hassle that the Law Society and retiring members do not need. The recent increase in claims against our insurance was primarily a product of the recession and with claims falling again we should make sure our own insurance coverage is comprehensive. Some of the new coverage reductions seem to be ill conceived and should be looked at again.

The Law Society should change the way it conducts and manages its affairs. The current view seems to be that protection of the public and regulation of the profession is the primary consideration and little attempt is made to represent or assist our members. There is no incompatibility with our own and our clients' interests. Accordingly more emphasis must be placed on protecting and representing our own interests. The legal aid situation is a typical example. The government refuses to increase the legal aid budget so we have reacted primarily by reducing legal aid fees. For example an uncontested divorce now pays \$190.00 which is totally inadequate. If the government refuses to increase the legal aid budget, we should reduce the types of matters for which a legal aid certificate is available rather than reduce our fees. Then clients would have to retain us privately for other matters such as uncontested divorces. If the government is not prepared to adequately fund the legal aid program they should take the heat from disgruntled voters.

Our profession continues to get bad publicity but surveys have shown that clients are usually very satisfied with the work done by their own lawyers. Many lawyers donate their time to charitable and non profit organizations. A subtle campaign to educate the public would not be difficult or costly. Any other business encountering bad publicity would counter with such a campaign. The Law Society should do no less.

My own practice comprises family law and civil litigation 40%, real estate 35%, other solicitor's work 25%. Accordingly I believe that I have a broad enough experience and perspective to be aware of the concerns in the profession as a whole. I have the interest, the background and dedication necessary to work towards making changes. I am not a radical but I believe that changes must be made rather than maintain the status quo. A vote for me is a vote for change.



## Thomas J.P. Carey

*Mississauga*

Age 42

Sole Practitioner in association  
with 4 other lawyers in  
Mississauga, Ontario.

Called to Bar 1979.

Benchers - October 1988 -

March 1991 - November 1994

- present

Committees: Legal Education,  
Professional Conduct,  
BiCentennial, County & Dis-  
trict Liaison

Past Director and Secretary  
Peel Law Association

Former Editor Peel Briefs

Past Director Criminal Lawyers  
Association

Past President Peel Criminal  
Law Association

Member Advocates Society  
Treasurer Sir William Campbell  
Foundation

Past President Madeira Resi-  
dential Counselling Services

Deputy Judge Small Claims  
Court (Central West Region)

Co-Chair of St. Joan of Arc  
Pastoral Council

CBAO Member

Member Criminal Law Subsec-  
tion Joint Committee on Court  
Reform

Lawyer Member on Justice of  
the Peace Advisory Committee  
(Central West Region)

Endorsed by Peel Law Associa-  
tion

At my first meeting of Convocation last November, we dealt with limiting Benchers to 2 terms and eliminating the position of Life Benchers. I was struck not only by the passion with which many Benchers supported the status quo but the bitterness of tone of some in attacking the motive of the movers of the motions: Fran Kiteley and Dennis O'Connor. My own reported comments about the LSUC being dragged, kicking and screaming into the 19th Century were born out of frustration with a body that is weighed down with 200 year old traditions and protocol that emerged from the heyday of the Family Compact. In supporting the motions I was hoping we could continue the move towards greater openness and democratization of Convocation and away from a system that has tended to isolate Benchers from the reality of practising law in Ontario in the 1990's.

That isolation was never more clearly evident than at the October 1994 meeting of Convocation which I attended as a concerned spectator. There the majority endorsed a 100+ page report which had been in their hands only a few days, over the profession's desperate calls for wider consultation and deliberation on matters of considerable importance to the profession. The resulting bitterness and antagonism is almost total and has led to widespread questioning of the principle of self governance that is in my view essential to our profession remaining independent. The Insurance Report is a fundamentally flawed document that failed to address the real questions in the profession namely: How did things go so wrong so fast? How accurate are the new predictions as to the deficit? Who **was** minding the shop? Why were so many Benchers making so much money from LPIC and why generally are the rates paid and the defence and administration costs so high? Why was a Task Force required to look at Conflict of Interest - isn't the conflict obvious? Why couldn't there be an immediate recommendation that all defence work be tendered? More importantly why delay a move to varying risk based rates and why continue with a monopoly provider?

In the 1987 Benchers elections I was one of a handful who ran an issue oriented campaign as an alternative to the old style election. My material then and in 1991 raised questions about insurance, and moving to risk based rates, legal aid, the threat of unregulated paralegals and increasing the openness of the Law Society. In the periods I have sat as a Benchers I have consistently spoken for reforms in this area. My approach has reflected the viewpoint of a sole practitioner outside the elite networks of this profession, with deep respect to the view of all lawyers, other legal organizations and those representing public interests.

I will continue to strive for a fair tariff for all areas of legal aid practice. I support increased use of continuing legal education as long as it can be provided at affordable rates. I will continue to work for regional election of Benchers, an issue that has been badly handled over the last five years. I support the recent passage of Rule 28 and will work for a greater understanding of its implications. I am honoured to again be endorsed by the Peel Law Association and intend to continue to consult with it and local associations in Central West Region. It is essential that the County Associations remain strong and that there be adequate funding from LSUC of **all** county Libraries.





## Kim A. Carpenter-Gunn

*Hamilton*

AGE: 39

Married with one daughter  
LL.B.: University of Windsor,  
1981

CALLED: 1983

Partner: Waxman, Carpenter-  
Gunn

Professional Associations:  
Executive and Trustee, Hamil-  
ton Law Association;  
CBAO, Joint Committee on  
Court Reform;  
Immediate Past-President,  
Hamilton Medical/Legal Society;  
Civil Litigation Task Force -  
Advocates' Society;  
Director, Ontario Trial Lawyers  
Association;  
Women's Law Association of  
Ontario;  
Hamilton Lawyers Club;  
Canadian Bar Association;  
Advocates' Society;  
Association of Trial Lawyers of  
America;  
People Against the Insurance  
Nightmare (P.A.I.N.)  
Member B'nai Brith Canada  
Past member, The Spinal Cord  
Society  
Endorsed by: The Hamilton  
Law Association.

I believe that change at the Law Society is necessary. With 12 years as a trial lawyer, I have gained considerable insight into the issues. Being a partner in a two person firm, I understand the need to confront the crisis facing lawyers and law firms today. Insurance premiums and legal aid are just two of these. We must pay special attention to the needs of young lawyers, small firms and sole practitioners.

My position on the major issues is:

• **INSURANCE:**

1. The Law Society should get out of the insurance business.
2. There should be an independent investigation as to what happened to create the present insurance crisis.
3. Deductibles should only be payable on "claims proven, not claims made".
4. Lawyers with excessive E. & O. claims' payments should not be permitted to continue practising.
5. There should be fairness in premiums so that those practising exclusively in low claims' specialties should pay reduced premiums.

• **BENCHERS:**

1. Reform of election process to provide for Regional Elections.
2. Elect more benchers to more effectively handle the expanding workload.

• **MANDATORY CONTINUING LEGAL EDUCATION (M.C.L.E.):**

This will simply be another expense to be borne by lawyers.

1. I am opposed to it because:
  - (a) There is no data to prove that it raises the competency of lawyers;
  - (b) There is no data to prove it reduces E. & O. claims; and,
  - (c) It assumes that lawyers will not keep current in their area of practice.

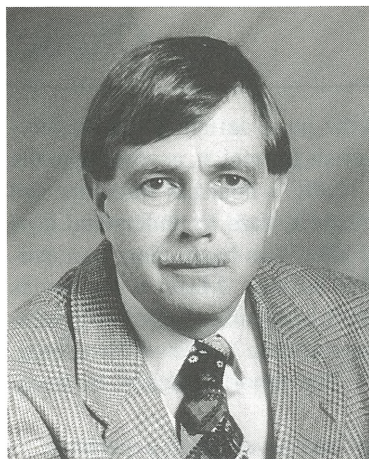
• **CONTINGENCY FEES:**

I support these. Almost every Province has a system of contingency fees to provide increased access to the legal system.

• **INCORPORATION:**

As business people, this vehicle should be available to lawyers. The Law Society has failed to move on this issue.

I am prepared to contribute my time and efforts as a Bencher because I believe changes must be made. Actions speak louder than words.



## Thomas E. Cole

Lakefield

ENDORSED BY THE PETERBOROUGH COUNTY LAW ASSOCIATION

ENDORSED BY THE ONTARIO REAL ESTATE LAWYERS ASSOCIATION

Called to the bar March 24, 1972, after articling with Fraser, Beatty.

B.A. U.W.O. 67;

LL.B. Queen's 70.

Age 50, married, two daughters.

Private practice as a sole practitioner in Peterborough County with an office in Lakefield, Ontario.

Practice restricted to real property law, corporate/commercial, estates, and administrative law.

Former:

Director of the Ontario Chamber of Commerce

Member of Peterborough

County Land Division Committee

Deputy Reeve and Councillor of Douro Township

Master of Peterborough Lodge No. 155 AF & AM

President of Lakefield Lions Club and Chamber of Commerce.

Present:

Director of Hospice Peterborough

Board member of the Ontario Real Estate Lawyers Association.

"I'M MAD AS HELL AND I AM NOT GOING TO TAKE IT ANY MORE":

These were the words uttered by one of our associates at the commencement of a continuing education program at Osgoode Hall during the Fall of 1993. This rallying cry expressed frustration and anger felt by many of us in practice as sole practitioners or small partnerships. The practice of law has always been a field where independent thinking and ability allowed us to serve the ends of society. An independent bar, in my opinion, is necessary in society to preserve those democratic traditions which have been found to be necessary in an enlightened society.

In the past, I have been content to let others administer The Law Society trusting that they had my best interests as a member at the heart of their consideration and deliberation. I feel let down and believe that the administration is lacking in drive and the desire to protect members. I want to protect The Law Society and enhance it so that the public can rely on an independent and competent bar. The current social and political pressures being placed on The Law Foundation and The Law Society have made the practice of law unenjoyable and extremely stressful.

The Law Foundation is now telling me that it will determine my contractual relationship with my banker. The Law Society has flagged every claim or suspected claim or complaint of our members and referred it to our insurers, LPIC, which has escalated our liability and filled the pockets of some members and many adjusters. Affirmative action programs have, in my opinion, reduced the competence of members called. I believe it is time to take the position that The Law Society is a society to protect the public, preserve the independence and integrity of the bar and to maintain standards in both practice and professional integrity.

We have seen a rise in proliferation of "BUCKET SHOPS" in the practice of real property law with improper supervision and matters being handled by unqualified law clerks and secretaries. We have seen the First American Title Insurance Company solicit and encourage lending institutions to discontinue the use of solicitors and utilize their facilities. This Corporation is endeavouring to have legislation amended to permit members of the general public to utilize its services in investigation and certification of title in Ontario.

It is time to put the needs of the profession to the forefront. I ask for your support in the upcoming election. I will not be co-opted by any interest group and throughout will maintain my position which is the preservation of the integrity and independence of our profession. I will not support, sustain, or allow any imposition by other bodies be they elected or otherwise of their belief that The Law Society should be subordinate to their aims. It is my belief that it is an independent bar that best serves society by allowing us to practice in a free and uncontrolled atmosphere. I would like to see The Law Society regain its independence. I would like to see elected as benchers those of us who have experienced the rigors of practice as solicitors. Those in litigation have dominated convocation for too long. It is time for we who provide professional services to the general public to have our say.





## Marshall A. Crowe

Ottawa

- B.A. (Hon) University of Manitoba, 1947 (Economics, History)
- LL.B. University of Ottawa Law School, 1992
- Canadian Army, Canada and overseas, 1942-46
- Department of External Affairs, Foreign Service Officer, 1947-61
- Economic Advisor, C.I.B.C., 1961-67
- Deputy Secretary, Federal Cabinet, 1967-71
- President/Chairman, Canada Development Corporation, director of associated companies, 1971-73
- Chairman, National Energy Board, 1973-78
- President, M.A. Crowe Consultants, 1978-94; consultant to various major petroleum companies; was a director of several corporations; currently director and member audit committee GulfMark International (petroleum industry equipment, services)
- Member, bar of Ontario, 1994
- Counsel, Johnston & Buchan, Barristers & Solicitors, Ottawa

The most critical issue Law Society members face is the huge deficit in the Society-owned Lawyers Professional Indemnity Co. (LPIC), a crisis for which, according to the Task Force Report, final responsibility rests with "... LPIC's board of directors, the Insurance Committee and Convocation." It is, with respect, hard to understand how they allowed this deficit to build up without knowing what was happening. An estimated \$18 million deficit turned out to be in reality \$154 million. Massive new levies have been imposed on all members. All members of the investigating Task Force were also members of the Insurance Committee. Was this appropriate? (Harvey Strosberg, Q.C., the Chairman, was, however, newly appointed.) The report criticizes by name only hired company officials.

I am a junior lawyer but I have decades of business and government experience. I think of the harsh impact on young colleagues, smaller firms and legal aid practitioners. The reputation of the whole profession has been affected by the Society's handling of our insurance. *We must have a new regime of open and full consultation with members.*

*The board of LPIC, incredibly, had no audit committee.* It is also apparent from the report that neither directors nor Insurance Committee members approved financial statements before filing. The Chair of Insurance we are told was not aware of a capital deficiency in financial statements as filed. An employee is blamed for another inaccurate filing. Board approval of corporate financial statements is mandatory. Without board or Insurance Committee knowledge LPIC was taken to court by the Ontario Insurance Commission and fined for not filing returns on time. On pages 91, 92, 93, 95 the report refers to other major problems of which the board and Committee were also ignorant. The duty of care, diligence, and skill expected of a prudent director entails a legal responsibility to keep informed.

The report reveals incompetent management and a board and Insurance Committee which failed to exercise effective control. In similar circumstances other companies would be bankrupt. Independent investigation by OIC under the Insurance Act may be warranted. But all that happened was Convocation's hasty approval of massive fee increases, and some staff and board changes. The report stresses that LPIC's attitude to legal fees was inexcusably lax:

- \$26 million last year, 35% of its total budget;
- \$7.8 million in one year to firms with a bench partner (Benchers Bulletin, Sept.94);
- "no policy or guidelines respecting legal costs";
- "modest steps" can save "at least \$5 million annually";
- hourly rates far in excess of the legal aid tariff.

The report gives little consideration to alternatives to LPIC. It mentions linking insurance costs to risks but recommends a general emergency levy regardless of risk and claim record. Members with no-claim records facing a claim investigated but dismissed as without merit could now pay \$6 thousand deductible. Comparative Errors and Omissions basic levies are: Alberta - \$2,027, B.C. - \$2,200, and Ontario now \$5,600 plus \$600 capital fee and various other E&O charges.

It has been suggested that early warning would not have helped - would simply have meant higher fees sooner. If so the Society should get out of the insurance business right now. The only slim hope this report offers is that a competent Insurance Committee, and management accountability "to an active informed board of directors" can solve the problem. The report notes that due warning could have helped to "... at least limit the scope of the crisis." Earlier savings in legal fees alone could have reduced the deficit by \$10 or 15 million.

These comments are all based directly on the Task Force Report. It is essential to face up to what went wrong. The issue now is to find a constructive solution. That is why I decided to seek election. Benchers with practical business experience are needed. The emergency action taken does not go to the root of the problems. Alternatives to mandatory Society insurance must be seriously examined. There may be new surprises ahead.

*My commitment is to the entire profession, but most particularly to junior lawyers, small firms, and those with legal aid practices. Please do not neglect to vote.*



## Ian T. Dantzer

*London*

### Areas Of Practice:

Civil litigation, including personal injury, professional malpractice, banking and commercial litigation and insurance law.

### Professional History:

Partner, Lerner & Associates (1987 to present); Associate lawyer, Lerner & Associates (1982-1987)

### Education:

Honours Bachelor of Arts - Wilfrid Laurier University (1977); Bachelor of Laws - University of Western Ontario (1980); Admitted to Ontario Bar (1982)

### Interests/Achievements:

Lecturer and Instructor, Bar Admission Course, London; Member of The Association of Trial Lawyers of America, the Canadian Bar Association and the Advocates' Society; President, Middlesex Law Association, 1994; Canadian Bar Association - elected council member for South Western Ontario 1994; Canadian Diabetes Association: London Chapter - Campaign Chair for 1995; Orchestra London - Member Corporate Support Committee 1994

### Lerner & Associates:

Member of Management Committee 1991-95; Co-Chair Continuing Legal Education Committee 1993-1994; Chair Technology Committee 1993

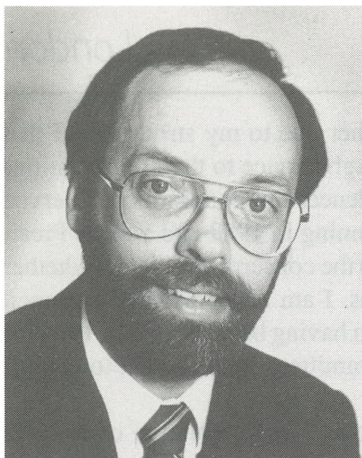
I am standing as a candidate for the office of Benchers due to my strong belief that lawyers must return some of what they receive through service to their communities and their profession. My involvement in the past evidences this commitment. I served as a Trustee of the Middlesex Law Association beginning in 1989 and was its President in 1994. Those years have made me familiar with the concerns of lawyers whether they be sole practitioners or members of large firms. I am also currently a council member for the C.B.A., Southwestern Ontario Region having been elected in 1994 for a two year term. I have served on C.B.A.O. sub-committees with respect to contingency fees and class proceedings legislation.

I do not run as a special interest candidate but as a representative of lawyers generally with knowledge and acceptance of the role statement of the Law Society of Upper Canada. It is important to me that the profession remain self-governing but I recognize that as a result the Law Society must first serve the public interest. However I also believe that the interest of the public are served best by a profession that is competent, fairly rewarded and well governed.

If elected I would work towards the following goals:

1. Maintaining the commitment of the Government of Ontario to a certificate based system for the provision of Legal Aid;
2. The prosecution of unauthorized para-legal work;
3. An examination of the number of lawyers in practice and being admitted to the profession on an annual basis;
4. A continued examination of errors and omissions insurance so that a proper balance is drawn between premiums based on risk, while maintaining them at a reasonable rate so that those in high risk areas can continue to practice and be supported by the rest of the profession;
5. The non-imposition of mandatory continuing legal education;

I can be contacted at 1-519-672-4510 or by fax at 1-519-672-2044 if anyone wishes to speak to me directly.



#### Education:

St. Michael's College School; U of T - BA; Queens Law 75;

#### Practice:

Articles - Osler, Hoskin; called 1977; downtown Toronto for 10 years with Manning Bruce, then Melnik & Saunders; firm Dymond & Associates located in Richmond Hill with business law & estate planning practice.

#### Publications & Panels:

Butterworths "Tax Administration" co-author; LSUC panellist on Continuing Education topics on Commercial Law; BAC instructor 1978-1980; Author, The Benchers Aptitude Test.

#### Personal:

age 45  
live in Vandorf, Ontario with spouse & 4 children

#### Activities:

parenting; Vandorf Ratepayers Association; Rink Flood Committee chronic humorist (usually good)

#### Memberships:

CBA; Speaker's Bureau; Canadian Tax Foundation; York Region Law Association.

## A. Christopher Dymond

Richmond Hill

Dear Colleague:

Our efforts at *self-insurance* have been deplorable! The "*circle-the-wagons*" *response from our Society blamed the Bar, staff, recession, actuaries and even the computer; but not a single Benchers*. The County & District Presidents' Association call for an independent consultant to study private insurance options should be implemented immediately.

*We desperately need a White Paper on the future of self-government for our profession.* The issue isn't whether our Society should serve the public interest. Our Society should be studying ways to make us better equipped to act as lawyers. This study can't be undertaken by the 40 benchers alone. *To re-tool our Society, we'll need extensive input from Law Associations and individual lawyers.*

Over the next 4 years, our new benchers must ensure our Society *attains fiscal responsibility. Lawyers must be able to afford to practise as well as meet their obligations to the public.*

The demands on our profession are evolving; to meet new challenges we need **fundamental change in the outlook** and operation of our Society.

We need to decide:

- **The role of our governing body** in a changing world.
- **The number of lawyers** needed in Ontario.
- Whether our Society should be taking active steps now to anticipate change and to **make our governing body more lawyer-friendly.**

Many think our **Society's priorities are wrong.** They disagree, often strongly, with the Society's recent role statement. Not surprisingly, the Society ignored its critics and talked about better-informing them. *Too many lawyers feel they have no voice; those who govern, no ears.*

I submit that:

- **Our Society must play an active role when a sector of our Bar collapses**, as the real estate bar has done in the past four years. Investigate **title insurance**. Start doing **practice audits** to make certain that fee-cutters aren't also corner-cutters, creating future insurance liabilities. Show leadership.
- **Continuing education courses, video re-plays and course materials should all be made more accessible at reduced costs.** Most lawyers have more free time and less revenue; courses should be priced to motivate attendance.
- Refocus and avoid **narrow interest programs** like the specialization programs that consume too much time and cater to a narrow few. Do we really need a specialist program in bankruptcy law (to pick the most recent)? Who does this serve?
- **Benchers reform must come now.** How can a group as divergent and vital as Ontario lawyers function with a part-time, unpaid governing body? As we approach the twenty-first century, **we're held back by a nineteenth-century volunteer-fire-brigade management system.** This system excludes many qualified from running and perpetuates the sense of alienation many members feel.
- **Communication must be improved and participation expanded** through more non-benchers participation in Committees and advisory groups.

When you cast your vote, please vote for me and for others who undertake to reform our profession.

This is our Society - let's take it back!

VOTE ✓ A. Christopher Dymond





## E. Susan Elliott

Kingston

- general practitioner with emphasis on real estate, small business, wills and estates - solicitor's work
- partner, Good & Elliott, Kingston (2 lawyers, 1 associate)
- benchner since 1991
- member of the Executive, Frontenac Law Association since 1981
- very interested in technology and its applications within the legal profession
- currently Chair, Libraries & Reporting Committee
- called to the bar in 1981
- LL.B. 1979, University of Ottawa
- B. Comm. (Hons.) 1975, Queen's University, Kingston
- baseball fan, in mourning

When I ran for election in 1991 I had no real appreciation of the time commitment and pressures involved in being a benchner. After four years of "baptism by fire", I am running again because I feel an obligation to put to work what I have learned.

It is difficult to sum up four years of issues and work in a few paragraphs but the following are some of the areas with which I am or have been actively involved:

- adding lawyers to committees to increase representation and viewpoints
- co-ordinating the involvement of a number of legal organizations, primarily CBAO and LSUC together with Women's Law Association and Advocates' Society to form the *Joint Action Committee on Gender Equality*
- dealing with legal publishers and their lawsuit over photocopying and copyright
- member of the task force committee that delved into the insurance deficit
- chair of the ongoing education subcommittee examining mandatory continuing education
- chair of the subcommittee studying ways of improving reporting and policy-making by the benchners.

Regarding the insurance premium, I understand and share the anger of the profession in general and specific groups of lawyers in particular - such as new lawyers and criminal practice lawyers. However, the problems are not simple and the solutions require hard work as well as imagination. I have now learned more about insurance companies and insurance policies than any ordinary lawyer should have to tolerate. I give my assurance that all views will be heard and I am determined to work for solutions for everyone, not just some, whether in the minority or majority.

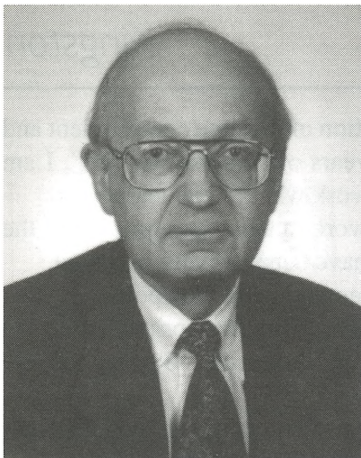
In distinction, perhaps, to the needs of an earlier and more leisurely time, I believe that currently what is needed are people who are prepared and able to take as much as 60 to 80 hours per month out of their practice and devote this time and energy to the issues with which we are faced.

For the past four years I have dedicated such time and a lot of thought as to how the Law Society can improve itself and serve the profession better while still adhering to its public interest mandate. I would like the opportunity to work through these issues, some of which are:

- benchers need to change the way they work - for example, there are 21 standing committees and many ad hoc committees, resulting in a lot of "busy work" consuming benchner and staff time; we need to re-organize committees so that we can resolve complex issues that cut across several areas
- too much money is spent on discipline and defence work and not enough on practice advisory and loss prevention; it is hard to shift money and resources from one area to another but it must be done
- the Law Society should promote and encourage excellence in the practice of law, providing the tools and resources to encourage lawyers to attain it
- the Law Society must be more forward-looking, rather than reactive, and develop policies in anticipation of problems
- the Law Society must focus its energy and resources more specifically, not try to be too many things to too many groups and needs
- the Law Society should co-ordinate its role and work with that of other groups such as the CBAO, the CDLPA and the government to determine which group is best suited to deal with individual and specific issues
- the Law Society should lead the way through its policies and programmes to improve our self-image and our public image.

What I bring to the job:

- a proven ability to work hard
- a record of commitment to the tasks at hand
- an understanding of the need to listen to all points of view and a readiness to do so
- a dedication to problem-solving and prevention of problems.



Past-President County of  
Carleton Law Association  
Founding Director, County and  
District Law Presidents'  
Association  
Bencher of The Law Society of  
Upper Canada (Member of the  
Insurance Task Force)  
President of Ottawa YM-  
YWCA Non-Profit Housing  
Corporation  
Chairman of the Investment  
Committee of the Ottawa  
Jewish Community Foundation

# Abraham Feinstein

Ottawa

## PROBLEMS and SOLUTIONS

The legal profession is facing several major crises that threaten to alter the profession irrevocably. The past few years have brought certain problems to a head. There **are** solutions. These problems must be solved before a strong legal profession can move into the 21st century.

1. **PROBLEM** - Many lawyers cannot afford the high cost of insurance premiums.

**SOLUTION** - Insurance premiums can be reduced by implementing the following:

- Change the insurance policy coverage to reduce payouts. Eliminate mortgage brokering. Reduce the liability under innocent partner coverage.
- Reduce defence costs. More defence work must be performed in-house. Institute more efficient litigation management.
- Put greater emphasis on repairing errors.
- Operate Lawyers' Professional Indemnity Company as a business to protect lawyers.
- Non-Benchers should be in the majority on the Board of Directors. To ensure that interests of all members of the legal profession are represented, the Board must include members from a wide variety of legal groups.

2. **PROBLEM** - Many lawyers feel that the Law Society does not represent them.

**SOLUTION** - The Law Society should set up a consultation process involving all legal groups and members of the profession. The Law Society needs feedback from the profession to identify existing and emerging problems facing the profession. The Law Society should work together with legal groups to solve professional problems.

3. **PROBLEM** - The Law Society is inefficiently structured to effectively represent and address the needs of the profession.

**SOLUTION** - Restructure the governance organization of the Society so that Convocation only deals with policy issues and the staff deals with management issues. Currently, Benchers spend 60% of their time on management issues. As a result, important policy issues facing the profession are ignored or not dealt with efficiently. There are too many Committees and the Committees are too powerful in policy development. There should be fewer Committees and Convocation should control policy direction.

4. **PROBLEM** - The Law Society does not have a long-range plan.

**SOLUTION** - The Law Society should have long-range and short-term plans to identify outcomes and results it wants to achieve. Unless outcomes and results are identified and planned, they will not be achieved. These plans must be designed in consultation with the profession.

## LAW SOCIETY ACTIVITIES

• **Co-Chairman of the "Professionalism in the 90's" Conference.** This conference identified issues facing the profession in the 90's. The Law Society must look forward and identify and deal with emerging issues before they become problems. Currently, the Law Society deals with past problems by crisis management. The insurance and legal aid issues are examples of this.

• **Chairman of the Subcommittee on the Transaction-Based Insurance Levy.** A transaction-based insurance levy is intended to relate the levy to the insurance risk. Real estate claims constitute over 50% of insurance costs. If the levy were transaction-based and the levies collected on real estate transactions equalled the insurance payouts, then the general levy could be reduced by 50%. Since the transaction-based levy relates to a specific transaction, it could be charged to a client as a disbursement.

• **Chairman of the Priorities and Planning Committee and Member of the Objectives and Goals Conference Subcommittee.** These Committees are presently reviewing all existing programs and determining programs to be offered in the future. Once this is completed, the Committee will organize a conference at which Benchers will evaluate existing programs against the Role Statement and set the Law Society's priorities.

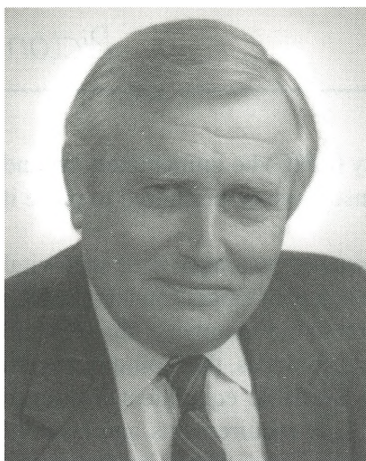
• **Member of the Bencher Liaison Committee.** This Committee is working with a variety of legal groups as many of the issues facing lawyers do not fall within the Law Society's mandate. It is critical for the Law Society to work together with other legal groups to help identify the issues facing lawyers and ensure that those issues are addressed. The Law Society should deal with the parts of these issues that fall within its Role Statement and the other legal groups should deal with that part of the issue that falls outside the Law Society's mandate.

• **Member of the Governance Committee.** This Committee is reviewing the way the Law Society is governed. Without a vastly improved governance structure, little will be accomplished by the Law Society. The current Law Society structure is grossly inefficient.

## YOUR RESPONSIBILITY

1) To vote. 2) To vote for the best candidate. 3) To check out the qualifications and past performance of all candidates so that you can vote for the best candidate.





## Sean Foley

*St. Catharines*

- Graduate of National University of Ireland and Osgoode Hall Law School. Called to the Ontario Bar in 1975.
- Practised in the Niagara region for twenty years. Lawyer/director of the community legal aid clinic in St. Catharines since 1982.
- Member of the Welland legal aid area committee 1976 - 1981.
- Former president of the Lincoln County Law Association. Chair of its Library Committee for five years.
- County and District Law Presidents' Association involvement since 1985. Executive member of CDLPA for four years ending November, 1994. Chaired its Legal Aid Committee.
- Founding director of the Advocacy Resource Centre for the Handicapped (ARCH) in Toronto.

During twenty years of practice, and in particular nine years of involvement with the County and District Law Presidents' Association, I have been particularly interested in and concerned about the following issues:

### **Public Image**

Improving the public's perception of lawyers should be the business of the Law Society. The public interest is served by promoting confidence in the legal system, and those who practice in it. The Society must encourage and publicize lawyers' participation in public interest activities and support the efforts of the CBAO and local law associations.

### **Legal Aid**

The Law Society should be vigilant to maintain the existing and highly rated "judicare" system in which clients retain the lawyer of their choice. Access to the expertise of the private family law and criminal bars ensures quality service for the public. Government at both the provincial and federal levels must be strongly lobbied to fund the system so that tariffs can be maintained at adequate levels. Support from the federal government in particular needs to be increased for Ottawa to meet its fair share of the over-all costs, as was the case until recently. I would like to build on my work as chair of the Legal Aid Committee for the County & District Law Presidents' Association to find a proper funding formula which will prevent reduction in services to the public.

### **Governance**

The profession's confidence in the functioning of the Law Society must be improved. There should be a comprehensive, independent evaluation of the Society's operations. Significant changes may be necessary to ensure an efficient and effective structure. The Society must press for the statutory amendments needed to provide for regional Benchers elections in 1999.

### **Libraries**

Central funding support for the County law libraries must be increased. As costs of private practice go up, access to high quality library services, including resource materials and librarians, becomes more critical to maintain professional standards. That is particularly important for sole practitioners and small firms. The services of the Great Library at Osgoode Hall should be made more accessible to the profession, in part through the use of electronic media.

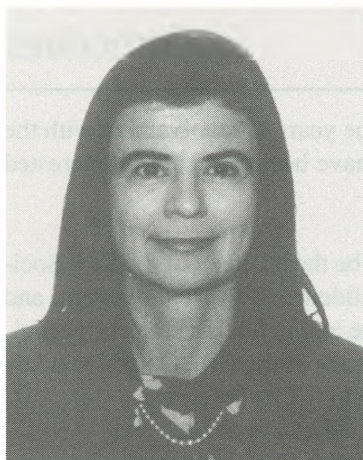
### **Insurance**

The Law Society has a major role to play in preventing the practice of law from becoming cost-prohibitive, especially for lawyers in the early years of practice. Close management of the Lawyers' Professional Indemnity Company is crucial. Solving the current situation of under-funding must be staged so as to recognize that any extra financial burden could be crippling to many practitioners.

### **Administration of Justice**

Although operation of the court system is mainly the domain of the Courts and the Attorney General, the subject of delay and high cost in litigation must become an important agenda item for the Law Society. Increased support for court reform and alternative dispute resolution is needed. Issues like televising of trials should be Law Society concerns. Professional standards for lawyer-mediators must be established. An important part of the Society's responsibility should be to strengthen the wavering confidence of the public in the judicial system.

I believe that I have the energy and enthusiasm necessary to represent the profession well as a Benchers. My track record in dealing with the Law Society through the County and District Law Presidents' Association is proof that I don't mind speaking out and advocating strongly on the issues that concern us all. I appreciate your support.



## Donna M. Ford

Picton

- called to the Bar 1978.
- married to lawyer Tim Bankier since 1976; two children.
- worked in both general and insurance litigation 1974 to 1980.
- worked in legal publishing, and then returned to full-time law practice in 1986 as sole practitioner in Toronto until 1993, practicing family law and estates.
- since 1993, practicing at Ford and Bankier with offices in Belleville and Picton.
- on Legal Aid Area Committee and Official Guardian's panel.
- taught various Bar Admission courses, done public speaking about law and our profession, and been editor of Ontario Annotated Family Law Service (Butterworths) since 1981.

I would advocate the following:

- that the Lawyers' Professional Indemnity Company (LPIC) be immediately wound down, and that lawyers who wish to have E & O insurance be permitted to place it in the private market.
- despite my personal views, expressed above, the issue of insurance is of such vital importance to our profession that I believe the Law Society of Upper Canada (LSUC) should survey and provide the following information to our members: the fees and insurance required of lawyers in the other Canadian provinces, the Commonwealth countries, and the United States; information on available equivalent insurance from the private sector; and full details of the E & O requirements and costs of other professions including those professions which have mandatory insurance and those which do not. When we have this information, that a binding referendum then be held among our members addressing the issues of whether we wish to continue to have mandatory insurance, whether we wish to self-insure through the LPIC or whether we wish to place our insurance privately, and if we do wish to continue to have mandatory insurance, what the minimum coverage should be per claim: e.g. \$1 million, \$500,000, or \$100,000.
- if LPIC is destined to continue, then changes are needed, including the following:
  - that "tail" premiums should not be required from members who retire after June 30, 1995 in order to continue their insurance coverage after retirement.
  - that small claims previously settled under deductible limits should not be classified as "claims" now by LPIC. It is not fair to change the rules retroactively!
  - that an upfront deductible should not be due and payable when a claim is made, but rather only if and when the insurer writes a cheque.
  - that required fees and E & O should not be so prohibitively high as to prevent lawyers from practicing law on a part-time basis.
  - that premiums should be geared to income and risk, and the premium paid by each member should reflect the potential value of the claims made against him/her.
  - that there should be a bidding system to get LPIC legal work. The lawyer with the lowest bid and best experience should get the file.
  - that the number of new lawyers entering the profession should be limited to better balance supply and demand.
- that cost-cutting measures at LSUC be implemented to reduce members' fees.
- that binding referendums should be held on key issues.
- that the viability of sole practices and small firms is of vital importance to the profession and to the public.



# Holly A. Harris

Ottawa

## Background

I have held a number of positions as a lawyer in both private practice and the public sector, which have prepared me now to be an effective Benchers representative: sole practitioner, practice with others, law professor, government lawyer. Currently, I am Corporate Counsel to Bruce Phillips, the Privacy Commissioner of Canada. In 1988, I was sponsored into the Law Society of Upper Canada where I was the Ottawa Area Director of Education responsible for the Bar Admission Course and Continuing Legal Education programme for Eastern Ontario. In addition, I served as a member of the Law Society's Legal Education Committee as well as of its French Language Services Committee. I am very familiar with Law Society processes and operations and know where these can and must be modernized and streamlined. I can hit the ground running, (so to speak).

Recently re-elected as trustee of the County of Carleton Law Association, I am the Chairperson of the Communications Committee and of the Day-Care Committee. I also work on the Errors and Omissions Committee as well as the Social Committee. I assist in the Ottawa area joint C.L.E. project with the Canadian Bar Association (Ontario), the University of Ottawa Law School, the Law Society of Upper Canada and the Federal Department of Justice. Finally, I participate on the CBAO project to enhance the public image of lawyers.

I have an excellent appreciation of the issues from both a local and provincial perspective.

Originaire d'Ottawa, je suis diplômée de l'Université McGill (LL.B) et de l'Université Berkeley en Californie (LL.M). Je suis membre de l'AJEFO depuis 1981.

## Motives

The Law Society has been under a lot of criticism. It has been accused of being secretive, over-managed by staff and increasingly out of touch with the profession. My experience as a committee and staff member tells me that there is also a lot good about the Law Society. The challenge is not just to cure any ills — there are the necessary information, tools and will to do that — but also to retain and refine what is sound.

## Objectives

I have some specific goals:

1. enhancing financial and political accountability of the Law Society to its membership,
2. making the Law Society more consultative and open,
3. establishing a fee structure which reflects fair fees for fair services,
4. reforming the insurance process so that it meets the needs of the profession, and
5. redesigning the Education mandate and its administration so that it is more effective and affordable.

Overall, I would like to see the Law Society run along the lines of a service organization, and in a business-like fashion. I would seek to set up, with involvement from the profession, a permanent periodic (3 year) review of all programs and activities followed by a Report for member scrutiny.

## Professional Memberships

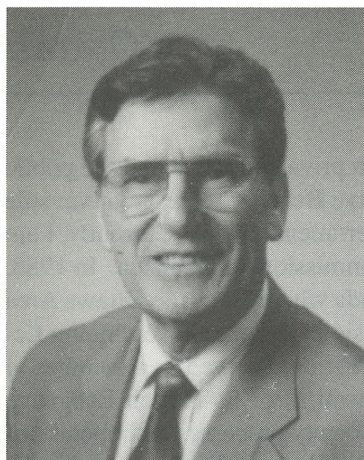
I am a member of the CBAO, The Women's Law Association of Ontario and past member of the Federal Women Lawyers' Executive. I have participated on numerous panels and organized and contributed to many C.L.E. programs and community projects and events.

## Conclusion

I have a broad knowledge base, excellent organizational skills (an even more organized secretary) and considerable, relevant management experience. Just as importantly, I have positive energy and time (my children are even old enough now to get their own breakfast!). Lastly, I have the endorsement and support of my client to commit to the profession in this way.

- Born in Ottawa, Canada
- Educated France, Canada, United States (air force brat!)
- Married, two children
- Speak English, French, some German and Italian
- B.A. (Honours) Laval University, Carleton University  
LL.B. McGill University, Montreal  
LL.M. University of California at Berkeley
- Canadian Union of Students Scholar
- Editor, *Ecology Law Quarterly*, University of California Law School
- Called to the Bar 1973
- Panelist, moderator and speaker at many conferences
- Director and lecturer, seminar leader, of Bar Admission Course
- Extra-curricular activities and interests include teaching young adults and children, school board membership, cross country skiing and golf (learning!)





Born in Hamilton 1933; raised in Haileybury; held jobs on railroad, in lumber mill and as underground miner; flew with R.C.A.F. as CF-100 Navigator; 2 yrs Arts, U. of Manitoba; LL.B. Osgoode Hall; Called to Bar 1964, articled and stayed with Holden, Murdoch 1965; left for counsel experience at A.G.'s Department; came to North Bay as Crown Attorney, 1968-1974; private practice in partnership 1974-80; sole practice 1980 to present; designated Specialist in Civil and Criminal Litigation by LSUC, 1988-93; longtime member of C.B.A. and Advocates' Society; member Legal Aid Area Committee, 1970-85; Trustee, Nipissing Board of Education, 1980-91.

## John A. Inch

*North Bay*

The LSUC is in a major crisis. Likewise with the profession as a whole. To add to our woes, our public image is dreadful. We are not blameless. We have not properly controlled our progression and growth. Poor planning, lack of information and internal failures brought on the Errors and Omissions insurance nightmare.

The Legal Aid Plan is breaking down and continually needs bailing out.

Scummy lawyer jokes are everywhere and what is worse, some are funny!

Much of the blame is not for the Benchers. The corporate greed of the 80's spilled into our profession to the extent that making more money took over as No. 1 priority. Standards and quality were trampled in the rush to compete; clients were hustled and important documents were made under heavy pressure. So it should not be a surprise that many mistakes, large and small, were (and are) being made.

Convocation's 1994 adoption of the insurance task force report was good as an emergency response to the crisis but it needs more work. For example, the \$25.00 transaction fee should be only a starter; it should be increased in reasonable proportion to the size of the deal. If the courts are going to continue to hold lawyers to be unlimited insurers for their mistakes, then the client should be required to pay an insurance premium. To critics who say it is not right to make a client pay for the lawyer's insurance, one can reply it is not right that a lawyer's mistake can bring down anything near a 9.2 million dollar hit. Let's get real. There must be limits. Why is it still unthinkable to allow lawyers to incorporate? It is time to take a fresh look at this monstrous problem of unlimited professional liability.

Another and more pressing problem that needs to be remedied is that of too many lawyers. Some years ago the C & D Law Presidents' Association tried to get the Benchers to limit the number of seats in the law schools. No luck - the universities were not about to admit to a problem, much less to agree to look for a solution. The LSUC must take unilateral action and work on a formula to cap the number of seats in the Bar Admission courses. There will be cries of outrage from the expected sources, but it must be done. It is in the public interest to do so. The surplus of lawyers is a major factor in all the serious problems we are facing.

I am not a member of the Ontario Real Estate Lawyers Association, but a friend gave me that organization's "Brief News" of February, 1995. Briefly, good stuff! It contains informative and intelligent discussion of issues facing not only the Real Estate lawyers, but all of us. I do not agree with some of the Editor's comments but it is refreshing to see the sparks fly.

I am asking for support to elect me a Benchers because I want to be involved in the process of searching for solutions and taking action "to serve and protect" our beleaguered profession.

# George Johnson

Hamilton

Photo  
not provided

George Johnson was born and raised in the Hamilton area attending McMaster University where he graduated with a masters degree in history and the University of Western Ontario Law School where he graduated in 1986 with a Douglas May Memorial Scholarship. He articulated in Hamilton at the firm of Williams & Associates and was called to the Bar in 1988. He has worked in the firm of Williams and now Johnson. His field of practice has been in criminal and family law.

Mr. Johnson has been involved with a number of volunteer organizations and fundraising organizations including Scouts Canada, Habitat for Humanity and other such organizations.

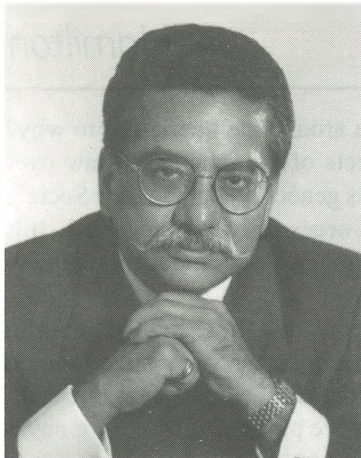
When I decided to seek the Office of Benchers, those around me queried as to why? Certainly we all complain bitterly about those aspects of the practice of law over which we seem to have no control. The consensus was generally that the Law Society continues to lead us in a direction in which we do not necessarily wish to be led. It is easy to grouse about those things we do not like and much harder to take the time to attempt to change them.

I can promise that like you I am troubled by the fact that those individuals who have monitored our professional lives over the past number of years have brought about a multi-million dollar deficit. A general practitioner in medicine pays one-sixth of the amount in insurance and professional dues that we pay, even if we have never had or are never likely to have any claims made against us.

I am concerned that the Law Society does not recognize the reality that small practitioners who engage in a general practice will never be the insurance risk as large firms who do corporate and commercial work, issue stock debentures, portfolios or who fail to renew commercial leases.

The Law Society has a duty not only to serve the profession, but the public as well. When I was a young person, society placed a great deal of trust in their lawyers. Increasingly, public confidence has been worn. Part of this erosion has been the failure to properly maintain the bridge that exists between the public and ourselves. The Law Society and its Benchers have become more distant from the profession and from society at large. This is a time of crisis in the Law Society and the question becomes **who do you wish to manage this crisis; those who brought us here in the first instance or new people and new approaches that can guide us out of this?**

On April 30, 1995, the choice will be yours. Do you wish to have a Law Society run by Benchers who are part of the problem or who are part of the solution? I believe that with your help, we can all be part of the solution, which is why I have chosen to seek the Office of Benchers. I will be accessible to the needs and the concerns of small practitioners. It is no small concern that the largest single expenditure in Errors & Omissions is legal fees. We have no explanation as to how this work is allocated or why firms affiliated with Benchers are allowed to continue to partake in this work. There must be people prepared to do Errors & Omissions work at lower rates done equally well as those who currently partake in this work who could not be perceived to be in positions of conflict. This will not suit some who have vested interests in larger firms, but it will certainly better serve the profession and public. I believe that with your help I can discharge this responsibility and that together we will all be better served. This is why I seek the Office of Benchers and ask for your assistance. Thank you for this opportunity.



## Vern Krishna, Q.C.

*Ottawa*

The Benchers of the Law Society should represent all aspects of the profession and the legal community: Practitioners, Academics, Legal Counsel in industry and government.

The professional, educational and societal issues that the legal community faces in the second half of the 90s are very different from those encountered in the first half. Financial pressures, the removal of international barriers and the continued pressure of numbers in the profession require innovative solutions.

The Law Society's responsibilities for the profession include standards, admissions, educational guidelines, continuing education and the management of its financial resources. These diverse tasks can be properly addressed only if the governing body comprises a diverse constituency with experience and professional interests in these areas.

Educator, Practitioner and  
Author  
Elected Bencher 1991 - 1995  
Member of Education, Standards, Discipline and Finance  
Committees  
Chair French Language Services  
Committee  
Professor of Common Law,  
University of Ottawa;  
Of Counsel: Koskie & Minsky  
(Toronto);  
Commissioner, Ontario Securities  
Commission.  
Member of the Bars of Ontario,  
Alberta and Nova Scotia  
Queen's Counsel (Canada)  
Fellow of The Royal Society of  
Canada  
Education:  
B.Comm.(Manchester); M.B.A.;  
LL.B. (Alberta); LL.M.  
(Harvard); Dip. Law (Cambridge);  
FCGA (Canada)  
Author of Fundamentals of  
Canadian Income Tax; Canadian  
International Taxation.  
Contributor to Law Times.  
Managing Editor: Canadian  
Current Tax.  
Executive Vice President: CGA  
Ontario  
Member of the American and  
International Bar Associations  
Executive Director: Tax Research  
Centre (University of Ottawa)  
Executive Director: Joint  
Committee on Accreditation



## Marianne P. Kroes

Windsor

I am running because I want the Ontario Legal Aid Plan to be more responsive and more accountable to the profession.

The report by the National Council of Welfare was right. Legal Aid does not meet the needs of the poor. However, the Council was wrong when it reported that the Legal Aid Plans in Canada have become an industry run by lawyers for the good of lawyers. In fact, just the opposite is true, at least in Ontario. In my opinion, one of the most detrimental factors for new lawyers in this province who are trying to set up practice is coping with the vagaries of the Ontario Legal Aid Plan.

If elected Benchler, I will actively seek membership on the Law Society's Legal Aid Committee. Then, I will do my best to compel Legal Aid to be more open in disclosing its policies to the profession and especially to those who rely on it for a major portion of their income. This disclosure is crucial in order for sole practitioners and small firms to survive.

Without disclosure of policies, we are forced to attempt to carry on business with inadequate information, constantly at the mercy of accounts examiners. We need to know what Legal Aid's policies are so that those policies can be monitored and changed to meet our needs as well as those of our clients.

I believe that women lawyers are more severely impacted by Legal Aid's present policies. Often, we are sole practitioners or members of small firms whose clients are dependent on Legal Aid. In other cases, women are vulnerable members of larger firms whose staffing decisions are adversely affected by Legal Aid cuts. All of us who depend primarily on Legal Aid need more voices at Convocation. I would like to be one of those voices.

Called to the Bar in 1989; Sole Practitioner 1989 - 94; now practising with one other lawyer

M.A. 1981, French Language & Literature, LL.B. 1987, University of Windsor

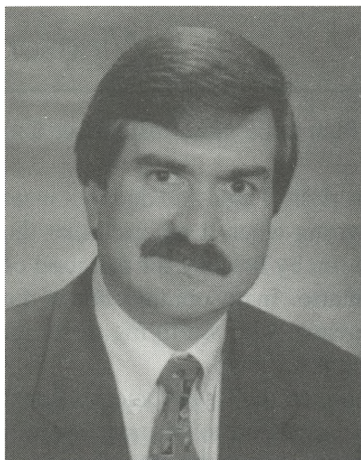
Practice: Canadian immigration law, emphasis on refugee law; some civil litigation

Member: Refugee Lawyers Association, Canadian Bar Association, Essex County Association of Women Lawyers, Essex Law Association, Southwest Region Women's Law Association

Former CBAO representative for Bar Admission Course students (London); University of Windsor representative in Department of Justice Common Law/Civil Law Exchange Program, Sherbrooke, Québec, 1986

First Vice-President of The Children's Aid Society of the County of Essex; Past Regional President of *l'Association des Parents et Instituteurs de l'Ontario*; Past Co-Chair of Assumption Campus Community Prison Committee





## Randall W. Lalande

*Sudbury*

### Called to Bar - 1975

- Bilingual
- Partner - Paquette, Lalande & Keast - Sudbury
- General practitioner in small firm practicing in areas of Real Estate, Civil & Criminal Litigation

### Current Positions:

- Non-bencher member - provincial Legal Aid Committee
- Sudbury District Legal Aid Committee
- C.B.A.O. Council - 1994
- Sudbury District Law Association Library Committee
- C.D.L.P.A. Library Committee
- Member - Criminal Lawyers Association
- Deputy Small Claims Court Judge

### Past Positions:

- President of Sudbury District Law Association (1984)
- Director, C.D.L.P.A. (1985 - 1991)
- Chair - C.D.L.P.A. Library Committee
- Non-Bencher member of Libraries and Reporting Committee (Law Society) 1991 - 1992.

### Community Involvement:

- Past lecturer (part-time) at Cambrian College
- Guest speaker on various legal community educational programs

These are very difficult times for the profession in Ontario. Many of us are in fact wondering if there is going to be much of a future left in the practice of law. I am committed to devoting the necessary time and energy to deal with the many important issues facing the profession and the Law Society. I also believe that it is important for the profession to be represented throughout the Province by lawyers from small, mid-size and larger firms.

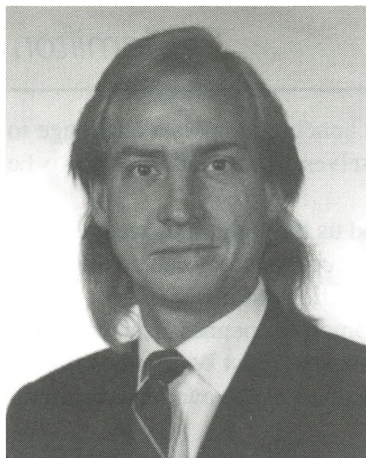
It is my intention to bring a "practice perspective" to the administration of the Law Society. Many of us are of the view that the Law Society's mission statement is not conducive to helping lawyers in matters involving day-to-day practice. It is my belief that smart change is needed. I cannot within the ambit of this statement fully outline the concerns I have in all areas. I do however wish to highlight a few, as follows:

- The problems involving E. & O. have been staggering. Although credit must be given to the efforts made in assessing (and addressing) the dilemma, it is important that this type of situation never again occur. It is also necessary to make every effort to reduce premiums and to more thoroughly deal with matters involving deductibles and tail fees.
- The Law Society has been unable to adequately handle matters involving "unauthorized practice". I support the recent C.D.L.P.A. initiatives recommending positive changes in order to ensure that non-lawyers who are practicing law throughout the Province be investigated and prosecuted if the evidence warrants.
- More changes are needed in the area of discipline. The Law Society has recently implemented reforms; however, there is still a lot of Bench time being spent on non-serious cases. Discipline hearing panels could be streamlined to involve more representation by non-Bencher lawyers including retired members of the Judiciary.
- It is important that Convocation press ahead with amendments to the Law Society Act in order to implement Regional Bencher elections. We should make every effort to ensure that the necessary legislative amendments are expedited.
- The Legal Aid Plan has just extricated itself from a financial crisis. The survival efforts of the Plan have not been beneficial to lawyers doing work on behalf of legally-aided clients. There has not been an increase in the tariff since 1987. There have been decreases in the tariff in conjunction with other changes involving a reduction in the issuance of certificates for various categories of services. This was done in order to accommodate the memorandum of understanding between the Legal Aid Committee and the Office of the Attorney General. It is my belief that more changes are needed in order to ensure the overall long-term viability of judicare. These changes however must also target future reasonable tariff increases. While on the Legal Aid Committee as a non-Bencher I have always provided a voice on behalf of the practicing Bar.
- The issue of "numbers" was dealt with by the Law Society in the early '80's. One of our senior local lawyers recently said "there are only so many client dollars in the Province of Ontario". There are many who feel that this issue must now be re-visited, so as to assess the impact that the number of new lawyers is now having on the practice of law at large.

Many questions respecting the possibility of implementing reasonable suggested fee schedules remain unanswered. Our ability to earn a reasonable living is critical to the future health of the profession.

I am a firm supporter of the efforts of the County and District Law Presidents' Association to bring a "grass roots" perspective to such issues as: a strong County Library system; an accessible but not necessarily mandatory C.L.E. delivery system.

There are many important challenges facing the profession. **Change** must be critically examined while maintaining a difficult yet important balance between the interests of the Law Society and the profession. If elected I shall strive to ensure that our duties as a self-governing body are discharged both in the public interest and in a fashion ensuring that the integrity of the profession is maintained.



## Cecil J. Lyon

Kanata

### A Plea for Reform: The Time for Reform

I wrote an article entitled "*Time for lawyers to act together on E & O, LSUC issues*" which was published in the January 6, 1995, edition of the *Lawyers Weekly* (p. 4). I was (and am) appalled at the situation we find ourselves in with respect to a number of issues, not the least of which is the E & O debacle. After writing the article I received many letters and telephone calls in support of the views expressed in the article. The article became the basis of my platform. Originally, I wrote the article to vent my frustrations. In light of the responses I received I came to realize that it was no answer to simply complain. I had to act. I saw two options. First, to work outside the 'system' or, second, to work within the 'system'. I have chosen the latter. I believe that the necessary changes can be made more readily and quickly by working within the 'system'.

I have a three-part platform: First, we need our own "Lawyer's Protective Association". Second, we need to revise the management structure of the LSUC. At present it is in a clear conflict of interest position and we must change this. We desperately need a 'voice' to speak for the lawyers of Ontario. Third, we need to examine the issue of paying Benchers. In order to open up the process we need to ensure that everyone can afford to run for the position of Benchers. In the past most Benchers have been members of large law firms and I believe that this may have slanted the views of the Law Society. We need representation from sole practitioners and small law firms.

#### Other Issues:

We need to address the issue of legal aid in Ontario. We must obtain a commitment from the provincial and federal governments to either admit they do not want to maintain a judicare system or that they will wholeheartedly endorse and financially support a system of judicare which provides a reasonable level of access to justice for those who can truly not afford a lawyer.

We also need to examine the role of the Law Society. The Law Society's present structure, where it sets standards for lawyers, investigates complaints and acts as a prosecutor, judge and jury of lawyers' conduct in the important role of protecting the public, is simply incompatible with its other function, which is to represent and protect the legal profession. We must not subordinate our interests as lawyers to those of the public. It may well be that we need a separate entity to speak on behalf of the lawyers of Ontario. It is clear that the Law Society no longer represents the views of its members and that we must act.

We must also look at reducing the numbers of lawyers. There are simply too many lawyers and this has created problems such as fee cutting in areas like real estate. The reduction must not come from making it financially impossible for most of us to practice.

We must examine some way to monitor those very few lawyers who create the vast majority of problems and we must do this without having the Law Society looking over our shoulders every minute of the day. We must address the issue of mandatory continuing legal education. I propose to hold a referendum on the issue.

The Law Society should implement a system of consultation with the profession. It should be simple and allow for the views of the profession at large to be heard on important issues. We need input from the profession on such issues as E & O, Legal Aid, the management structure of the Law Society, mandatory continuing legal education, title insurance and the 'role' of the Law Society.

This is not an exhaustive list but it is a good start. Collaboration, consultation and co-operation are the three 'C's that we need to keep in mind when addressing the challenges we all face.

I want to bring about meaningful and lasting reforms. I hope you will give me the chance.

We must make the effort - together.

After my call in 1989 I practiced as a sole practitioner for four years. In 1993 I formed a partnership with John Rick. We practice in Kanata and Ottawa. I handle the litigation, office management and ADR. My practice is composed of 50% family law, 40% general civil litigation and 10% mediation/ADR. I accept legal aid. I am a member of several community organizations.

Memberships: Law Society of Upper Canada, CBA and CBA(O) ADR Executive (1993-94, 1994-95), Chairperson of CBA(O) ADR (Eastern) Section Executive (1994-95), County of Carleton Law Association, Society for Professionals in Dispute Resolution (SPIDR).



## Joan M. MacDonald

*Hamilton*

To place one's name forward to you for election as a benchner today is a challenge to say the least. Why not retreat in order to save ourselves from what appears to be continued grief in the future?

I believe the benchers we select in 1995 must lead us through times we have not, nor could have, contemplated. Secrecy is no longer a luxury! Secrecy can no longer be used as a shield to protect the limited few from the questions of many.

In order to accomplish this, full disclosure and complete openness is a minimum requirement on the part of the law society. We, as lawyers, must be in a position to make informed decisions about our future based on full access to available information.

**Insurance Reform** is required. Who is costing us money? What settlements are made out of court? Why is our insurance liability so high?

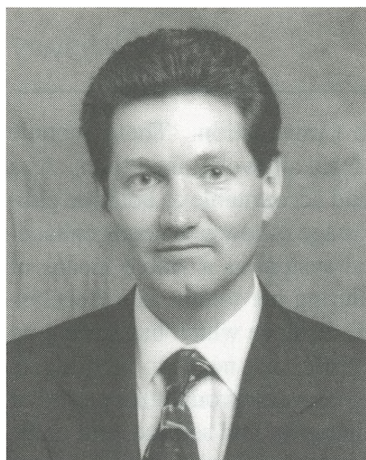
We publish the names of those not able to pay law society dues. Why not publish the names of the lawyers or firms who have caused this problem? Why not publish the names of the lawyers or firms who have represented each claimant on a case by case basis? What fees have been charged? These are routine questions asked by clients. Is our governing body accountable and responsible for our changing profession today? I believe there must be openness in insurance claims.

I believe our benchers must have the energy and enthusiasm to meet the challenges of the Nineties. They must also have the vision and interest required to advance all groups within our profession. They have to have their fingers on the pulse of our profession today.

My experience with my professional organizations has taught me the value of listening and being accessible. We must now take the new ideas of our changing profession and formulate action. We must open those closed doors. We must have a voice.

Barrister & Solicitor  
515-155 James Street South  
Hamilton, Ontario L8P 3A4  
Tel: (905) 526-9552  
Fax: (905) 526-1037;  
1987 LL.B., University of  
Western Ontario; 1988 Called  
to Ontario Bar; 1990 Sole  
Practitioner;  
**PROFESSIONAL  
BACKGROUND:** 1988 Hamil-  
ton Law Association; 1990  
Hamilton Criminal Lawyers'  
Association and Hamilton  
Medical-Legal Society; 1988  
Women's Law Association of  
Ontario; 1994 Treasurer; 1990  
Criminal Lawyers' Association,  
Toronto; 1985 Canadian Bar  
Association-Ontario Council;  
CBAO Committees:  
Fundraising; Academic Legal  
Education, Paralegals, Judicial  
Appointments, Distance  
Education, Feminist Legal  
Analysis, Gender Issues, 1985  
Association of Trial Lawyers of  
America; 1988-91 State Del-  
egate, 1992 Governor, 1992  
Secretary, Women's Caucus,  
1993 Chair, Women's Caucus.  
ATLA Committees: Organiza-  
tional Review, Membership  
Oversight, Canadian Member-  
ship, Convention Planning,  
Section Leaders Council, 1991  
The Advocates' Society; 1991  
Ontario Trial Lawyers' Associa-  
tion





# Gavin MacKenzie

Markham

## 1. Qualifications

- Long standing interest in the regulation of the profession.
  - Counsel on many occasions to law firms, lawyers, other professionals, Law Society, Discipline Committee of College of Physicians & Surgeons, and other regulatory bodies.
  - Author of *Lawyers & Ethics: Professional Responsibility and Discipline* (Carswell, 1993; annual supplements 1994 and 1995), and numerous articles on the legal profession, professional responsibility, professional discipline, and matters of interest to lawyers practising in fields of civil litigation and administrative law.
  - Bar Admission Course teaching experience: Advocacy, Civil Litigation, Professional Responsibility, Administrative Law and the Charter of Rights.
  - Member, Law Society Special Committee on Reform of Rules of Professional Conduct 1993 to present.
  - Director, Advocates' Society.
  - Director, LINK: The Lawyers' Assistance Programme.
  - Member of Advisory Council, C.B.A.'s Wellness in the Profession Project.
  - Chair and President, York Region Rose of Sharon Services for Young Mothers 1992-1994.
  - Member, Medico-Legal Society.
  - Contributing Editor, Carswell's Practice Cases 1982-1988.
  - Frequent Speaker at Continuing Education Programmes, including 1994 National Conference on the Legal Profession and Ethics, 1992 Law Society Special Lectures (Procedural Fairness in Administrative Tribunal Hearings), CBAO Corporate Counsel, Estates and Trusts, Immigration, and Administrative Law Sections.
  - Certified by Law Society as Specialist in Civil Litigation 1989, Recertified 1994
- Born Woodstock, Ontario 1952
  - B.A. University of Western Ontario 1972 (Dean's Honour List)
  - LL.B. Osgoode Hall Law School 1975
  - Called to the Bar 1977 (Ontario), 1994 (Alberta)
  - Articled and practised with Campbell, Godfrey & Lewtas and Fasken Campbell Godfrey 1975-1990
  - Senior Counsel - Discipline, Law Society of Upper Canada 1990-1993
  - Partner, Davies, Ward & Beck, 1993 to Present
  - Counsel before courts and tribunals at all levels throughout Ontario
  - Commission Counsel, Commission of Inquiry into the Conduct of Justice of the Peace Leonard Blackburn 1993-1994.

## 2. Objectives

**Communications.** Many of the Law Society's difficulties have stemmed from its failure to give members advance notice of matters to be considered at forthcoming committee meetings and Convocation. Providing notice in the Benchers' Bulletin of issues expected to be considered at future sessions would ensure that members have a reasonable opportunity to express their views before matters affecting them are decided, thus increasing the accessibility of the Society to its members.

**Cost Control.** Law Society fees and levies have risen precipitously, jeopardizing the viability of many lawyers' practices. One of the first priorities of the new Convocation should be to undertake a comprehensive review of its programs to determine what measures can be taken to contain expenses.

**Diversity.** The legal profession has become increasingly pluralistic. The interests of lawyers engaged in different types of practice differ dramatically. To cite a few examples, lawyers employed by clinics, lawyers employed by corporations and government agencies, high technology law specialists, and criminal lawyers are likely to bring different perspectives to professional issues. The Law Society must serve the members of each sub-profession, and must increase its accessibility by facilitating the participation of members from all types of practice and all regions.

**Insurance.** As a profession, we should continue to require members to maintain professional liability insurance as a condition of membership. However, we should accelerate conversion to a true risk-based system. The premiums of lawyers who are the least vulnerable to claims - such as those with favourable claims histories and those who practise exclusively in specialized areas in which claims are rare - should be determined primarily by market forces. The Law Society should protect lawyers who have favourable claims histories who would otherwise be prevented by prohibitive levies from continuing to practise.

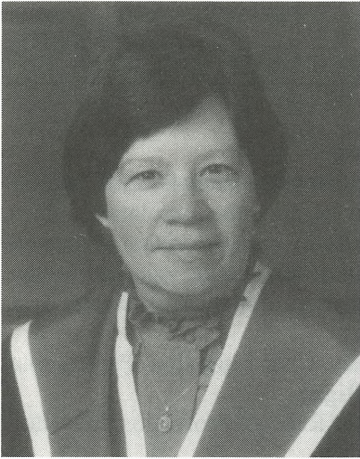
## 3. Renewal

It will come as no surprise that, as a first-time candidate, I advocate the infusion of fresh blood into the benchers' ranks.

My counsel work, writing, teaching and management experience will enable me to make a meaningful contribution to Convocation's work, particularly in the areas of professional conduct, discipline, professional standards, admissions, research and planning, communications, and legal education.

The responsibilities of benchers must be taken seriously. With the approval and support of my partners, I am prepared to commit the time and energy required to discharge those responsibilities.



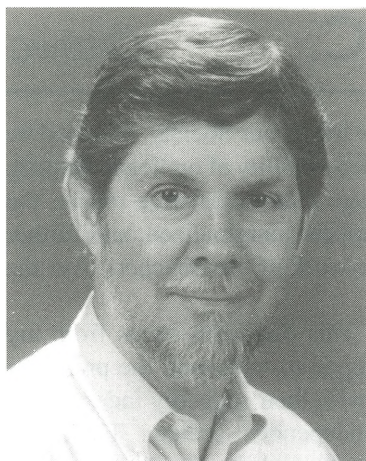


## Peggy Malpass

*Ottawa*

There are many under-represented constituencies in Convocation. These include women in practice, smaller firms, practitioners doing legal aid work, and others. As a prospective Benchers, Peggy intends to be accessible and accountable to both the public and the profession. Peggy realizes that the public image of lawyers needs enhancing in order to promote more confidence in the legal system as a viable means of dispute resolution, and will work towards this goal during her tenure as a Benchers. The profession is facing difficult economic times. The distance which has sprung up between the Benchers and the financially struggling profession needs to be bridged. Peggy sees the role of the Benchers as one of assisting lawyers through this period of change, while encouraging them to hold to ideals of integrity and service, and at the same time reassuring clients and members of the general public that their interests remain paramount.

After arriving in Canada in 1968, Peggy pursued various careers in the restaurant business, government work, and private law firms, before attending Queen's Law School in 1982. Upon the call to the Bar in 1987, Peggy started as a sole practitioner in Ottawa, focusing on Family law cases. In 1992 in the Legal Aid 25th Anniversary Annual Report, she was profiled as one of 25 lawyers across Ontario dedicated to providing excellent service to clients on Legal Aid. Her varied background has enabled her to bring the realities of the every-day world to the practice of law. Her firm has now grown to seven associates, and Peggy's main area of work is Family Mediation. The firm's mandate is a continuing commitment to ensuring accessibility to the law for all clients, in a competent, cost-effective and client-centered environment. Peggy is a long term supporter of equality-seeking groups such as the National Association of Women and the Law and the Legal Education and Action Fund, and promotes public legal education by organizing workshops and talking to seniors and support groups throughout Eastern Ontario. Peggy also teaches at the Faculty of Common Law, University of Ottawa, and designs and teaches mediation training courses in the private sector.



## Rob Martin

London

The Law Society can do better. It can do better for the members of the legal profession and for the people of Ontario.

The Law Society is in a crisis. But it is not enough to simply shout words like "crisis". We can only effectively address our current difficulties if we clearly understand their origins.

There are three problems.

First, the Law Society has lost sight of its basic role. That role is to oversee the affairs of the legal profession in the interest of the members of the profession and of the people of Ontario. The Law Society is not a multi-purpose social service agency. Its mandate is not to create a better world, but, rather, the more modest task of ensuring that the practice of law in Ontario is conducted according to the highest standards of competence and probity.

The second problem arises as a result of the first. Because the Law Society has misconstrued its role, it has neglected its most basic responsibilities. The scandalous situation with respect to E&O insurance is the most blatant manifestation of this failure, but it is not the only one. There is an unacceptable backlog of disciplinary complaints. Legal education, in all its phases, is not preparing persons for the practice of law.

The third problem is broader in nature. Basic principles and values of our legal system are under attack. The Law Society must be active in defending our legal system.

All these matters must be addressed by the Law Society. They must be addressed both with a sense of urgency and in a fashion which is thorough, competent and painstaking.

My commitment as a Benchers would be to restore an understanding of the Law Society's true role and, thereby, ensure that the Benchers collectively devote themselves to discharging their true responsibilities.

The qualifications I bring to this task are integrity and intelligence.

- born Toronto, 1939, educated Upper Canada College
- B.A., Royal Military College of Canada; LL.B., University of Toronto; LL.M., University of London
- Member of the Law Society of Upper Canada, 1978-
- Professor of Law, The University of Western Ontario, 1975-
- taught law at universities in Tanzania, Lesotho, Kenya and Mauritius
- Secretary-Treasurer, The Commonwealth Association for Education in Journalism and Communication, 1985-
- Columnist, "Counterpoint", *The Lawyers Weekly*, 1986-
- published widely on law, politics and the mass media; regular contributor to newspapers, radio and television
- speak English, French, Swahili



## Colin D. McKinnon Q.C.

*Ottawa*

Bencher, elected 1987, re-elected 1991.

Called to the Bar 1970.

Queen's Counsel, 1983.

Managing Partner, Beament, Green, Dust in Ottawa.

Chair, County and District Law Presidents Association, 1983-1985.

Associate Professor, University of Ottawa Law School, 1983-1987.

Instructor and Lecturer, Bar Admission and Continuing Legal Education

Courses, L.S.U.C., Advocates Society, criminal Lawyers

Association, CBAO, and others since 1972.

Assistant Crown Attorney, 1970-1972, part-time 1973-1980.

Counsel to Board of Inquiry into R.C.M.P. activities (Cogger Inquiry), 1990-1991.

Director, Thomas More Lawyers Guild since 1983,

Medical Legal Society, 1985-1990,

Housing and Urban Development Association of Canada, 1975-1979,

Osgoode Society since 1988. Certified as a Specialist in Criminal and

Civil Litigation, 1990.

The past four years have been tumultuous ones in the life of our Society. Plagued by recession, the burgeoning insurance debt, the threatened viability of our legal aid plan, the frustrating inability to bring the "Reform Package" into legislative reality, the increasing frustration of members whose practices appear marginalized, and further complicated by a steady influx of new graduates, the work of the Benchers over the next four years will be filled with challenge.

And yet I remain optimistic about our future. This optimism stems from my strongly held belief that our profession is well equipped to withstand the pressures which threaten it. I remain convinced that lawyers, with their ruggedly independent character, are integral to the survival of a free and independent society. There will always be work for lawyers - new areas of work, no doubt; and changed directions, no doubt - but much interesting work nonetheless.

As we approach the millennium, we should not allow our fears for the future to overcome the worthiness and integrity of our training, nor our proven ability to adapt. Nothing of value evolves without struggle. Overcoming challenge is one of the paths to personal happiness. It is because I have hope for the future, and because I believe that a continued commitment to reform, to evolution rooted in reason, that I feel comfortable in offering my name as a candidate for a third term. If elected, I promise to work as hard over the next term as I have for the past eight years.

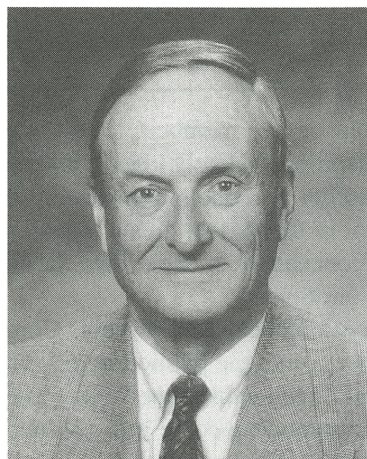
As for the issues that beset us, I promise only one thing - to be guided by what I believe to be the correct approach to the specific problem, and to avoid doctrinaire preconceptions which inevitably are betrayed by events and human experience. I resist the temptation to become a candidate tied to the special interest of any particular constituency of lawyers. My interest is what is best for the profession as a whole, now and in the future.

I do give certain commitments: to continue my work to ensure reform in the Standards, Complaints and Discipline Departments of the Society; to continue my commitment to the maintenance of the judicare model of legal aid delivery; to continue my commitment to an open and accountable governing body; to continue my commitment to assist practitioners in avoiding claims in negligence; to continue my commitment to meaningful province-wide legal education on a continuing basis; to continue my commitment in fostering a strong and independent profession, free from cavalier and irresponsible public criticism; to continue my commitment to secure equality of opportunity for all members of the Bar; and to continue my commitment to vote in convocation according to my conscience.

### **Law Society Experience**

Chair, Professional Standards Committee, Vice-Chair, Legal Education Committee. Former Chair, French Language Services Committee, Communications Committee, Continuing Legal Education Sub-Committee. Member, Equity in Legal Education and Practise Committee, Discipline Committee, Specialist Certification Board, Special Committees on Reform Implementation, Court Reform, Complaints Reform and Benchers Election Reform. Former member, Discipline Policy Committee, Professional Conduct Committee, Research and Planning Committee, Insurance Committee, County and District Liaison Committee; Law Society Representative on the Civil Rules Committee since 1991; Law Society Delegate to the Federation of Law Societies of Canada, 1990-1994.





## Daniel J. Murphy, Q.C.

*Goderich*

Elected a Bencher in 1983, 1987 and 1991. Member of the following Committees: Professional Standards (Vice Chairman), County & District Liaison, Lawyers Fund for Clients Compensation and Admissions & Membership. I was a member of the Libraries and Reporting Committee for 11 years and its Chairman for 6 years.

Born Mount Forest, Ontario; Member, St. Peter's Roman Catholic Church. Partner, Donnelly & Murphy, Goderich. Graduate St. Michael's College, University of Toronto 1951, Osgoode Hall 1956. Appointed Queen's Counsel 1969; certified by the L.S.U.C. as a specialist in Criminal and Civil Litigation. Charter member, Goderich Rotary Club; charter member Brother Nagle Council Knights of Columbus. President's Committee University of Toronto. Member Canadian Bar Association, Advocates Society. President of Huron Law Association 1979 – 1981. Endorsed by Bruce, Huron, Grey and Perth Law Associations, Ontario Real Estate Lawyers Association.

I have served as a Bencher for the past twelve years and am standing for re-election for a fourth term as one of the twenty Benchers outside of Metropolitan Toronto.

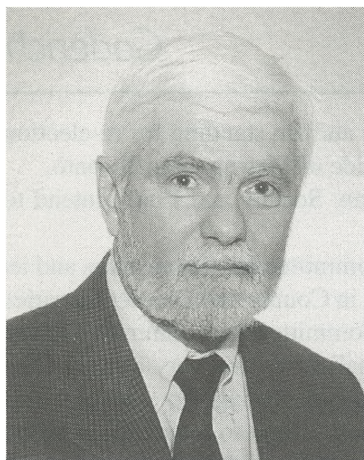
There are many substantial issues facing the Law Society and I only intend to address four:

1. I was a member of the Libraries and Reporting Committee for eleven years and its Chairman for six years. I still have a special interest in County and District Libraries and as a member of the County & District Liaison Committee I am committed to see that they are properly funded. As a partner in a small firm I am very aware of the increasing cost of maintaining your own library and the increasing dependence we all have on the County Library. I promise to use my best efforts to maintain all of the libraries in the Province at an acceptable level in connection with both resources and staff.
2. As Vice-Chairman of the Professional Standards Committee I am committed to seeing that we have workable standards for **all** the profession. I am hopeful that if we can put some standards in place supported by regulation that it will go a long way in assisting us to prepare a guideline for fees that will help the public and the profession in these difficult times.
3. As your local President can tell you I led the fight against the Wardlaw motion (acting on both sides of a residential house deal) and the matter was referred to a committee for further study. While we won the battle we still haven't won the war and if re-elected I will continue to fight for the principles that primarily affect rural lawyers.
4. In connection with the insurance problem, I would only like to say that although I am not on the Insurance Committee, as a member of Convocation I am responsible like any other sitting Bencher for its decision. As a rural lawyer practising in a small town I have the same complaints about some aspects of the proposal as most of the profession does – the problem is that at the present time I don't have a viable alternative. However let me remind you – these proposals are not etched in stone and I can assure you that they can be changed and will be changed once we have an opportunity of seeing how the new proposal works.

I practise in a Town of 9,000 people in a law firm with four lawyers. The majority of lawyers practising in Ontario practise in small firms and for the most part are generalists. On a personal note there are few benchers who practise as generalists in small firms in small towns. It has been my privilege to fill that role over the last twelve years. I believe it is important that these interests continue to be represented at the Law Society.

There are four Counties in my immediate area that do not have a sitting Bencher. These Counties have relatively small Bars, and as a result, I must depend on outside support to be elected.

I thank you for your support in the past and would appreciate your vote in this election.



## D. Scott Murray

Arnprior

- Graduated from Carleton University, 1971, Bachelor of Arts (Economics, Law).
- Employed Statistics Canada, 1971 to 1974;
- Graduated, *Cum Laude*, University of Ottawa Law School, 1977, called to the Bar, 1979;
- Practised as sole practitioner and partner in two and three lawyer firms from 1979 to the present;
- General practice, Real Estate; Trusts, Wills, Administration of Estates; Civil and Criminal Litigation.
- Age 48 years

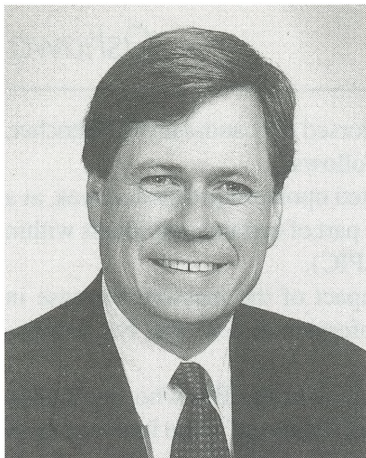
Small firms, the sole practitioner and those up to four or five members, face some concerns which larger firms do not, and including disproportionately high overhead as a percentage of billings resulting from the unavailability of economies of scale. Of further note is that of the difficulty in keeping current in the various fields in which one practices, given that rarely can one specialize or concentrate in one or two fields. Small firms need a perspective and representation at our Society.

The Profession, as a whole, requires a voice to speak on behalf of lawyers. Contrary to beliefs in some quarters, the lawyer practices to serve the public interest but also needs to earn a living: to date, great attention has been paid to the former and almost complete disregard for the latter and these concepts can come into conflict. Where conflict does arise there needs to be more reasonable balance struck than has been the case in the recent past.

One of the most pressing threats to the very high standards expected of us is the overwhelming numbers of new members admitted yearly. Currently, there are far too many lawyers chasing far too little work in the Province of Ontario. This has led, in some instances, to practitioners having inadequate time to complete the work in a thorough fashion and with the inevitable errors which ensue. Other professions have been able to maintain levels of entry into those professions consistent with the notion that only very highly qualified, capable persons practice. The saturation of the profession is resulting in both inferior quality work being done and inability to earn a living.

The disastrous state of the insurance fund is causing severe hardship, particularly for small firms. Small firms, typically, do not serve the very large corporate and business clients who pay the very large fees. Doubtless, the very large losses to the insurer are predominantly as a result of the very large transactions in which small firms do not become involved. Nevertheless, sole practitioners and small firms are expected to contribute equally to the insurance fund. The small firms don't do the very large transactions, do not make exceptionally expensive errors, do not reap the high fees yet pay the price equally. The insurers should consider different premiums for different areas and levels of practice. In addition, Counsel acting to defend Claims should not be paid the fees which have been paid in the past and which are recommended by the Committee on insurance. Presently, a lawyer with an insurance claim is very much a client of modest means and his Counsel should earn fees approximating that of any other client of modest means: fees approximating those which are being paid by the Legal Aid Plan are more appropriate than levels as high as \$250.00 per hour.

Lastly, I note with approval that the Society has declined to pay the Benchers. Simply, we cannot afford this expense and a Benchers should be willing to expend the time required on a gratuitous basis, knowing that the out-of-pocket costs are currently being paid.



## Ross W. Murray, Q.C.

*Thunder Bay*

I was first elected as a Bencher in 1991. I believe that my legal, business, and community experience have enabled me to be an effective Bencher representing the interests of lawyers in all parts of Ontario. After graduating from York University with an M.B.A., I spent four years in the money market and venture capital areas before starting at U of T Law School. I practice as a general practitioner in Thunder Bay primarily in corporate and commercial law, real estate, and civil litigation. I am the founding partner of our firm, which now consists of four lawyers and twelve staff. I also set up our two regional offices in Marathon and Terrace Bay where I perceived there was a growing need for legal services.

Since beginning my legal practice, I have served as President of the Thunder Bay Law Association and have been an active director for the past thirteen years. I was also a member of the Joint Committee on Court Reform, and helped establish a separate region for Northwestern Ontario. In 1990 I was appointed to the Northwest Region Courts Management Advisory Committee.

In the community I have actively served in a number of organizations. I was director and treasurer of both the Thunder Bay Historical Museum Society and the National Exhibition Centre when our new building to house the National Centre for Indian Art was first planned. I did most of the corporate fund raising for the project. Later I served as chairman of McKellar General Hospital, Northwestern Ontario's regional referral trauma centre. I also chaired the Executive, Personnel, Finance, and Joint Conference committees of the hospital over a ten year period.

Since being elected as a Bencher, I have been dedicated and involved. I have spent approximately four to five days a month in Toronto on Law Society matters over the past four years and have one of the best records of any Bencher for attendance at Convocation. I am currently Vice Chair of the Insurance Committee, a member of the Insurance Task Force, Vice-Chair of the Finance and Administration Committee and Chair of the Administration Sub-Committee. Since becoming a Bencher I have also sat on the Regional Election of Benchers Committee, Role of the Treasurer Committee, Advisory Committee on Judicial Appointments and various standing committees.

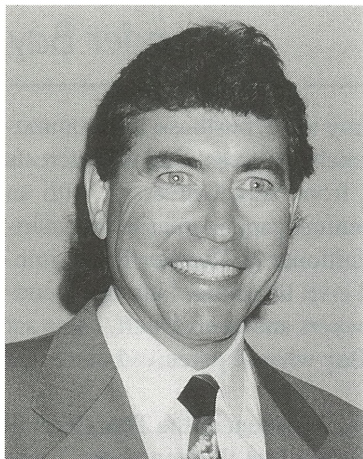
My roles with the Insurance Committee and Task Force have involved me actively in the pressing issues facing the Law Society in the liability insurance area. I support the transfer to Lawyers' Professional Indemnity Company (LPIC) of the insurance program and the future operation of the program independently of the Law Society. I believe, however, that the board of directors of LPIC should represent the interests of the members of the profession, including the CBAO and County and District Law Presidents' Association. As an ongoing matter, I believe that LPIC should be run as an economically viable insurance company, vigorously defending claims whenever possible and charging premiums that are determined in a commercially reasonable manner reflecting risk experience.

As Vice-Chair of the Finance and Administration Committee and Chair of the Administration Committee I am committed to making the management and organizational structure of the Law Society more modern, simpler and less costly to operate.

I am concerned about our profession and would like to continue making a contribution as a Bencher.

- Partner: Murray and Courtis, Thunder Bay.
- Elected a Bencher in 1991. Currently Vice-Chair of Finance and Administration, Vice-Chair of Insurance and Chair of the Administration Sub-Committee.
- Endorsed by the Thunder Bay, Rainy River and Kenora Law Associations.
- Admitted to the bar, 1977.
- Education: B. Comm., Queen's, 1967; M.B.A., York University, 1968;
- LL.B., University of Toronto, 1975. Winner of Davies, Ward and Beck prize in Contracts.
- Articled at Osler, Hoskin and Harcourt.
- Former part-time assistant Crown Attorney and Standing Agent, Department of Justice.
- Member, Association of Trial Lawyers of America, Canadian Bar Association, Thunder Bay Law Association (past president and director), County and District Law Presidents' Association (past member), Advocates' Society, Criminal Lawyers Association, Joint Committee on Court Reform, Northwest Region Courts Management Advisory Committee, and several community organizations.
- Married with three children.





## Bernard F. O'Brien

*Oshawa*

- Endorsed by the Durham Region Law Association.
- LL.B. University of Windsor Law School, 1975.
- Gold Medalist, Faculty of Law, University of Windsor.
- Called to the Ontario Bar in 1977.
- LL.M. Harvard Law School, Cambridge, Massachusetts
- Called to the British Columbia Bar in 1983.
- Partner, O'Brien, Balka & Frayne, 219 King Street East, Oshawa, Ontario.
- Practice restricted to Criminal and Civil Litigation.
- Past Director of Criminal Lawyers Association of Ontario.
- Past Director of Durham Region Law Association.
- Past President of Durham Region Law Association.
- Member of the Legal Aid Area Committee for the Region of Durham.
- Past member of the Pre-paid Legal Services Committee of the CBAO.
- Former lecturer at UBC Faculty of Law. (Taught Insurance Law course).

The Durham Region Law Association has recently endorsed my candidacy for Benchers, for which I am indebted. My main concerns are as follows:

- The Errors and Omissions fiasco that has been visited upon our profession was, at a minimum, the product of gross incompetence on the part of certain individuals within the Lawyers' Professional Indemnity Company (LPIC).
- Alternatives must be worked out to lessen the impact of the massive increase in insurance premiums and levies which hurt the profession as a whole, but particularly those entering the profession.
- Changes must be made to assist those senior members of the Bar who regrettably will be forced to early retirement because of the "tail premium" to be imposed as of June 30, 1995.
- Our vigilance in ensuring that we are and remain a self-regulating profession must not mean that we compromise legitimate insurance principles simply to appease a public which demands that ALL real and imagined grievances be paid for through claims.
- Beyond a reasonable base insurance premium, all increases should be exclusively "claims paid" driven. If that causes members who have had numerous claims paid to be forced from the profession by reason of the prohibitive cost of insurance, so be it.
- LPIC must be run as an independent insurer, not on the basis of hands-on control by the Benchers of the Law Society.

It is important that the Benchers maintain a proper focus on the day to day operation of a working law practice and therefore address the needs and concerns of the practicing lawyers of this Province. Although this focus should not derogate from an equal responsibility to ensure the protection of the public, the two aims should not be inconsistent.

We as a profession simply CAN NOT AFFORD to continue the state of affairs that has brought us to our present position. It MUST CHANGE and I will work assiduously to ensure that it will occur.



## (Karen) Julaine Palmer

Peterborough

- Bilingual, female, 40, married with children.
- Called in 1981. Practised civil litigation in Thunder Bay for 8½ years, latterly with Weiler, Maloney, Nelson. Practised in Peterborough 1991 with William Lockington.
- 1992 began work as an arbitrator with Ontario Insurance Commission hearing no-fault insurance disputes.
- Elected Benchers in 1991. Presently serves on Research and Planning, Communications, Heritage and ADR Implementation Committees and as a member of the board of LPIC.
- Educated at Université Laval, Québec City, B.A. in Economics; LL.B. and B.C.L. from McGill University; also B.Ed. Lakehead University.
- Director, Thunder Bay Law Association 1987 - 1990 and Secretary, 1988 - 1989. Member, Peterborough Law Association.

We now number some 27,500 members. The Law Society employs nearly 350. Our growth has been more *ad hoc* than planned or well-managed. Better ways must be found to administer the areas for which the law society is responsible (like complaints and discipline). A comprehensive, external management review is well underway. Its recommendations for management reform may be as sweeping as those of the Insurance Task Force. In my view, the Law Society should withdraw from areas that are outside our Role Statement. I believe in a minimalist role for the Law Society of the future: we should do only what we must and do it better, faster and certainly cheaper. Other organizations of lawyers will serve the wider interests of their members.

Since May 1991 I have represented you to the best of my ability on discipline, standing and special committees and in regular and special discipline Convocations. I have expressed my views as a younger lawyer who has practised in small firms, far from downtown Toronto. I have devoted more than 1,800 hours to these tasks and hundreds more hours in reading and preparation. I hope you will elect me for a second term to permit some continuity on several important projects now underway, which I would like to continue to help shape. I do not intend to seek a third term of office.

Some of the issues that will be important in the near future include:

**Insurance:** Our insurance program is in the first stages of reform to produce a more individualized, tailor-made product that reflects in its premiums to **you** the risk that **you** will cause a loss. I want to continue our move toward a premium based on areas of law practised and income generated. Transaction-based levies (which can be passed on to clients) show great promise and can be expanded beyond civil litigation and real estate. The costs of our program are enormous, but with careful management we will be able to save millions, for example by tendering for defence counsel and by encouraging settlement of disputes by using mediation and other creative ADR techniques.

**Mandatory Continuing Legal Education (MCLE):** I am not convinced that MCLE is either necessary or desirable to maintain high professional standards in our profession. A study, which I did not support, is underway to explore this issue. I remain sceptical. If it appears that the majority of the new benchers favour establishing MCLE at all, I will work towards a plan which is as flexible as possible.

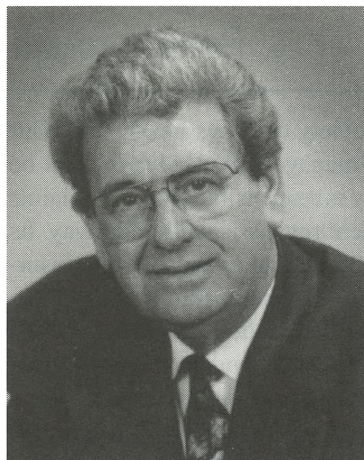
**Bar Ad Reform:** I support changes that will decrease the expense of our program, yet ensure competence. A study is underway of our tremendous, yet "Cadillac" course.

If you would like to canvass my views on any issues of particular interest to you, please call me at work: (416) 590-7052 (24 hr. telemessaging) or at home (705) 741-2089.

I have taken my responsibilities as a benchers in these dark days seriously. Still, I have a burgeoning sense of hope that the years leading up to 2000 will be better ones for our profession than these last few. I ask for your vote in this election. I will be proud to serve you again in the coming term. But, win or lose, I have appreciated the chance to serve these past four years. For that opportunity, I thank you all.

Pendant les quatre dernières années, de septembre 1991 à juin 1994, j'ai fait partie du Comité des services en français. Ce comité est chargé de la mise en oeuvre de la politique des services en français adoptée par le Conseil en 1989. A l'heure actuelle, 82% des postes désignés bilingues sont comblés et du personnel additionnel sera embauché dès que possible. Le Barreau peut se réjouir du succès remporté par le Cours de formation professionnelle qui est enseigné en français à Ottawa et suivi cette année par une cinquantaine d'étudiants et d'étudiantes. Je m'engage à suivre de près l'avenir des services en français au Barreau et à favoriser leur essor, dans l'intérêt de la profession et du public franco-ontariens.





## Ryan M. Paquette, Q.C.

*Hamilton*

The reason that I am running in the 1995 Benchers Election, is that after 35 years of practice in the City of Hamilton, I have come to realize that our legal profession has lost immensely of its prestige over the last few years.

My concern is that nobody seems to have addressed the problem. The Law Society of Upper Canada would appear to have been best positioned to do so but recently one of their spokespersons stated that the Law Society represents the public and not its membership. Who then represents the membership?

If elected as a Benchers, the above would certainly be one of my concerns and its solution my goal.

Another issue that bothers me considerably, is the fact that our Law Society has now entered the business world of insurance. This makes absolutely no sense to me.

Let us find a carrier that knows what it's doing and let us avoid financial catastrophe as we have met in the last year which has resulted in outrageous increases in our fee structure as practitioners.

I am firmly convinced that with my nearly 40 years experience in the practice of law, I can at least attempt to resolve some of the above issues.

886 King Street East,  
Hamilton, Ontario, L8K 1B6,  
(905) 547-1255,  
Fax (905) 547-1356  
1952, University of Ottawa  
B.A. and B.Ph; 1956, Dalhousie  
University, Halifax LL.B. ; 1960,  
Osgoode Hall, Toronto LL.B.  
Legal Career:  
1956, Member of the Nova  
Scotia Bar Association; 1960,  
Canadian Bar Association -  
Ontario; 1960, Hamilton Law  
Association; 1971, Appointed  
Queen's Counsel; 1984, -  
Present, Member French Sub  
Committee on the Rules and  
Procedures of the Ministry of  
the Attorney General; 1989 -  
1994, Council Member -  
Canadian Bar Association -  
Ontario; 1990 - 1991, Presi-  
dent - l'Association des juristes  
d'expression française de  
l'Ontario; 1990 - 1994, Mem-  
ber - Comité des services en  
français de la Société du  
Barreau du Haut-Canada; 1994  
Member of the Advisory  
Committee on Federal Judicial  
Appointments for the Province  
of Ontario (South West)



## Patricia J. Peters, Q.C.

Ottawa

### Background:

Called to the Bar in 1972, I have practised mainly in the field of criminal law in both the public and private sectors. I am currently a sole practitioner in criminal law in Ottawa and a part-time Vice Chair of the Commercial Registration Appeal Tribunal. I am married and have two sons.

### Professional Activities:

Since my call to the Bar, I have, at various times, belonged to the following organizations: Canadian Bar Association, Crown Attorneys' Association, York County Law Association, York Region Law Association, Advocates Society, Association of Federal Government Women Lawyers, Women's Law Association, Criminal Lawyers Association, County of Carleton Law Association, l'association des juristes d'expression française de l'Ontario and the Defence Counsel Association of Ottawa-Carleton. I have also lectured at Osgoode Hall, Windsor and Ottawa University Law Schools and the Bar Admission Course.

### The Role of the Law Society

The Law Society must stop trying to be "all things to all people". Instead, it should focus on its role of governing the profession in the public interest, by ensuring the competence and professional conduct of its members and upholding the independence, integrity and honour of the legal profession. Unnecessary standing committees must be eliminated and budgets cut to the bone.

### E&O

The Law Society must put into place a fair system of insurance coverage for its members at reasonable rates or get out of the insurance business. Immediate steps must be taken to relieve those who could be forced out of practice by virtue of the onerous levy imposed.

### Legal Aid

The Law Society must step up its fight to keep the Legal Aid Plan viable in Ontario. The certificate system ensures access to justice, choice of counsel and quality representation to the most vulnerable members of society. Lawyers who undertake this work must be assured of adequate and timely compensation.

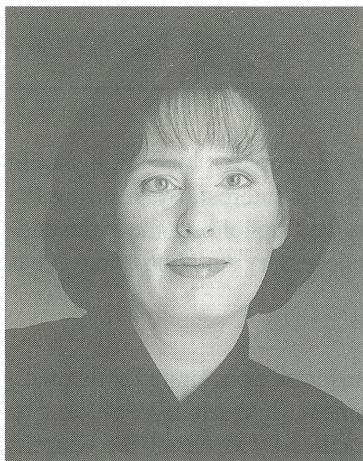
### Access to Convocation

A governing body should reflect the diverse make up and interests of its members. Reasonable remuneration for the work of benchers would enable access to all interested members of the profession and enhance the ability of benchers to devote the necessary time and energy to the work of convocation.

### Law Society Experience

I have been a bencher since January, 1987 and have served on the following Committees: Admissions (Chair), French Language Services (Chair), Discipline Policy (Vice-Chair), Legal Education, Professional Conduct, Special Committee on Requalification (Chair) and Special Committee on Bencher Elections. I am currently Chair of Unauthorized Practice and a member of the Legal Aid, Discipline Policy, Honours and Bicentennial Committees. In addition, I am the Law Society representative on C.B.A.O. Council.

If elected, I will continue to strive towards providing a fairer, leaner and more responsive governing body.



## Helene Bruce Puccini

Ottawa

I am running for the position of benchers because I think that it is time I stopped complaining about the problems facing the legal profession today and I started working towards solutions.

### Financial Crisis and Error and Omissions Insurance

I believe that the legal profession is currently facing a very real crisis with several dimensions. The most pressing of these is the financial crisis. Sole practitioners and those in small firms are especially affected. It is becoming increasingly more difficult for lawyers to earn a decent living. We are experiencing a severe economic recession and, at the same time, are faced with steadily increasing costs of doing business. The increase in the cost of our errors and omissions insurance is particularly hard to absorb. Because of this many lawyers are considering leaving the profession. I believe that it is mandatory to develop a fairer and more affordable insurance system.

### Real Estate Lawyers

I am concerned about the problems facing real estate lawyers. It has become almost impossible to provide quality legal services at prices that the public is willing to pay. I believe that these problems must be addressed strenuously and quickly. The problems facing real estate lawyers now, will be the same problems that will be facing all lawyers in the future.

### New Lawyers

I am concerned about the large numbers of new lawyers this profession is expected to absorb each year. The economic reality is such that it is no longer possible to continue on as we have in the past. There is not sufficient work out there to justify the numbers entering the profession and we must take steps now to limit access to the profession.

### Our Public and Professional Image

I am concerned about the prevailing attitude that the law society is here to protect the public at the expense of the lawyers. I believe that the law society can and should be protecting both the public and the lawyers. The two tasks are not mutually exclusive. We spend our careers as lawyers helping individuals and working to better the position of our clients. Lawyers are generally very hard working and honourable people. I think that it is time the law society made more efforts to see that the public and, also, the lawyers receive this message. The focus for too long has been on the negative.

The reality is that governments, the judicial system and society cannot function without lawyers. We attempt to create some sanity out of the maze of bureaucracy, rules, regulations and laws facing individuals. It is not an easy task. In order to do this effectively, our profession must remain strong. I believe we must protect our profession, in order to be able to protect the public.

I am willing to work very hard, if elected, towards resolving what I believe to be the major issues facing the profession today.

- called to the Ontario Bar in 1981, joined a small Ottawa law firm as an associate until 1983, and since then have worked as a sole practitioner, primarily in family law, but also doing wills, real estate, and family mediation.
- have worked on several committees, lobbied politicians and made representations to both provincial and federal government justice committees for law reform in the areas of family law and divorce, equality and the constitution, and the status of women.
- have extensive experience speaking and lecturing on legal issues and the practice of law to groups, associations and elementary and secondary schools; publicly, and on television and radio; also lectured in law at Carleton University, and am an instructor in family law at the bar admission course in Ottawa.





## Zenon Raciunas

*Richmond Hill*

### Background:

- 44 years old
- Married with two children
- LL.B. 1975 Osgoode Hall
- Called to the Bar 1977

### Practice:

- As a sole practitioner and as a member of several firms.
- Currently, I am associated with the firm of Boyd, Cumming in Newmarket. I maintain offices in Richmond Hill as well. I have a litigation practice.
- I have been the Standing Agent for the Attorney General of Canada responsible for federal prosecutions at Newmarket Court since 1982.

### Associations:

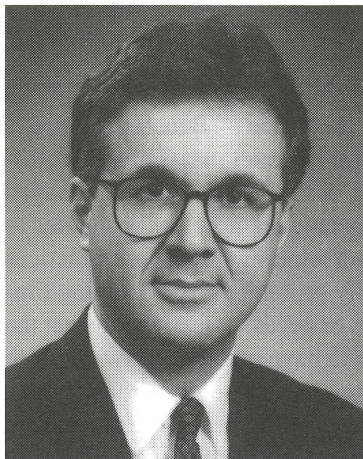
- Executive of the criminal lawyers section of the York Region Law Association
- Board of Directors of Alpha House, a non-profit rehabilitation centre.

The reason for my decision to run as a candidate for the office of Benchers emanates from the crisis that the E. and O. Program has caused for large segments of the profession. I have watched, as the escalating costs of the E. & O. Program, have damaged the ability of many members to practice law. Young lawyers now find it harder to enter practice, some older members are precluded from winding down their practices in a dignified manner, other members are economically prohibited from running limited practices so they can devote time to other interests or needs. It is my view that the foregoing are both necessary and beneficial members to have practising law, for both the public interest and the profession's own well being. Consequently, my goals as a benchers, if elected, would be firstly, to address and resolve the negligence insurance issue, on a reasonable basis and secondly, to restructure the method of election of Benchers on a democratic basis.

The operation of the E. & O. Program by the Law Society over the last several years has resulted in a financial disaster. The reasons for this disaster, as I understand them from the Report to Convocation of the Insurance Task Force and the Insurance Committee, are incredible. They range from computer errors costing 6 million dollars to unforeseen potential income tax liability of 5 to 10 million dollars. It is painfully obvious, from viewing the recent history of the Lawyers Professional Indemnity Company and the E. & O. Program that they are both expensive failures. Despite this obvious state of affairs, the Insurance Task Force and the Insurance Committee, in their report to Convocation, nonetheless, conclude that the Society must continue the E. & O. Program. The Task Force and the Committee do not indicate what larger amount of deficit would be enough of an incentive to discontinue the Program. It is my view that this experiment conducted by the Law Society, of attempting to run an insurance company, should be ended. It is time to return the business to insurance professionals and time for the Law Society to return to its mandate of ensuring that there are honest and competent lawyers available to the public.

The debacle of the E. & O. Program is tied to a larger issue, being the form of government of the Law Society itself. The Law Society is one of the few organizations in this country that does not operate elections on the principle of one member equals one vote. Therefore, my second goal as a benchers, if elected, is to convert the Benchers election process to a democratic one, along the lines of every social club, charity and municipal, provincial and federal government. The current rules are an embarrassment to the profession as a whole. I believe more representative and accountable Benchers would be more in keeping with Canadian democratic traditions and more effective at serving the public interest.

In addition to the foregoing two issues there are a host of concerns facing the profession. It is my view that the Law Society, when addressing these concerns, should focus its energy and finances on its core responsibility, that being to ensure the honesty and competency of its members. All other issues are collateral to this function. As a Benchers, I would strive to keep the focus and attention of the Society on this fundamental responsibility.



Age: 38.

Called to the Bar: 1982

Partner in the law firm of Behr and Rady, London, Ontario

Areas of Practice:

Criminal Law, Child Rights

Panel of the Official Guardian;

University of Western Ontario

LL.B. - 1980; 1986-1991: Board

of Trustees, Middlesex Law

Association; 1992: President,

Middlesex Law Association;

1993-1995: Member of Execu-

tive, Ontario Criminal Lawyers'

Association; 1994-1995: Non-

Bench Member; Legal Aid

Committee of L.S.U.C.

## Andre J. Rady

*London*

The past few years have been devastating to our profession. We have endured a prolonged economic recession in which expenses have escalated and revenues have decreased. Issues such as the insurance crisis, Legal Aid and the role the Law Society plays in governing us have been deeply divisive. Moreover, during all of this, the Law Society has been considered by many lawyers to be a foe rather than a friend. Unfortunately, these problems have distracted us from doing what we are supposed to do which is to be focused on solving the problems of our clients.

In order for the Law Society to fulfil its stated role of governing our profession in the public interest it must see to it that the profession is content and confident in its outlook on the future. It seems to have been lost that the public interest can best be served by lawyers who are happy in what they do rather than by anxious lawyers who perceive that their every move is subject to the cold scrutiny of a governing body that is quick to condemn but slow to support. Before the Law Society can effectively operate it must win back the confidence of lawyers .

The Law Society must not be governed in secrecy. The profession must be consulted on all issues of importance and benchers must be responsible to their constituents. Spending and fee increases must not occur unless and until the profession can be shown that they are absolutely necessary. The insurance issue must continue to be reviewed and the profession must be assured that premiums are commensurate with risk and the provision of adequate coverage.

Continuing Legal Education must be provided on a basis which is affordable and accessible to lawyers throughout Ontario. In this regard more effort is required to ensure that C.L.E. programs are made available outside of Toronto and that County Law Libraries are maintained and kept current.

The Law Society must vigorously support the Legal Aid Plan and continue to govern it. Ontario must hold firm against the movement away from *judicare* which has been sweeping the other provinces. This issue is not only important to lawyers but also is important from the standpoint of providing the broadest access to justice to the public.

There are no quick fixes or easy answers to any of the problems facing us.

There is only hard work. I am committed to doing this work.



Barrister and solicitor entitled to practice Law in the Province of Ontario. Called to the Bar in 1986. Partner in Ross & Ross, Goderich. Married with two children.

LL.B. 1984 Faculty of Law, University of Western Ontario. Awarded prize in Torts. Awarded prize in Civil Liberties and Human Rights.

Member of the Canadian Bar Association. Appointed to the Provincial Council of C.B.A.O. President of the Southwest Region Women's Law Association (Spring '93 to present).

Member of the Huron Law Association, chair of Library Committee, member of Bench and Bar Committee. Member of Middlesex Family Lawyers' Association. Part-time Assistant Crown Attorney (June 23, 1986 to present). Official Guardian Panel Lawyer, Personal Rights. Counsel for the Legal Aid Mental Health Panel of Huron County. Counsel for the Women's Shelter and Counselling Services of Huron. Speaker/panellist, October 1st 1993, Regional Conference of Ontario Court (General Division) Justices - Topic: "The Aftermath of Moge and Support for Dependents" Speaker/panellist, December 7th 1994, Oxford Project Police Training Course. Frequent guest speaker and lecturer to local community groups, on a variety of legal topics.

## Heather J. Ross

*Goderich*

### COLD REALITY IN THE LEGAL PROFESSION

Lawyers throughout the Province who always expected the Law Society to fairly represent their interests have been shocked into realizing their governing body, when mismanaged, passes the problem on to the profession. The \$154 million error made by the Law Society's own Insurance Plan was 'fixed' by a committee of the Law Society, who met behind closed doors. The result was a plan that left the profession to pay for the 'mistake'.

### PROBLEMS IN OUR SELF-GOVERNING PROFESSION

- 1) Lack of accountability by the Law Society for its own errors and omissions.
- 2) An unwillingness or inability to understand the concerns of the profession and speak out on their behalf.
- 3) An unwillingness to seek input from the profession generally, before important decisions are made.
- 4) Lack of resolve to vigorously protect our status as a self-governing profession and ensure full independence.

### IT'S TIME FOR ACTION

- 1) It's time the Law Society proudly set out lawyers' contributions to our society instead of apologizing for our legitimate requirements and interests.
- 2) It's time the Law Society let the profession know why Benchers' law firms were allowed to bill its own insurance plan in excess of \$6 million for representation of the profession.
- 3) It's time the Law Society deferred fee hikes in our errors and omissions premiums, to give the profession an opportunity to have input into the problem so that the profession (who pay the premiums), become part of the solution to the errors and omissions insurance crisis.
- 4) It's time too, that the Law Society seriously consider the recommendations of the Ontario Section of The Canadian Bar Association white paper on insurance which recommended many creative and less costly solutions to the errors and omissions crisis.
- 5) It's time the Law Society answered one very critical question... "Should the Law Society be in the insurance business at all?"
- 6) It's time the Law Society began to work with groups who have legitimate concerns and credible solutions to problems affecting the profession such as:
  - A) The Canadian Bar Association - Ontario
  - B) The County and District Presidents' Law Association
  - C) The Ontario Real Estate Lawyers Association
  - D) Family Lawyers Associations
  - E) The Criminal Lawyers Association
  - F) Women Lawyers Associations, and others.
- 7) It's time the Law Society was accountable not just to large urban law firms, and the government of the day. It's time the Law Society was accountable to the majority of lawyers throughout the Province who practice law alone or in small and medium sized firms.
- 8) It's time the Law Society entered the 20th century and hired experts to portray to the public an accurate image of our profession as competent, caring and involved members of our society and our communities.

### WHO SPEAKS FOR US?

If I am elected Benchers I will welcome input from the profession **before** casting my vote at Convocation or on committee. To answer the question I have heard raised by many of my colleagues in the profession... 'Who will speak for us?' I will.





## David W. Scott, Q.C.

Ottawa

- Graduate, Loyola College and University of Ottawa
- Call to the Bar, 1962
- Partner, Scott & Ayles
- Certified Specialist, Civil Litigation

### Chronology of

#### Community Activities:

- President, John Howard Society of Ottawa
- President, County of Carleton Law Association
- Member, Chief Justice's Committee, Bench and Bar
- Member, Board of Governors, Carleton University
- Member, Board of Trustees, Ottawa General Hospital
- Director, United Way
- Fellow, American College of Trial Lawyers
- 1988, Milvain Chair in Advocacy, University of Calgary

#### Bench Activities:

- Chair, Special Committee on Bench Elections
- Vice Chair, Equity in Legal Education and Practice Committee
- Vice Chair, Specialist Certification Board
- Chair, Discipline Committee
- Trustee, Law Foundation of Ontario

When I ran for the office of Bench in 1991, I indicated in my statement that I regarded the defence of self-government as a matter of great importance to the continued independence of the Bar. Today, as I write this, I face an electorate which is increasingly doubtful about the commitment on the part of the Law Society to represent its interests. This criticism must be met head on by Benchers, the deficiency eradicated and the work of self-governance continued. I feel more than ever the need to ensure our entitlement to govern our affairs in the public interest against a growing body of opinion, both within and without the profession, which doubts our capacity to do so. Imaginative leadership will be required over the next four years.

The areas of particular concern to me include:

- **ERRORS & OMISSIONS INSURANCE** – getting to the bottom of the extent and meaning of the historical deficiencies in the administration of the plan; getting on with eradicating the deficit and ensuring that affordable insurance is available in the immediate future.
- **LEGAL AID** – rationalizing available services and the definition of the Legal Aid constituency so as to ensure that every citizen of Ontario unable to afford a lawyer is accommodated in appropriate cases; this either through traditional Legal Aid facilities or, alternatively, new modes of *pro bono* service which will serve the public and the profession in accordance with non-discriminatory standards and in a manner which will provide development of dispute resolution skills under the tutelage of senior members of the Bar.
- **LEGAL EDUCATION** – treating with the Law Schools so as to ensure that the Bar Admission Course is not a post-graduate duplication of conventional legal training and is returned, in a digestible form, to an articling supplement, at the same time rationalizing articles themselves in the light of the progressive loss of available articling positions. Continuing to develop specialization within the profession as the way of the future in serving the public with competence, at reasonable cost, while at the same time developing, on a fully accessible basis, career opportunities for an expanding profession.
- **PROFESSIONAL CONDUCT** – revitalizing the work in progress to convert the present body of Rules of Professional Conduct into a user-friendly practitioner's tool for successful practice including a renewal of our commitment to the traditional central role of professional ethics in the delivery of legal services.
- **ECONOMICS** – rationalizing and effecting change in the economics of practice, including the high cost of operation of the governing body and its necessary services; developing imaginative buffers for younger lawyers so as to ensure that those both qualified and suited for practice are not disadvantaged by unwarranted cost in electing to pursue a career in the private practice of law.
- **THE VOICE OF THE PROFESSION** – urging the consolidation of the voices of the profession in their interface with the Law Society so as to ensure that coordinated, imaginative and tough criticism of the Law Society's plans for self-governance is communicated in the most effective manner, thereby ensuring, as is more often than not the case, that the public interest and the interests of the profession are congruent.



## Robert James Smith

*Hawkesbury*

### Professional:

BSc (Appl) 1974, LLB 1977 (Queen's); Called to the Bar in 1979; Partner in Charbonneau Smith; Bilingual commercial and civil litigation practice in seven-lawyer firm

### Law Society:

Member Research and Planning Committee 1989-1992; Member Liaison Committee 1986-1992; Member of CLE Subcommittee on Real Estate Law 1990

### CBAO:

Member of Council (1992 - present); Member of Distance Education Committee; Member Services Committee County & District

### Law Presidents' Association:

Secretary 1986-1990; Member of Executive 1986-1992; Chair of Access to Justice Committee;

### General:

Past President of Prescott Russell Law Association; Founding organizer of Hospital Bikathon; Member of Hospital Foundation Development Committee; Past President of Hawkesbury Rotary Club; Member of Eastern Region Bench and Bar Committee 1990-1992; Membre de l'Association des Juristes (AJEFO); Endorsed by Prescott Russell Law Association.

Our governing body should support and promote the independence of the Bar, the principle of the rule of law and the importance and value of the contribution made to society by lawyers. The Law Society should actively and publicly support the above principles as well as ensuring that lawyers continue to practice to high ethical standards and with high levels of competence.

**Small Firm Representation.** I believe it is important that the perspectives and concerns of lawyers practicing in small firms and in small communities be represented at the Law Society. Our elected representatives should reflect the diversity of our members both in terms of area of practice and the region in which they practice. I solicit your support as a bilingual lawyer practicing in a small firm in Eastern Ontario. I believe I will bring an important perspective to our Law Society.

**Fairness To Practicing Lawyers And Public.** The Law Society must treat both members of the public and practicing lawyers fairly, considerately and with respect.

Changes by the Law Society to policies, procedures or standards which affect lawyers need to be clearly communicated to our members with adequate notice. The Benchers' Bulletin has been a good initiative which has helped to keep members informed of the issues being dealt with by the Law Society. I would support further improvement to this initiative to ensure that members be kept informed and have a mechanism to express their views on issues of importance to the profession.

**Consultation With Other Legal Organizations.** Before major policy decisions and before major increases to fees or insurance premiums are made, the Law Society should solicit views from other representative bodies such as CBAO, CDLPA, Advocates Society, Women's Law Association, Criminal Lawyers Association, Ontario Real Estate Lawyers Association, etc. Mechanisms should be developed to allow for this consultation on a regular basis. Communications between the Law Society and other major legal organizations representing lawyers should be improved.

**Real Estate Practice.** The problems being experienced in the area of real estate practice must be addressed by the Law Society. The combination of high risk and a recession causing low volumes and low fees has made it difficult to practice conscientiously in this area. The real estate problems must be dealt with in a fashion that is fair to both the consumer and to the lawyers delivering the services. Any solution proposed should ensure that the dignity of the profession is preserved as stated in the Law Society's mission statement.

**Future Legal Needs.** The Law Society should look forward and plan to meet the changing needs of both the public and lawyers. The Research and Planning Committee's mandate should clearly specify that it is to identify changing needs and recommend steps to be taken to allow the legal profession to meet these needs in the future.

Initiatives such as ensuring that lawyers are properly trained and involved in delivering ADR services is one such example. In addition, the Law Society should be actively involved in pressuring the government to deal with the delays in our civil trial lists. The inordinate delays bring the legal profession and administration of justice into disrepute. Contingency fees should be implemented to allow clients of modest means to have access to legal services. The Law Society should also study the feasibility of offering a legal insurance plan to the public where lawyers are compensated at their regular hourly rate and where the client has the right to choose the lawyer of his or her choice. I believe these are some ideas that would allow the Law Society to act proactively rather than reactively to improve our justice system.

Le Barreau du Haut-Canada doit continuer à élargir les services en français à nos membres. Ceci est particulièrement important dans l'est de la province où un grand nombre d'avocats francophones pratiquent.

I wish to offer to serve as a Benchers to represent fairly the interests of all lawyers practising in Ontario, regardless of their area of practice or location. I ask for your support.



## Tamara Stomp

*Windsor*

I was called to the Bar in 1981 after graduating from the University of Windsor, Faculty of Law. For the first seven years, I practised solely criminal law in Toronto in association with one other lawyer. In 1988, I moved to the Windsor area and continued practice as a sole practitioner in the areas of criminal, family, some immigration/refugee work and part-time Crowning. At all times, my clientele has been mostly Legally Aided. I am a member of the Canadian Bar Association, Criminal Lawyers Association (Toronto), Criminal Lawyers Association (Windsor), Essex Law Association, South Essex Bar Association, Essex County Association of Women Lawyers, South West Women's Law Association and Essex County Family Law Lawyers Association. My current volunteer work includes sitting as President of the Board of Directors of St. Leonard's House - Windsor.

I feel as if I am being run out of business.

Not only is the government taking away my profit, but it appears as if the Law Society is not conducting its affairs in a manner that is benefiting the profession generally or individual practising lawyers. I am outraged at the E & O fiasco. I am disappointed in the changes unilaterally imposed already and the proposals for the future. I believe Tail premiums are unconscionable. The retirement of an estimated ten percent of our members by June, 1995 will mean that the rest of us will be left shouldering a larger share of the deficit. Astronomical rates mean that lawyers in their early years cannot afford to stay in business and that someone like me will not be able to afford to hire an associate. I am afraid that we will return to the time when gaining legal experience was without monetary reimbursement and the profession was the purview of a select group. I am shocked at the previous distribution of E & O defence work and frustrated with the lack of accountability with respect to the whole matter. I do not want a governing body who spends its time debating what is already the law (Rule 28) and the change of name of Treasurer to President and the Law Society of Upper Canada to the Law Society of Ontario, when there are more important matters at hand. I want to be assured that the fees and insurance monies I pay are being used efficiently. I want to know the system will continue to work for those financially disadvantaged and that Legal Aid will not be eroded further. I look forward to the time when our governing body displays confidence in its members so that it can be reciprocated.

If you feel that there is a change needed in the governing of the profession, then you should exercise your vote in this election. If you feel that your interests can be served by someone who is forthright and honest, then you should vote for me.





## Harvey T. Strosberg

*Windsor*

Born in Windsor, Ontario, 1944  
 Graduated - Osgoode Hall,  
 1969; called to the bar, 1971  
 Partner, Gignac, Sutts, 1972;  
 Q.C., 1982; Certified Specialist  
 in Civil Litigation  
 Associations - Advocates'  
 Society, CBAO, Essex Law  
 Association, American College  
 of Trial Lawyers  
 Elected benchers, 1987  
 Past chair, Equity in Legal  
 Education and Practice Com-  
 mittee  
 Past Chair, Research and  
 Planning Committee  
 Past Chair, Discipline Policy  
 Committee  
 Chair, Insurance Task Force  
 Chair, Board of Directors,  
 Lawyers' Professional Indemnity  
 Company  
 Frequent speaker at confer-  
 ences and programs conducted  
 by Law Society, CBAO, Advo-  
 cates' Society and other  
 professional organizations  
 Commission counsel, Krever  
 Commission (1978-1980)

Our profession now faces some momentous challenges, not least of which is the one with which I have been grappling virtually daily since the summer of 1994, the insurance deficit.

Before being asked by Convocation to chair the Insurance Task Force and to inquire into the amount and implications of the insurance deficit, I served for two years as Chair of the Discipline Policy Committee. In that capacity, I hope I was of some assistance in opening up the disciplinary process to greater public scrutiny and accountability and in forging a fair and consistent body of disciplinary policies, procedures and precedents for the overall benefit of the profession.

I devoted myself virtually full time from July, 1994 through October, 1994 to the work of the Insurance Task Force. Following completion of the Task Force Report, I have travelled the province meeting with members of our profession, noting complaints and suggestions, and participating in an exhaustive discussion all aimed at improving the insurance program. I assure the profession that the principles set out in the Task Force Report and the insurance system adopted for 1995 are not immutable. Rather, they are but a starting point in developing the insurance program. Much remains to be done. Should the Society require its members to carry mandatory professional liability insurance? Should the Society operate the Lawyers' Professional Indemnity Company (LPIC) or should liability insurance be left to the private market? What should be the functional interrelationship of LPIC and the Law Society? How should LPIC's board of directors be appointed? How can the insurance levy be reduced? These questions, and many more, are still to be answered.

I believe LPIC must function independently of Convocation. The majority of the members of LPIC's board should **not** be benchers. They should be persons knowledgeable and informed in insurance matters. Moreover, some board members should be nominated by interested organizations such as, for example, the Advocates' Society, CDLPA and the CBAO. LPIC must be operated in the best interests of its insureds, the members of the profession.

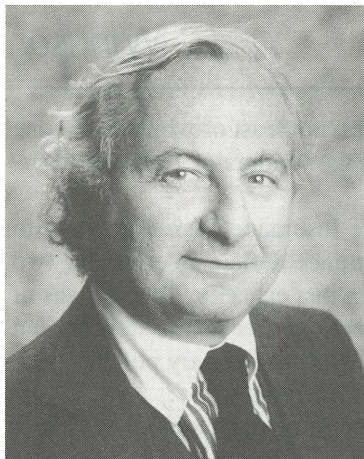
I believe that mandatory insurance is necessary in the interests of the members of our profession. Yet LPIC should only continue to provide this insurance coverage if it can demonstrate empirically within the next two years that it can deliver its product cost-effectively, competitively and in a business-like manner.

I believe I have made a contribution to LPIC's reorganization and to the opening up of its operations to scrutiny by the membership.

If re-elected, I pledge to use my very best efforts to obtain the data necessary to answer the still-unanswered questions and to resolve the insurance problem once and for all by ensuring that LPIC operates in an appropriate business fashion, levying the members of the profession for insurance only on a basis that reasonably reflects risk.

The insurance deficit problem is an extraordinary burden to the members of the profession. It is also at once a symbol and a challenge. As a symbol, it suggests that in the past the Law Society has not been sufficiently well organized or efficient to recognize and respond decisively to important issues as they arise. The challenge, of course, is to continue to deal with the problem squarely and overcome it, thereby reaffirming the central role of the Law Society in maintaining the profession's self-governance and restoring the faith and confidence of all the members in their governing body.

I hope you will allow me to continue this important work.



## Gerald A. Swaye, Q.C.

*Hamilton*

1. Married with four children;
2. Called to the Ontario Bar in 1964;
3. Specialist, certified in litigation;
4. Past Director of:  
Advocates Society;  
Hamilton Law Association;
5. Past President of:  
Hamilton Lawyers Club;  
Hamilton S.P.C.A.;  
Beth Jacob Congregation;  
United Jewish Welfare Fund;  
Hamilton Jewish Federation.
6. Presently Director of:  
Hamilton Y.M.C.A.;  
United Israel Appeal Canada;  
Robert Land Academy.
7. Jewish National Fund of Canada's 1993 Negev Dinner Honouree.

### RE: INSURANCE DISASTER

I am concerned that the insurance problem has been sprung upon the profession without any forewarning. Through the Report to Convocation of the Insurance Committee of October 28, 1994, the Committee had to react to a very urgent situation.

I am concerned about the impact this has had on the various members of the Bar, particularly senior members who may have contemplated retirement in the next several years, but who may well now be forced to retire in 1995, because of the onerous provisions of the Errors and Omissions coverage. The younger members of the Bar simply cannot afford these enormous fees or assessments either. There has to be a better approach to be fair to all. Why has an otherwise good idea been allowed to come to this. Should we look again at "opting out" of the business.

### RE: ACCESS SENIOR ASSISTANCE PRACTITIONER SYSTEM (A.S.A.P.S.)

I think the time has come that the Law Society must consider a very active Senior Practitioner Assistance Program. I propound the idea that each graduating lawyer be aligned with a senior member of the Bar to assist him or her in regard to day to day practice, as requested by a young lawyer. The time has long gone when we can expect the Law Schools and the Law Society to completely educate our new lawyers in all of the ramifications of actual practice. The emphasis should be on "pitfall" avoidance.

### RE: CONTINUING EDUCATION

Consideration should be given to making various video tapes of the Continuing Education Program available to the Bar, through our Law Libraries, with an emphasis on loss prevention. I am sure that if all the "horror" stories were anonymously publicized much could be learned.

I believe that the A.S.A.P.S. and availability of Continuing Education videos might well result in a reduction in the amount of claims made on our Errors and Omissions coverage in the future. If we cut down on claims then, as surely as night follows day, our premiums will likewise be cut down.

### RE: CONTINGENCY FEES AND INCORPORATION OF LAW PRACTICES

This was approved by the Law Society and sent to the Government for approval some three years ago. Representations must be made to the Government to implement these recommendations forthwith.

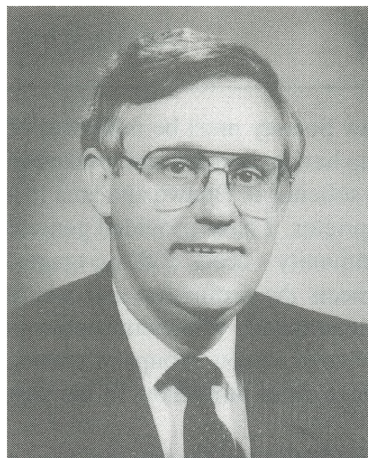
### RE: LEGAL AID

The whole issue of Legal Aid once again must be revisited. Legal Aid has now become "Big Business". Proper Government funding must be made available. It is not fair that the profession is required to sacrifice so much. At the same time, The Public Defender System has to be completely resisted.

### RE: NUMBERS IN THE PROFESSION

We must once again look at the number of persons who enter Law School. There are many current practitioners today encountering difficulties in earning a living, and it is not fair to those persons entering Law School not to have something available to them, so that they can at least earn a living when they go out to practice law. Consideration, therefore, must be given to the number of persons accepted into Law School. This will assure a better served public and avoid the disappointment that newly graduating lawyers obviously encounter.





## Robert C. Topp

Sudbury

Sudbury, 49 years, married,  
three children;  
B.A. (Laurentian) 1972, LL.B.  
(Toronto) 1975, called 1977.

Elected a Benchers 1988.

Sole practitioner.

Benchers Activities 1994/95:

- County & District Law Presidents Liaison Committee (Chair)
- Discipline (V/Chair)
- Libraries and Reporting (V/Chair)
- Library Review Committee (re: Funding of County & District Libraries) (Chair)

Past Benchers Activities 1988/94:

- Discipline (V/Chair)
- French Language Services (V/Chair)
- Finance
- Legal Aid
- Legislation/Rules
- Professional Conduct
- Benchers Election (Chair)
- Discipline Review
- Reforms and Reforms Implementation
- French Language and Services Implementation

Endorsed by: Sudbury District Law Association, Manitoulin Law Association, Algoma Criminal Lawyers Group, Nipissing Law Association, East Algoma Law Association, Cochrane Law Association.

I foresee continued challenges for the Law Society. Some issues as I see them:

**Errors & Omissions.** Convocation must consider the fundamental question of continuing LPIC or whether private insurance is available. E & O cannot be managed as it has been in the past. I propose:

- A rating system so as to effect fair premiums based on RISK.
- LPIC Board Members to include CBA(O), CDLPA and others.
- Vigorous defence of claims by counsel of the members choice.
- Tendering to establish a list of approved counsel based on experience, expertise and cost. No counsel should be prevented from being awarded E&O work if that counsel has successfully completed the tendering process and has been chosen by the member to defend the claim.
- Reporting to the profession on LPIC including audited statements.
- Revisiting "floor prices" and making representations to the Combines authorities to remove the restrictions.
- An effective "stop loss program."
- Requiring lawyers who have continued negligence claims to improve or face the consequences.

**County & District Library Funding.** Funding of the Libraries through collection by the Law Society of the Library Levy.

- Future funding by equal contributions from all fee paying lawyers.

Equality of funding and accessibility for all members of the profession, not only those who are located in the major centres.

**Numbers of Lawyers.** The strain on the profession by the admission of large numbers of new members is enormous. This is an issue that demands attention and cannot be ignored.

**Legal Aid.** Continuation of the Certificate system. Strong opposition to the cuts proposed by government.

**Communications.** A complete review of our communication process as I believe the Society has fallen far short of its responsibility to consult prior to initiatives being debated in Convocation. I have routinely sought the input of members of the profession throughout Ontario and shall continue this consultation.

**Law Society Financial Matters.** Financial responsibility is as important for the Law Society as it is for each of us. We shall require restraint in expenditures. I believe we have reached the limit as to the amount we can charge our members.

**Benchers Elections.** I support the Regional Election of Benchers and shall continue to press for the legislative changes to allow such elections to take place.

**Treasurer Election.** Election of the Treasurer by the Benchers is a process that excludes the voice of the profession. Fundamental change is required to ensure the professions participation. I shall propose a special Committee to review the process and to propose amendments based on the following criteria:

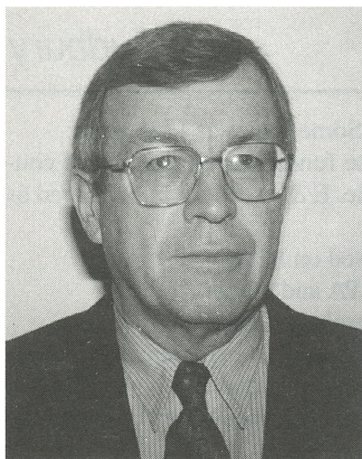
- a) The Treasurer be elected from Benchers candidates once every two years in a Province wide election based on the principle of one vote for each member.
- b) A mechanism be instituted that would foster each candidate placing policy issues and proposals before the electorate.

**My Record.** I have attended and participated in Committee and Convocation and have been actively involved in the discipline process. I have consulted on a wide basis seeking the input of the profession on matters before Committees or Convocation prior to passage. I shall continue this consultation. I have spoken out on the issues based on my own convictions and the input of many members of the profession. I believe in advancement of the profession's interest on an equal footing with the public interest. I support the recorded role call vote at Convocation.

**Payment to Benchers.** I do not support the payment of Benchers by the profession. The imposition of any further "tax" on the profession to pay Benchers is simply incredible. I shall never support paying Benchers.

**My Promise.** If re-elected, I shall continue to consult with you and to listen to your concerns and advice.





## Richmond C. E. Wilson

*Manotick*

Born in Ottawa, Ontario in  
1938

Education:

Primary & Secondary School -  
Ottawa

University of Toronto

B.A. - 1960

University of Ottawa

LL.B. - 1963

Called to the Bar in 1965

Appointed Queen's Counsel in  
1977

Self-employed since 1968 -  
generally in the area of Real  
Estate, Estates, Corporate Law,  
and Administrative Tribunals.

Participant in Continuing Legal  
Education

Appeared as expert witness

with regard to Real Estate

Member of C.B.A. and

Carleton Law Association

Member of Kiwanis

Past Chairman of Vista Centre

(residence of head injured  
adults)

I solicit the votes of persons who believe that the Law Society must be reflective of the entire scope of the profession. I am a solicitor who having articulated and worked in larger downtown Toronto firms chose to practice as a solicitor in Ottawa and area in a smaller firm of which I was and continue to be a proprietor. I have provided general legal services to large numbers of persons in the community - deeds and mortgages, wills and estates - the front line where the public meets the profession and where public attitudes and perceptions are in large measure determined. While our problems differ greatly from those who provide specialized advice to narrow groups of clients, our aims are the same. The means proposed to achieve these aims have in the past many times ignored the realities of our large group.

We all wish to belong to a profession which provides a reasonable income, a public acceptance and appreciation and a style of life which acknowledges that while law is jealous of sharing our time to other than its pursuit, we have families, charities and personal time which must have a significant part in our lives. To the vast majority of small firm lawyers mandatory attendance at day long seminars beyond a radius of an hour drive is prohibitive. With overhead at its present level if family time is to be remembered any number of Continuing Legal Education days is financially out of the question. Why not examine better use of written materials and encourage ad hoc local groups to accept their study as an obligation.

The Bar Admission course keeps receiving rave reviews from the salaried staff. Yet annually the exiting students express disgust for the lack of stimulation and useful consumption of time. This institution is a significant portion of the annual costs of belonging to this association - surely there is something wrong and we can amend it.

We can never in this generation of lawyers allow the insurance fiasco to happen again. It is not an option to have someone's chosen career put into peril because of the unaccounted negligence which has resulted in this situation. Were this to have happened to any other group, we as lawyers would have been commencing actions for damages on behalf of our injured clients. I am asking for not only votes from you who have been injured but from all right thinking lawyers who know that if you are grossing \$50,000.00 you cannot afford such a levy.

I have been a 30 year observer, a minor participant and a writer of letters to Benchers. I have some confidence that the words of the recipients of these letters are true and that my thoughts have been constructive. I wish to participate fully in the new horizons of our Society and pledge my time and energy to this end.



## Bradley H. Wright

Nepean

Nepean/Ottawa, 613-825-8800

Author of *Identification of and Solutions to Our Profession's Problems*.

Endorsed by the Ontario Real Estate Lawyers Association, and its Eastern Ontario Chapter, and colleagues across the spectrum and across the Province.

LL.B., University of Ottawa.

Called in 1983.

Partner in Wright and Bartol.

Experienced primarily as a solicitor but also as a barrister in both large city/medium-size firm and small-town/small firm settings.

Former law lecturer at

Algonquin College. Former

Treasurer of Carleton-Ottawa

Residence for Disabled Inc.

Member of the Carleton

County Law Association.

The Law Society's stated mission is to protect the interests of the public. **That is not meant to exclude the interests of the Society's own members.** It is in the public interest to ensure that lawyers are paid fairly for delivering services of high quality, even if that means greater control by the Society of standards, rates, and admissions to the Bar.

Real estate law, a field both treacherous and essential to the overall health of the profession, has become a loss-leader, a source of an enormous increase in claims, and is in danger of being usurped. In the U.S., real estate fees and standards were allowed to erode until title insurers took over (who then made their transactions more complicated than ours), but Bar admissions were not adjusted. This forced many more lawyers into barrister's work. The damage to their system is patent, but only a few of their lawyers benefitted. We have an obligation to the public to restore the viability of real estate-based practices or reduce numbers or both, or we will suffer the same consequences.

**Solicitors who are paid fairly are more conscientious and are content to remain solicitors.** The profession and the public are not well-served when thousands of solicitors are so underpaid for real estate that they are compelled to become sloppy, and to turn increasingly to litigation files to make ends meet. Solicitors who rely on real estate comprise our largest group of practitioners. Many barristers may not recognize the risk undervalued solicitors pose to their practices.

**Barristers who are busy are more efficient.** The profession and the public are not well-served when barristers must compete with their more numerous solicitor colleagues for files, and when all lawyers are then compelled, increasingly and unknowingly, to expand files to fill the time and fewer retainers available.

A healthy solicitors' Bar ensures a healthy barristers' Bar. A healthy profession as a whole is not in conflict with, but is clearly in, the public interest.

The Bureau of Competition Policy has badly miscalculated the public interest, and has confused the roles and duties of professionals with the roles and duties of retailers. Retailers are not required, as a matter of professional conduct, to have the best interests of their customers as their highest priority even if it reduces their income. If the Bureau cannot be convinced of this basic distinction, the issues can be tested before judges who will have a better understanding than the Bureau of the economics and nature of our professional duties.

**Without contravening the Competition Act,** the Society can control access, devise minimum standards, suggest real estate rates, impose direct insurance penalties, fight the title insurers and no-lawyer lenders, and educate the public and legislators. Everyone will benefit because claims and E&O levies will fall, standards will rise, fewer solicitors will seek litigation files, established firms will expand, many more young lawyers will become associated with mentors, and service to the public will improve.

- The Transaction Levy must rise substantially; otherwise, many lawyers will just absorb it, as they have absorbed disbursement increases in the past, to attract clients, thus perpetuating the cycle of low returns and high claims.

- When it is established that lawyers have met our standard of perfection, it is absurd to take, and increase, the deductibles.

- As law schools are large revenue sources, the universities will not limit enrolment.

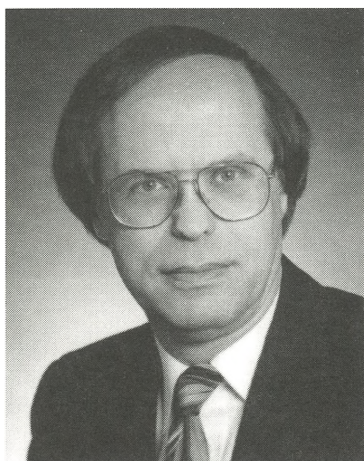
**While education may be a right, entry to the professions is not.** The Society must take its own steps to curtail admissions to the Bar.

I understand solicitor's and barrister's practices, large and small firm issues, city and small town settings, the hurdles faced by young lawyers, and the concerns of those approaching retirement. **I will work to bring about the needed changes,** and to make the Society more fiscally conservative and responsive to the profession as a whole. For the benefit of barristers, solicitors and the public alike, it can, and must, be done.





# Candidates from Within Metropolitan Toronto



## Robert (Bob) Aaron

Founder, president, editor,  
Ontario Real Estate Lawyers  
Association. Endorsed by  
O.R.E.L.A.

Called 1972. Sole practitioner,  
Aaron & Aaron.

Practice areas: real estate,  
corporate/commercial,  
estates.

B.A., Toronto; LL.B. Osgoode.  
Awarded School Key. Editor,  
*Obiter Dicta*

Authored and presented  
papers at CLE programs.  
Conceived and hosted sellout  
CLE program, "Surviving the  
New Practice of Real Estate,"  
1993. Participated in Law  
Society committees on  
transaction levy.

Recent speeches to lawyers in  
Ottawa, Cambridge, London,  
and Carleton County.

Speaker on legal themes to  
thousands of real estate  
agents, landlords, investors.

Active life member, Non-  
Smokers' Rights Association.  
Columnist, *Toronto Star*.

This election marks an unprecedented period of crisis for solicitors, barristers, and indeed the legal profession as a whole. My platform, which mirrors that of the Ontario Real Estate Lawyers Association, addresses many of the issues which face the profession as a whole. I believe these proposals will appeal to a broad cross-section of the profession:

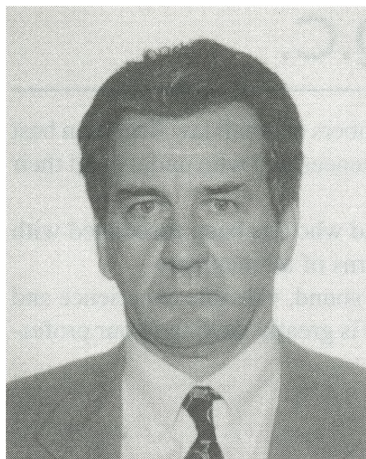
- My participation on the Society's transaction levy subcommittee has convinced me that the transaction levy must move from its initial \$25 to an amount determined by LPIC actuaries representing *the actual cost of the risk based on the area of law involved*. The current transaction levy has opened the door to full assumption by the public of all errors and omissions insurance costs.

Beyond a charge to each lawyer for basic coverage, **all** legal files would attract a transaction levy based on the relative risk. This might range from a nominal amount for criminal or family files to a higher amount for real estate matters.

Consumers of legal services who hire lawyers to perform transactions that carry an element of risk should directly bear the insurance costs of that risk.

**In this way, the costs of errors and omissions insurance for every insured member of the profession could decrease substantially.** We must lighten the insurance burden on lawyers who practise in "low risk" areas.

- Repayment of the LPIC deficit must be amortized over a period much longer than 4 years. A longer amortization of the debt could effect immediate cash flow savings.
- The E&O "tail premium" should not be implemented, and our deductible should only be called on in the event liability is proven or admitted.
- The biggest current threat to solicitors is posed by First American Title Insurance Company. If title insurance in Ontario ever replaces the title "assurance" offered by real estate solicitors, the real estate bar will collapse, and thousands of us will turn to barristers' work. Immediate action must be taken to counter this threat.
- A public relations campaign must be undertaken immediately to upgrade the public image of the lawyer.
- It is again time to review the issue of numbers in the profession. Why should lawyers be the only profession to offer unlimited access when other professions strictly limit new members? We *must* take action to close seats in the Bar Admission course or (preferably) in the law schools, and study the *per capita* need for lawyers in Ontario. It is also time to review the standards of the Bar Admission Course.
- The Law Society must be run like a business. A management consultant study must be instituted to recommend cost savings.
- The operation of the Law Foundation must be reassessed. The Foundation's agreements with the chartered banks allowing them to charge solicitors for certified cheques must be rewritten.
- The Law Society should never again have to go on bended knee to the government to bail out the legal aid program. The provincial government must be pressured to acknowledge its complete financial responsibility for Legal Aid. Why should lawyers have to pay a legal aid levy *and* discount their billings to the Plan?
- The Law Society's "mission statement" must be rewritten. The Society must become an advocate for the interests of the legal profession while simultaneously protecting the public interest.
- It is vital to establish and enforce minimum acceptable standards in the real estate bar, while at the same time promoting higher overall standards. A study must be undertaken of the relationship between fees and negligence claims.
- A real estate specialization certification program should be instituted.
- The operation of the complaints system should be streamlined to summarily deal with "crank" letters.
- We must stop referring to the Law Society as "they." **The Law Society is "us" - all of us.**



## Geoffrey D.E. Adair

Called to Bar 1969; articled Fasken & Calvin; practised civil and criminal litigation in Peterborough 1970 - 1976; now a partner with Enfield, Hemmerick, Adair & Wood practising exclusively civil litigation.

Author of "On Trial - Advocacy Skills Law and Practice", Butterworths, Toronto, September 1992, (402 pp.); past Civil Procedure II Bar Admission Course Instructor 1977 - 1984; former Chair C.B.A.O. Civil Litigation Section 1981 - 1983 (approx.); frequent lecturer at Advocate's Society, C.B.A.O. and L.S.U.C. programmes.

Cost reduction and containment must be the primary objective of Convocation over the next few years. A "sharp pencil" approach has to be taken to **all** aspects of the administration budget of the L.S.U.C. without unduly sacrificing quality of service to the public or the profession. Inflationary ideas such as possible remuneration for Benchers deserve strong opposition whenever they arise.

The Errors & Omissions Insurance program is a particularly sore point for members. It requires diligent and continued monitoring by Convocation. The L.P.I.C. directors must be encouraged to:

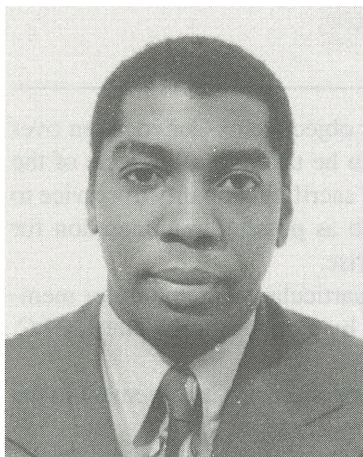
- canvass the financial prudence of full or partial private sector involvement in the program.
- institute truly effective loss prevention programs requiring the execution of mandatory certificates of compliance with reduced premiums for such compliance and significant penalties where a failure to comply results in serious loss.
- conduct a review of the equity of all sectors of the profession bearing equally the burden of premiums.

Continuing legal education is always a matter of importance. The emphasis deserves to be upon voluntary continuing legal education programs as opposed to the introduction of mandatory continuing legal education until such time as the latter is more adequately demonstrated to be truly effective. A greater emphasis could and should be placed upon strengthening the quality and relevance of existing specialist programs by raising the qualifications for obtaining the designation.

Efforts to promote the notion of equality of opportunity among all members of the Law Society deserve full support of worthwhile voluntary programs. There is no need to sacrifice such support even in times of fiscal restraint.

Many issues will arise that cannot be foreseen. I undertake on all matters to faithfully attend to and diligently participate in the affairs of the Law Society and to apply my best judgment to each individual issue having regard to the interests of the profession as a whole.





## Charles E. Archibald, Q.C.

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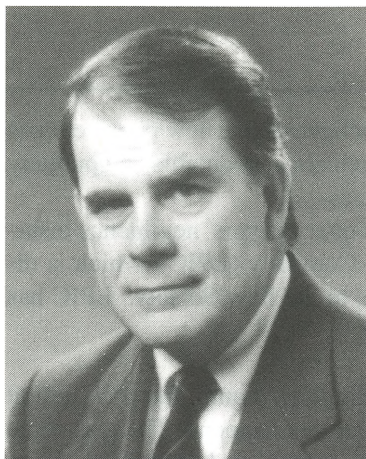
I believe that the interest of sole practitioners and members of small law firms can best be served by electing members who share their experiences and who understand their problems.

As one who has worked in both environments and who has been associated with a large law firm, I know that I can relate to the concerns of all members.

If elected, I shall bring to the Society, 25 years of sound, valuable experience and integrity, as well as, a minority viewpoint which I feel is greatly lacking in our profession.

Graduated from Osgoode Hall in 1967, and called to the Ontario Bar in 1969. He was an associate of Thomson Rogers, barristers wherein he practised litigation for 3 years following which he continued his litigation practice in his own law firm. He is presently Chair of the Metropolitan Licensing Commission, serves as a Deputy Judge in the Small Claims Court and participates as an instructor in the Bar Admission Course.

Mr. Archibald is actively involved in community service; is a member of the Regional Executive Committee of Scouts Canada, Toronto Region and is Chairman of the Special Needs Committee.



## Robert P. Armstrong

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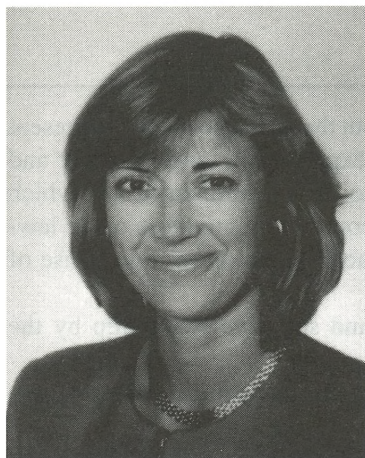
There is widespread concern among lawyers throughout the province about the present state of our profession. Increasingly, the concern is expressed in tones of anger and frustration. There are diverse interests which need to be accommodated and which range from those of the sole practitioners in smaller communities to those of the lawyers who practise at large firms in urban centres. Each has his or her own sense of isolation.

The next four years will require imaginative and sensitive leadership by the Benchers. Issues which must be addressed include:

- The governance and credibility of the profession - Benchers must listen to members and regain the confidence of the profession.
- The Errors and Omissions Insurance Program - we require accountability and fiscal responsibility.
- Legal Aid - we must ensure adequate funding in the future.
- Diversity and Equality - we must continue to strive for an inclusive profession.
- Access to justice - we must ensure access to the courts within a reasonable time frame and at a reasonable cost.
- Legal Education - we need to determine whether legal education is meeting the needs of the profession and the public we serve.

I do not offer any magical solutions. However, I am prepared to address these issues, to listen to our members, to ask tough questions and to help find fair and reasonable answers to the problems which face us.

B.A., Carleton University; M.A., University of Toronto; LL.B., University of Toronto; called to the Bar, 1967; partner of Tory, Tory, DesLauriers & Binnington; practises general litigation; Commission Counsel to Grange Commission on Railway Safety and to Dublin Inquiry on Drugs in Sport; Director of the Advocates' Society; Chair of Canada/U.S. Committee of American College of Trial Lawyers; Past President of the University of Toronto Law Alumni Association; lecturer and panellist in a variety of continuing legal education programmes; member of University of Toronto Academic Tribunal; Past Chair of the Board of St. George's College.



## Nancy Backhouse

- Called in 1979
- Certified Family Law Specialist
- Presently sole practitioner
- 1987 - 1994, partner at Fraser & Beatty
- 1980 - 1986, associate and partner at Kronby Chercover (6 lawyers)
- Labour arbitrator and mediator; Vice-Chair of the Grievance Settlement Board
- Part-Time Chair of the Police Services Board of Inquiry
- Part-time faculty Trial Advocacy- Osgoode Hall Law School
- Elected Director of The Advocates' Society
- Director of the Victorian Order of Nurses
- Former Complaints Commissioner for the Association of Professional Engineers of Ontario
- Member of Executive of the CBAO Family Law Section
- Instructor at the Bar Admissions Family Law Course
- Contributor to numerous continuing legal education programs which have most recently included being Co-Chair of the Advocates' Society 1994 Fall Convention Family Law Program and Co-Chair of the CBAO 1995 Annual Institute Family Law Program

I am a first time candidate for Benchers who strongly believes that a new perspective is required within Convocation if the Law Society is to remain accountable and publicly respected. The Law Society faces urgent, critical issues:

**The Insurance Debacle.** When the Law Society took over lawyers' negligence insurance, it set up the Lawyers' Professional Indemnity Company (LPIC), which is directly responsible to the benchers, and through them, to the Law Society. LPIC has been a disaster, characterized by gross incompetence:

(a) the deficit

In late 1992, LPIC reported a deficit of \$24 million. Eighteen months later, the deficit had grown by \$130 million to \$154 million! How did this happen? The task force insurance report reveals that the true deficit had been grossly understated all along. Some of the problems identified were:

- \$29 million due to actuarial ignorance of how lawyers' deductibles worked.
- \$11 million due to overstating investment income.
- \$10 million because LPIC forgot to include the cost of processing unpaid claims.
- \$6 million due to "computer error".
- \$9 million because LPIC's management and the benchers' insurance committee instructed the actuary to use an inappropriate discount rate.

(b) mismanagement

• In July 1992, our insurance company became a convicted felon. LPIC pleaded guilty in Provincial Court under the Insurance Act to failing to deliver a financial statement to the Superintendent of Insurance in a timely manner, and was fined \$5,000. The Law Society was not informed.

• LPIC failed to require its out-of-province re-insurers to establish trust funds to cover potential claims. The failure affected LPIC's capitalization, which is subject to statutory control. If LPIC had done its job, perhaps the Law Society would not have had to pump \$2 million into LPIC simply to bring it within the law.

• LPIC failed to collect about \$8 million in unpaid lawyers' deductibles with the result that more than \$5 million has had to be written off.

• LPIC spends over \$25 million annually on legal defence fees. Amazingly, there has been no tendering system to determine who gets this lucrative work, and much of it goes to benchers' firms. Moreover, benchers themselves have approved payment of rendered accounts, with no guidelines against which to measure their appropriateness.

(c) some solutions

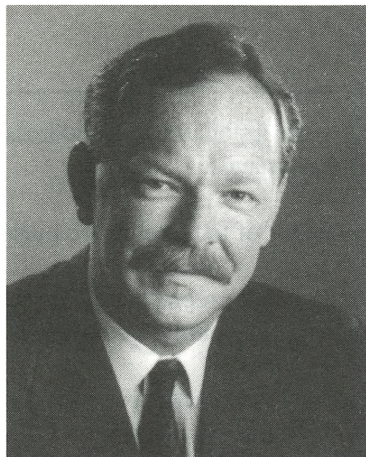
- The cost of insurance must reflect the risk.
- Lawyers practising in low risk areas should no longer have to subsidize high risk areas.
- The base levy must be substantially reduced and the risk reflected in surcharges.
- Repeatedly negligent lawyers may not be able to afford the cost of insurance.
- LPIC must protect its policyholders and pay only clearly meritorious claims.
- LPIC must reduce its expenditures for legal fees.
- We can no longer afford a Cadillac model of dispute resolution and must look to less expensive alternatives.

**Mandatory Continuing Legal Education.** We have to reduce the 4500 E&O claims made annually against our members. I sit on the Law Society's committee studying this problem. To date, LPIC has no accurate statistics to analyze the causes of E&O claims. Before mandatory continuing legal education is considered, we must get the facts.

**Rights - Women And Minorities.** The Law Society must make equality for women and minorities a real priority. Women lawyers are still paid less than men. Minorities, both visible and invisible, are still being denied equal treatment in the legal profession.

**It's Time For a Change.** I have the interest and the energy to try to bring some well needed changes.





## Mark G. Baker

I present myself to the membership as a representative of those of us who work as sole practitioners and members of small or medium sized partnerships and associations. Although we are the majority of Ontario lawyers, we have been under-represented at Convocation. In the absence of the high profile and support systems supplied by large firms, the representation of the important concerns of those of us organized in smaller associations has been difficult to achieve. Please support my drive to bring a common sense, pro-lawyer perspective to Convocation.

**Errors & Omissions Policies.** The startling difficulties experienced by the Law Society in managing claims made against lawyers has left many members concerned and unsettled. The breathtaking deficits experienced by LPIC have led to unprecedented increases in insurance levies and a long list of recommendations by the Insurance Task Force for methods of further increasing fund revenues.

While I have a keen interest in the way these and future insurance requirements will be funded, this recent crisis raises some rather profound questions:

- Why are Ontario Lawyers in the insurance business in the first place?
- Why is it apparently so easy (relative to other professions) to make a successful claim against a lawyer?
- What immediate and concrete steps can be taken to reduce lawyers' exposure to liability claims?

There can be no question that as the current trend continues, the cost of legal services will increase making quality legal services even less accessible to the public than they already are. High fees, deductibles and insurance levies operate as barriers to the practice of law for younger lawyers and those lawyers whose ability to practice is limited by family or other obligations.

As a Benchers I would work to rationalize the way our claims are managed and to protect the profession from excessive claims. I will work to ensure that the standard of practice for each of our members is maintained at appropriate and well defined levels.

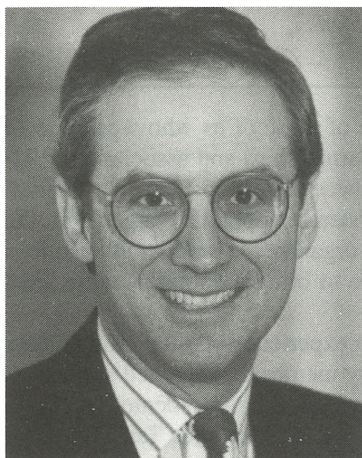
**Continuing Legal Education.** The law will continue to change and grow rapidly. The Law Society must view education as an ongoing responsibility to the profession and the public. The Law Society must play an important role in requiring practitioners to participate in education programs and making these programs available and relevant to all practitioners. Continuing Legal Education programs are still too expensive and held at inaccessible times and places. Continuing Legal Education should not be viewed as a profit centre but as a primary tool for reducing negligence claims and addressing issues of sub-standard practice.

**Not Just a Governing Body.** The Law Society has a responsibility to its membership to improve the environment in which we practice, teach and learn. More effort is required to make the practice of law accessible to women, care givers, minorities and the disabled. We have the ability to ensure and maintain flexible opportunities for these individuals whose diversity reflects the public we serve. We must work to remove those barriers which serve to discourage or exclude the participation and contribution of lawyers in non-conventional ways. This includes a review of the way we charge fees and insurance levies to our members.

Our public image needs attention. Most of us want the Law Society to protect and promote the reputation of lawyers and the environment in which we provide our vital services. We can and must improve the way we communicate with our public. Much of the public's frustration with lawyers stems from the fact that many of the rights and privileges afforded to the public by our "enlightened" system cannot be adequately protected by affordable access to legal services. Rights which are not protected will only give rise to resentment.

In some ways lawyers are unique amongst professionals. Through funding the Legal Aid Program, the Lawyer Referral Service and Dial-a-Law, lawyers in Ontario consistently improve public access to legal services. Lawyers cannot achieve the desired levels of accessibility on their own. The Law Society can and should actively encourage the participation of government in providing a more universal access to legal services through community legal clinics, appropriate partnering arrangements between lawyers and paralegals and further emphasis on a Provincial Court System which encourages direct public access.

- Called in 1981; B.A. (Queen's), Economics, 1976; LL.B. (Queen's), 1979; LL.M. (Cornell Law School) 1985.
- Author: Condominium Law in Ontario (Canada Law Book, 1991); Contributing Author: National Real Property Law Review; Lecturer: Canadian Bar Association of Ontario, Continuing Legal Education.
- Presently: Principal of Mark G Baker, LL.M. & Associates; formerly Partner in medium sized Toronto firm; Articles: Tory, Tory, Deslauriers & Binnington.
- Practice in the areas of Commercial and Industrial Real Estate, Expropriation Law, Administrative Law, Corporate and Commercial Transactions.
- Active in Community organizations; formerly Residential Tenancy Commissioner.



45, called to the Bar 1977, married to a full-time professional; McGill University, B.Comm. 1972 and University of Toronto LL.B., 1975; certified specialist in civil litigation, counsel to Statutory Compensation Funds and Association General Discipline Counsel; Chair of the CBAO Annual Institute of Continuing Legal Education 1994 and 1995; past Chair of Civil Litigation Section and elected CBAO counsel member; member of Continuing Legal Education Committee, Judicial Appointments Committee and the Law Society Joint Continuing Legal Education Committee; lectured extensively at Bar Admission Course, Canadian Institute, CBAO Continuing Legal Education and Certified General Accountants Association; litigation partner - Koskie and Minsky.

## Larry Banack

1995 will be a turning point for our profession. We have no option: we must address successfully the issues of fiscal responsibility and self-governance.

### **Self-governance:**

We only have the privilege of self-governance for the benefit of the public. We must restore the belief in our ability to meet that mandate.

The Law Society must be perceived by its own members to represent all of us, and to be governing in a competent, equitable manner, before the public's confidence can be restored.

Benchers must be more creative in handling the critical issues: the job crisis for young lawyers; the effect of recession, paralegals and technology changes on each practice area; the dramatic impact of the legal aid crisis and E&O levies on sole and young practitioners in family and criminal law; the unique problems facing real estate lawyers, out-of-Toronto lawyers, women lawyers, visible minority lawyers; and reform of the discipline process.

The benchers you elect must acknowledge these problems and how they affect us before they can effectively and creatively deal with them. They must communicate and listen to us. They must ensure that the stake of all members is recognized in the activities of convocation.

### **Fiscal responsibility:**

We still have no clear explanation for the cause of the E&O insurance crisis. This is unacceptable. Clearly, enormous mistakes were made.

It is equally clear that many lawyers are not satisfied with the steps taken to address the problem. We all recognize the need to rectify the errors and take action immediately. But the cost of doing so can not be borne completely by the current practising bar in the immediate future.

Law Society levies are more than many lawyers, already faced with a host of other problems, can bear. Our practices cannot withstand any additional overhead.

Loan arrangements should be made to deal with the existing indebtedness, amortized over at least 10 or 15 years, so the "crisis" may be alleviated and we can concentrate on long-range remedies and prevention of a recurrence.

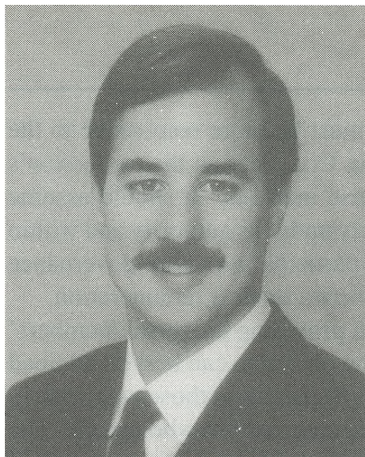
Every aspect of the service provided by the Law Society and the cost of such service must be examined from first principles. We must abandon facilities that are not appropriate, add the services required by the profession in the 90's and control all costs. When responsible financial management has been demonstrated, convocation will regain the respect and confidence of our profession.

### **Urgency:**

I am running in this election because I believe these problems are critical and urgent. I will bring to the position the energy, interest and directness that I have brought to my litigation practice and to my work as chair of the CBAO Annual Institute of Continuing Legal Education.

I ask for your support.





## J.D. (Doug) Barnett

I believe that thousands of lawyers across Ontario share the same feeling that I do: We have a Law Society that does not represent **our** interests, has grossly and negligently mismanaged our errors & omissions fund, and in general is actually more of a hindrance than a help to most of its membership.

Lawyers for whom I would be an effective and tenacious exponent are lawyers who have heretofore been on the outside. You know who you are. Young lawyers who are being stifled by archaic rules. Small practitioners who are struggling in the real world, and are even thinking for the first time of leaving the practice. Women who have only seen lip service paid to their special needs and concerns. Any lawyer who feels disenfranchised and ignored. Ask yourself this: if you are not in the establishment, do you seriously expect an old boy to represent **your** interests? Do you think he has even the slightest appreciation of what **you** are going through? Well I do. And I know how to get things done, and not just talk about them.

We will not have another chance for **FOUR MORE YEARS**, and it is a certainty that our profession will face more changes in the next four years than in the last forty. I know what the changes will be, because to a great extent, I have been a catalyst for change in our profession. I will channel change more effectively than someone who doesn't even comprehend the future or is too comfortable.

Every lawyer who is intellectually honest and really believes in free and open debate should insist on having at least one benchner who will ensure that absolutely **every** possible option and point of view is considered for our many issues and problems.

I have an initial pro-active program (as opposed to mere credentials and platitudes):

- called in 1986; current age 34 (born in Kingston, Ontario)
- LL.B. from Osgoode Hall Law School in 1984; B.A. in Economics & Accounting (U.S.)
- articulated: Davies, Ward & Beck (1984); associate: Woolley, Dale & Dingwall (1986)
- Founder, since 1987, J.D. Barnett Law Offices (12 offices throughout GTA) — general practice in the areas of real estate, business, litigation, family, criminal, and immigration law; 6 core lawyers, 2 associated lawyers, and 30 support staff; 15 languages spoken; technologically-advanced; progressive employment practices
- member of ORELA (Ontario Real Estate Lawyers Association)
- member of Criminal Lawyers' Association
- co-founder, Cranberry Cove Port Credit Ratepayers Association (Mississauga)
- involvement with community legal aid clinics
- member, Phi Delta Phi Legal Fraternity
- frequent author of legal articles in various popular media, as well as speaker at real estate seminars
- founding member, United Canada Coalition

1. **Open up the lawyers' governing power structure** and empower all under-represented groups.

2. Really **clean up the errors and omissions fund** mess in general, including considering a bond issue/commercial loan that will allow for affordable premiums during recessions, as well as selling off unproductive Law Society assets, and creating Law Society profit centres that can subsidize E.& O. And let's find out what **really** happened in the first place.

3. In general, **make the Law Society into a strong lobby group for lawyers** vis-a-vis the government and the public. It's disgusting to have the Law Society grovel to obtain higher Legal Aid funding. Why has it taken 5 years, and we still haven't had the incorporation bill proclaimed, despite being enacted? No question about it, the public must be protected. But the Law Society should spend at least as much time in protecting the interest of us, the members. We need to unleash an articulate and dynamic young benchner to be a media spokesperson to market lawyers as a profession as effectively as he has marketed his own law firm. I can get the public on our side.

4. **Trim the fat from the Law Society** so that our annual fees and E.& O. premiums can be reduced. I want value for my money. Don't you?

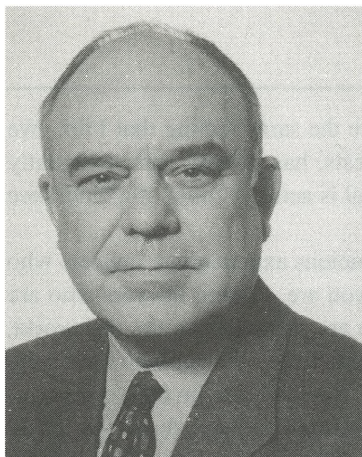
5. **Restrict the number of new graduates** just like doctors: this will remove some of the ridiculous competitive conditions prevailing because of an oversupply. Obviously, my program will evolve rapidly, in keeping with the great change that will envelop our profession during the next four years. Some other important issues include telephone/electronic referenda on major issues, regulation of paralegals, implementation of contingency fees, creation of a more effective Practice Advisory system and restoration of a benchner program for lawyers of merit.

In any event, I will be guided by you, the members. I pledge that I will be accessible to you. **Any** lawyer who takes the time to call me after the election to discuss an idea will receive the courtesy of a return of call and serious consideration (and perhaps aggressive advocacy) of the idea.

One last thing: I am both a practising barrister **and** solicitor. I do not represent a narrow practice area, and so will not try to divide and conquer, but rather will build bridges; we have enough fissures in the profession already.

You have 40 votes. Make one of them really count. Vote Barnett.





## Thomas G. Bastedo

### Legal and Educational:

M.A.; Ph.D. c. to b. 1971.  
Partner, Bastedo Sheldon  
McGivney & Peck. Certified by  
L.S.U.C. as a specialist in  
Family Law. Q.C. 1982.

### Law Society:

Elected Benchers 1983, 1987,  
1991. Former Chair of Clinic  
Funding Committee, of Legal  
Aid Committee, and of Re-  
search and Planning Commit-  
tee. L.S.U.C. Appointee,  
Judicial Appointments Advisory  
Committee. Chair, Finance and  
Administration Committee.  
Chair, Joint Committee on  
Governance and Operations.

### Other Professional:

C.B.A.O. Council (ten years).  
Board Member, Osgoode Hall  
Alumni Association. Trustee,  
Osgoode Hall Excellence Fund.  
Former Chair, Family Law  
Section of C.B.A.O. and of  
C.B.A. Board Member, Inter-  
national Commission of Jurists.  
Governor (Canada), Interna-  
tional Academy of Matrimonial  
Lawyers. Director, Osgoode  
Society. Member, Advocates'  
Society, and County of York  
Law Association. Former  
Lecturer, University of Toronto,  
York University, Osgoode Hall,  
and Bar Ad. Course. Contribu-  
tor to various C.L.E. programs,  
and author of various articles.

**Responsibility to Membership:** The Law Society must be more responsive to the concerns of its members. It must attempt to reflect in Convocation the profession's changing demography, gender composition and diverse interests. It should assume responsibility only for those matters which come clearly under its authority and within its mandate, and consider ways of encouraging broad participation on the governance of the profession by, for example, giving to the Benchers a modest remuneration.

**Insurance:** The Law Society must be instrumental in providing universal members' insurance at a cost which the members can afford. The objective can best be attained by making available less comprehensive insurance at lower costs to those who wish it, and providing optional and increased insurance at extra cost to those who need it. The Lawyers Professional Indemnity Company must be administered independently of the Law Society.

**Law Society Structure and Administration:** The process which has now begun of evaluating all of the Society's programs and examining the Society's governance and operations with the objective of meeting the members' needs in an efficient and responsive fashion must be vigorously continued. I have been actively involved in the process for several years, initially as Chair of the Priorities and Planning Committee and now as the Chair of the Joint Committee on Governance and Operations. The views of all the members are being solicited in this venture.

**Legal Aid:** I strongly support the structure and functions of the Ontario Legal Aid Plan, and insist that the Plan be administered by the Law Society.

**Discipline:** The Society has been unable to persuade the Provincial Government to enact the Society's new discipline proposals. The proposals which essentially suggest a streamlined and more efficient discipline process must be again put before the Government. I also support amendments to ensure non-Benchers participation in the discipline hearings.

**Professional Conference and Education:** I support the in depth review of the educational requirements for admittance to the bar which is now taking place and the attempts to develop comprehensive educational programs at reasonable cost.



# Denise Bellamy

## Re-elect Denise Bellamy as Benchler

"Having served as a Benchler, I believe that I have the necessary experience and perspective to enable me to make a significant continuing contribution to the upcoming work of the Law Society."

Denise Bellamy was first elected a Benchler in 1988 and was re-elected in 1991. As a Benchler, she is currently Chair of the Communications Committee which is responsible for the Law Society's communications with the profession and the public, including

- the highly successful Dial-A-Law tapes which handled 235,000 calls in 1994
- the Lawyer Referral Program which receives over 700 calls per day, and which made over 140,000 referrals to lawyers with the Program last year
- the Discipline Digest and the Practice Adviser which are read by over 80% of the legal profession; and
- the Benchers Bulletin, which is read by over 76% of the profession

## My Record on the Insurance Issue

The report of the Insurance Task Force dramatically affects **every** lawyer in this province.

- When the report came to Convocation for the first time on October 28, 1994, I moved that it be **deferred** to provide benchers with some time to consult with the profession. That motion was defeated.
- On that same day, I spoke out **against** the extra \$600 membership fee increase which now affects every lawyer in Ontario, including over 6,000 lawyers who are not required to pay E&O.

## Law Society Experience

I have participated, and continue to participate, on numerous committees, including many dealing with some of the most difficult and contentious issues facing the Society. These include:

- Benchler elections
- Articling Reform
- Equity in the legal profession
- Sexual Harassment in the workplace
- Requalification
- Publication of benchers' attendance & votes at convocation
- Discipline reform

## I Believe Priority issues include:

- A *more* ACCOUNTABLE Law Society
- As a member of the LSUC's new Committee on Governance and Operations, I intend to ensure that the Law Society is transposed into an organization that will **guarantee** that benchers and Law Society staff operate in a dramatically more accountable fashion
- LSUC membership fee increases and E&O must be controlled
- A *more* PROGRESSIVE Law Society
- Almost 30% of the working profession is not engaged in traditional private practice. We must acknowledge this dramatic change and provide leadership for alternative career opportunities in law
- The Rules of Professional Conduct must be examined to ensure that they meet the existing needs of the profession
- A *more* ACCESSIBLE Law Society
- We must find innovative ways to address the 1/3 of Ontarians who say that they are not confident in their ability to find appropriate legal services.
- The profession must recognize the diversity of Ontario's population and ensure equitable access by all to articling and employment opportunities and to legal services

Denise Bellamy a été nommée "Francophone du mois" en 1984 par le Centre francophone de Toronto. Elle est membre de l'association des juristes d'expression française de l'Ontario depuis 1980.

Bilingual. Called to the Bar in 1980. B.A. (Carleton); LL.B. (Osgoode).

### Law Society:

- Benchler since 1988
- Chair, Communications Committee
- Vice-Chair, Discipline Committee
- Past-Chair, French Language Services Committee and Women in the Legal Profession Committee
- Past Vice-Chair of the Finance Committee

### Professional activities:

- Vice-President, Federation of Law Societies
- Vice-President, The Ontario Centre for Advocacy Training
- Frequent speaker in CLE programs offered by LSUC, CBAO, l'association des juristes d'expression française de l'Ontario, Delos Davis Law Guild, Women's Law Association, Ontario Crown Attorneys' Association, Criminal Lawyers Association

### Current position:

Director, Legal Services Branch, Ministry of the Solicitor General & Correctional Services

### Former positions:

- Court Reform Task Force
- Ontario Women's Directorate
- Assistant Crown Attorney (Newmarket)
- House of Commons secretary in "former life"





## Mary Lou Benotto

Access to justice is the main challenge facing the Law Society today. It is the common need experienced by the practising lawyer, by the Law Society of Upper Canada and by our diverse citizenry.

The public is losing confidence in the willingness and ability of the profession to achieve justice in a timely, cost effective way. There is a perception (fuelled by a few) that the profession acts only in its own interest. In reality, most lawyers are trying diligently to serve their clients in the face of increasing demands on their time and money. The practice of law is more difficult. Specialization, insurance fees, the prospect of mandatory continuing legal education, the staggering numbers of lawyers in the profession and more complex administrative procedures create pressures for the bar. Meanwhile, client demands continue to reach new heights and the threat of negligence claims is ever present.

There is thus a growing gap between the public's demands and the interests of the profession. Finding solutions which recognize and balance these seemingly competing interests is a task that seems to transcend all other issues. Indeed, debates at the Law Society these last 4 years have focused attention on exactly how strong these conflicts are.

Leadership at this critical stage:

- born in Windsor, Ontario
- educated at University of Toronto and McGill University
- practices litigation with Chappell, Bushell, Stewart
- Vice-Chair of the Joint Committee on Court Reform with primary responsibility for the case management pilot projects (civil and family), Director of the Advocates' Society, Past President of the Toronto Medico-Legal Society, Past President of the Ontario Expropriation Association, former director of Ontario Psychological Association
- author of texts: *Income Tax and Family Law*; *O'Brien's Court Forms (Family Law)*; *Marriage Contracts*; *Thibaudeau v. R.*; as well as numerous articles and papers
- extensive lecturing and teaching including the Canadian Bar Association, the Law Society of Upper Canada, the Bar Admission Course (Family Law and Advocacy), and York University Advocacy Programme.

- must reflect the diversity of the bar and the public it serves - *As a partner in a small firm practicing litigation (primarily family law) I bring a different perspective and my clients (usually in their first, reluctant encounter with the justice system) are the typical "consumers" of our services.*

- must improve access to justice by promoting a speedy, affordable system - *My work with the Joint Committee on Court Reform has involved thorough study, evaluation and implementation of projects already in effect which reduce delay and explore creative methods of dispute resolution.*

- must ensure that the profession is able, on a practical basis, to deliver improved service - *I have been committed, through my various committees and Bench/Bar organizations to streamline the paper work and procedures to make the practice of law less cumbersome and bureaucratic.*

- must promote a truer public image of lawyers to ensure the public respect and confidence is maintained - *I have worked extensively with experts from other jurisdictions in my work with court reform; they unanimously comment (in amazement) on the generosity of the Ontario bar in giving so freely of its time, for the good of the justice system. This quality does not exist to the same extent elsewhere. It should be applauded, encouraged, given more publicity and hence the credit it deserves.*

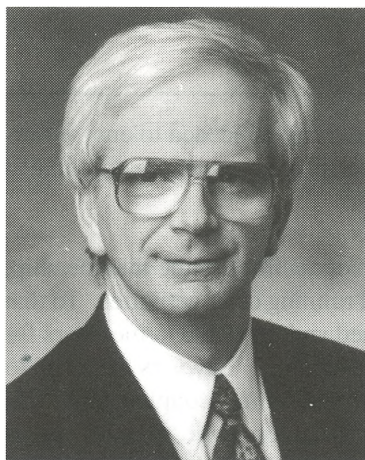
- must educate the profession to be more cooperative with each other to better serve our clients - *I have worked extensively with projects (such as case management) which explore alternative methods of dispute resolution and promote a progressive form of litigation which has its focus on early, cost effective resolution.*

- must work in co-operation with the public, the bench and other organizations to co-ordinate efforts and improve relationships - *My involvement as president of the Medico-Legal Society and with other interdisciplinary organizations such as the Ontario Psychological Foundation has taught me the value of co-operative learning and education between various professions who are working towards similar goals. The Joint Committee on Court Reform operates as a model of cooperation of the bench, bar and administration.*

- must resist the temptation to change for the sake of change - *Through my involvement with court reform, I have learned the dynamics of change, in particular the research, consultation, communication and commitment necessary before embarking on new directions.*

- must manage the Society's affairs to retain self-governing rights - *I believe firmly in the self government of the Law Society of Upper Canada and I will strive to manage the Society's affairs with honesty and integrity to retain self governing rights.*





## Ian A. Blue, Q.C.

Age 49. A senior counsel in Cassels Brock & Blackwell; graduated from Dalhousie Law School in 1969; called to the Alberta Bar in 1970, Ontario Bar: 1974; Queen's Counsel: 1985; Section Head of Practice Skills in Bar Admission Course 1985-1987; past BAC seminar leader in administrative law and Practice of Law; Administrative Law Mentor to Ontario Legal Clinics; past Chair of CBAO Energy Law and Administrative Law sub-sections; Organizer and Chair of several Law Society Continuing Legal Education programs on administrative law and practice and other subjects; participant in CBAO CLE programs on cross-examination and environmental law; author of many articles on administrative law advocacy; practises administrative law before many boards and tribunals and before all levels of courts; candidate for Benchers in 1991 and appointed a Toronto Benchers on June 24, 1994.

I became a benchers on June 24, 1994, the day when the LPIC problems were announced at convocation. Like other members of the profession I was concerned that this situation had been allowed to occur. I have worked to have benchers explain the LPIC solution arrived at by the Strosberg task force and to ensure that LPIC keeps an open mind to suggestions of the profession about better or fairer ways to distribute the burden. I want to continue to do so.

I believe that the key issue in the profession today is the number of individuals seeking to be new entrants into the profession. The lack of spaces for new entrants in law firms, government and corporations has forced many to practise as sole practitioners or small partnerships dependent on legal aid and without the guidance of experienced practitioners. This is creating a two level bar consisting of the "haves" and "have-nots". Too much of the burden of being have-nots is falling on younger members and societal minorities of the profession. If numbers entering the profession remain at their current levels, these problems will only get worse. This is wrong.

What is needed is a discussion among the justice system stakeholders, the Law Society, the law schools, the government and representative users of the justice system, about the expectations created by the system, about equal opportunities for lawyers and equal and fair access to the legal system for clients, and about inequality in the ability of the "haves" and "have-nots" to provide quality service to clients. We need a consensus about the future direction of the legal profession and the justice system in Ontario.

We need to ensure that the Law Society is open to all voices in and fully represents the whole legal profession, including all minorities, and not be a forum for the expression of a narrow range of views. Only by considering the interests of the profession as a whole can the logjam of the competing special interests in the profession be avoided. Our continued self-governance is contingent on our maintaining a unified profession and this requires us to be inclusive in the governance of our daily practices and our professional activities.

We must control costs of the Law Society and the costs of annual membership. We need "lifeline" membership fees, that is lower annual membership fees, for younger members of the profession starting out and for those serving the disadvantaged in society. We must examine the role of LPIC, the role of other programs sponsored by the Law Society, staff levels, salaries and resources from the perspective that all members of the Society are paying high annual fees in a tough business environment and that annual increases in fees cannot continue when lawyers' incomes on average are static or declining.

We need to improve County and District Libraries and research resources so that they can utilize technological developments and can handle increasing book costs and the need for continuing legal education. We need to improve the ability of the Law Society and other service providers to deliver good continuing legal education programs in a manner that makes them accessible to everyone and at rates all members of the profession can afford. Lawyers everywhere should have access to good research resources in order to maintain equality in the level of service available across the province and among all stakeholders in the justice system.

We need to fight for continued control of legal aid and for additional government resources for legal aid and legal clinics. Simply put, these funding programs are the only resources that allow an independent bar to help the disadvantaged deal with the powerful - including the government - in our society. They must be protected and enhanced in the fight for government funding and the Law Society must be the voice of the disadvantaged in these discussions.



Have been the President of the Ontario Crown Attorneys' Association for past two years. From July, 1994, have been on a leave of absence to attend to Association business on a full-time basis. Have been involved in wide range of Association activities - professional issues, educational and training issues, collective bargaining matters, gender equality, workplace discrimination and harassment, and other issues affecting Association members. Member of the Canadian Bar Association and the Advocates' Society. Called to Bar in 1983. Prior to that worked for general practice firm for 5 summers. Articled for Agro, Zaffiro, Parente, Orzel, Hubar and Baker in Hamilton. Worked for small firm for 1 year prior to working as Assistant Crown Attorney and Crown Counsel over last 11 years. Since call to bar have organized or participated in a number of continuing legal education programmes in the area of Criminal Law.

## Beverly Brown

The legal profession is facing a time of change. Leadership is needed to ensure fairness and equity in the practice of law. There are 4 specific areas which I would like to pursue as a benchler:

### **Greater Financial Accountability of Law Society:**

The LSUC should proceed towards greater fiscal accountability to the membership, both in terms of the insurance plan, and in the general running of its activities. To that end, mid-year financial statements should be published and available to members for frequent monitoring of the financial status of the organization. Lawyers have had to deal with the recession and continuing problems in the economy, coupled with various government initiatives which have diminished the need for lawyers in many areas of practice. In other areas, which remain very busy, financial cuts have resulted in a rather gloomy financial outlook for the profession. This has been compounded by the increase in professional fees and insurance premiums which have made the prospect of setting up and continuing a practice a daunting one. This must be addressed.

### **Quality of Life and the Practice of Law:**

The Law Society needs to provide leadership through encouragement of workplaces which accommodate the personal needs of lawyers in order to sustain a healthy and productive work environment.

There is a need to be responsive to the new economic realities and the changing composition of the profession. Greater accommodation should be made in the workplace for personal lives. Lawyers should be able to accommodate various interests and still be able to sustain the practice of law. Quality of life and stress management concerns have been neglected for too many years. As a mother of a young child, I am cognizant of the need to balance professional, personal and family demands in a healthy way.

### **Regulation of paralegals:**

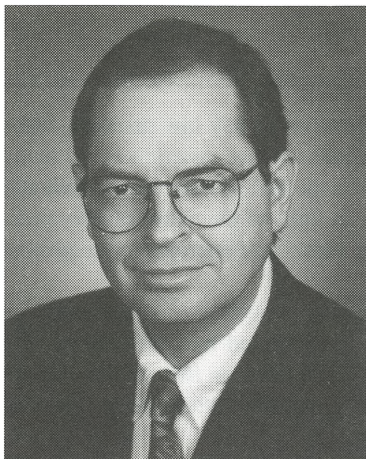
In its role of maintaining the integrity and high standards of the profession, there is a compelling need for the Law Society to push for the regulation of paralegals. The lack of concerted action by the Law Society and the government has allowed unregulated paralegals to continue to act for the public. This has led to a situation where the public is not protected, and the profession is threatened and hurt by the actions of people not properly supervised nor responsible to any particular body.

### **Fairness and equity in managing costs of LSUC:**

In an atmosphere where disciplinary proceedings have become common, I think the time has come for a policy of requiring greater accountability by members who have been found guilty of misconduct. Such members should be required to bear the cost of the investigation and disciplinary proceeding. These costs should not be borne by the large majority of members who comply with the rules.

I can provide a fresh approach to the challenges faced by our profession, and look forward to the opportunity of representing you.





LL.B. (Alta.), LL.M.(Tor.), B.C.L. (McGill), Ph.D. (Cantab.), called to the bars of Alberta (1978), Quebec (1991) and Ontario (1991).

Practised corporate/commercial law in a large firm (McLeod Dixon, Calgary), civil and litigation in a small firm (Alberta), and civil litigation in a large firm (McCarthy Tetrault, Montreal); presently employed by the Ministry of the Attorney General, Ontario Law Reform Commission.

Author of numerous articles, a constitutional law casebook and a constitutional law textbook (in progress). Co-author of the recent consultation paper *Appellate Court Reform in Ontario*. Taught Public Law in the BAC for the last two years.

## Donald F. Bur

The Law Society is supposed to protect both the public and lawyers. While the public is clearly being protected, little attention seems to have been paid to protecting lawyers.

To get the Law Society working in favour of all of its members, changes will have to be made. There are a number of reasons why I can help implement these changes.

I have been a member of both large firms and small firms, and I understand the difficulties that each has without owing an allegiance to either. I have experience of a wide variety of legal matters, in this and other legal jurisdictions, and in law reform.

I want to:

1. Reduce expenditures and not just increase income.

- As of December 31, 1994 the operating deficit was calculated at about \$166,080,000 with an additional \$50,000,000 needed to recapitalize LPIC.

- This debt has largely been caused by miscalculations and poor judgment in recent years, for which the benchers are responsible.

- Some of these errors were made by the Law Society's actuary, and although insurance carried by the actuary might have been used to offset some of the deficit no negligence claim was made.

- As a result of these errors, members of the Ontario bar now pay more than THREE times what other lawyers in Canada pay.

- In order to hide the true extent of these costs, the Law Society has imposed some costs retroactively. Other costs, such as the capitalization of LPIC, have been imposed on many lawyers who will never benefit from E & O insurance, such as in-house counsel and government lawyers.

- At present over \$26,000,000 of your E & O premiums are spent on legal fees. That is 35-37% of E & O costs.

- Of the top ten billing firms, five have benchers as members.

- To compound problems, some benchers recently suggested that benchers be paid for their time at a legal aid rate. If this suggestion had been accepted, it would have cost the Law Society millions. Fortunately, the motion was raised just before elections. That may not be the case next time.

- In order to control costs and bring the deficit under control, expenditures have to be decreased. This can be done either by reducing fees paid to lawyers who do E & O work or by having LPIC do more work in-house.

- Lawyers should not be liable merely because they have not been perfect, but only if they do not meet the normal civil standard—that of the average lawyer.

- On no account should benchers be paid for their work. I will neither ask to be paid nor accept remuneration for acting as a bencher.

2. Base insurance premiums on risk.

- Rather than requiring those with the greatest risk to pay E & O premiums according to their risk, the Law Society has increased costs across the board and even imposed vicarious liability coverage on those who can never be vicariously liable.

- These costs make it increasingly difficult for new lawyers, lawyers in small firms, and lawyers whose practice depends upon legal aid to survive.

- Those who cannot benefit from insurance should not have to pay for it. Those who run the least risk of a negligence claim should not pay the same as those with a much greater risk.

3. Make Legal Aid more effective

- There is not enough money for both criminal and civil certificates. Delays in payments, and reduced fees are all too common.

- Part of the problem is that Legal Aid tries to be everything for everyone. In many cases certificates are given for civil claims that have no hope of success. Often certificates are given because the lawyer that is to be given the certificate has given an opinion about the chance of success.

- If civil claims are in fact meritorious, they should be allowed to be taken on a contingency fee agreement. This will require lawyers to weed out those claims without any merit, and leave more money for criminal certificates.





## Fran J. Carnerie

**Commitment, Representativeness.** With a young family, a very busy law practice, and a salary reduced by the Social Contract, I appreciate the tensions that are experienced by many members of the current practicing Bar. Since my Call to the Bar, I have been gradually increasing my involvement in professional issues. Now, in light of the extraordinary pressures on the practice of law in Ontario, I wish to offer my views and energies to the profession by running for Benchers.

**Experience Working Within The Law Society.** For the past two years I have served as a "Non-Benchers" with the Law Society — a lawyer who is appointed by Convocation to a Standing Committee. During my tenure on the Standing Committee on Research and Planning and five of its subcommittees, I have participated in ground-breaking policy development on a number of issues including:

- governance and structure within the Law Society,
- procedures and responsibilities in the development of policy,
- commercialism and professionalism in the contemporary practice of law.

**Significant Learning Already Achieved.** As a result of my two years of service as a Non-Benchers, I have developed insights into the complex infrastructure and functioning of the Law Society. Newly elected Benchers normally require a substantial period of time before they can carry out their responsibilities effectively. This is because there is a lengthy learning period involved in understanding how the system works and how to "get something done". Having first hand observations and experience on a Standing Committee and several subcommittees, however, means that if I am elected, I will be able to "hit the ground running" in fulfilling the exacting roles of a Benchers.

### If Elected, I Intend To Work To:

1. INCREASE THE INVOLVEMENT OF THE PROFESSION IN THE POLICY AND DECISION MAKING PROCESSES OF THE LAW SOCIETY: by consulting with the profession before policies are adopted, making greater use of "Non-Benchers" and drawing upon volunteers to participate in the work of the Law Society

2. INCREASE OPENNESS AND TRANSPARENCY IN DECISION MAKING DURING AND AFTER THE DEVELOPMENT OF NEW POLICIES: by notifying the profession of policy work being undertaken and significant developments as they occur

3. IMPROVE FISCAL RESPONSIBILITY: by ensuring that no policy is adopted without considering the budgetary implications for the Law Society and the economic effects on the profession; making greater use of technology such as teleconferencing, and improving efficiency in operations

4. INCREASE EFFICACY: by implementing what is adopted by Convocation, evaluating the effect of decisions on the membership and the profession, and restricting the work of Benchers to matters of policy, not administration

5. IMPROVE LIAISON WITH OTHER PROFESSIONAL ORGANIZATIONS such as CBAO and CDLPA

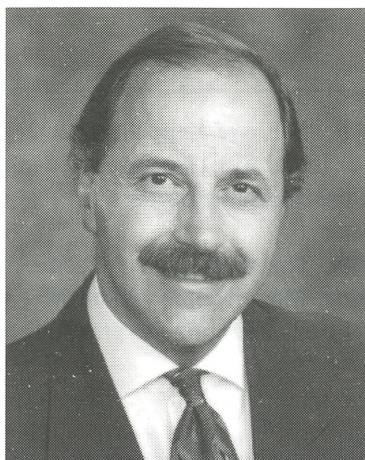
6. MAKE BETTER USE OF TECHNOLOGY SO THAT LAWYERS FROM OUTSIDE TORONTO: can be more involved in Law Society activities at a lower cost, and can have improved access to resources for continuing education, practice assistance and ethical advice

7. INTRODUCE A "REALITY CHECK" IN POLICY AND DECISION MAKING.

This factor enhances accountability of the Benchers to the membership and should be the result of implementing #1 - #6 above. As a further measure, however, during the development of each policy or decision, the following questions should be asked: "DOES THIS POSITION REFLECT COMMON SENSE? DOES THIS DECISION CREATE UNEVEN CONSEQUENCES FOR ANY SECTORS OF THE LAW SOCIETY MEMBERSHIP? IS THERE SOMETHING THAT THE LAW SOCIETY IS NOT DOING, THAT THE LAW SOCIETY SHOULD BE DOING?" Institutionalizing such questions in the policy and decision making processes will enhance the quality and fairness of actions implemented by the Law Society in fulfilling its mandate.

**Excellence In Governance.** This is an enormously difficult time for the profession, but it is also an exciting time to SERVE THE PROFESSION. To this election I bring EXPERIENCE in working within the Law Society, a commitment to OPENNESS, EFFICIENCY, and COMMON SENSE, and the desire and energy to work toward EXCELLENCE in governance.

- Personal:
  - Born Sydney, N.S., 1953
  - Married, son aged four years, daughter 19 months
- Employment:
  - Solicitor, Ministry of Environment and Energy (4 1/2 years)
- Formerly: Law Offices of Brian Grosman (Toronto, 18 months)
  - Articled Ontario MAG, Crown Law - Civil
  - Assistant Professor Nursing (Newfoundland)
  - Outpost Nurse (Labrador)
  - Emergency Nurse (Barrie)
- Education:
  - Diploma Nurse (Georgian College)
  - M.H.Sc. (McMaster)
  - LL.B. (Dalhousie)
  - LL.M. (Osgoode Hall)
  - Called 1989
- Activities:
  - Law Society: Non-Benchers appointed 1993
  - BAC instructor
  - Board, Upper Yonge Village Day Care
- Formerly: CBAO Environmental Law Executive (2 years)
  - Board, Dalhousie Legal Aid
  - Co-founder, Dalhousie Public Legal Education
- Awards:
  - Pitney Bowes Law Student Achievement (CBAO - 1988)
  - Horace E. Reed (Dalhousie - 1987)



## William D.T. Carter

There is a crisis of confidence in benchers and the Law Society. The Law Society and its governance needs re-orientation towards responsible, responsive and fair representation. The following questions must be given immediate priority:

### SHOULD THE LAW SOCIETY BE IN THE INSURANCE BUSINESS?

We must immediately provide an accurate picture of this problem to the profession. The deficit should be retired equitably. A review of whether the Law Society should be in the insurance business should be undertaken immediately. Private sector alternatives which provide an insurance regime that fairly allocates risk ought to be explored.

- We need to take a hard look at whether we can reasonably afford to self insure.
- All aspects of the Law Society's operations must be examined to find ways of restoring fiscal integrity.

### ARE YOU FAIRLY REPRESENTED?

Governance must reflect the diversity of the profession and be free of barriers that limit access for any reason including race, gender or sexual orientation. We must also take steps to deliver representative and participatory democracy. I recognize that some lawyers are unable to serve as benchers because of the financial impact upon their practice. I also recognize that the current distribution of benchers' seats leaves some members without a voice in decision making.

- I would promote initiatives that eliminate current inequities without creating new ones, such as voting participation in various committees, and better regional representation.

### WHO SHOULD PAY FOR LEGAL AID?

Government is off-loading its social responsibility for legal aid onto the profession. The Law Society must reverse this trend. The current regime unfairly places the greatest burden of Legal Aid on those who serve the segment of the population which relies on it.

- Legal Aid must be equitably funded not only by the profession but, like any other social program, from the general tax base.

#### Education:

B.A. (Hons) - Queens 1971;  
LL.B. - Toronto 1975;

called to the Ontario bar 1977

#### Professional Experience:

Partner Borden & Elliot;

General civil litigation with

emphasis on Health Law;

Certified Specialist in Civil

Litigation 1989;

Chaired and spoken at numerous conferences on Health Law issues

#### Teaching:

Former Instructor - Bar

Admission Course - Profession of Law

Member of Faculty of Law, Osgoode Hall Law School -

Trial Practice

#### Community:

Former member of Council,

Medico-Legal Society of Toronto

Member, Ethics Committee,

Mount Sinai Hospital, Toronto

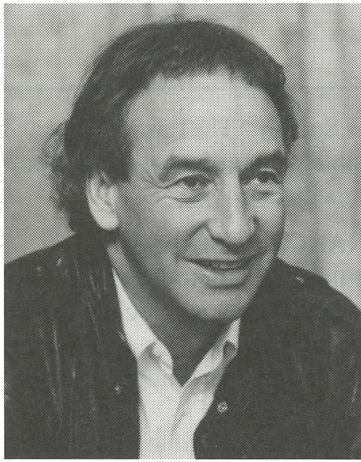
Member of University of

Toronto, Human Subjects

Review Committee

Director, Safe Kids Canada





Graduated from the University of Waterloo - B.Sc. Physics, 1962; Osgoode Hall Law School - LL.B., 1965. Called to the Ontario bar in 1967.

Partner in the firm of Copeland, Liss, Campbell. Practice involving criminal law, civil litigation, immigration law and national security matters. Founding member of the Law Union of Ontario.

Vice-president of Criminal Lawyers' Association - 1985-1991.

Benchers of the Law Society of Upper Canada for two months in 1987 and since December 1990. Vice-chair of the Legal Aid Committee for four years; Chair of the Women in the Legal Profession Committee; Vice-chair Clinic Funding Committee (1993-94).

Regular columnist since 1979 on drug law for the Criminal Lawyers' Association Newsletter.

Director - Association in Defence of the Wrongly Convicted.

Member of Executive - Canadian Association for Security and Intelligence Studies.

Member - American Association of Jurists.

Member - Canadian Friends of Burma.

Ridemaster - Illegals Motorcycle Club.

## Paul Copeland

There is a significant dissatisfaction and anger among the Bar. We at the Law Society have not dealt adequately with Errors and Omissions or Legal Aid. We have not dealt at all with regional election of Benchers or reform of the discipline process.

### Errors and Omissions Insurance

We have failed in our duty to manage the insurance plan. The new levies will address the deficit problems but the financial impact is enormous. Many people will be driven out of practice, particularly women raising children, who are attempting to practice on a part-time basis.

### Legal Aid

In the spring, the Law Society got the message on Legal Aid. We refused to capitulate to the government on funding shortfalls. Over the summer of 1994 an agreement was negotiated. We have a government commitment to continue the judicare model of the Plan for four years (good as long as the NDP is in power). Funding arrangements should generally allow for timely payment of accounts. Over 1993 and 1994 there was significant pain and anguish suffered by lawyers as payments of accounts slowed to a trickle. In the recession, Legal Aid costs increased dramatically. The fact that there has been no tariff increase for eight years is unacceptable.

### Regional Election of Benchers

In 1990, the Law Society approved regional election of Benchers. No legislation was passed prior to the 1991 elections to accommodate regional elections. For four years, the Law Society dithered in presenting a legislative package to the government. It is totally unsatisfactory that we are now going into the second set of elections where the regional election process is not implemented. It is all too frequent at the Law Society that we do not manage to bring into effect changes that are desirable and have been approved.

### Reform of the Discipline Process

Prior to 1991 a discipline reform package was approved. Under the plan, final discipline decisions would be made by committees of three Benchers. If either the lawyer or discipline counsel were dissatisfied with the result, an appeal could be taken to a Benchers appeal tribunal. Four years later the discipline reform has not been implemented. Because the reforms have not been implemented, Convocation is required to spend eight or nine days per year dealing with discipline matters, where the penalty is more serious than a reprimand in Committee. That time could be better spent managing Law Society business. Whether a lawyer is reprimanded in Convocation, suspended, granted permission to resign, or disbarred depends on the luck of the draw; which Benchers were able to attend Discipline Convocation. All too often the discipline decisions are erratic and inconsistent. The profession deserves better than this.

Not everything over the last four years has been negative. Rule 27 (Sexual Harassment) and Rule 28 (Discrimination) are positive achievements. Unfortunately we also spent time debating whether to change the name of the Law Society from Upper Canada to Ontario (I voted to retain Upper Canada) and to change the name of our leader from Treasurer to President (I voted to retain Treasurer).

When the public meetings were held in Toronto last spring concerning the E & O crisis and the Legal Aid crisis, the profession was deeply divided, partly along class lines, partly along economic lines, and partly along gender lines. Different segments of the Bar should be represented at Convocation. Choosing who to vote for to achieve change at the Law Society will be difficult. There were many competent, hardworking and diligent Benchers at Convocation. Large firm, small firm; Bay Street, small town; private practice, salaried employment; none of these differences were good indicators as to how a Benchers would vote. Only gender seemed an accurate predictor of voting. Think carefully before you cast a ballot for a candidate wearing a tie.

In past elections voter participation has been low. If you don't vote, you should not complain about your Benchers.





Born in Windsor; 43 years of age; graduate of the University of Windsor (LL.B.); undergraduate studies at the University of Toronto; called to the Bar in 1977; Partner and past member of Executive Committee, Fasken Campbell Godfrey. Practice devoted to civil and commercial litigation, administrative and public law.

Past President of The Advocates' Society.

Chair, Canadian Bar Association Systems of Justice National Task Force.

Participant/Chair of numerous professional education programmes; special lecturer at Faculties of Law, University of Toronto and Osgoode Hall and seminar leader, Bar Admission Course.

Nominated Fellow, American College of Trial Lawyers.

## Eleanore A. Cronk

**Objectives:** There is a pressing need, as never before, to restore faith and confidence in our profession by its members and the public if the privilege of self-governance is to be maintained. It is important that those who govern be steadfast, thoughtful and vigorous in their representation of the values and interests of the profession and the independence of the Bar. This can only be accomplished if the Law Society continues to work towards becoming more proactive and representative of the profession and the public interest.

**In my view it is critical that:**

- Convocation be representative of the profession;
- the views and concerns of the profession be clearly articulated to the public, government and the judiciary;
- quality legal services be available to the public through efficient, affordable and accessible systems of justice;
- the economic burdens of the '90's, for lawyers and clients, be faced clearly and shouldered fairly;
- appropriate measures, acceptable to the profession, be developed to ensure that the Law Society remains in the position to provide cost effective insurance to its members;
- professional standards be continually evaluated and equitably, but firmly, enforced;
- special consideration be given to the challenges faced by newer, or disadvantaged, members of the profession; and
- the Law Society move into the 21st century with a clear and unequivocal commitment to assisting lawyers in efforts to balance their professional and personal lives.

**Experience:** As a Past President of The Advocates' Society, I have learned, from travelling throughout the province, of the diverse concerns of members of the profession and of the important need to have that diversity reflected in Convocation. As a member of the Society's Board of Directors and Executive Committee for many years, I chaired and participated in Committees concerned with professional standards development, gender equality issues, continuing legal education and court reform initiatives. All of these matters are at the forefront of the challenges facing the Law Society today. I have been an active supporter of OCAT and have promoted and chaired a variety of continuing education and skills training programmes for lawyers from all practice areas throughout the province. In my own practice I have emphasized civil and commercial litigation and administrative and public law, and have developed particular expertise in professional discipline matters for a variety of self-regulating institutions and professionals.

I currently serve as chair of the CBA's Systems of Justice National Task Force, recently created to coordinate and identify at the national level court reform initiatives and to study the role of lawyers in Canadian society in the next century. I have also served as a member of the Toronto Regional Bench and Bar Committee, as past chair of the Civil Litigation Section of the CBAO's Annual Institute, as a seminar leader in the civil procedure, administrative and public law and appellate advocacy sections of the Bar Admission Course, and as a special lecturer or guest demonstrator on appellate and trial advocacy issues at Osgoode Hall Law School, the University of Toronto and the Canadian Institute for Advanced Legal Studies in Cambridge, England.

In all of these endeavours I have attempted to speak with and on behalf of lawyers to foster public understanding of the significant role of lawyers in society and the administration of justice, and to ensure that the profession is sensitive and responsive to the needs of the public.

With increasing demand within the profession for effective, strong and fair governance, and by the public for open and accountable self-regulation, I believe that my experience and commitment afford the opportunity to enhance and contribute to the work of the profession. For these reasons, I would be honoured for the opportunity to serve as a Benchler.



## Carole Curtis

- called 1978
- feminist family law 3-lawyer firm
- B.A. 1973 University of Toronto (St. Mike's)
- LL.B. 1976 Windsor

### CURRENTLY

- Family Law Rules Committee and Secretariat
- Benchers since 1991
- Finance Committee
- Communications Committee
- Legal Aid Committee, and many others

### PREVIOUSLY

- B.A.C. instructor (Family Law, Practise Skills, Ethics, Legal Aid);
- CBA and CBAO Council;
- CBAO Executive;
- CBAO Family Law Section Executive;
- CBAO Legal Aid Committee (Chair)
- CBAO Award for Distinguished Service (1988)
- member National Association of Women and the Law, Law Union
- lecturer and panellist on feminist issues, family law, legal aid, women in the legal profession, professional responsibility

1. **VOICE.** The central issue for lawyers is VOICE; whose voice is being heard in Convocation? As the demographics of the profession change, the benchers become increasingly less representative of the profession and of the public in Ontario. Twenty per cent of elected benchers were called before 1960 (compared to 8% of the profession). Fifteen per cent of elected benchers are lawyers not in private practice (compared to 37% of the profession). There are real conflicts among the benchers based on gender lines, political lines, and generation lines. There are now lawyers from groups that are otherwise powerless in our culture. Do those lawyers feel represented by the benchers? Benchers continue to be predominantly lawyers whose clients are people with power in our society. Which "public" are the benchers protecting? Do benchers protect the interests of the powerless in society?

The Law Society is at a crossroads. The expansion of and welcoming of diversity in the profession may be at an end, and we may be moving back to an elite system where only wealthy people can attend law school and be lawyers. There is presently a very large gulf between the governed and the governors. Awareness in the profession is higher than usual. The profession is angry. Many sole practitioner and small firm practices are financially marginal. The crisis in Legal Aid funding contributed substantially to the situation, as have horrendous increases in the cost of insurance premiums. Many lawyers have been pushed to the edge of financial disaster. The profession needs strong leadership to build bridges among lawyers, with the government, and the public.

2. **COMPETENCE.** There are huge increases in both the number of insurance claims (approximately 300 new claims per month) and the number of discipline complaints (approximately 500 complaints issued in 1994). This is partly a reflection of changing expectations in the public. This requires a re-examination of the relationship between admissions, professional standards and discipline. The Law Society does not currently discipline for incompetence. Lawyers with multiple complaints and multiple insurance claims should not be practising at the cost of all other lawyers.

The current admissions structure (particularly articling and the Bar Admission course) is breaking down. There are not enough articling jobs. The cost of running the Bar Admission Course is prohibitive for lawyers and law students. The Law Society is unwilling to look at alternatives. A committee examining articling and the Bar Admission Course has not made recommendations yet.

3. **BENCHER WORKLOAD.** A volunteer workload of 45 hours per month (average) is an oxymoron. Continuing the existing structure guarantees a perpetuation of the current system and hierarchy, and re-election of benchers predominantly from large firms, who can afford to donate time. It also excludes all but the most well-off from participating as benchers. This is a model of governance from another era. My 1994 bencher time cost me \$44,000.00 at my Legal Aid rate (\$79.56 per hour). The workload needs to be better distributed among benchers, and other volunteers.

4. **INSURANCE.** The level of mismanagement and negligence revealed in the Insurance Task Force Report was astonishing. Why did it take so long for the information to be made available even to benchers? Why were benchers not allowed to see the list of lawyers who did insurance defence work? How could benchers not appreciate the conflict of interest in the assignment of insurance defence work to other benchers?

5. **CORPORATE CULTURE AND ACCOUNTABILITY.** The Law Society is a corporation with an annual budget of \$30 million dollars and 360 employees. It is run much the way it has been for the last 200 years, with the benchers functioning as a small private men's club. It does not run as a democracy. There is an undue level of secrecy, even for benchers who request information. In order for elected representatives to be accountable, there must be information sharing and full participation in decision-making.





## Abraham Barry Davis

I am 45 years of age, married and have three children.

Since my call to the bar in 1976, I have primarily practiced in the areas of real estate, corporate/commercial and criminal law. Although previously associated with larger firms, I have been a sole practitioner for over ten (10) years.

With my appointment in 1980, I have assisted in the administration of justice in Ontario as a Deputy Judge, Ontario Court (General Division) – Small Claims Court. A variety of my decisions have appeared in various legal reports.

I have lectured at York University, School for Continuing Adult Education, and have written materials for publication in a special presentation on the Small Claims Court.

I am a member of the County of York Law Association.

Perhaps more so than in all others previously conducted, this current election for Benchers of the Law Society of Upper Canada will entail one of the most significant decisions that we must make in our careers. It must compel by each one of our members a sincere appreciation of the issues facing our profession. It will require a knowledge of the gravity of the problems we face in order to elect those individuals best qualified to guide our body over the years ahead. It will demand the election of those members with the recognized dedication, strength of spirit and force of will to seize the opportunity we will now be giving them and to act constructively and decisively.

The overpowering issues facing our representatives are critical and of grave consequence to the varied practices of our many members. The standard of services provided to the public, range of fees charged to our clients and fair competition policies in an ever decreasing and recession affected marketplace, increasing levels of errors and omissions premiums, surcharges and deductibles, improvement of practice standards and their enforceability, specialization, enforcement of professional conduct: are only a few of the pressing issues already known and to be resolved by our new Benchers. Problem recognition is not necessarily the paramount concern; it is the recognition of the criteria that we must apply in the election of the new members of our governing body that is equally paramount if these concerns are to be brought to a successful resolution.

We require the election of those with a sense of vision and direction grounded on a true, **personal** understanding of the problems existent to date. We must elect those who are prepared to set an agenda and deal with our professional concerns in an orderly and directed manner, with imagination and innovation – not by crisis management and complacency. We require the election of Benchers who have a **personal** comprehension of the current economic realities facing the ordinary practitioner, and a **personal** appreciation of the realities faced in the practice of law in a small firm setting. We require our Benchers to bring with them common sense both in honouring their duty to the public, as well as in their dealings with the concerns of the profession in creating a responsive and receptive dialogue between the Society and its members in an open setting.

Our need to work with a unity of commitment in resolving these many issues must define our understanding of the indispensable qualities the Benchers must bring to the position: politeness to dispel anger and misapprehension; thoroughness through patience, humanity and compassion; a recognition of the diversity of our professional population, economically, culturally and in their individual venues of practice; maturity and objectivity in judgments that reflect a sensitivity to the divisive issues that have arisen concurrent with this all important vote.

Our election must be of those Benchers who have a credible awareness of the professional standards we must maintain to earn and nurture public support, and maintain the standards by which we, in our own society, wish to be governed.

With the skills and experience developed in many years of both private practice and on the Bench in dealing with a variety of people, problems and avenues of resolve, I can bring to the position the business acumen, practicality and ability to act decisively on behalf of both the public and our profession. While the issues are many and the path is not clear, my determination and commitment to those issues are sincere.





Andrew Dekany is a sole practitioner in the areas of personal injury and other civil litigation. A graduate with a top-ten standing from Osgoode Hall Law School (1977), he has completed programmes of the Arbitrators' Institute of Canada and the Federal Department of Justice. He has been an associate with Fasken & Calvin and counsel to the Standing Committee on Regulations, Ontario Legislature. He is currently an instructor for the LSUC Bar Admission Course. Mr. Dekany has had several papers published and has presented papers at conferences in Toronto, Hungary and Jamaica. He also speaks French, Hungarian, Spanish and German.

## Andrew C. Dekany

During the next four years, we will both look back to celebrate the 200th anniversary of the Law Society of Upper Canada, and look forward to the verge of the 21st century. There are a number of important issues that I expect we will be dealing with.

**The Errors and Omissions Insurance Plan** must never again be allowed to fall into chaos as it has in the last fifteen months. It is totally unacceptable to report a deficit of \$45 million in November/December 1993, to disclose, a few months later, that the deficit as of December 1993 was actually \$122 million, and then, four months later, to estimate the deficit as of June 1994 to be \$154 million. If elected a benchler, I will be asking the questions necessary to effectively monitor the accountability of the insurance plan and the Lawyers' Professional Indemnity Corporation (LPIC) on behalf of our members.

In solving our **insurance** problem, we must be sensitive to the various segments of our profession and not impose a blanket solution that will be unfair to some of our members. Those whose areas of practice place them at lower risk, such as criminal defence counsel and immigration practitioners, should pay lower insurance levies. Those who are not covered by insurance, such as provincial and federal crown attorneys, should not be required to contribute a capital levy to fund LPIC. When evaluating alternative schemes, such as title insurance, we must have regard for the concerns of general practitioners who provide the front-line service to the people of Ontario and who are so important in ensuring that Ontarians have access to the legal system. We must guard against paralegals who, as a group, remain unregulated and uninsured, providing legal services that should be provided, or supervised, by lawyers.

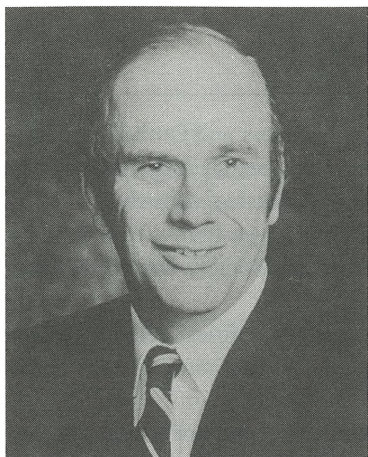
**Mandatory Continuing Legal Education (MCLE)** is an idea that will be much discussed. I favour MCLE because it provides an opportunity for us, as a profession, to show the public - and each other - the pride we take in keeping standards high in our many fields of practice. If implemented, MCLE should be delivered in a way that is convenient to our members, especially those who are outside of larger urban centres. Members called to the bar before 1970 should be grandparented. Eventually, MCLE should be connected with our insurance risk-rating system and our specialist certification programme, and tests for specialist certification should be standardized.

The issue of **gender equity** calls on all of us to work towards the elimination of discrimination and harassment. The seeming "effort" and cost of accommodation pales in comparison to the invaluable talent that is being lost to our profession at an alarming rate.

**Legal Aid** and **pro bono** work are two sides of the same "access to legal services" coin. We have recently seen cut-backs in Legal Aid certificates for civil litigation and uncontested divorces. As well, it is anticipated that amendments to the Criminal Code allowing for more charges to proceed by summary conviction rather than by indictment will result in reduced Legal Aid fees payable to defence counsel. Despite these difficult financial times, or perhaps because of them, we, as a profession, must be vigilant never to refuse legal services to those people who genuinely need them but cannot afford to pay for them.

**Remuneration for serving as a benchler** is not something that I seek. The cost of paying benchers over their four-year term has been estimated at between \$4.8 million and \$6.1 million. This expense is prohibitive; however, it may be that some incentives are needed to ensure that benchers are representative of all our members. For example, we should not ignore the issues facing our colleagues in the native justice field. I do not oppose putting the issue of benchler remuneration to all members of the Society in a referendum.

Just as **public respect** for judges lies at the heart of the independence of the judiciary, public respect for lawyers lies at the heart of the independence of the legal profession. I ask for your vote to allow me to work to maintain and enhance that respect for our profession as a whole.



## Elvio L. DelZotto

I am seeking election to the Benchers because I believe that my background and experience, both as a lawyer and as a businessman, can contribute to the advancement of our profession. I have built a law practice from a one-man operation to a mid-size firm. Throughout my tenure as the managing partner and senior lawyer at DelZotto, Zorzi, I have encouraged the lawyers at my firm to actively participate in the continued education of the profession, while maintaining a high level of legal services for our clients.

There is an urgent need to address the increase in lawyers' insurance fees. There must be a better method of reducing the frequency of negligence claims, while expediting the resolution of complaints. I would advocate an ongoing dialogue with representatives of the Lawyers' Professional Indemnity Company.

The real estate sector of our profession is not adequately represented amongst the current panel of benchers, and I can be a strong voice for their concerns. The judiciary has seemingly demanded a "practice of perfection" when dealing with professional negligence claims, spawned by the 20-20 acuity of hindsight. Accordingly, consideration must be given to the establishment of clear and specific standards as a guide in the field of real estate, so such claims can be minimized. Our legal profession should be taking the lead in encouraging changes in both government legislation and procedures which impact upon real estate practices. A more streamlined method of searching titles and executions should be implemented, as well as an expedited process for attaining responses to municipal enquiries regarding zoning status, outstanding work orders, etc. With the advancement of computer technology, much of the searching costs can be reduced, if not eliminated, and the incidence of human error can be diminished.

In addition, with the advent of Polaris and the Land Titles conversion process, the Law Society should be able to oversee and co-ordinate the design and implementation of a "property records/ownership" system, in co-operation with the Province of Ontario, which would effectively eliminate the need for private title insurance, and create a fund to cover errors. The Law Society should sponsor its own title insurance program and thereby obviate any professional liability claims stemming from errors involving misdescriptions or other title-related matters.

I heartily endorse the goals and aims of the Ontario Real Estate Lawyers Association, and fervently believe that as a professional body, we simply cannot (and should not) be satisfied with the status quo.

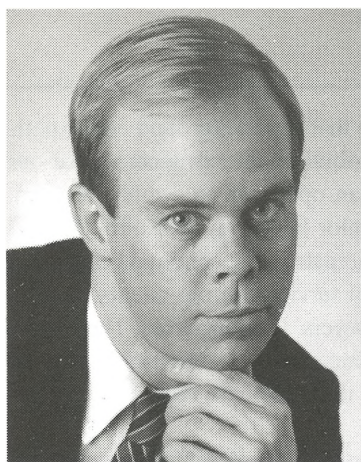
During my 33 years as a lawyer, I have witnessed an increasing deterioration in the level of respect to which lawyers are generally held by their clients. This decline has been caused by various factors, including the increased incidence (and notoriety) of lawyers' acts of deception, dishonesty and defalcation, and the slow processing of negligence claims exacerbated by the high cost of litigation. In both cases, the cost of litigating is extremely high, not only in terms of the fees paid to lawyers, but in the corresponding time lost by clients in pursuing such claims. While arbitration and mediation are mechanisms for dispute resolution that are to be commended and encouraged, we must nevertheless endeavour to streamline the litigation process to reduce delays and its attendant costs. I believe that we are allowing the current litigation process to dictate the situation, rather than helping to create a process which is efficient and constructive.

Finally, the issue involving the placement of articling students must be addressed. The present matching system is unfair to the smaller law firms, and more importantly, places undue pressure upon the students to make instant choices which will ultimately impact on their future careers. The one week period in which interviews are scheduled is exceedingly hectic and frenetic, and denigrates the concept of mature students seeking employment in an open market, with time for meaningful inquiry and thoughtful deliberation. It is difficult to "sell oneself" in a twenty-minute interview, without adequate time for follow-up discussions.

In closing, I believe that with your vote of confidence, I can help create positive changes to enhance the public image of the legal profession, and improve the day-to-day business of being a lawyer.

Endorsed by Ontario Real Estate Lawyers Association  
Vice President of CIPBA - (1964-1966)  
Co-Chairman - Bldg. Committee, Villa Colombo - 1971  
Director, Canadian Italian Advocate Association 08/'87  
Queen Counsel - 1985  
Council Member, Ontario Arts Council - Dec/1985- June/1989  
Board of Director, Multilingual Television - since 1986  
Founding President, National Congress Italian Canadians Foundation - Oct.'87  
President, Liberal Party of Canada (Ontario) March 1988 - Sept. 1990  
Board of Governors  
Fundraising Chairman, Villa Colombo - Feb. 1991  
Co-Chair, Justice Frank Iacobucci Dinner - 1991  
Fundraising, Italian Studies of University of Toronto  
Order of Merit, National Congress of Italian Canadians, Sept. 1992  
Founder & senior member, DelZotto, Zorzi





B.A. Honours, M.A., and Ph.D., University of Toronto; LL.B. Queens. Called 1985. Non-bencher member of Law Society's Communications Committee; Former executive member of CBAO's Young Lawyer's Division. Member County of York Law Association; Canadian Bar Association; Public Affairs Association of Canada. Lecturer at University of Toronto, Queens University, Humber College, Ryerson, Conestoga College, Centennial College and Seneca College among others. Author of *Photography and the Law* (self-counsel) and Co-Editor of the *Canadian Public Affairs Handbook* (Carswell). Maintains an active general practice in the greater Toronto area, with an interest in government and public relations.

## Christopher J. DuVernet

The legal profession is approaching a state of crisis. Rising Errors and Omission premiums, a poor job market, unrealistically high public expectations, and an underfunded judicial system are making it increasingly difficult for lawyers to practice properly.

The Law Society seeks to regulate lawyers in the public interest. In my view, a strong **legal profession best serves the public interest**, and the Law Society should dedicate itself to that goal.

The Society must press harder for better court and registry facilities; defend the profession more vigorously against unwarranted public criticism and claims; and offer seminars and programs at much lower cost.

More regular communication with the profession, the public, and government is also urgently required. A small, underfunded public relations staff has worked diligently to develop new and better communication vehicles for the Law Society, but much more needs to be done. The profession's views should be solicited more often, and the role of the profession explained more frequently to external audiences. Greater use should also be made of non-bencher members on committees, to bring in new perspectives or unique expertise and to disseminate information on the Society's activities.

The Society should more actively protect the public and the profession from the unregulated expansion of paralegals, many of whom lack competence and face no consequences for shoddy work.

Pro-active contact with media and government should also be undertaken more often, to ensure that the views of those most directly affected by the legal system are considered.

The needs of younger lawyers should also be given greater attention. Young lawyers who comprise the majority of today's bar, face far greater pressures than their predecessors. Demands for higher billings and longer hours make practice impossible to reconcile with family life.

The presence of more young benchers is an important first step in ensuring that the pressures facing young lawyers are given the attention they deserve.

Public concerns about the quality and competence of legal services must also be addressed. Both the public **and** the profession would benefit from education. The public needs to have more realistic expectations about lawyers and the legal system. Television has encouraged clients to think that every problem has a quick fix and that a lawyer's work is easy. The public does not appreciate the complexity of our legal system or appreciate the value of legal service and the Society has a role to play in correcting public misimpressions. The profession, on the other hand, needs less expensive and more accessible professional development programs. The Society should experiment with new technologies and other forms of distance learning to ensure that programs are made more accessible to more lawyers.

Finally, we need better attendance among benchers. A disturbingly high number of benchers do not attend convocation regularly or at all, or do not participate fully in the committees they are assigned to. This imposes a heavy burden on the remaining benchers. The profession needs all benchers to give governance their undivided attention on the occasions such attention is required. I will give the position such attention if elected.

I am uniquely qualified to address these issues.

I articulated with a large firm, worked as in-house counsel, and now practice essentially as a sole practitioner, so I know first hand the different pressures that different practice environments produce.

I currently sit as a non-bencher member of the Law Society's Communications Committee and so I have observed the Society's working first hand.

I have a general practice so I am familiar with the special challenges faced by counsel in real estate, litigation, family law and other "high risk" areas.

Finally, a significant portion of my practice involves dealing with the media, government and other stakeholders and so I am well qualified to assist the Society in positioning the profession more favourably.





## Mary Eberts

Every day, I am made aware of the great need in Ontario for legal services, especially among persons with average to modest incomes. At the same time, there are lawyers, both newly called and more experienced, who are unemployed, underemployed, or leaving practice. The reasons for this terrible discrepancy are many, including: problems in the design and delivery of legal aid, onerous fees and insurance costs, the effect on hiring of cutbacks in public and private spending, the relative scarcity of locations where family responsibilities and legal work can co-exist without strain, and the slow pace of developing legal services for minority communities. These challenges need to be addressed by a Law Society that is outward looking and inclusive, willing to innovate, and able to manage on diminished resources. The Law Society must also meet the challenge of being ever more mindful of the public interest at a time when many lawyers are struggling for survival or to cope with radically altered expectations and conditions.

Through my litigation practice, and in working in the Canadian Bar Association and the Law Society's Women in the Legal Profession Committee, I have become accustomed to working within established channels to resolve problems and accomplish objectives. Leadership positions during the evolution of the newly regulated profession of midwifery taught me much about self-governance on a shoestring, tackling tough problems without precedent, and working creatively and confidently with consumers, government, and other professions. I grew up and was educated in southwestern Ontario, have worked in Ottawa and Toronto, and have a law practice and volunteer life that takes me to courts, meetings and hearings in all parts of the province. I am convinced that made-in-Ontario, not made-in-Toronto, solutions are necessary, and, with some changes in approach, eminently possible.

We need to see old problems in a new way, and find solutions for them that draw on both old wisdom and courageous innovation. We need to practise, not just endorse, inclusiveness, reaching out to all sectors of the profession and all parts of the province. My experience as a practitioner and active volunteer will strengthen the Law Society's efforts and resolve to do this.

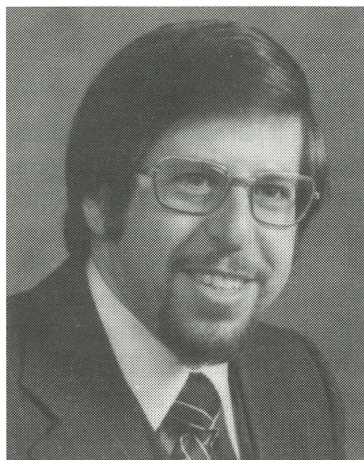
B.A., LL.B. (Western), LL.M.  
(Harvard)

Law Society Medal, LL.D.(hon.)  
(Queen's)

President's Medal, Women's  
Law Association  
Called 1974

Litigation practice emphasizes  
Charter and human rights,  
employment, professions, and  
includes appearances before all  
levels of court in Ontario, the  
Federal Court and Supreme  
Court of Canada.

After fourteen years with a  
large partnership, established  
own law office in 1994. Teaches  
constitutional litigation and  
legal ethics at the Faculty of  
Law, University of Toronto.  
Co-founder of LEAF. Chair,  
Transitional Council, College of  
Midwives, 1993, and Interim  
Regulatory Council on Mid-  
wifery, 1989-1993. Co-chair,  
Gender Issues Committee,  
CBAO, 1991-1994.



Called 1970; Elected Benchers 1985, Chair Legal Education Committee, Chair Bar Admission Course Review Subcommittee, Member Mandatory Continuing Legal Education Committee, Member Alternative Dispute Resolution Committee, Past Chair Clinic Funding Committee, Past Chair Articling Reform Committee, Head of Family Law Section of Bar Admission Course since 1982, Member Family Law Rules Committee of Ontario Court of Justice, Member Family Law Bench and Bar Committee for Ontario Court of Justice at Toronto, Past Chair, Family Law Section of Canadian Bar Association (Ontario Branch), Lecturer in Family Law and Advanced Family Law at University of Toronto Law School, Practices Family Law and Civil Litigation, Member CBA, Advocates Society, County of York Law Association.

## Philip M. Epstein

I have been an active, involved Benchers since 1985. I am acutely aware of the current unhappiness over recent actions taken by the Law Society particularly in the area of insurance. I believe the Law Society must fundamentally change the way it carries on its role. My position on the critical issues facing the profession is as follows.

### **Insurance**

I support an independent review of the Errors and Omissions program. The issue of variable levies must be carefully studied and considered. I support transaction fees but I oppose applying the deductible or surcharges when the claim is successfully defended. I support making LPIC completely independent of the Law Society. Tail fees, ie. fees upon retirement, should be abolished.

### **Legal Aid**

I support an aggressive new round of negotiations with the government to increase the tariff particularly on the civil side and more particularly in the area of family law. In these difficult economic times the Society must be vigilant in opposing any fundamental changes in the delivery of criminal legal aid services. The Society should encourage the Government to expand and strengthen the Clinic System.

### **Legal Education**

The Mandatory Continuing Legal Education Study should be completed so that it can be determined whether the program is needed and viable. If the study establishes that such a program cannot be successfully delivered, the Society must dramatically improve the delivery of its education programs around the province. CLE must be made cheaper and more accessible. The Bar Admission Course must be more skills based, must stress loss prevention and must be made available, upon law school graduation, at the Law Schools at which the students completed their studies.

### **Numbers in the Profession**

This is not an issue the Society can address on its own. I support a comprehensive review of this issue in conjunction with the Government and the Law Schools. We cannot simply close the doors to protect those already called but we can review this issue in a comprehensive way in order that all stakeholders will be protected. A new economic study should be commissioned in order to shed light on this very difficult topic.

### **Communications**

The Society communicates poorly with the profession. Our process must be made more open and consultative. The Treasurer and those in senior chair positions will have to spend increased time visiting local county and district associations to hear the views of the members. The Society committees should have considerably more non benchers members. The name of the Society should be changed to the Law Society of Ontario to demonstrate a change in direction and attitude. The County and Districts Law Presidents Association, the Canadian Bar Association and the Society must forge closer ties.

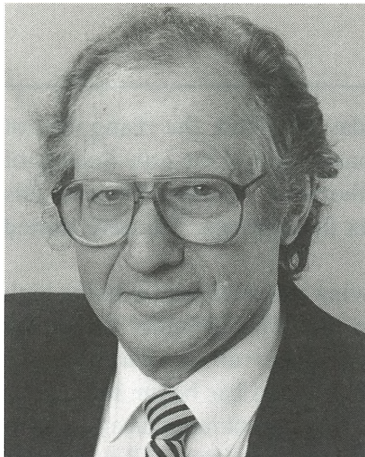
### **Libraries**

The county library systems must be brought up to date. Computer systems with modems must be available in all county libraries. The Society must devote greater resources to this vital area. All Society education programs must be available in local libraries through video and CD Rom facilities.

### **Benchers Elections**

I support the concept of regional election of Benchers and a change of the Law Society Act to accomplish this purpose.

As Chair of Legal Education I wish to see through to completion the important work being done by the Bar Admission Review Committee. I would also like to be a part of seeing the Society move rapidly forward to grapple more successfully with the serious problems facing our profession.



## A. C. (Al) Finkelstein

We have come upon sad and divisive times. Never in memory has so much been said or printed about fellow members that has been so recriminatory and accusatory. Our Society has its cracks and crevices and it certainly needs to be renovated and illuminated, but we have a long history of service, a tradition of strength and dignity, and a strong foundation.

Errors have undisputably been made and at the worst of economic times - large and expensive errors, but also innocent ones. As a result, all members are suffering, especially the younger Bar.

What's to be done?

First, there is no doubt that our past mistakes have to be made good. There is no gainsaying that, but, in the most gentle and kindly of fashion. Our creditors must be made aware that we are not prepared to eat our young.

Secondly, we must step away from the mundane day to day and the Society and its members must philosophically review what and where we should be as we approach the 21st Century. Clearly, change is necessary and it might be draconic. It is not enough for the Society to exist merely as an instrument of Committee and/or reaction. In a democratic society, lawyers have a singular role to play. Therefore, we must set long-term, philosophical and practical goals, and then, have the stomach, regardless of short-term consequences, to implement them.

Thirdly, Law as a business, as a component of our society, as a goal for our youth, and as a way of life, must be re-examined. There are too many extraneous influences that intrude upon our own purposes and our own decisions. We must be Masters of our own house. Our sole and only purpose is to serve the public. If we are not free to serve and sustain ourselves, how can we in good conscience claim to be able to serve and sustain them.

In short, what is required, in a modern demographic landscape is strategic, uninfluenced, long-term planning. We must address problems before they burst upon us, for example, (a) the flood of students spewing out of all of our 6 Ontario law schools with their shiny new LL.Bs and no prospect or hope of a position or living; (b) the non-stop escalation of both fees and E. & O. premiums; (c) the continuous Americanization, encouraged through our law schools and media, of our jurisprudence. These and other questions I wish to actively contribute and participate in addressing and would ask that my fellow members assist me by supporting my candidacy as Benchers in the forthcoming election.

All of which are respectfully submitted.

### Born:

Toronto, December 30, 1930

### Education:

Toronto School System;

University of Toronto B.A.

1953; Osgoode Hall Law

School 1957; York University

1991 LL.B.

### Personal Statistics:

Married 1955; 1 wife; 4 chil-

dren; 5 grandchildren (and

counting)

### Affiliation of Note:

Crohn's & Colitis Foundation of

Canada, Founder - 1974,

National President 1974-1979

### Professional Experience

- Barrister & Solicitor since

1957 (as a sole proprietor

exclusively)

- Practice Fields: Civil Commer-

cial Litigation; Commercial &

Corporate; Real Estate; Exper-

tise, if any, in the field of

Business Law

Corporate Business

### Experience:

- Privately as a: Theatre

Manager; Builder; Developer;

Commercial Landlord; Investor;

Retailer; Property Manager

### Dependents:

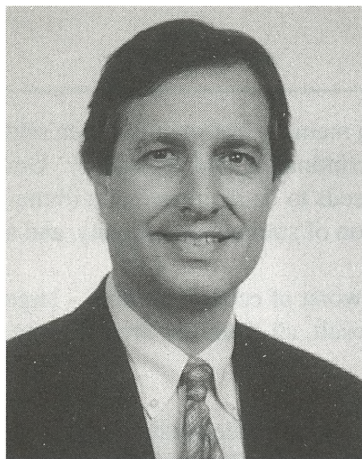
- 3 Banks

### Personal Interests:

- Amateur Historian; Amateur

Musician





## Neil Finkelstein

Two of the major issues affecting the profession today are, **first**, the rising cost of Errors & Omissions insurance and, **second**, the responsiveness of the Law Society of Upper Canada to its members, both financially and otherwise. As a new Benchers this term, I have been extensively involved in trying to fix these things. We have started the work, but there is much left to do.

As to insurance, I recognize that members are having real difficulty with the high cost of the levy. That is a matter of great concern to me. The difficulty is that, for many years, the Law Society insurance program has not been run on a business-like basis. Professional management is now in place, the program has begun to be reorganized and, most importantly, information systems are being put into place to permit levies to be based upon risk. Those who impose risk on the system will pay more. Those who do not will pay less. The purpose is to streamline the insurance program to make it less costly and more responsive to members' needs and financial resources. If re-elected as a Benchers, I shall try to squeeze costs out of the system to make the levy more affordable.

Another difficulty which faces the profession is that the Law Society is not responsive to its needs. I am currently a member of the Joint Committee of Finance and Research and Planning which is examining the way the Law Society is being administered and governed. It is a job which is long overdue. We must increase efficiency, decrease cost, and make the governance of the Law Society more sensitive to the profession's needs. If re-elected, I intend to continue my extensive involvement in this area with a view to decreasing the fees that members pay and to make the Law Society more sensitive to members' concerns and priorities.

As a Benchers, in the above areas and others, I shall continue to do my best to meet the challenges which confront the Law Society in its duties to both the profession and the public.

### PROFESSIONAL EXPERIENCE

- Called to the Bar, 1982
- Benchers, elected 1991
- Certified by the Law Society as a Specialist in Civil Litigation, 1991
- March 1982 to present - partner in Blake, Cassels & Graydon; appearances at all level of courts, up to and including the Supreme Court of Canada
- Law Clerk to Chief Justice Bora Laskin, 1980
- Senior Policy Advisor to Ian Scott, Attorney General of Ontario, 1985

### EDUCATION/TEACHING

- Harvard Law School, LL.M. (1980)
- McGill University, LL.B. (1979)
- Lecturer, University of Toronto, Faculty of Law, 1987 to 1990
- Lecturer, Osgoode Hall Law School, 1981 to 1983, 1988 to 1989

### PUBLICATIONS

- Finkelstein, *Laskin's Canadian Constitutional Law* (5th edition, 1986)
- 4 other constitutional law books (co-edited or co-authored)
- Numerous legal periodicals on constitutional and competition law topics



## Rocco Galati

As a sole practitioner I am alarmed by the effect of the E & O crisis currently crippling the profession. The fact that it costs approximately \$10,000.00 per year in E & O plus fees, to open your door, before even calculating the cost of any staff, phone, rent or other necessary fixed costs, makes it prohibitively expensive for any new lawyer coming out to in fact practice, if she/he is not fortunate enough to be employed by either government or a firm.

For a lot of young lawyers coming out, as well as some senior members of the profession who are sole practitioners, this has meant being forced out of the profession. For anyone wishing to practice part-time, whether it be a person raising children, simply because someone wishes to practice part-time, or for whatever reason, this option has now become a virtual impossibility. This, to me, is unacceptable.

It is clear that swift and immediate action must be taken to rectify this crisis. It is further clear that the composition of the Benchers must include more lawyers who are sole practitioners or who practice in small firms, as this reflects the reality of a significant portion, if not the majority, of lawyers in the profession. Furthermore, it is this segment that is most affected and being forced out of the profession because of the current crisis.

It is also clear to me that the composition of the Benchers must also more accurately reflect the composition of the Bar in every other respect which, in my view, is not the current situation. It is my view that the traditionally alienated segments of our society at large continue to be alienated, in a parallel fashion, within the key decision-making roles of our profession. This too must be addressed and changed.

If elected, I would direct my energies to those two primary concerns, which in my view, have not only fed and aggravated a negative perception by members of the public and of the profession as a whole, but also have in fact driven the profession and its new and most vulnerable members into an unhealthy state, which in turn detrimentally affects the public.

While these problems are severe, I am confident that an honest, swift, and diligent approach could resolve them so as not to destroy the profession as we have known it and enjoyed practising it to date. It is my view that the Law Society is designed to maintain the integrity of the profession and to protect the public, but not straying to the point that it, its requirements, and its operation(s) become a major and day-to-day concern and obstacle in the **business** of the practice of law and the viability of that business.

- Immigrated to Canada (Toronto) in 1966, as one of eight children.
- Graduated from McGill University (1984), Osgoode Hall (1987). Very active in clinic work.
- Studied Civil Law, University of Sherbrooke, summer 1987. Called to the Bar 1989.
- Fluent in English, French, Spanish, Italian, working knowledge of Portuguese and studying Mandarin.
- August 1987 - February 1990, articulated and practised as a Tax Litigator, Department of Justice.
- March 1990 to present, sole practitioner restricted to proceedings against the Crown: Immigration, Tax, Administrative and some Criminal with emphasis on Appeals, Judicial Review, and Prerogative Remedies.
- March 1990 - August 1992 also part-time review counsel at the University of Toronto's Legal Aid Clinic. Teaching, supervising students, and conducting appeals and judicial reviews.
- Active member of the Refugee Lawyers Association. Sit on the Ontario Legal Aid Area Committee, Civil Appeals, York County.



## Bernard L. Gluckstein, Q.C.

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Bernard Gluckstein, was called to the bar in 1962 and was Certified by the Law Society as a specialist in Civil Litigation in 1978. He founded the firm of Gluckstein & Associates and has become known as a highly community oriented lawyer who has exhibited a serious dedication to protecting the rights of the injured and disadvantaged.

Mr. Gluckstein has demonstrated a commitment to improving conditions for accident victims by his active participation in numerous organizations. He has become particularly recognized as one of Ontario's leading advocates on behalf of the catastrophically injured. He is a Director of and Legal Counsel for the Canadian Brain Injury Coalition, a former Director of the Ontario Head Injury Association, in addition to serving as an Advisor to the Advocacy Resource Centre for the Handicapped. Mr. Gluckstein also founded F.I.T. For Work Centres, an interdisciplinary rehabilitation facility recognized to be among the best in Canada.

Following his term as Vice Chairman of Fair Action in Insurance Reform (FAIR) and in their effort to preserve accident victim's rights to fair and adequate compensation under Ontario's ever changing insurance legislation, Mr. Gluckstein has remained actively involved in the Advocates' Society's coalition of lawyers who continue to liaise in opposition to further anticipated legislative recovery restrictions.

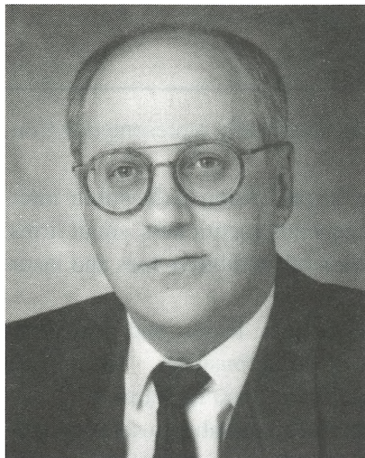
If elected to serve as a Bencher of the Law Society of Upper Canada, Mr. Gluckstein proposes to address the urgent need to reform administration of the profession's Errors & Omissions Insurance which continues to be managed by the Society at exorbitant rates to the practitioner, and which rates continue to increase in the face of equally exorbitant service rates charged by outside counsel retained by the Society. Mr. Gluckstein proposes a long overdue implementation of a more equitable scheme of insurance. He proposes an inquiry into submitting professional coverage for tender from private insurers with a view to securing competitive premium rates more reflective of a user-pay system than that currently in existence. To the same end, and in conjunction with such a scheme, he also proposes tendering out legal representation to ensure significantly lower rates.

Mr. Gluckstein believes the current practice reality and industry image mandate an improved Law Society response to the problems of both smaller firms and sole practitioners. Unaffordable premium rates and the continuing expansion of the larger firms threaten to render the sole practitioner virtually obsolete without improved Law Society services designed to bolster the competitive potential of small practices and to generally become more responsive to the needs of lawyers.

Reduced insurance rates and improved opportunities for practitioners to offer more competitive service rates may in turn pave the way for real progress in improving the public image of the profession.

Bernard Gluckstein is both prepared and committed to working hard to assume the tremendous responsibility of being a Bencher. He hopes to have an opportunity to direct his continuing commitment to the public good in his profession and the community at large by assisting the Law Society of Upper Canada in their efforts to provide expeditious response to the changing realities of the practice of law in Ontario.





## Frank Gomberg

### Personal:

- Born Montreal, December 31, 1952

### Education:

- B.A. (English Literature) McGill University, 1974
- LL.B. Osgoode Hall Law School, 1977

### Professional:

- called to Ontario Bar, 1979
- articulated Thomson, Rogers, 1977-1978
- practised at Thomson, Rogers, 1979-1991
- practised at Teplitsky, Colson, 1991-present

### Activities:

- Board of Directors, The Advocates' Society, 1992-present
- Board of Directors, Ontario Centre for Advocacy Training (O.C.A.T.), 1994-present
- Board of Directors, Dunloe Children's Centre, 1994-present

### Teaching And Writing:

- Has taught at:
  - Bar Admission Course
  - O.C.A.T.
  - Law Society Programmes
  - C.B.A.O. Programmes
  - Advocacy Courses
- Has written articles on:
  - medical legal issues
  - advocacy issues

**I. Mandate of the Law Society (L.S.U.C.).** The L.S.U.C. fulfils a dual role:

- i) protector of the public in its interface with lawyers;
- ii) professional interest organization for lawyers.

The L.S.U.C. must ensure that it does not abrogate its role as an organization that advances and advocates the interests of lawyers by emphasizing, to the exclusion of all other considerations, the "protection of the public" considerations of self government.

The L.S.U.C. must protect the public. It must simultaneously serve the vast majority of those in the profession who are honourable practitioners, dedicated to advancing the best interests of their clients.

**II. Liability Insurance.** The insurance fiasco is obviously of tremendous topical interest. It seems clear that the insurance initiatives must be implemented in order to obviate a further catastrophe. At a minimum, the following must be embraced to ensure the commercial viability of the Lawyers' Professional Indemnity Company (L.P.I.C.) and the protection of those members of the public who advance claims against their lawyers.

- i) Premiums. Premiums must be based on sound underwriting principles so that:
  - a) those lawyers who have been negligent, regardless of their areas of practice, pay increased premiums to reflect the increased risk of future claims being made against them;
  - b) those lawyers who practice in high or higher risk areas of the law, must pay increased premiums to reflect the increased risk of future claims being made against them, regardless of whether they have been claimed against in the past.

Differential premiums recognize the economic realities of professional practice in the 1990's. The medical profession has already moved to differential premiums. So, too should the L.S.U.C. It is inequitable for those who have not been negligent in the past, and who are unlikely to be negligent in the future, to bear a disproportionate share of the financial burden of negligence claims.

- ii) Adjusting and Paying Claims. Adjusting and paying claims should be undertaken based on sound business principles. Meritorious claims must be paid promptly so that unnecessary expenditures are not incurred on L.P.I.C.'s lawyers' fees, prejudgment interest and party and party (and perhaps solicitor and client) costs. L.P.I.C. must not adopt a "scorched earth" policy of defending meritorious claims. Claims devoid of merit on the other hand should be firmly resisted in order to protect the integrity of the insurance programme and in order to demonstrate that the programme will not be "blackmailed".

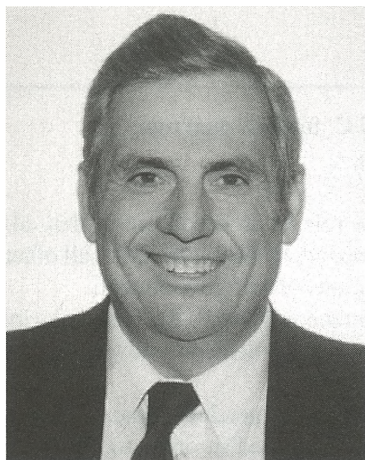
L.P.I.C. should seek to submit all claims that cannot be settled promptly by its adjusters to Alternative Dispute Resolution (A.D.R.). The submission of these claims to mediation or arbitration reflects the reality that litigation is a costly and sometimes inappropriate way to resolve client-lawyer disputes.

**III. Minority Hiring and Discriminatory Practices.** The L.S.U.C. must be at the forefront of equal opportunity. The L.S.U.C. must ensure that in the recruitment and hiring of articling students and juniors and in admission to partnership decisions, merit considerations govern. It is unacceptable that anything other than a true meritocracy determine professional success.

**IV. Lawyers in Non-Traditional Practices.** The L.S.U.C. must address the needs and concerns of all of its members including those who do not practice in the private law firm setting. The L.S.U.C. should educate itself on what lawyers in legal advocacy groups, community clinics, corporations and government think it can do, but is not doing for them. The L.S.U.C. can then make an informed decision on what services it can deliver to these constituents.

**V. Continuing Legal Education (C.L.E.).** The L.S.U.C. must continue to support and offer C.L.E. while studies are completed on whether mandatory C.L.E. reduces negligence claims against lawyers. Regardless of whether mandatory C.L.E. is implemented, the L.S.U.C. must continue to fund the Ontario Centre for Advocacy Training (O.C.A.T.) in order that excellent training be available to those litigation lawyers seeking to improve their skills.

I ask for your vote. If elected, I will work hard and do my best to ensure that the concerns of lawyers both outside and within Toronto are addressed with sensitivity and respect.



**Sole General Practitioner Since 1970**

**B.A., LL.B. University of Toronto**

**Vice-Chair, General Practice Section, CBAO**

**Chaired CBAO General Practice and CLE programs**

**Certificates in Mediation Skills**

**Written for legal publications**

**(Law Society Gazette, Lawyers**

**Weekly, Canadian Lawyer**

**Magazine), newspapers and**

**magazines (including Globe and**

**Mail, Sunday Star, Ottawa**

**Citizen, Hamilton Spectator,**

**Kingston Whig-Standard,**

**Canadian Author and**

**Bookman, Canadian Jewish**

**News), legal columnist, Medical**

**Post Outlook**

**Member York County Law**

**Association**

**Past member Board of Govern-**

**ors, past co-chair Board of**

**Education, Beth Sholom**

**Synagogue**

**Endorsed By The Ontario Real**

**Estate Lawyers Association**

## Gary Lloyd Gottlieb Q.C.

The views and interests of ordinary lawyers have not been adequately represented at Convocation.

Convocation may have a legislative duty to regulate the profession in the public interest, but it is not in the public interest to regulate sole and general practitioners, small firms, and low-earning lawyers out of existence by the imposition of prohibitive fees and insurance premiums.

To big firms and high-priced specialists, Law Society fees, levies, and negligence insurance premiums are simply a tax-deductible cost of doing business. To ordinary lawyers, these fees and premiums are making it impossible to remain in practice.

The present system of negligence insurance is unfair and inequitable to sole and general practitioners, to small firms, to low-risk specialists in fields such as criminal law and immigration, and to lawyers whose practice is based on Legal Aid.

Negligence insurance premiums should not be assessed against lawyers. They should be assessed against each individual matter and be charged as a disbursement to the client. The premium would be based on the nature and quantum of the matter, as well as the claims record of the lawyer responsible for the file. No-risk matters would not be subject to a negligence insurance assessment, and low-risk matters and high-risk matters would be assessed accordingly.

The Law Society's general budget must be rigorously scrutinized and its expenditures reduced. The Law Society cannot be supported on the backs of ordinary lawyers. It is unfair and inequitable that low-earning lawyers have to pay the same Law Society fees and levies as their high-earning colleagues. Present Law Society fees and levies should be reduced for low-earning lawyers; the fees and levies should be progressive and based on gross earnings.

The Law Society should be more sensitive to the needs of lawyers with young families and lawyers who want to have a proper balance between their home and professional lives. Part-time practitioners should not have to pay the same Law Society fees as their full-time colleagues.

There are too many lawyers chasing too little work. Doctors, dentists, engineers, accountants, and other professions restrict the number of new entrants. It is not in the public interest that the quality of legal services be diminished by allowing the supply of lawyers to exceed the demand.

The Benchers election is not a professional popularity contest. Benchers should not be voted for on the basis of their legal renown, but on the basis of the issues they advance.

Ordinary lawyers cannot expect their views and interests to be vigorously and forcefully represented by big firm benchers.

Sole and general practitioners, small firm lawyers and lawyers in low-earning specialties, are made to feel second-rate compared to their big firm high-earning high-profile colleagues.

In truth, however, the public depends on and needs sole and general practitioners and small firm lawyers. The overwhelming majority of us are honest, competent, conscientious and diligent, and deserve to be effectively represented at Convocation. Do not expect the benchers from big firms and high-earning civil litigators to do it.

I am just an ordinary lawyer. I am not a politician and I dislike politics. But we have seen what happens when we entrust our legal affairs to benchers with a big firm mentality.

Complaining to each other in the land registry office or in provincial court or at bar association meetings will not accomplish anything. Tossing the benchers candidates booklet and ballot in the trash can is even worse.

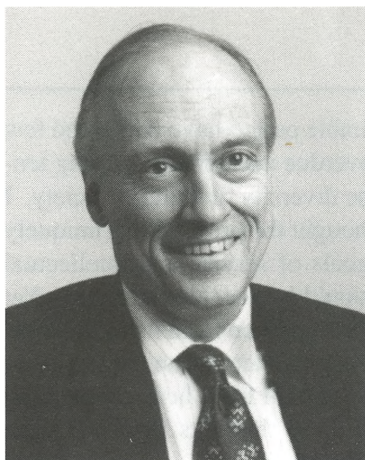
Unless we speak up and take an active part in the affairs of the Law Society we will not be adequately represented.

I cannot accomplish anything alone, but I am prepared to lead the vanguard.

Until ordinary lawyers make the sacrifice to serve as benchers, we will continue to get the representation we deserve.

I am an ordinary lawyer, and I am prepared to do my best to represent you.





## Stephen T. Goudge, Q.C.

B.A. (Honours), University of Toronto  
 M.Sc. (Economics), London School of Economics  
 LL.B. University of Toronto  
 Call to the Bar (1970)  
 Queen's Counsel (1982)  
 Certified Specialist - Civil Litigation  
 Elected Fellow, American College of Trial Lawyers  
 Engaged in general litigation, administrative law and labour law with Gowling, Strathy & Henderson in their Toronto office  
 Former Lecturer, University of Toronto, Faculty of Law  
 Former Instructor, Bar Admission Course  
 Member, Advocates' Society, Canadian Civil Liberties Association and Canadian Bar Association  
 Elected Benchers (1991)  
 Served as Chair, Equity Committee (to 1994)  
 Served as Chair, Joint Subcommittee on Requalification  
 Currently Chair, Legal Aid Committee

As a benchers for the last four years, I take some pride in having been part of a number of accomplishments for the profession.

The passage of a modern rule against discrimination helps us as a profession move more confidently into an age of increasing diversity.

The report on requalification sets new and, I think, reasonable standards for those who have been away from the law for some time and wish to return.

The agreement reached with the province on legal aid resolved the crisis in paying accounts and provides adequate funding and the guarantee of judicare for the next four years.

The Legal Aid Committee, which I chair, is now fully engaged in successfully implementing that agreement. We are also seeking further efficiencies to permit the tariff to be made more equitable without damaging the services provided. I would look forward to the privilege of continuing this work. Indeed, with sound administration I hope we can effect a modest reduction in the annual legal aid levy made on the members of the profession.

I take no pride, however, in the crisis which we allowed to develop in professional insurance. While a viable temporary solution has been reached, much remains to be done.

The protection of the public requires that lawyers maintain insurance, probably in a single insurance plan. However, proper long term professional management of that insurance plan needs to be assured. Benchers cannot effectively perform this role.

The future adjustment of premiums to better reflect the risk presented by various practice types is essential. This will become feasible as more data is collected.

So far as the provincial regulator of insurance will permit, we must set insurance premiums so as not to drive members out of the profession.

Finally, we must make future changes to the insurance plan only with better information, made available earlier to members of the profession, and with the fullest possible consultation.

The next four years will bring other major challenges.

Firstly, the reassessment of the articling/bar admission process must continue. We must strive to ensure that those entering the profession are sufficiently qualified that the public is well served and the burden on the insurance plan is minimized.

Secondly, in an increasingly complex world finding ways to encourage the maintaining of standards throughout a lawyer's career must be a priority, for the same reasons.

Thirdly, in the tough economic times ahead, the Law Society must play a more active role in ensuring that the public in all parts of the province and from all economic strata can access the services of our profession.

Ultimately, and most importantly, it is vital that the law remain a self regulated profession. This is an essential prerequisite for an independent Bar. Our self regulation must demonstrate - more than it has in the last several years - an openness and a sensitivity to the views and needs of lawyers. If the Law Society is to effectively govern the profession in the public interest it must, more than in the past, earn the profession's understanding and its support.

It is in this spirit that I seek the privilege of contributing to the future governance of our profession.





## Margaret A. Gray

B.A. (Honours Philosophy and East Asian Studies), Toronto, 1972; M.A. (Philosophy), Toronto, 1974; LL.B., Toronto, 1976. Called to the Bar in 1978.

Special lecturer in Jurisprudence, University of Toronto Faculty of Law 1976-1982. Practised as associate at Osler, Hoskin & Harcourt, as associate and partner at Weir & Foulds. Currently in sole practice in areas of business law, health law, wills and estates.

Member of National and Provincial Councils of CBAO. Currently serve on Strategic Planning Committee of CBAO and on Executive and Annual Institute committees of Feminist Legal Analysis Section. Frequent speaker before professional and lay groups.

Most of us who have been in practice for any considerable period have witnessed few recent changes in it for the better, other than a long overdue and still developing tendency for our numbers to represent more equitably the diversity of Ontario society. I went to law school over twenty years ago because I thought the profession a uniquely honourable one where a practitioner could pursue goals of service and intellectual rigor and where values of trust and human dignity would be accepted as basic. Yet today I frequently hear from senior members of the Bar, and often from its most admirable members, expressions of regret that they ever chose to enter law and of hope that their children will not do so. I suspect that most of you will have heard such comments or had such thoughts and I also suspect that these thoughts have not been prompted alone or even largely by purely economic concerns.

The hostilities and divisiveness which we see operating so destructively in our province; the failure of tolerance, courtesy and public spirit; the apparent collapse of reason and calm under the pressures of debt, all are mirrored in our profession. We cannot, however, excuse the faults of our profession as being simply the necessary products of society's ills. I believe that my own early vision, one I am sure many of you share, was not naive at all. I believe that as lawyers, in our dealings with the public and with each other, we should be honoured to assume the highest and most strict duties of conscience. We should try to be exemplars in our professional and personal lives of what is best in our society. Instead we are perceived as a major source of what is worst.

Benchers of the Law Society sit in the interests of the public, not as lobbyists for the profession or for any segment of it. I believe that the public interest and the honour and dignity of lawyers themselves will best be served by electing to our governing body members such as myself who will seek to serve the public at large.

**Legal Education** - We must find better ways in which to ensure that new lawyers entering practice have received adequate theoretical and practical training at the university, articling and Bar Admission levels.

The Law Society and the university Faculties of Law must work together to address the problem of numbers in the profession and the likelihood that the market for conventional legal services will continue to shrink.

The Law Society should continue to explore the question of how practitioners outside the large Toronto firms can obtain affordable continuing legal education and research support.

**Fees and Levies** - The efforts to reduce the errors and omissions deficit should not overlook the need for a more detailed inquiry into how the problem arose; why it was not discovered earlier; and what legal remedies exist against those involved.

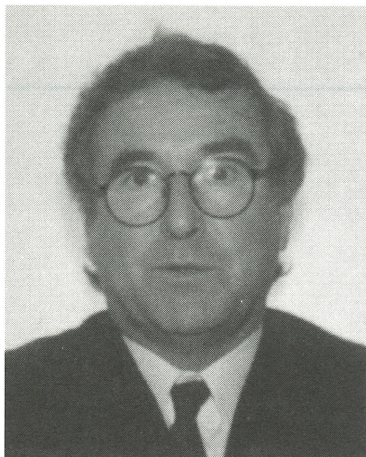
The requirement for "tail payments" is prompting the withdrawal of many worthy members from the profession. The possibility of alternative resolutions of the deficit problem must be examined.

The public is not best served when those of our colleagues who provide advice to disadvantaged groups or who practice in remote and economically distressed areas find themselves unable to continue because of the enormous increase in fees and levies and the crisis in legal aid funding.

The availability and cost of alternatives to the current insurance placement scheme should be explored as a matter of the greatest urgency.

**Self Government** - Efforts to make the proceedings of the Law Society open to public scrutiny and to keep members of the profession adequately and promptly informed must be expanded. It is apparent from the issues surrounding the insurance deficit that even Benchers found themselves unable in the early stages to obtain accurate information about the nature and extent of the problem.

The management structure within the Law Society and communication between the Society and members of the profession need to be examined. It is neither necessary nor useful for our governing body to be regarded as an enemy.



## Mendel M. Green, Q.C.

I believe I have the necessary background in the problems of the practice of law that is required to become active as a bencher of the Law Society.

Since my call to the Bar I have had extensive experience at both the criminal and civil bar and administrative tribunals. I am a certified Specialist in Immigration Law. I have gone from a single practitioner practice to the senior partner of a firm with 11 lawyers and a support staff of almost 50. I recognize the problems that counsel have practising law in present recessionary times and the difficulties they encounter with respect to ethical problems that arise constantly in the course of their day to day activities.

In my position as Chairman of the Specialty Committee of Immigration Law, I am constantly being sought out to give advice to young counsel regarding their problems. I believe the Law Society has to be more accessible to the profession.

I participate in continuing legal education seminars as often as once every 8-10 weeks. I think it is important for the profession to keep abreast of up-to-date changes on the legal scene. The Law Society should become more pro-active in Continuing Legal Education. It is losing a large share of the CLE market to other private education institutions. Additional income can be derived in this area and I wish to pursue innovative approaches in Continuing Legal Education.

I am very conscious of the role of the Discipline Committee. I feel the profession requires expeditious proceedings to deal with disciplinary matters. Its reputation will suffer by the delays in calling disciplinary hearings.

I wish to contribute in whatever way I may by becoming involved in the work of a bencher. I hope that my colleagues feel that I am worthy of being elected. I will pursue my duties to the best of my ability.

B.A., University of Western Ontario, 1957. Attended Osgoode Hall Law School. Called to the Bar of Ontario, 1962. Appointed a Queen's Counsel, 1975.

A senior partner with the firm of Green and Spiegel, a general law practice specializing in all aspects of immigration law, including corporate, commercial and real estate needs of international business persons. Founding Chair of the Immigration Law Sections of both the Canadian Bar Association and the Canadian Bar Association-Ontario. Chair of the Immigration Law Specialty Committee of the Law Society of Upper Canada and Adjunct Professor of Law at University of Western Ontario.

Considered a leading authority on Canadian Immigration law internationally and has lectured extensively on this subject. Certified a Specialist in Immigration Law by the Law Society of Upper Canada.



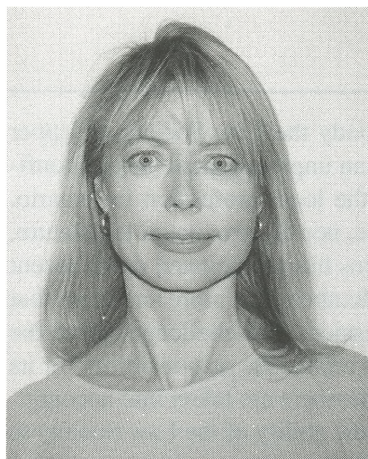
## Harvey M. Haber, Q.C.

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Partner, Goldman, Sloan, Nash & Haber, Toronto. Author of *The Commercial Lease: A Practical Guide* and *Understanding the Commercial Agreement to Lease*, Editor-in-Chief, *Shopping Centre Leases*, Volumes 1 and 2.

Numerous articles in both Canadian and American publications. A Director of the Arbitration and Mediation Institute of Ontario. Guest lecturer for Law Society of Upper Canada, Canadian and Ontario Bar Associations and International Council of Shopping Centres. Has specialized in commercial leasing for over 32 years. Graduate of the University of Toronto (B.A. 1957, LL.B. 1960). Called to Bar of Ontario in 1962 and appointed a Queen's Counsel in 1978.





## Jane Harvey

BA University of Western  
Ontario, 1971

LLB University of Toronto,  
1974

Called to the Bar Ontario,  
1976

Worked for Torstar Corpora-  
tion 1976–1978. Formed Jane  
Harvey Associates in 1978 and  
opened storefront offices in  
1980. Benchers Law Society of  
Upper Canada 1988–1991.  
Did not run in Benchers Elec-  
tion 1991.

Five store front offices in  
Metropolitan Toronto  
Editorial Board "Canadian  
Lawyer Magazine"

How is the Law Society like Orange County, California? Its Errors & Omissions insurance is in deficit and taxes (Fees and Errors & Omissions) exceed the ability of its citizens (members) to pay.

What is the solution? In Orange County they are not raising taxes; they are cutting expenses. The Law Society can cut expenses too. Sure, some worthwhile programs will have to be cut back and others ended, but you cannot have more than you can afford. We certainly can't in our own law practices. What makes Benchers think that they can increase spending every year when their members incomes are staying the same, if not dropping, and expenses are on the increase! The practice of law must not be just for rich men and women.

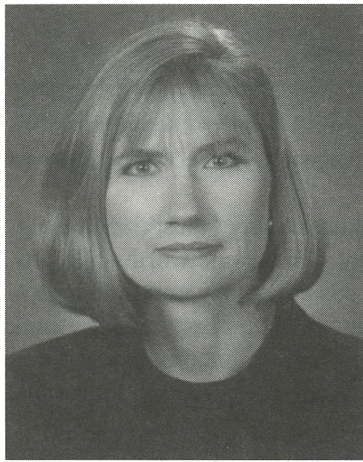
In 1995, our fees are \$1211.24 and 1995 E&O are \$6900.00. (The 1995 comparative costs are \$766.13 and \$1300.00 in Quebec for a yearly total of \$2076.00.) I believe Fees and Errors & Omissions should be returned to their level in 1992 when fees were \$1150.00 and Errors & Omissions were \$1923.08. There should be a commitment to lower Fees and Errors & Omissions and to keep them at the lower level for the upcoming four year period. We need certainty that this portion of our professional cost base will remain level.

The cost of legal insurance must be reduced. The Law Society should get out of the insurance business altogether if there are reasonably priced alternatives. Coverage should be for legal services only – no mortgage brokerage, no director or trustee activities, no conflict situations. The amount of mandatory coverage could be reduced to say \$500,000.00. Above that amount we could pay for extra insurance if we wish. Most basic legal services fall within the value of \$0 to \$500,000.00. Why force all lawyers to insure beyond those limits? Also, it should be noted that Chartered Accountants in Ontario are not required to hold any Errors & Omissions Insurance. There could be a rule requiring lawyers to advise clients of their insurance coverage level. Also, it is difficult to justify continuing to charge lawyers premiums after they leave practice. Haven't they already paid for their coverage?

Some have suggested the Law Society pay its benchers on a hourly basis based on the Legal Aid tariff. There is no way the Law Society can afford to pay Benchers for their service. The Treasurer is paid \$75,000.00 a year for what is a full time position. This is completely justified. The Law Society has always been dependent on the pro bono services of its members, as Benchers, Committee members and Bar Admission instructors and this is appropriate in a profession like ours.

Members should have more participation in Society decision making, particularly where it involves spending their money. Referendums could be used for some decision making.

The role of the Law Society is to protect the public by regulating its members in a straightforward and cost efficient way. It is time to streamline the operations of the Society and make it more responsive to the needs of its members and the demands of their practices.



Recently called to the Ontario bar (January 1994) with earlier calls in Alberta (1984) and Manitoba (1986). Have studied law and criminology on a graduate level. Practised in small and medium size firms, and in a corporate and government setting. Taught criminal and corporate law. Currently legal counsel with the Ontario Law Reform Commission. Have developed law reform initiatives in the area of the regulation of the professions, separate Aboriginal justice systems, spousal violence and pension division on marriage breakdown. Active in community and parent groups, women's groups including LEAF and NAWL, and volunteer legal advice clinics. On the Board of directors of the Association of Law Officers of the Crown.

## Barbara Hendrickson

The legal profession in Ontario, and its regulatory body the Law Society of Upper Canada, is going through an internal crisis. There is an unprecedented lack of confidence in the ability of the Law Society to regulate the legal profession in Ontario. This lack of confidence emanates not from the public, nor the provincial legislature, but from its own members. The rise in E&O premiums has precipitated much recent dissatisfaction but concerns are more deep-rooted. Members feel more and more that the Law Society is no longer accountable to the profession. The challenge before the Law Society and the benchers, in whom the members repose the responsibility for its operation, is to ensure that the interests of all of its members are taken into account.

In order to restore the confidence of members in the ability of the Law Society to effectively regulate the profession it will be necessary for benchers to address a number of issues.

**Professional Liability Insurance** - It will be necessary to critically examine the current system with a view to making fundamental changes to the way the Law Society deals with claims against the insurance fund.

**Efficiency** - It is necessary for the Law Society to conduct an operational review of the Law Society offices with a view to making those operations more cost effective. Economic restraint has affected the practices of all lawyers in Ontario and the Law Society cannot be immune from this process.

**Professional Education** - It will also be necessary to re-examine current policies with respect to ensuring the ongoing education of members. It will be necessary for the Law Society to provide continuing education programs that are accessible to all members and affordable.

**Accountability** - The legal profession in Ontario is far from a homogenous group. Decisions of the benchers must reflect the interests of all members regardless of race, gender, geographical location or employment arrangement.

If elected I feel that I can bring a unique perspective to the role of bencher. The work that I have done in the area of professional regulation as well as my experiences in other provinces provides me with the background and expertise to make a valuable contribution to the legal profession in Ontario over the next four years.



## Jacinth A. Herbert

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The current cost of practising law creates a problem for many lawyers. In this group are women, minorities, new lawyers and other members affected on economic grounds. Our profession has become stratified. Many of the decisions made in Convocation lack a true reflection of our financial reality.

Moving towards the 21st century, many lawyers are unable to bear the cost of practising their profession. The public interest is affected when lawyers who represent the disenfranchised, through to the middle class, are systemically eliminated from their vocation.

We need institutional structures which include the diverse and wide-ranging realities of our members. A scheme of insurance must be implemented which protects the public and is affordable to the profession. We must consider who is equipped to carry our insurance, and who should represent the insurer in litigation matters. Legal Aid tariffs must be restructured to pay lawyers fairly and expeditiously for work done.

Decisions made have to include your voice - the voice of the profession.

I welcome the opportunity to serve you.

### Professional Background:

Called 1990. LL.B., University of Windsor. Practised family, criminal, immigration, employment and human rights litigation in small firms. Advisor, Ontario Legislature's Standing Committee on Regulations and Private Bills (1992-1994). Presently - Vice-Chair, Commercial Registration Appeal Tribunal and Mediator, Ministry of Labour, Grievance Settlement Board.

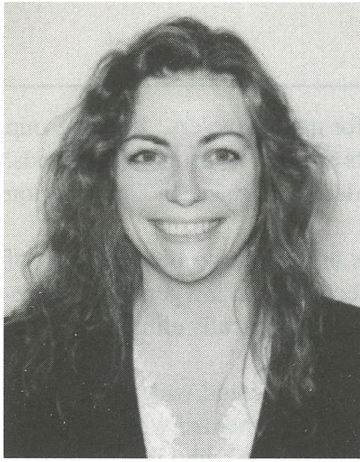
### Professional Activities:

Law Society of Upper Canada. Non-bench member, Research and Planning Committee (1992-1993). Served Women in the Legal Profession and the Equity Committees (1992-1994).

Ontario Legal Aid. Member, Sub-committees; Criminal Tariff Review (1992-1992). Family Law Tariff Review (1992-1992). Representative, Umbrella Committee (1992-1992).

Past President, Delos Davis Law Guild (1992-1994); Distinguished Service Award (1994). Member of Council, Canadian Bar Association (1992-1995). Member, Women's Law Association of Ontario.





Called 1978. First decade of practice in community legal clinics, primarily Parkdale Legal Services; significant litigation in area of housing law, counsel at commission of inquiry. Since 1988, policy counsel at Ministry of the Attorney General responsible for major law reform projects. Instructor, Bar Admission Program and CLE programs. Long term interest in Law Society issues (including brief tenure as Benchers prior to last election. Was vice-chair of Research and Planning Committee and member of Legal Aid, Legal Education and Women in the Legal Profession Committees).

## Diana Hunt

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I am seeking this office because I want to play a part in helping the Law Society to:

Govern its affairs competently and appropriately and with sensitivity to the needs of all members.

Address complaint and discipline matters fairly and expeditiously in order that both the profession and the public will have confidence in its ability to govern.

Be open in the conduct of its business to ensure that it is accountable for its policies, programs and proceedings.

Provide services and support practice norms which assist members in practical ways.

Work hard to lessen the financial burden of fees and levies on its members.

Ensure that the profession reflects the changing profile of the public which it serves and take a leadership role in promoting equity.

Take better account of the views of all of its members and make better use of their expertise.

### **Mismanagement of the Errors and Omissions Fund**

This should never have happened. I am very concerned about the financial hardship that will result from the need to address the fund deficit and its impact on, for example, younger lawyers, small firms and those working part time to strike a balance between work and family.

I will propose that we review the higher levies and fee increases to determine whether there is a way of addressing the deficit that minimizes financial hardship. Perhaps more importantly, I will press for measures to ensure that this never happens again - more openness, better and clearer structures for accountability and 'early warning', promoting excellence in staff advice and support and better use of the expertise of our own members.

The most basic duty of the governors of the profession to its members is to ensure that its affairs are managed competently. I will strongly support structural and other measures to that end.

These values will guide me in pressing for change over the next four years. My experience in practice and in government has taught me that successfully bringing about change requires, in addition to ideas and advocacy, that it be managed carefully and thoughtfully, that it be implemented competently and that the advice and input of many be sought. I would welcome the opportunity to play a role in bringing that about.



## Erica L. James

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Erica L. James has an extensive and energetic record of working on behalf of the profession on many of the issues currently critical. As a Past President of CBAO she continues active involvement on executives of two sections and various committees including Legal Aid, Equal Opportunity, Government Relations, and on the National Executive of CBA, among many others.

On the Executive of the CBAO Real Property Section and at Executive level at CBAO, she has been concerned with the effect of E. & O. Insurance upon members of the profession.

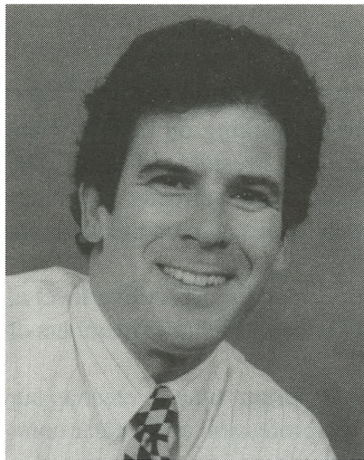
Erica believes there may never have been a more important time to elect as our Benchers people who have a record of hard work for the profession and a clear comprehension of the issues facing the profession. The problems we face can be traced to financial roots and a cost structure for the Law Society which is now beyond the means of the average lawyer in this economy. The Law Society of Upper Canada must re-examine critically all its activities in light of its statutory mandate. Erica served two years as Treasurer of CBAO, and has experience in rationalizing organizational functions and expenditures during times of challenge.

Erica L. James was called to the Bar in Ontario in 1979. Her activities on behalf of lawyers have been extensive and consistent, and include such positions as President, Treasurer and Section Co-ordinator for CBAO. Current issues in which she has been active include:

- Legal Aid
- Errors and Omissions
- Insurance
- Equity Issues
- Government Relations
- Issues affecting General and Real Estate Practitioners
- Costs of Practice
- Bar Admission Course and Student issues

Erica is concerned about these issues and the rationalization of the activities of the Law Society within its mandate.

Erica is married to Fred E. Sommers and has two young children.



## Aubrey E. Kauffman

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I am 42 years old and a partner in a downtown Toronto firm, Goodman and Carr. While I practice in a large firm, I spent three years at Goodman and Carr's North York branch office, and have an appreciation of "small firm" issues and concerns. I am married to a lawyer (corporate counsel), and we have four children. I experience, daily, the same stresses and problems faced by most of us who are practising in today's environment.

Lawyers are no longer cloistered in the comfort of a privileged and secure club. The practice of law is now the business of law. Competition, client sophistication and economic necessity each demand that we become leaner, more efficient and more aggressive. Until we determine how to effectively manage in this paradigm, I believe we will continue to feel its adverse impact on the quality of our lives and the quality of our practices.

Together with the changes in the practice have come changes in the demographics of the bar. Larger law school graduating classes over the past ten years have lowered the average age of lawyers practising today. Yet, most of the present benchers are over 50 years old and have more than 26 years at the bar.

I believe that the make up of the benchers should more closely reflect the constituency which they represent. The issues of concern to an increasingly large share of the profession are not the same issues which affected their older and more established colleagues. The economics are different. The approach of the profession must continue to evolve, and the need to balance our quality of life with our professional obligations must assume greater importance.

I have always been interested in legal education and in legal organizations such as the CBA-O. I wish now to expand my participation. I do not hold out that I have all the answers, however, I am confident that I can apply my experience and problem solving skills to contribute to the sound and progressive governance of the Law Society for the next four years.

Aubrey is 42 years old and was born in Montreal. He graduated from McGill with a BCL (1976) and an LLB (1977).

Aubrey was called to the bar in 1979 and thereafter, started to practice civil litigation at Goodman and Carr in Toronto.

Aubrey was an instructor in the civil litigation section of the bar admission course for several years. He served as chairman of the Insolvency Section of the CBA-O in 1991-1992.

Aubrey has written and lectured extensively on a variety of legal topics.

Aubrey is married to his law school classmate, Lynn, and they have four children.





Graduate of Queen's University. Called to the Bar in 1992. Worked in small firm until establishing my own practice in early 1994, primarily in the areas of corporate law and business immigration. Founder of the Sole Practitioners' Group, a support and networking organization for lawyers, most of whom are less than five years from call, and who are practicing on their own or in association. Active member of the CBAO, including the YLD Executive and serving as a trustee for the *Advancement of Legal Education and Research Trust (ALERT)*.

## Jennifer E. Keenan

The legal profession is in a tremendous state of change. Young lawyers have an important stake in the future of our profession and must also have a voice in shaping the policies and the decisions of our governing body. I believe strongly that decisions with respect to Errors and Omissions Insurance demonstrate that Convocation has little understanding of how its decisions affect young lawyers. Convocation must become more representative of its many constituents and I would welcome the opportunity to bring a fresh and different perspective to the issues affecting the profession.

Here's what I stand for:

1. **Errors and Omissions Insurance:** The high cost of insurance resulting from the mismanagement of the insurance fund is the most important issue facing our profession. The high cost of insurance affects all lawyers, but particularly those in the early stages of practice: i) High premiums, like payroll taxes, reduce employment opportunities; ii) High levies create a tremendous barrier to any lawyer who, because of the economic climate or lifestyle choices, decides to start their own practice; iii) For lawyers wanting to spend more time with young families or pursue outside interests, the cost of insurance prevents part time practice from being economically viable; and iv) The imposition of tail premiums on members who leave the profession after June 30, 1995, will cause disproportionate hardship on new lawyers. It is illogical and inequitable to compel a lawyer leaving the profession, for example, after three years of practice to pay tail premiums for five years after they leave.

My position:

- A task-force should be struck, consisting of lawyers and experts in the insurance industry, to establish a **risk-based insurance system**. There should be an actuarial basis for insurance premiums which takes into account risk factors including area of practice and volume of business.
- Tail premiums (if required in the short term), should be proportionate to the number of years practiced.

2. **Incentive-Based Continuing Legal Education (CLE):** While the value of CLE is clear, the Law Society should not become a "truant officer" compelling its members to participate. I do not support a mandatory system that requires lawyers to attend a set number of conferences per year.

My position:

- An incentive based system should be developed where a reduction in the insurance levy is offered to those who participate in these programs.
- Unemployed lawyers should be allowed to attend CLE programs free of charge (where space is available) and buy CLE materials at cost.

3. **Maximum Two Terms For Benchers:** Presently there is no maximum number of terms that an individual can sit as a bencher and until recently, benchers could be appointed for life. This has produced a stale decision-making environment which often lacks a fresh perspective.

My Position:

- The opportunity to serve as a bencher should be limited to two terms (8 years). A greater turnover in the members of Convocation will ensure that it remains vital and in touch with the needs of our profession.

4. **The Law Society As An Ally:** While the primary responsibility of the Law Society is to protect the public's interest, it must also be perceived by members of the profession as an ally and not simply a watchdog.

My Position:

Convocation should encourage a more open and cooperative relationship with its membership and should work towards improving the public's image of lawyers.



Called 1972. Sole Practitioner since 1993, Family Law, Mediation & Arbitration. Practised in medium and large sized firms. CBA & CBAO Council, (1987-1994). Numerous executive and committee positions. Chaired Ontario & National Family Law Sections. Chaired National Sections Council. Co-Chaired 1994 Annual Meeting. Currently, Finance and Revenue Sharing Committees. Member, Legal Aid Area Committee. Co-chaired, C.L.E. Family Law Section, ABA. Chaired ABA Host Committee, Family Law Section & Member, Annual Meeting Committee (1988). Served as Instructor & Contributor, Bar Admission Course. Chaired Toronto Child Abuse Committee (Hospital for Sick Children). Board of Directors - Ontario Association Family Mediation, Central Toronto Youth Services & West End Creche.

## Emile R. Kruzick

The challenges of the Law Society and our profession have never been greater. As a first time candidate, I stand for election as a Benchers because I have a genuine interest in the issues facing our profession and our governing body and because, I believe I can make a contribution.

### Qualifications

My active involvement in our profession and within our community has provided me insight and experience which gives me the confidence to seek your vote. Having served as either Chair or a member of varied committees, I believe I possess the qualifications required of a Benchers. My commitment to hard work is sincere and I hope that my record of service speaks for itself.

### Priorities

My priorities and objectives include the following:

**Insurance:** Convocation must examine all options following up on the "Report to Convocation of the Insurance Task Force and the Insurance Committee" including the possibility of withdrawal of the Society from the professional liability field. Consideration should be given to the issue of "risk" in practice areas, as well as the need to re-examine accommodating part-time practices and new members as well as the issues of career interruption and retirement.

**Legal Aid:** Ensuring the preservation of the existing system of Judicare and that the Legal Aid Plan remains within the control of our profession. Increases in the Tariff so that the legal aid tariff is fair and equitable to all members of the bar and practice areas.

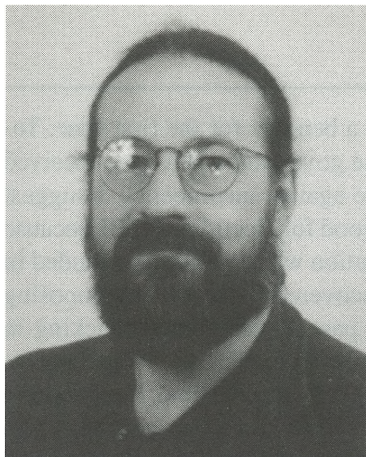
**Improved Communications Among Professional Associations:** A commitment to improve co-operation and stronger ties among professional associations. Our professional organizations often work in isolation on the same issues and initiatives and I encourage better lines of communication.

**Continuing Legal Education:** A need for Convocation to re-examine Mandatory C.L.E. and to work in harmony with the other professional associations in not only studying the matter but in developing a plan for provision of continuing education to the members of the profession.

**Accommodation and Inclusion:** The Benchers of the Law Society must be mindful of and sensitive to the changing demographics of our profession, the specific needs of our judicial regions and the varied needs of the members of the bar: There is a need to serve all constituencies within our profession.

**Law Society Efficiency:** More efficient use of Convocation, Benchers' time and travel including redistribution of administrative, managerial and Benchers responsibilities.

The demands and challenges facing the Benchers of the Law Society are significant. If elected, I shall endeavour to invest my energies in a spirit of renewal and a commitment to serve the needs of the women and men of our profession to the best of my abilities.



## Ray W. Kuszelewski

The Chief Justice of Ontario, the Honourable Charles L. Dubin recently stated that he was concerned with the future of our profession and of our justice system. He went on to say that he felt that lawyers were not doing enough to meet those challenges before us.

Over the last few years I have been watching and feeling the effects of the serious and rising issues facing us. I have taken Mr. Justice Dubin's challenge to heart by putting myself forward as a candidate in this election.

As a lawyer and teacher within the Ontario legal aid clinic system I am able to view our profession and the justice system from a unique perspective. A client driven legal clinic deals not only with individual remedies through casework, but includes larger issues of, client services, social policy, access to justice, legal education and law reform. The teaching aspect addresses professional issues of accommodation, cultural sensitivity, ethics and conduct.

Very much a practitioner, my office is also the source of hundreds of referrals to the private bar each month. I have a very real relationship with and understanding of, the private bar and the justice system. My views are also strengthened by my legal teaching experiences and relationship with law students, our future members.

The Law Society has had to meet very serious social and legal issues, head on, in the recent past. Many of those issues remain unresolved. And as our society changes, evolves and develops so too in the name of progress will we and our profession. I believe that I am in a stage in my professional development and career where I can contribute meaningfully to our progressive change.

Space does not permit an in-depth inquiry into resolving the many questions still facing us. Time will tell when and how new issues arise. In my view a commitment to accept and address the challenging questions is paramount.

Simply put, however, it is clear that there are current critical issues facing us today that will not only effect us, but our future members and most importantly, our clients. And as our profession deals with these issues we can be sure that there will be an effect on both government and the judiciary, on access to justice, the fair and efficient disposition of cases and professional accountability.

I have personal concerns and issues which I will bring with me as a benchers.

The as yet unresolved issues of women in the law heads the list. There are very few women representatives as benchers and very few benchers who care to address or support 'women's issues'. In my mind and practice, 'women's issues' are an inherent issue within society and within our profession. They are real and unassumed in our everyday legal practices. They too are about access to justice and accommodation. And they must be given priority, attention and consideration.

Legal aid both as an access to justice issue and as a delivery system cannot be ignored. With the current slashing of budgets and services we must guarantee a system of delivery that does not cut off the poor, that does not cut off the freedom of choice for the recipient and that does not cut off the livelihood of the dedicated legal aid lawyer.

Legal education is the backbone of our profession. It must be wholesome and practical. It must be efficient and not cost prohibitive. It must be accommodating and reflective of the needs and practices of law.

E&O. It allows us to practice with a guarantee of quality to our clients, but it has become a prohibitive and questionable cost to many. In that sense it must be rethought.

Criticism from the sideline is all too easy. The answers developed from real involvement are difficult, time consuming and require commitment. I am offering that commitment.

- born, raised and educated in Toronto's west end
- graduated UofT with a B.A. - 1974;
- post graduate and real work after 1974;
- entered law school as a mature student;
- graduated Osgoode Hall Law School 1986;
- private practice as sole practitioner;
- joined Parkdale Community Legal Services as Staff Lawyer in 1989;
- practised as clinic legal educator associated with Osgoode Hall Law School, teaching law students substantive and procedural law;
- practised as staff lawyer with independent case load in areas of law including, civil administrative and criminal;
- as a legal aid clinic lawyer maintained direct relationship with private bar for referrals, law reform and collegial support.





Assistant Dean & Director of Admissions, Faculty of Law, University of Toronto. (1986 to present). Practised civil litigation and administrative law with Weir & Foulds (1976-1986); Vice-chair, Workers' Compensation Appeals Tribunal (1986-1991); Trial Advocacy Instructor; Bar Admission Course Instructor; member or chair of University of Toronto committees including status of women, student experience, housing, sexual harassment; as Benchers, member, chair or vice-chair of the Legal Education Committee, Discipline Policy Committee, Women in the Legal Profession Committee, Clinic Funding Committee, Equity Committee, Bar Admission Course Review Committee, Board Member-OCAT. Since 1994, Trustee, Law Foundation of Ontario.

## Joan L. Lax

Four years ago, you honoured me by electing me as a benchers for the first time. Today, many of you are profoundly dissatisfied with the governance you have received during this term. While it might be tempting to vote against incumbency, I suggest that you consider this carefully before you do so. I stood for election in 1991 because I believed that I could contribute to shaping an institution which seemed grounded in the past and unprepared for the future. What I discovered behind those imposing doors, was an institution not only grounded in the past, but regrettably lacking in focus, too often managed by crisis and stubbornly resistant to change. I stand for re-election in 1995 understanding where change is necessary and possible, but knowing that it will come slowly. Responsible change can best be realized by benchers who appreciate how the Law Society works and who are committed, as I am, to examining and challenging its policies, practices and structures. I can contribute in a variety of areas including the following:

**Reforming Convocation.** For almost 200 years, the benchers conducted our business in private. Convocation is now open, but too often it is a debating society and not a forum for deciding important and complex issues of governance. Too rarely, Convocation deals as it should with broad issues of policy. A more business-like approach must be adopted with limitations placed on debate and appropriate time allocated to matters of importance.

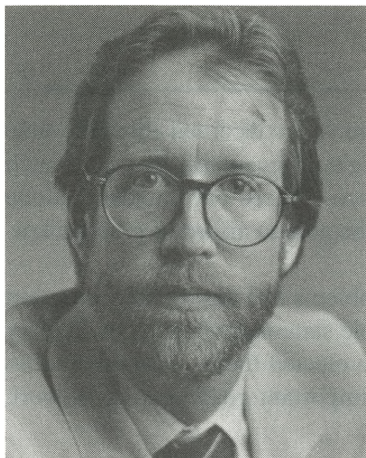
**Reforming Discipline.** The current discipline process is cumbersome, inefficient and burdensome on benchers' time. Reforms which were adopted in 1990 have yet to be implemented. The required legislative amendments must be obtained as a matter of priority to ensure an even-handed, judicious and more efficient discipline process.

**Management of the Society.** The insurance deficit has raised serious questions about how and by whom the Society's business is managed. A complete review of the Society's structure, staffing, reporting relationships and operations must be tackled.

**Relations with the Profession.** The profession is increasingly fragmented and divided by self-interest. Its many and varied constituencies are represented by excellent professional associations—e.g. CBAO, Criminal Lawyers' Association, County and District President's Association, Real Estate Lawyers' Association, Law Union, Women's Law Association, Advocate's Society, etc. The Law Society is not a professional association. As a governing body, it must take seriously the concerns of its members and ensure that significantly improved consultation and communication occur with the membership **before** decisions are taken. However, its paramount role is to govern in the public interest. This may result in decisions which are unpopular with some or all of the constituencies within the profession. Nevertheless, it must resist constituency-driven governance if this is not in the public interest. To do otherwise is to invite the end of self-governance.

Service as a benchers can be frustrating and challenging, but it also brings rewards. I take pride in the discipline decisions I have written which have, I hope, contributed to a more even-handed and principled approach to assessing penalty for professional misconduct. I take pride in the contributions I have made through my service on numerous committees, and in particular, as chair of the Clinic Funding Committee. This committee is responsible for the 72 legal aid clinics throughout the province providing legal services, legal education and community outreach to the most disadvantaged members of our society. I take pride in the establishment of the Women's Family Law Centre and the African-Canadian Legal Services Clinic. I take pride in the adoption of Rules 27 and 28. Through these contributions, I have helped to make our profession a more just and accessible profession for all.

I bring to my work as a benchers a variety of experiences which include private practice, public service, legal education, and adjudication. From these experiences, I have gained an understanding of the needs, aspirations and challenges of those who are in private practice and those who are not. I will continue to work towards responsible and responsive change.



## Michael Lomer

- age 43, called to the bar in 1981
- certified specialist in criminal law by the Law Society of Upper Canada, editor of the Criminal Lawyers Association Newsletter, and active participant in the Criminal Lawyers Association
- former Senior Policy Advisor to the Ontario Solicitor General
- partner in Lomer, Frost, a three-member firm practicing in Toronto
- long time member of the York County Area Committee

Like many of the members of the Society I have practised either as a sole practitioner or in a small partnership for all of my professional career. Like many of the members of the Society I am occasionally critical of the conduct of Convocation and some of its decisions. However, I have not considered running for benchers because of the time commitments involved and the financial impact that it has on a small practice. I believe that Convocation is dominated by the interests of large firms that can afford to have one of its members commit the time required to act as benchers. In the past I have felt no urgency to run for benchers despite the unbalanced representation.

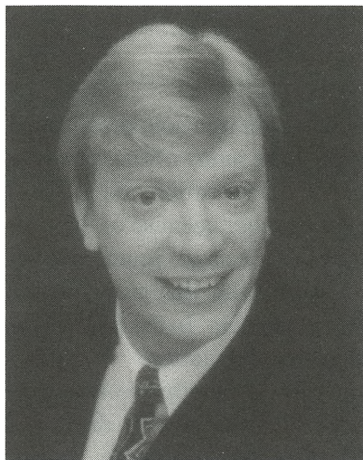
All that has changed with the debacle related to the errors and omissions plan. I was aghast at the degree of incompetence and the level of irresponsibility displayed by the benchers in the management of the errors and omissions insurance. In one year LPIC spent close to half the total amount of money collected from all of the members of the Law Society in the payment of fees to law firms defending lawyers on errors and omissions claims. We do not know what happened in any of the other years of LPIC's dismal history because that information has never been released. There is no insurance company anywhere that would pay half of its gross income on legal fees. Where did the money go? It is clear from the Task Force Report that in the one year for which we have any information, the majority of money went to the firms of benchers that were sitting in Convocation as this disaster unfolded. What is unexplained is how all this work ended up in the firms of the benchers. With some justification it can be argued that this is nothing more than a giant transfer of funds from all of the members of the Society to the law firms of benchers.

I am running for benchers because what has happened is simply unconscionable. It cannot be allowed to continue and those responsible must be held accountable for what has happened in the past. If we do not throw those responsible out of office then we will get precisely the type of governance that we have received to date.

Some of the issues I support:

- the cost of insurance should be made on the basis of risk assessment.
- the errors and omissions fees are unfair to part time and new practitioners. Differential rates must reflect differences in the type of practice. There is a real risk that a policy that is on the surface gender neutral, will have the largest impact on women in the profession. Imagine for a moment the difficulty faced by a practitioner wishing to recommence practice after maternity leave and faced with the exorbitant cost of insurance. Imagine starting a new law practice, insurance will be the biggest single cost. It may be enough to quit the practice of law.
- a complete investigation into the way legal work was distributed by LPIC, the way fees were set and charged to LPIC and the relationship between LPIC and law firms of the benchers that received work.
- comprehensive conflict of interest guidelines for the benchers that will include a provision that no firm of an elected benchers will receive LPIC work during the currency of his or her term. One fact is absolutely clear: the benchers of the previous Convocation failed to protect the financial integrity of LPIC and the interests of all of the members. They did so while at the same time their law firms were, and perhaps still are, receiving large amounts of work and money from LPIC. No work will go to law firms of benchers and former benchers that received work during the last Convocation.
- open and public tendering of all LPIC work, at rates in the range paid for by legal aid.
- an investigation into the previous Convocation to determine whether any benchers breached any fiduciary duty to the members of the Society, and if so whether those breaches are actionable.
- pursuit of all causes of action that have a reasonable chance of success whether those actions be with respect to the actuaries or former and even present members of Convocation.
- only elected benchers should have the right to vote.





Admitted to Bar 1987 Manitoba, 1990, Ontario;  
 Education:  
 University of Winnipeg ( 1981-83 ) ; Dalhousie University (LL.B., 1986), London School of Economics ( LL.M., 1988);  
 Practice History:  
 Litigation: Currently a sole practitioner representing primarily legally aided clients; (1991-93) Lilly, Blot; (1988-1991) Fitzsimmons, MacFarlane; (1986-87) articulated for Greg Brodsky, Q.C.  
 Publications:  
 "Apple Clones Infringe Copyright in Canada"(1990), 7.2 *Computer Law & Practice Journal* (U.K.) 55; "Anton Pillar v. John and Jane Doe" (1990) vols. 7&8 *Canadian Computer Law Reporter* pp.77 & 99 (co-author); "Electronic Surveillance in Crime Detection " (1986), 10 *Dal. Law Journal* 141;  
 Member:  
 The Advocates' Society

## Norman MacDonald

I have decided to run for benchers this year because I am very concerned about the state of the profession and the role of the Law Society in light of recent drastic events such as the cuts to the Legal Aid plan and the E&O fiasco. These two incidents alone threaten the ability of many members to continue to be able to afford to practise law. This situation is unacceptable.

I believe that in order to find solutions to our problems and to properly represent the members, Benchers need to review the current role statement of the Law Society and have better communication with the people who elected them. I promise to do that as a Benchers. I have listed below some of the important goals that I will work towards accomplishing if I am elected.

### 1 Review The Role Of The Law Society

The role statement of the Law Society as adopted by Convocation is to govern the profession in the public interest. It does not address the interests of the members. With high unemployment in the profession and the increased costs of practising, I think it is time the Society made efforts to advancing the interests of the members. In my view, advancing the interests of lawyers does not take away from the public interest.

### 2 Encourage Better Communication With The Members

Many members feel that they are not properly consulted before decisions are made affecting them and that their concerns are ignored by the Benchers. The E&O fiasco is an example. Last June the Society held a "town hall" meeting on the subject in which the overwhelming message from those in attendance was not to increase the premiums. The Benchers went ahead and did it anyway. They are now holding consultation meetings after the fact. Benchers should be consulting the members **before** decisions are made and not after.

### 3 Work To Find Alternative Solutions To The E&O Problem

I am committed to looking for alternative solutions to the E&O problem that are not detrimental to the interests of the members. On my own initiative I have had very positive discussions with the Canadian Lawyers' Insurance Association (C. L. I.A.) regarding their taking over the E&O program. C. L. I.A. is the organization that insures eight of the other Canadian Law Societies, at substantially lower premiums.

In order to reduce the high defence costs, I believe that all legal work done for the Law Society should be done at the Legal Aid rate for civil litigation of \$67.00 per hour, less the 5% statutory deduction. Senior counsel would, of course, be entitled to the Legal Aid experience increase. The monies collected under the statutory deduction could then be contributed to the Legal Aid plan.

I would also like to see a referendum on whether the E&O program should continue to be mandatory.

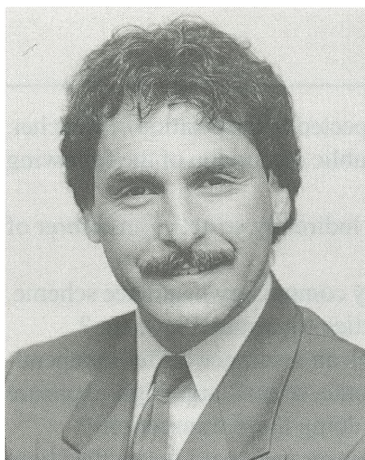
### 4 Work Toward Finding Solutions to the Legal Aid Deficit

I am committed to the continuation of the Legal Aid plan and finding solutions to the funding problem.

### 5 Promote Better Representation to Junior Members

The Law Society should take steps to promote the interests of its junior and student members. They are not properly represented in Convocation at present. Having previously been advised by the Communications Director that all student members were entitled to vote in this election, I was very disturbed to find out that this is not the case. I believe that we should have some Benchers positions expressly reserved for our junior members so as to accurately reflect the make up of the Law Society.





## Ronald D. Manes

There is no magic to the word "change" in an election year. Candidates are full of good ideas. A candidate's track record is the most reliable measure of the ability to introduce and implement constructive change.

In my two terms as a Benchers, I have introduced changes by partnering the Law Society with other professional organizations to achieve goals in **education** (Ontario Centre for Advocacy Training: LSUC & CBAO), **member service** (LINK Lawyer's Assistance Programme: LSUC, CBAO, Advocate's Society, CDLPA, Criminal Lawyer's Association and Women's Law Association) and **public image** (Volunteer Lawyers Service: LSUC, CBAO and United Way).

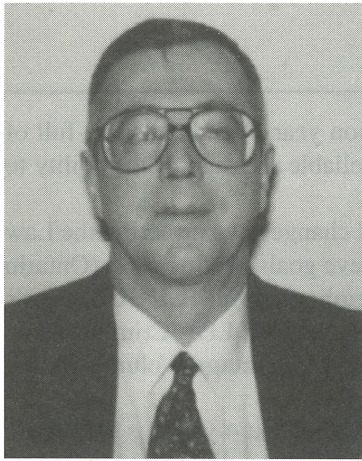
Pain, not change, is probably more descriptive of the next 4 years as we recede from the excesses of the 80's. The two priorities are insurance and the operation of the Law Society. These are separate but related issues.

Whether the Law Society is capable of overseeing LPIC is no longer debatable since its loss of credibility has destroyed its ability to govern in this area. In any event, LPIC must be independent and must operate like the insurance company it is. LPIC should be governed by a board of directors with representatives from our major professional organizations and external appointments based on expertise. I have found such partnerships to be effective and accountable.

The operation of the Law Society (including benchers) is cumbersome and mired in red tape. It has been the subject of study, criticism and recommendation for at least the last 20 years. We are now the predictable victims (see *Future of the Legal Profession* (1986)) of a lack of leadership here. Having seen the unfortunate results from the inside, I can attest to the need for organizational reform requiring a mandate from the electorate and a determined majority of benchers, with a Treasurer who shares their determination.

I have enjoyed my terms as a benchers and will continue to introduce change if given the opportunity.

Mr. Manes is a graduate of Osgoode Hall Law School and attended Harvard Law School on a Laidlaw Fellowship graduating with a Master of Laws. Mr. Manes has served two terms as an elected Benchers of the Law Society of Upper Canada and is a member of Council of the Canadian Bar Association (Ontario). He is the founder and past Chair of the Advocates' Society Institute (now Ontario Centre for Advocacy Training) and founder and Honorary President of the Osgoode Hall Alumni Association. He is also the founder and President of LINK (Lawyers' Assistance Programme) and Spokesperson for the Volunteer Lawyers Service which he also founded. In 1985 Mr. Manes was named lawyer of the year by the Advocacy Resource Centre for the Handicapped (ARCH) and he is a recipient of the Canadian Bar Association (Ontario) Award for Distinguished Service. Mr. Manes writes and speaks extensively, and regularly lectures at various law schools in the Province. He has published *Manes Organized Advocacy* (Carswells: 1983, Revised 1989), and *Solicitor/Client Communications in Canadian Law* (Butterworths: 1992), and *Confidential Communications in Canadian Law* (Butterworths: 1995).



## Hubert E. Mantha

If elected, I promise to discharge all the usual duties expected of the position of Benchers, and in addition, I shall do all in my power to cause a public discussion of the following questions;

1. Is it the proper role of the Law Society, directly or indirectly, to act as an insurer of last resort for all legal services in the Province?
2. Are there members who should be exempt from any compulsory insurance scheme, e.g. those members who have restricted their practice to criminal law, etc.?
3. Should large institutional clients be required to seek an insurance buffer independently from any compulsory liability insurance scheme, so that large high-exposure transactions are self-insured as part of the cost of doing these transactions?
4. Is it time to adopt a comprehensive system of title insurance, paid for by the client as part of the cost of ownership? Would access to the large actuarial base of international insurance companies reduce premiums in this high-risk area?
5. Should the Law Society spearhead an initiative to cause all levels of government to make computer-accessible to the profession - fast & free - all their laws, regulations, ordinances, orders-in-council, court reports, directives, policy memos, advance tax rulings...and everything else they have that we need to advise the citizen who paid for all this data in the first place?
6. Should the Law Society inaugurate a data base that contains all the Continuing Legal Education Lectures, Bar Admission Course Notes, etc, so that we can all have access to it when we need it? I don't know about you, but I have a hard time dishing out \$375 + GST for a lecture that I want. Wouldn't it be easier to download material for a small royalty fee - say \$10 - which would encourage more access, as well as more authorship? You write a paper and post it to the database, and everytime someone uses it, you get a cheque in the mail - that's my kind of system.
7. If we did all this, would it encourage a migration to sole practice, where things might be a little friendlier than they are now? The sole practitioner is and always has been the shock troop of any justice system. Might this migration lead to more justice in the profession, so that by the year 2000, half the bar, half the bench and half the benchers are female? I mean, they are the majority of the citizenry right now, aren't they? Our lofty policy statements notwithstanding, are not the present gender ratios heartbreaking?

B.A. LL.B

215 College Street, Suite 216,

Toronto, Ontario M5T 1R1

Tel:(416)591-7345

Fax:(416) 591-8814

Date of Birth:

December 17, 1940, North

Bay, Ontario

High School:

North Bay Collegiate Institute

& Vocational School (XIII) 1957

Undergraduate:

B.A. University of Ottawa (Pre-

med) 1960

Law School:

Queen's University, Kingston

1969

Call to the Bar:

Spring Convocation 1971

Current & former

memberships:

World Trade Centre (Toronto),

A.C.L.U., Canadian Civil

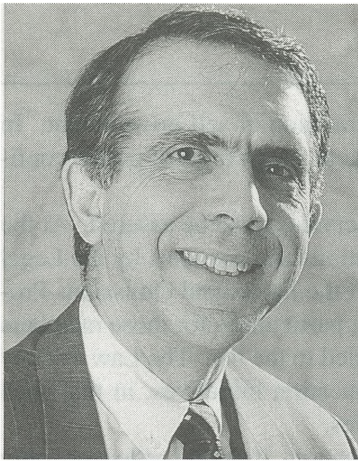
Liberties Association (National

Capital Region - President),

Canadian Bar Association,

Canadian Federation of Inde-

pendent Businessmen.



## Frank N. Marrocco, Q.C.

University of Toronto Law  
School 1967-1970

Admitted to Bar 1972

- Partner, Smith, Lyons,  
Torrance, Stevenson & Mayer

### AREAS OF PRACTICE:

Litigation with emphasis on  
criminal and quasi-criminal  
matters; Law Society discipli-  
nary proceedings; Immigration  
law

- Acted as an Agent for the  
Attorney General of Canada
- Vice-Chair, University of  
Toronto Academic Discipli-  
nary Tribunal
- Co-Author, Annotated  
Immigration Act
- Co-Author, Annotated  
Citizenship Act
- Director, Criminal Lawyers'  
Association (1989-93)
- Member, Law Society Joint  
Action Committee for  
Gender Equality (as it was  
known then) in 1993
- Consultant to House of  
Commons Standing Commit-  
tee on Labour & Immigration  
(1992)
- Member, Advisory Commit-  
tee to Royal Commission on  
Private Schools (1984)
- Member, Board of Editors of  
Journal of Motor Vehicle Law  
(1990)
- Member, Advocates' Society,  
Criminal Lawyers' Associa-  
tion

I bring to the issues currently facing the legal profession, a perspective that was formed by the years that I practised in a small firm (over half of my legal career) and modified by the time that I have spent in a large firm. My clients over the years have, to a very significant extent, been individuals, although I have increasing experience in responding to the needs of corporations.

I am familiar with the Law Society and its processes, primarily from the perspective of a person who has defended lawyers charged with professional misconduct and has on occasion acted on behalf of the Society in discipline cases. I believe this experience has provided an insight into the effects of the ever-increasing stress experienced by lawyers practising in today's society.

I believe that the Law Society should be committed to enhancing the profession and its image and fostering pride in the practice of law.

I would like to set out some of my views regarding the issues facing our profession in the next four years.

**Insurance.** The Law Society should immediately pursue a complete withdrawal from the insurance business. The profession should turn over the business of insurance to professional insurers. This is an effective way to ensure that members' premiums are calculated with proper regard to risks associated with their practice.

I would only support the Law Society remaining in the insurance business if no private insurers were willing to provide professional indemnity coverage. I personally believe that the private market will respond to the opportunity to capture the \$75,000,000 in annual premiums that we now pay.

**Legal Aid.** The Legal Aid system was designed, I believe, to ensure that people of modest means have access to legal services. Therefore, members with legal aid practices are, in addition to representing their clients, assisting the Government in implementing public policy. It would be intolerable to tell public servants that they would not be paid because the Government had not properly budgeted for the cost of their services.

The Law Society has to be vigilant in ensuring that the public have a proper understanding of the importance of legal aid and the relatively modest financial circumstances of members with predominantly legal aid practices. In addition, it must be recognized that in order to maintain the integrity of a legal aid system, there must be zero tolerance for abusive billing practices.

There are currently plans to operate three staff offices in addition to the existing refugee office. These are offices with full-time staff lawyers. I am opposed to any expansion of these offices until an independent review of their effectiveness has been carried out. This review should take place within the next two years.

**Law Libraries.** The Law Society has an obligation to ensure that its members across the Province have equal access to legal research facilities with materials and technology of appropriate quality. The cost of these facilities should be borne equally by all members. This is not currently the case. I support the principle of obtaining, within a reasonable period of time, equal contribution from all members for the modernizing and maintaining of all legal research facilities.

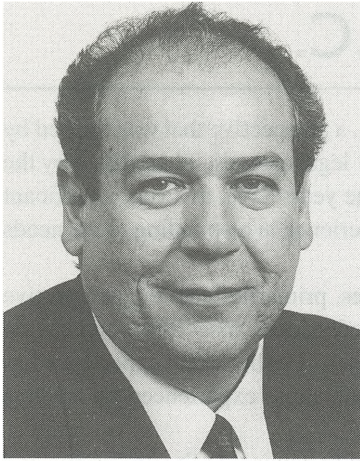
**Equality.** In addressing equality issues we first must recognize that the stress of practising our profession is both common to us all and yet borne by each of us individually.

We have to see the need to make our profession more inclusive, as a goal to be pursued in the best interests of our profession and in its preservation, and not as an intent to confer advantage on one group within the profession at the expense of another.

The Law Society has to be especially vigilant to ensure that discrimination in all its forms is prohibited. At the same time we have to recognize that many members do not believe that discrimination exists. Thus, it is important that an on-going creative process of education be undertaken by the Law Society so that the true extent of the problem can be appreciated.

Finally, we have to trust in the fact that the overwhelming majority of our members are fair-minded and would not willingly engage in discriminatory conduct.





43, Married, 3 Children  
 Senior Assistant Crown Attorney,  
 Ministry of the Attorney  
 General since 1982  
 Instructor Criminal Procedure,  
 Humber College since 1992  
 Previously Sole Practitioner,  
 and full-time Duty Counsel  
 Called to the Bar 1979  
 Harbord Collegiate Institute  
 B.Sc. (1974), University of  
 Toronto  
 LL.B. (1977), University of  
 Windsor  
 Member Board of Governors,  
 Seneca College  
 Member Toronto Mayor's Task  
 Force on Drugs  
 Vice-President Vita Nova  
 Foundation  
 Vice-President C.I.B.P.A.  
 Treasurer, C.I.A.O.  
 Past President, National  
 Congress of Italian Canadians  
 Representative to Canadian  
 National Exhibition Association  
 Past Director, Ontario Crown  
 Attorney's Association  
 Panellist, C.B.A.O., B'nai Brith  
 Governor General's Medal for  
 Community Service

## Sal Merenda

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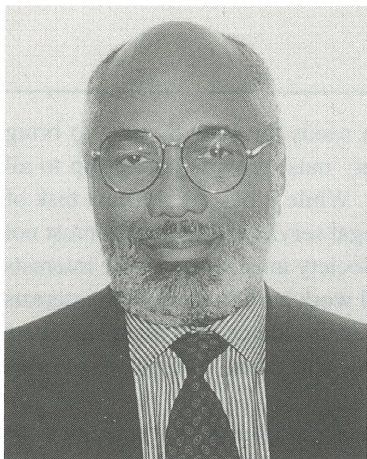
It is important that the profession maintain its long tradition of self government. In order to do so, we must continue to enhance and promote a high level of public confidence in the profession of law.

To these ends, access for all to affordable legal services must be assured. At the same time, efficient and timely processing of applications and accounts by the Legal Aid Plan must become the rule. Similarly, reforms of the Errors and Omissions Program must ensure fairness in the assessment of levies, particularly for those members with a claim-free history, including those recently called to the bar. The Law Society must encourage participation in continuing legal education initiatives, in that such education is a proven method of reducing E & O levies.

Of equal importance is the composition of Convocation. It should reflect not only the diversity of the public we serve, but the range of practices within our profession—in both small and large firms and within the private and public sectors.

By assuming the role of Benchers, one must show a strong commitment to both the public and the profession even at personal sacrifice.

I look forward to your support, and thank you for it.



## Paul Milbourn

I am seeking election as a Benchers because I believe I can make a positive and worthwhile contribution in the governing of the Law Society.

As a Benchers, my priorities will be to urge Convocation to pursue, at least, the following four policy initiatives:

1. Reform the Errors and Omissions Insurance program.
2. Use its rule-making power, where appropriate, to assist in dismantling some of the barriers facing women and visible minorities in the practice of their profession.
3. No mandatory continuing legal education unless it can be clearly demonstrated that such a scheme would lower the level of the Errors and Omissions claims.
4. Take appropriate action to ensure the continued viability of the Legal Aid system.

Beyond a reasonable measure of common sense and sound judgement, I claim no unique qualities as a candidate. Nevertheless, I would appreciate it if you would consider me among your choices for Benchers.

### Education:

LL.B. McGill University 1977

LL.M. University of  
Pennsylvania 1984

Called in 1979

### Current Position:

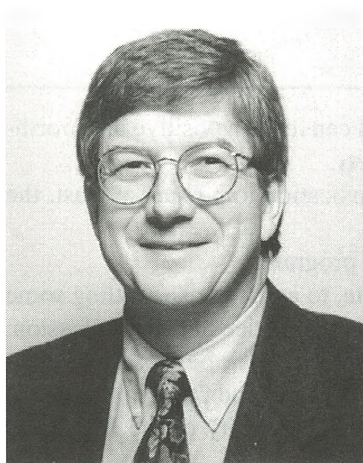
Counsel, Office of the Police  
Complaints Commissioner

### Professional Background:

- Counsel, Canadian Broadcasting Corporation
- Private practice
- Part-time Commissioner,  
Residential Tenancy Commission
- Member, Rent Review  
Hearings Board

### Volunteer Activities:

- Member of Council, CBAO
- Member, Nominating Committee, CBAO
- Member, Equal Opportunity Committee, CBAO
- Secretary/Treasurer and  
Member Board of Governors, Society of Ontario  
Adjudicators and Regulators (SOAR)
- Stand-by Instructor, Bar  
Admission Course
- Member, Delos Davis Law  
Guild
- Member, Board of Directors  
Urban Alliance on Race  
Relations
- Volunteer Lawyer Rexdale  
Community Information and  
Legal Services (1985-87)



## W.A. Derry Millar

Age - 50. Called to Bar 1974. Partner, Weir & Foulds. Practised since 1974 with Weir & Foulds in the areas of civil litigation, administrative law and environmental law. LL.B., Dalhousie University, 1971; B.A., University of Saskatchewan (Regina Campus), 1966. Law Clerk, Ritchie, J., Supreme Court of Canada, July, 1971 - July, 1972. Co-editor Ontario Annual Practice, 1976 to present. Member, Civil Rules Committee, 1976 to present. Chair - Ontario Centre for Advocacy Training (formerly Advocates Society Institute), 1992 to present; Treasurer, 1989-1992. Part Time Chair, Boards of Inquiry, Public Complaints, (formerly Metropolitan Toronto Police Force Complaints Act, 1984; now Police Services Act), 1985 to present. Speaker in a wide variety of legal continuing education programmes. Past President and Director of The Ontario Cystic Fibrosis Camp 1975 to 1993. Director, Low Vision Association of Ontario. Teacher, 1966 - 1968, Bogota, Colombia under the auspices of the Canadian University Service Overseas.

Facing unprecedented challenges, the legal profession needs the Law Society to bring forward new ideas and innovative answers. The Society must provide leadership to all parts of the profession and must justify its governance. While it has the difficult task of responding to the public's reasonable demands about legal services, the Society must not yield the right to advance the interests of lawyers; the Society must work for the interests of both its members and the public. As a Benchers, I will work hard to serve both interests without sacrificing either. On issues of concern, I will seek the advice of as many members of the profession as possible and listen to the widest possible range of opinions, so that together we can develop new and innovative answers.

**LAW SOCIETY - GOVERNANCE:** I support the regional election of Benchers; all steps should be taken to ensure the passage of electoral reform legislation. I am in favour of remunerating Benchers so that access to Convocation is not denied to those in small firms or in sole practice. For similar reasons and to facilitate the participation of Benchers from across the province in the Society's work, I support the use of video conferences and other techniques so that Benchers need not travel to Toronto for meetings. The Society has improved but must continue to improve its communication with its members. Members should have an opportunity to speak directly to Convocation; therefore, I support a regularly scheduled video conference meeting of Convocation.

**INSURANCE:** The high cost of insurance premiums and its impact on the ability to maintain a law practice is of great concern to most lawyers. The Law Society and LPIC must find ways to reduce the cost of premiums and to better manage an insurance program that should be designed to serve both the public and the diverse interests of the profession. I support:

1. the proposed tendering process for LPIC work so that all members have the opportunity to participate;
2. the denial of coverage to lawyers who are proven to abuse the program instead of complying with their duty to practice competently;
3. investigating the possibility of reducing premiums for practitioners in practice areas that are unlikely to produce significant insurance risks.

**LEGAL AID:** Legal Aid is another issue where the Law Society must balance the interests of the public with the interests of lawyers. Providing Legal Aid is a responsibility of the profession that requires some sacrifices, but these should be equitably shared without hidden subsidies. The Law Society must ensure that lawyers under the Legal Aid Plan are adequately remunerated and that they are paid in a timely fashion.

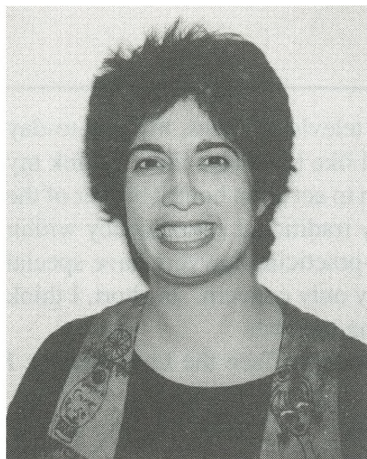
**MANDATORY CONTINUING LEGAL EDUCATION:** As current chair of the Ontario Centre of Advocacy Training, which is committed to developing and delivering advocacy training throughout Ontario, I have learned that most lawyers support continuing legal education (CLE). The introduction of mandatory continuing legal education (MCLE) would not be a burden provided that MCLE programs were reasonably priced and accessible to lawyers throughout the province. MCLE may also improve the insurance experience with a resultant reduction in premiums. I therefore support MCLE.

**RULES OF PROFESSIONAL CONDUCT:** I support Rules 27 and 28 and see the Law Society's role as one of educating and leading the profession to eliminate all forms of discrimination and sexual harassment. I support treating professional incompetence as a disciplinary offence in the same way as other professions.

**ACCESS TO JUSTICE:** Better access to justice includes improving the Legal Aid Plan, supporting projects like the Alternative Dispute Resolution project, and working with other stakeholders in the administration of justice to improve Case Management and the rules of court. However, the Society, in working with others must ensure that the rights of litigants are not sacrificed on the altar of efficiency. Too often steps are taken to "improve the system" that lead to the derogation of the rights of those for whom the system is to serve.

I ask for your vote in the election and, if elected, your support throughout my term by providing me with your advice about how to meet the challenges we all face.



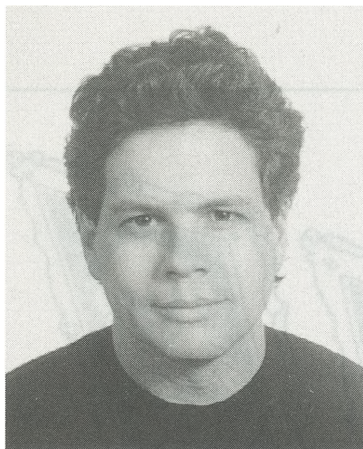


## Marie Moliner

- I have been a bencher since 1993 and, in addition to chairing the Equity Committee, I sit on Finance, Discipline Policy, Admissions and Professional Conduct.
- Called to the bar in 1985, I articulated with Greenspan, Arnup, worked at the Canadian Civil Liberties Association, and the Police Complaints Commission
- Currently, I am an acting Deputy Director in the Policy Division of the Ministry of the Attorney General where my work focuses on anti-racism justice policy.
- In addition to being the first pregnant bencher and the mother of a 2 1/2 year old, my claim to fame is being inducted as an honorary member of the sorely missed Nancy Sinatras.



KEEP VOTING FOR CHANGE



## Grant Murray

As a non-practicing member of the Bar working in television news, my day-to-day dealings with the Law Society are minimal. I would like to change that. I think my status as a non-practicing lawyer puts me in a position to act as an honest broker of the concerns of our membership. I do not represent any traditional constituency within the Law Society. And while it is arguable that non-practicing lawyers have special interests of their own, I do not plan to make those my only concern. In short, I think there is room within the Benchers for a non-practicing member.

While I am broadly interested in the varied issues that face the Law Society, I think the following three are the most important:

- 1- reforming the Errors and Omissions Insurance plan;
- 2- defending Legal Aid; and
- 3- enhancing the reputation of lawyers, and the practice of law.

Errors and Omissions Insurance is clearly the biggest issue for most members of the Law Society. Simply put, the insurance fund has been mismanaged and now needs to be changed. Any changes should reflect: (i) a re-examination of premiums, (ii) a closer look at which practice areas attract the greatest risks, (iii) a concern that legal services remain insured, and (iv) a concern for equity within the membership of the Law Society. It also strikes me that young lawyers have been penalized by the mismanagement of the fund, as they have been forced to pay for past failures.

Legal Aid is now on the defensive. I believe this is one of the greatest services provided by the provincial government, and I think it should be defended more ambitiously. We have already seen the system deteriorate in the past few years, and that slow process must be stopped and reversed. I am well aware of the plethora of demands on the public purse, and the need for deficit reduction, but I think any government can be convinced of the need for a justice system that includes a well-funded Legal Aid system.

We have all heard the jokes, and are all well aware of the low esteem the public has for lawyers. This low esteem is sometimes deserved, but I think the Law Society also fails in showing the public the good works and valuable contributions that lawyers make to society. The Law Society should show more leadership in making the law more accessible to people, and in explaining what the public should expect from lawyer's and the legal system. The message should be more clearly communicated, and as a journalist I think I could help with that.

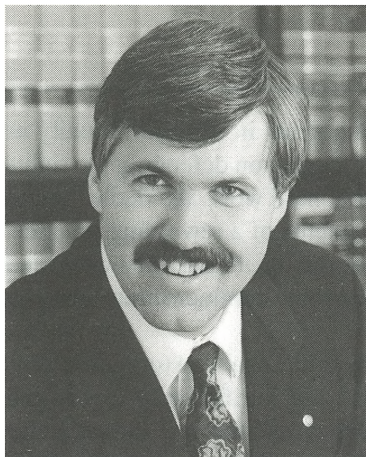
Finally, I am willing to dedicate a great deal of time to the Law Society. I think I am open-minded about reform, and to repeat myself, I think a non-practicing lawyer has the balanced outlook needed when addressing many of the issues the Law Society faces.

I am a non-practicing lawyer employed as a journalist at the Canadian Broadcasting Corporation. I work in Television News as an Editor and Writer. I began working for the CBC shortly before I was called to the Bar in 1992. I have not practiced law since then.

I am a graduate of the University of Toronto (BA '86), Osgoode Hall Law School (LLB '90), and the Columbia University Graduate School of Journalism (MS '93).

I articulated at the CRTC in Hull, Quebec.





B.A. York University (Psychology)  
 LL.B. Osgoode Hall Law School  
 Articled Bliss, Kirsh  
 Called to the bar 1981  
 Juniores for Tonello, Franklin  
 and Gluckstein, Neinstein  
 Private practice in North York  
 since 1984 including a three  
 year stint as an associate with  
 Hy Bergel  
 Now practising as a sole  
 practitioner in North York  
 General litigation practice  
 including as counsel  
 Member of the County of York  
 Law Association  
 President of the Rotary Club of  
 Willowdale

## Daved M. Muttart

### **The Mess**

The monumental mismanagement which we are all now paying for, directly due to the \$10,000 per member E & O deficit, and indirectly in a myriad other ways should give each of us serious pause before casting a single vote in favour of any of the incumbent benchers.

### **Role of the Law Society**

The Law Society must safeguard the interests of the profession. Only a Bar which is strong emotionally, financially and ethically can hope to remain independent and able to serve and safeguard the public interest.

### **Numbers and Admissions**

Too many lawyers lead to a dilution of standards, a reduction of the status of lawyers, financial pressures to cut corners. It is time to end the automatic admission of all law students to the profession. Criteria should be established to ensure that only those best qualified to carry forward the banner of rectitude of conduct and excellence of representation are admitted to the bar. Those likely to be a burden to E & O and Compensation Funds should be excluded.

On the other hand, the Society should take the lead in ensuring that those new members it does admit are successfully integrated into the profession.

### **The Office of Bencher**

The office of Bencher should become more professional. Otherwise how can the average sole practitioner afford to give up 47 billable hours a month?

### **E & O Reform**

It is completely unreasonable to expect a solicitor who has been found blameless to have to pay a deductible where a client's claim has been shown to be without foundation.

One of the functions of a lawyer's insurance plan is to make it clear to those who wish to sue a lawyer that they will have to show that the lawyer has been negligent. If it is too easy to obtain compensation, even at nuisance levels, the number of claims will skyrocket.

If the current proposal is put in place, and a claim is made against a member, it will make no difference if I win or lose, if he or she is negligent or not. This will lead to a climate of injustice, lawyers seeking to avoid the reporting of claims, the victimization of lawyers and apathy in resisting claims. In short, it will lead to an increase in the deficit.

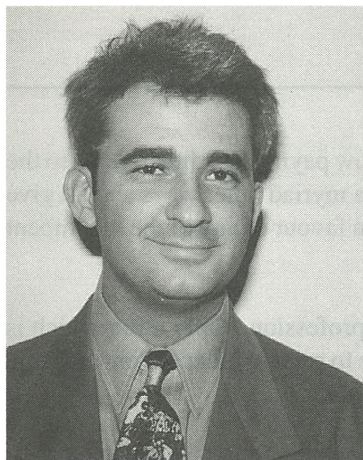
If the \$25.00 per file surcharge is to be put into place, the mechanics will have to be sufficiently streamlined so as not to burden members.

### **Future of the Profession**

Steps must be taken to prevent the profession from being forced to price itself out of the market. We must stem the inroads of paralegals who prevent our students and younger members from gaining early hands on experience.

The Society needs to campaign effectively to persuade the government to recognize its obligations to properly fund the Legal Aid Plan. If we are to accept low hourly rates, prompt payment must be assured. At the same time, we must control expenditures; the spectre of a bill for a single client in the six figure range (soon to be in the seven figures?) is unsettling to say the least.





## Joseph A. Neuberger

My call to the Bar was one of the most important moments in my life. Equally as important was my decision to open my own practice focusing on defending the rights of people accused of committing crimes. I believed that hard work and dedication to providing quality legal services were the essential elements of a rewarding practice. Unfortunately, because of recent changes within our profession, being a dedicated and effective lawyer will diminish our capacity to earn an income commensurate with our work.

The cost of practicing law has sky rocketed. Changes in Legal Aid (crown screening, payment periods, proposed changes to the Legal Aid Tariffs etc.), Errors and Omission Insurance levies, Law Society Membership fees, and the new surcharge for those billing over \$125,000.00, has left a bad taste in our mouths, and more importantly, has made us reconsider the feasibility of continuing to practice law in Ontario. This is a frightening situation if we stop to consider the future. Many lawyers may be forced to cease practising.

It is difficult for me as a dedicated lawyer to simply sit back and let other people make crucial decisions that will have a lasting and possibly devastating impact on our careers. Instead, with your support, I seek to have a voice; a voice for those who practice with the conviction to give solid, reliable and competent legal representation maintaining faith that those who govern our profession are committed to understanding our diverse views and needs. I believe those representing our interests must be responsive not only in word but also in action.

Lawyers who represent clients on Legal Aid or clients of limited means, are crippled by exorbitant fees; fees that have resulted from mismanagement and error. There must be meaningful effort to address the diverse practices which exist in our legal community and their financial realities. If strong positive action is not taken, the reliable competent representation which I strive to deliver to my clients and which all lawyers seek to deliver, will give way to economics. Can we afford to compromise the rights of those whom we represent? Should first time offenders charged with summary conviction offenses be forced to plead guilty because they do not qualify for legal aid and because they cannot afford lawyers' fees; fees that will have to increase to cover the cost of practicing law?

This also has an impact on pro-bono work. We cannot afford to be as charitable with our time when we are preoccupied with making enough money to pay our next instalment of Errors and Omission Insurance. These are the unfortunate casualties of the system which has produced significant barriers to equal access to justice for those who most need it.

It does not make good business sense to continue on a path that will destroy practices and cause the overall burden to be borne by fewer lawyers. It does, however, make good business sense to re-evaluate the present system and address the inequities directly. This makes good sense for all lawyers in every type of practice.

Like many of us who practice either on our own or in a small firm, I get up every day at 6:30 a.m., I go to court, I meet clients, I conduct trials, I research law, I visit clients in custody, I return to my office and work late into the night. I work every weekend. I employ staff and I try to become a better lawyer and person with each passing day. I am dedicated, hard working and I take pride in being responsible and innovative. This qualifies me to run in this election and to be a Bencher of the Law Society of Upper Canada. I will serve the needs of the people who make up this profession to the best of my abilities, seeking to deal with the very serious issues which now face us with concrete solutions.

Because becoming a lawyer has been the most important decision in my life, I will treat my responsibilities as Bencher as a privilege, a privilege to represent the views of the people who like me care very much about their work and the people they represent.

### Law Practice:

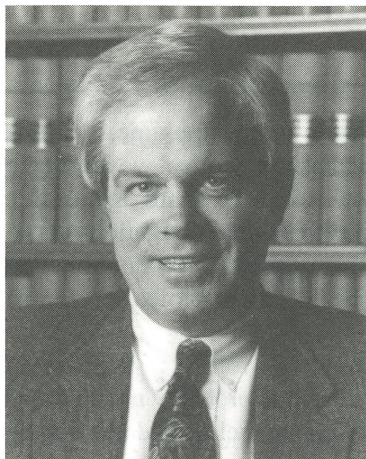
Sole practitioner from February, 1993 to October, 1994. I have been practising in association under the firm name Rosenbaum, Neuberger since November of 1994. My practice is restricted to criminal litigation and mental health law.

### Education:

Graduated from Osgoode Hall Law School in 1991 and called to the Ontario Bar on February 9, 1993.

### Memberships:

Member of the Criminal Lawyers' Association, the Canadian Bar Association and the York County Law Association.



## David F. O'Connor

51 years old, married with two children. Called to the Bar in 1973.

Practice restricted to criminal law.

Memberships: Canadian Bar Association, - Criminal Lawyers Association, Thomas More Lawyers Guild, Legal Aid Area Committee, Legal Aid Tariff Review Committee.

Formerly: Assistant Crown Attorney, President of Thomas More Lawyers Guild, Instructor in Intensive Criminal Law Course at Osgoode Hall Law School, Instructor in Criminal Law Section Bar Admission Course, Director of Criminal Law Section of Advocates Society. Served as Chairman of Seminars on issues in Criminal Law for Law Society's Continuing Legal Education Program. Actively involved in Church and Community affairs.

There are a number of issues which have arisen in our Profession lately about which I feel very strongly. I am prepared to make the significant commitment of time and energy required to serve you as a benchers in order to have some input into the resolution of these issues.

**Legal Aid** - This Plan has worked quite well in our Province for almost 30 years. Government underfunding at both the Federal and Provincial levels however has begun to deny the less fortunate citizens of our Province meaningful access to counsel of their choice. More and more qualified and experienced lawyers are refusing to accept Legal Aid certificates because they can't afford to work at the rates allowed. There has not been an increase in the Legal Aid Tariff for eight years - since 1987.

I believe the public have to be educated about the erosion of this important principal which enhances our democracy. Government should be strongly urged by the leaders of our profession including members of the judiciary, that their priority has to be to keep our present Legal Aid Plan as healthy as possible in the present economic climate. The right to counsel of choice should not be limited to only those who can afford it.

**Broader Representation in Convocation** - The number of Benchers has remained at forty while the number of lawyers in the profession has grown dramatically. Historical voting patterns for Benchers have not allowed the growing diversity of our profession to be reflected in our governing body. In addition the workload placed on this small number of lawyers has greatly increased to the point where many of our more capable members simply are no longer prepared to make the time commitment required to serve the profession. This has to change and I believe that expanding the number of Benchers through changes in legislation not only would lessen the workload involved but would provide a governing body that would more accurately reflect the profession as it exists today.

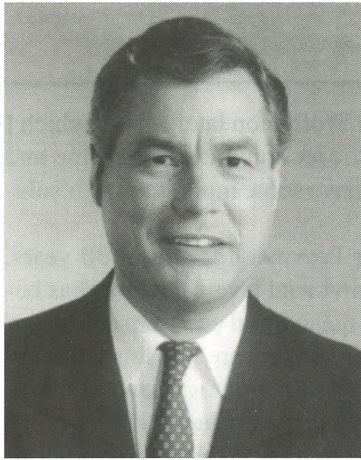
I would also favour some form of remuneration for Benchers in order to encourage broader participation from members who would not be able to afford the time loss from their practice to make the commitment to serve.

**Insurance Levy** - I don't feel it's a positive exercise to dwell on mistakes of the past except where we can learn from them. It is patently obvious that changes have to be made in this area and I believe that the present measures undertaken through committee to review the current plan constitute a positive first step in this direction. However, I am just as certain that the Benchers themselves should be as accountable to the profession in this regard as in all other matters generally. To this end it would be my intention to support not only the least expensive, comprehensive insurance plan available either from the private sector or in-house, but as well one which reflects the diversity of the members of the profession and their areas of practice.

**New Lawyers** - An unacceptably high percentage of graduating law students are unable to find articling positions. An equally unacceptable percentage of graduating lawyers are unable to find employment. I believe that if we as a profession are going to continue to admit the number of lawyers that are called each year then it is our obligation to accommodate them. More effort has to be made to promote the hiring of articling students. If we continue to be unable to accommodate our young lawyers then a comprehensive study should be conducted to determine if our law schools are graduating too many lawyers. It's unfair and must be extremely discouraging for young lawyers to complete years of studying at great expense only to find there is no work available for them.

Anyone who is aware of my skills as an advocate would agree that I am fearless in advancing a position I strongly believe in. I believe that we are at a critical time in our profession when strong leadership in dealing with government, the insurance industry and each other, is necessary. I would like the opportunity of trying to provide that to you and welcome your support.





## Niels Ortved

Self-regulation of the profession is a significant privilege. At the same time, it carries with it serious responsibilities. In a society which is increasingly critical we must take special care that this ability to govern ourselves is not eroded. To guard against this possibility our governing body must be closely attuned to its dual obligations to the members of the Bar and to the public. Furthermore, there should be no doubt in this regard; we should clarify the Law Society's role on behalf of the profession and as regards the public interest.

One means to enhance and invigorate the Law Society's role is to improve its lines of communication with its respective constituencies. It is probably not an exaggeration that many in the profession and in the general public feel excluded from the Society's operation. We should be re-examining the structure and processes of the Law Society to ensure that it is both sensitive and responsive to the needs of the profession and of the public. A focus should be to open up the Society's proceedings as much as possible to enable a better understanding of issues scrutinized, decisions taken and their underlying rationale.

Continuing competence is an essential concern, particularly in the context of more frequent, and more costly, claims against lawyers. The Law Society should take a leadership role to ensure that those entering the profession have the necessary skills and competence and that their skills and competence are renewed on an ongoing basis. Continuing education courses should be common, conveniently accessed regardless of geographical location and available on an economic basis. Our goal should be to allow qualified, up-to-date professionals wherever they happen to practice.

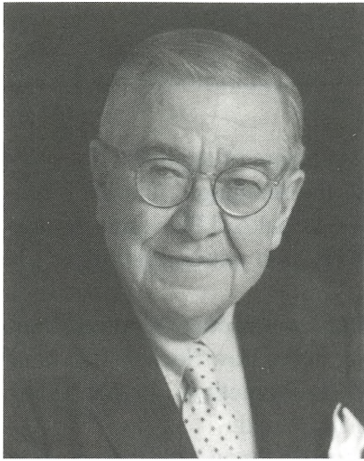
Access to affordable justice is becoming an increasingly serious concern. As a profession, we must meet this challenge; the public expects no less. It is incumbent on us to explore and promote mechanisms that will reduce the costs of dispute resolution as well as expediting the process. We should recognize the critical role played in our system by our Legal Aid Plan, and resist attempts to dismantle it or to undermine it through inadequate funding.

It would be remiss for a candidate for Benchers in 1995 to fail to comment on the matter of insurance. Any mandatory programme of insurance must include in its levy an adjustment based on risk. Furthermore, it is essential that any such programme endeavour to be affordable to each and every member of the profession.

I am an unapologetic believer in the value of the contribution historically made by our profession. In seeking to serve as a Benchers, I would like an opportunity to play a part in the continuation of that tradition.

- educated University of Toronto, Faculty of Law (LL.B. 1971)
- articled to Arthur Maloney, Q.C.
- called to the Ontario Bar 1973
- partner, McCarthy Tétrault
- practice confined to litigation, civil, criminal and before administrative tribunals
- counsel to Metropolitan Toronto Review of Citizen Police Complaint Procedure (1975)
- former member, Metropolitan Toronto Police Complaints Board
- part time faculty member, University of Toronto, Faculty of Law (1980 to 1987)
- former lecturer and instructor, Bar Admission Course
- author of numerous articles and contributor to various continuing education programmes in the areas of advocacy, civil litigation and criminal law
- member, Advocates Society, Criminal Lawyers Association, York County Law Association and Medico-Legal Society





## Ian W. Outerbridge

Some changes in our governing body are urgently required.

New ideas, reform and accountability have been the hallmark of my involvement in professional activities throughout my professional life. As a Benchler between the years 1978 and 1989, I strove, often against the then prevailing wisdom, to make the Law Society serve the interests of its members rather than the other way around.

Continuing Legal Education has always been a very high priority of mine. In addition, while a Benchler, I was especially proud to have helped increase the level of public access of the public to the legal profession by expanding the Law Society's Public Information Program, the Lawyer Referral Service and the Dial-A-Law program.

The current crisis in the area of Errors and Omissions is one which I personally canvassed at the request of the Canadian Bar Association - Ontario during the summer of 1994. The resulting white paper that I authored formed the basis for discussion by the Canadian Bar Association Council and was subsequently delivered to the Treasurer of the Law Society.

Because of this background I believe I can contribute towards the effort to find a solution in the short and long term problems facing the program and each of us who pay into that program.

Specific issues we must address include the need to lower entry level premiums and to rationalize retirement premiums so as to facilitate the maternity-related departure and re-entry of women into the profession; the assessment and competitiveness of the innocent partner coverage; and the monopoly position of both the Law Society and LPIC.

There are as well other areas that require attention and prompt action if the Law Society is to regain the trust of its members. The experience I have acquired in practice and within the Law Society itself will be directed towards these issues on your behalf. As a member of a small firm - like nearly 80 percent of Ontario's lawyers - I can represent the individual member because I live with the issues that confront the majority of our members each and every day.

Outerbridge and Miller  
PAST PRESIDENT, Canadian  
Bar Association - Ontario  
PAST PRESIDENT, Toronto  
Medico-Legal Society  
PAST DIRECTOR, Advocates  
Society  
PAST DIRECTOR, International  
Academy of Trial Lawyers  
BENCHER, Law Society of  
Upper Canada, 1978 to 1989  
FELLOW, International Society  
of Barristers  
FELLOW, College of Law  
Practice Management  
1988 CBA-O Award for  
Distinguished Service to the  
Legal Profession  
1995 CBA-O Award for  
Contribution to Continuing  
Legal Education  
Founder and Director of the  
Or Emet Lecture, York Univer-  
sity  
Sometime Lecturer, Bar Admis-  
sion Course, LSUC, CBA and  
ABA  
Universities of Toronto, York,  
Michigan, New Brunswick and  
Dalhousie  
Certified Specialist - Civil  
Litigation



**NORMAN SALVATORE PANZICA**, 32, practises primarily criminal law in Metro Toronto and in the Regions of York and Peel. After graduating from York University in Toronto with a Bachelor of Arts degree he attended the University of Ottawa from 1986 to 1989 obtaining a Bachelor of Laws degree. He split his articling term between the law firm of Blake, Cassels and Graydon and the law department of Imperial Oil Limited. After being called to the Bar in 1991, he worked at a couple of small firms practising criminal and civil litigation and in late 1992 set up on his own. He has been practising law as a sole practitioner ever since.

## Norman Panzica

Dear LSUC Member,

I have chosen to enter this race because I am keenly aware of the difficulties that many lawyers face in running a small practice. With the seemingly unending economic recession combined with cut backs to the Ontario Legal Aid Plan and skyrocketing E&O insurance levies, many practitioners are finding it extremely difficult to make ends meet.

I believe that there is a need for representation at the Law Society of Upper Canada by younger and less established lawyers who can bring to the Law Society first hand the difficulties facing young lawyers and lawyers with small practices. In this regard, there are at least three issues that I believe need to be addressed:

**1. The Survival of the Ontario Legal Aid Plan** The Ontario Legal Aid Plan provides an essential service to individuals in society who cannot afford to retain counsel. It provides such individuals with the opportunity to select counsel of their choice, counsel who they believe will actively represent their interests. It ensures a high quality of service for such persons and permits them to feel truly represented.

Recently the Ontario Legal Aid Plan has come under fire. It has cut back on coverage as a result of a funding crisis which has negatively affected both individuals who require its coverage, and lawyers whose livelihood depend on its continuing flow of business. It is essential that the Ontario Legal Aid Plan continue to exist not only for the benefit of lawyers who depend on it for economic survival but also for citizens of this Province who depend on its ability to promote and ensure quality and equality of representation.

**2. The E&O Insurance Levy Crisis.** There are very few lawyers who have not been dramatically affected by the skyrocketing cost of E&O insurance. To lawyers affected by recent substantial increases it is no comfort that lawyers in California pay substantially more than we do. The E&O system of levies are particularly oppressive on younger lawyers and lawyers with smaller practises struggling to make ends meet and increases the cost of such lawyers who are searching for employment.

Furthermore, the current E&O system discriminates against primarily women lawyers who wish to practice law part time while raising a family. The system is inflexible and needs revamping, if not replacing. I firmly believe that the concerns of many lawyers have not been adequately addressed and that a new system is required which will be flexible in nature and not be as oppressive to those who can least afford it. Solutions other than continually raising the levy amount must be found.

**3. Continuing Legal Education.** No lawyer can dispute the need for all lawyers to update themselves with respect to developments in the area of law within which they practise. I recently attended a three day LSUC seminar and I was particularly surprised by the numbers of empty seats and in not seeing lawyers that I have seen or come across in my law practise. The seminar was not cheap and it was a financial burden to attend. But why the empty seats?

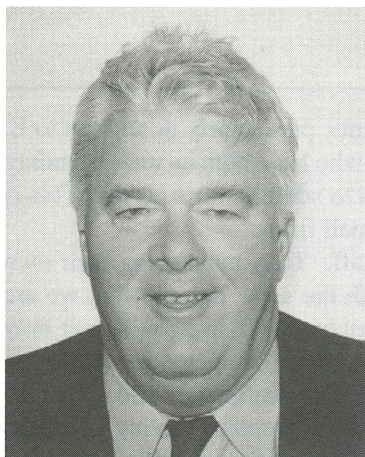
To me this suggests one of two problems: (i) many lawyers do not wish to update themselves in their area of practise (not likely), or (ii) many lawyers could not afford the cost of attending the seminar (much more likely).

The entire profession benefits from all lawyers competently practising their particular areas of law, not only economically through the prospect of fewer E&O claims and the hopeful result of less costly insurance levies, but also from an increase in public confidence in the legal system and the lawyers that represent them.

It is essential that CLE become as cost effective for lawyers as possible. Surely we cannot expect lawyers to pay substantial sums of money to attend these seminars if they can barely pay their own operating expenses. CLE must be affordable.

I am asking for your support and would appreciate your comments and suggestions. Please feel free to contact me with your thoughts on these and other matters affecting you as a member of the Ontario Bar.

With thanks, Norman Salvatore Panzica



## William J. Parker, Q.C.

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I was born in 1938 in Toronto and attended public and high school there. I studied English at McMaster University and took my B.A. there in 1963. After teaching High School for two years I entered the University of Toronto Law School and graduated in 1968. My articles were served in the Criminal Appeals and Special Prosecutions Branch of the Department of the Attorney-General and I was hired as counsel there on my call to the bar. I prosecuted criminal cases in all parts of the province and argued appeals for the government in criminal matters at all levels of court. I took up private practice in 1978. Two thirds of my practice is criminal work at all levels of court; the balance is general and includes real estate and counsel work in civil cases. I am a member of the York County Bar Association and the Criminal Lawyers Association. I have written for the Criminal Law Quarterly and have co-edited the Criminal Law section of the Canadian Encyclopedic Digest. I have prosecuted and defended lawyers in criminal matters and have counselled colleagues in relation to matters before the Law Society.





## Julian Polika

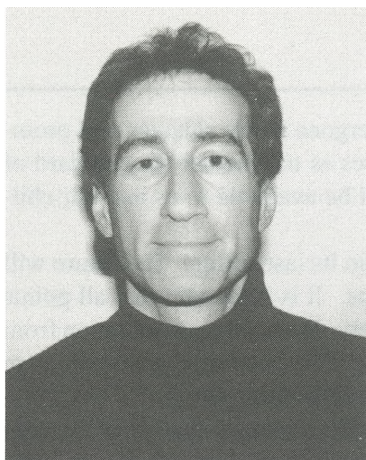
Since the last Benchers' election four years ago, events, particularly in relation to E. & O. insurance, demonstrate the need for candidates who have both an understanding of the issues affecting the profession and the skill set to address those issues. This is especially true in relation to sole practitioners and small firms.

Benchers can no longer rely solely on LSUC staff. They must bring their own expertise to the table or we again will be faced with the same debacle that we are experiencing in relation to E. & O. insurance. A bencher candidate to-day not only needs legal expertise but also needs a skill set which includes competency in information management and assessment, law office management proficiency and an understanding of the application of technology together with a problem solving mind set. These, coupled with a will to make "it work" to the benefit of the members within the constraint of existing resources are necessary qualifications for Benchers.

I have experience as a sole practitioner, counsel to a small firm, a lawyer in government, and as the director/manager of the Crown Law Office - Civil Law. This, coupled with my expertise as a litigator and techno-lawyer with analysis, problem solving, communication and presentation skills gives me the needed qualifications.

If elected, not only will I address any issues that you put forward but I intend to raise and pursue the following issues all with the object of reducing the fees which we all pay for membership, levies and E. & O. insurance:

- Called to the bar 1967
- Litigator certified as specialist in civil litigation August 25, 1988
- Counsel to Raymond & Honsberger, 16 person Toronto firm
- Director Crown Law Office - Civil Law 1976-86
- Counsel Ministry of Attorney General 1973-76
- Sole practitioner Toronto 1967-73
- Member: Advocate's Society, Canadian Society for the Advancement of Legal Technology, County of York Law Association, Canadian Bar Association, Association des juristes d'expression française de l'Ontario and The Lawyers Club
- Fellow Chartered Institute of Arbitrators, London, England
- Skilled in information management, law office management and the application of technology to the practise of law
- E. & O. Insurance: To insure that a premium structure will be put in place to reflect the risk of the particular practise being carried on. I believe risk should be spread but only within similar categories of practise. Further to effect changes to the policy that will insure that frivolous claims are not treated as claims for the purpose of increasing future deductible or surcharge payments.
- Benchers Elections: To effect the necessary statutory amendment so that a member after serving two consecutive terms will have to sit out a term before seeking reelection. Past events have demonstrated that a turn over is necessary to reflect new perspectives and bring new experiences to Convocation.
- Bar Admission Course and Continuing Legal Education: To review the possibility of doing away with the teaching portion of the Bar Admission Course and to use the financial resources instead for free continuing legal education aimed at reducing E. & O. claims.
- Review of Operations: To review all LSUC operations to make better use of existing resources and to streamline services all in the context of serving the members and reducing costs.
- Legal Aid: To change the focus of the LSUC to answering the needs of the members vis-a-vis legal aid and to put funding of the plan with the government where it belongs.



## Harry Radomski

The legal profession now faces many new and difficult challenges arising from the changing demographics of the bar and our clients. The number of women practising law, the growing cultural diversity of both lawyers and their clients, the large number of young people entering the profession and a growing awareness of lifestyle issues present opportunities for positive change within the profession. As a benchler, I aim to combine experience in the profession with a fresh outlook and an approach that welcomes change and that recognizes the need for responsibility, integrity and sensitivity.

Some of the present challenges are:

### A. The Business of Law

- Efficiency and Effectiveness of Judicial System
  - need to reduce costs and improve efficiency
  - increased use of technology to increase efficiency and reduce costs
- Errors and Omissions Insurance
  - address the high cost of insurance
  - continuing legal education
  - restricted areas of practice
  - obligation of law firms to self-educate and integrate with Law Society
  - reduce costs by examination of analysis of rating scheme including analysis of claims, analysis by practice area and analysis by length at bar
- Mandatory Continuing Legal Education
  - greater co-ordination with law schools and bar associations
  - funding by more senior lawyers, i.e. no cost to first five years of practice

### B. Humanizing the Practice of Law

- Employment Concerns for Young Lawyers and Students
  - prohibit non-remunerative articling
  - improve placement for lawyers
- Quality of Life and Practice of Law
  - recognize the tensions between family life and professional life
- Obligation to Assist Others in the Profession
  - availability of resources to lawyers entering the profession

### C. Partnership with the Public

- Obligation of Profession to the Public
  - encourage pro bono work
  - education
- Public Confidence
  - maintaining public confidence by greater openness and public awareness
- Legal Aid
  - address the deficit of the system
  - increase efficiency in processing and administration
  - greater scrutiny in approval process, more restrictive eligibility requirements, co-insurance and other means to reduce the deficit

- Called to Bar 1978, awarded Treasurer's Medal
- Partner Goodman & Goodman
- Practises Civil Litigation, appearing in Federal and Ontario Courts and Supreme Court of Canada, specializing in Intellectual Property, Administrative and Judicial Review, Insurance, Sports Law
- Written and lectured extensively; co-author *Insurance Act of Ontario* (annotated)
- Since 1988, has taught Insurance Law at University of Toronto Law School
- Pro bono work for public interest groups representing the disabled (Ontario Association for Community Living, Canadian Disability Rights Council), appearing in Ontario Divisional Court and Court of Appeal



Graduate of Osgoode Hall Law School. Called to the Bar, 1977; Lecturer - Canadian Bar Association. Instructor Bar Admission Course since 1985. Approved Instructor Ontario Real Estate Association since March, 1989, Real Property Law, Agency, Title Searching, ICI; Author Power of Sale course - Ontario Real Estate Association (OREA); Appointed Benchers' Committee - Legal Education and sub-committee on the financial issues regarding the Bar Admissions Course. Member Standard Forms Committee, OREA, and special Committee - Universal Provincial Form of Agreement of Purchase and Sale. Requested to write Chapter on Requisitions, Real Estate section Bar-Admission Course materials. Endorsed by the Ontario Real Estate Lawyers Association.

## Louis Radomsky

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Over the past five years the practice of law has undergone many changes and promises rapid changes for the future. The question arises as to whether the standard of living that we have taken for granted in the past will be available to us and our children in the future.

The Law Society has accomplished a great deal in its last sitting. The future will demand many changes, improvements and alterations. It is important that all points of view are expressed in the deliberations of the Society. We need representation from all of our members to ensure proper decision-making. We need representation from solicitors as well as barristers; sole practitioners as well as large firms.

Our system of government creates ever increasing demands that must be confronted and resolved.

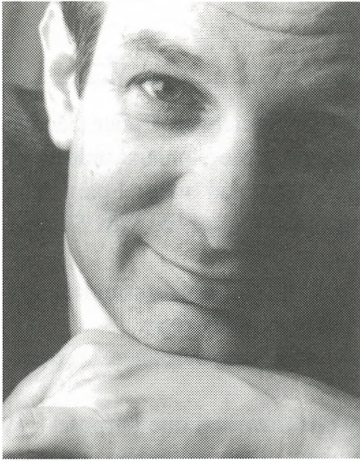
The profession must be apprised of the decisions of the committees of the Law Society. Decisions cannot be made in a vacuum. Information and opinions must flow both ways.

Additionally, in order to facilitate the tasks of the membership, it is essential that we educate the public. The people that retain our services must have a better understanding of the rigors encountered and the obligations incurred by all of us.

We are all members of an honourable profession. It is important to preserve the standards and ethics that we have come to expect from our members. It is mandatory that we treat each other with respect and honour in our professional undertakings.

If elected it is my hope to accommodate and address the needs of the members as we move towards the next millennium.





## Clayton C. Ruby

You've probably never paid much attention to the Lawyers Fund for Client Compensation.

But if you look carefully at your statement of annual fees, each year, you'll see a line on that statement that acknowledges that you're paying \$1 toward the Fund.

That's not much. And our levy has remained fixed at \$1 since 1991.

That's because we manage it very carefully. We work very hard to keep it at \$1.

I Chair the responsible Committee. I have done that since 1990.

When dishonest lawyers cheat their clients, the profession as a whole accepts a responsibility to relieve the hardship caused to persons of modest means. We do not pay banks or financial institutions. They can look out for themselves. There may be many losses respecting a single dishonest lawyer. We repay up to \$100,000 for each loss with no limit on the total amount.

Lawyers created this Fund. Lawyers manage it. It is a last resort for those who are unable to recover their losses by lawsuit or any other means.

Today the Fund holds approximately \$28 million in trust to pay clients who are cheated by dishonest lawyers. The obligations on the Fund amount to only \$10 million.

You should also know what I think about the Errors and Omissions debacle.

Partly it was bad management.

In large measure — about 1/3 of the total claims — the problem is that we have refused to take responsibility as a profession for the actions of those who are making money by acting for both sides on a transaction. We allow lawyers to act for both sides in many contexts. In real estate transactions, especially in mortgage brokering, this has cost us dearly. Because there aren't lawyers on each side of the transaction looking out for their own client's separate interest, the temptation engendered in dishonest lawyers and negligent lawyers — to cut corners and to fail to protect both parties — has been devastating.

Some Benchers have been pressing for a change to this rule. Despite the fact that it will make more work for lawyers, not less, opposition to change has been fierce. It was discussed. It was sent to Committee. The Committee studies it. The Committee never reports back. Nothing is done.

British Columbia prohibits lawyers acting on both sides of transactions except where the community is too geographically isolated to sustain two lawyers. Their annual insurance levy is \$1100.

We structure Legal Aid badly.

More needs to be done to increase fees to lawyers who really carry the Legal Aid Plan. We need most urgently to restructure the tariff so we pay more to those who fully prepare for and contest serious cases, and pay less to those who do only multiple guilty pleas and perfunctory trials occurring on the same day.

We can do this.

### PERSONAL

Date of Birth: February 6, 1942

### EDUCATION

1963, B.A. — York University

1967, LL.B. — University of Toronto

1969, Called to the Bar

1973, LL.M. — University of California (Berkeley)

1969 to present, Private practice in criminal, constitutional and administrative law (Ruby & Edwardh)

### COMMUNITY MEMBERSHIPS

Director, International PEN Canada; Director, Canadian Human Rights Trust; Member, The Writers' Union of Canada; Chair, Rights and Freedoms Committee; Member, Urgent Action Network, Amnesty International; Member, South Africa Education Trust Fund, Legal and Constitutional Commissions; Trustee, The Starlight Foundation Canada; Honourary Patron, Native Men's Residence;

### PUBLICATIONS

*Sentencing*, Textbook for Lawyers, Butterworths, Fourth Edition, 1994; *Criminal Sentencing Digest*, Butterworths, First Edition, 1993; Editor, Canadian Rights Reporter, a series of case reports on the Canadian Charter of Rights and Freedoms, Butterworths; Columnist, *The Toronto Star*



## Maureen J. Sabia

I made the decision to seek the office of benchler of the Law Society of Upper Canada because of my growing uneasiness about the future of the legal profession and indeed, of our justice system, of which members of the Bar are a significant and integral part. The legal profession is facing many challenges and its response and that of the Law Society has been disappointing.

Our future as a profession depends upon our collective will, determination and energy to meet these challenges pro-actively, positively, creatively and successfully.

If I had to state my platform in a few key words, they would be: governance, accountability, leadership, standards and respect.

Members of the Bar and the Law Society have only one duty and one purpose – to serve the public. To fulfill that mandate, however, the members of the profession and their governing body alike must enjoy the confidence of the public. Unfortunately, this confidence has been badly eroded. There are many reasons for this, some justified, some not, but the fact remains that both the profession and the Law Society itself are facing a crisis of confidence. Thus, my overriding priority is to work to restore that confidence, thereby enabling both the profession and the Law Society to improve and enhance their ability to serve the public. I firmly believe that the Law Society must assume a leadership role in recapturing the public's confidence. The legal profession has a proud history in Ontario. Restoring pride in our profession must be a paramount concern.

To realize such a goal successfully, some fundamental, perhaps even painful issues, will have to be addressed.

Just as many corporations, regulatory bodies and not-for-profit organizations are examining critically the performance of their management and their Boards with a view to improving the governance of their institutions, I believe the Law Society must undertake a similar critical review. Improved governance will be critical in restoring the public's and the profession's confidence in the Law Society because it will lead inevitably to greater accountability, significantly improved management, enhanced safeguards for the Society's assets and indeed, increased responsiveness to the demands made of the profession and its governing body.

I also believe firmly that the Law Society must adopt a framework for governance which will ensure that the interests of the public good take precedence over those of special interest groups. If elected, I will bring my significant business experience and judgment to bear on improved governance for the Law Society.

Improved accountability itself demands that some key issues be addressed. The huge increase in the profession's numbers, the changing make-up of the membership, the changing nature of the society the profession serves and the explosion of the information age demand that a critical review of the profession's numbers, standards, education (including curriculum) and training be undertaken. The public does and should demand the highest standards of the profession and the Law Society must not only respond, but must seize the initiative to ensure that standards are never compromised.

I have been dismayed to learn that so many members of our profession fear the Law Society is becoming largely irrelevant in their professional lives. This is because the Law Society is not seen to be leading the profession. Members expect the Law Society to enhance both the standards and the standing of the profession and have been disappointed by the Law Society's performance in recent years. If elected, I will work very hard indeed to ensure that the Law Society takes up this challenge with vigour and determination.

Finally, if elected as a benchler, I will continue my lifelong commitment to women's leadership but I will do so in a responsible manner, putting a positive, not a negative, face on the significant achievements so many women in the profession have fought so hard over so many years to win. It is indeed unfortunate that the significant progress made by women in our profession is so often eclipsed.

I am committed to restoring the Law Society's leadership role, to improving its governance, its accountability and its standards. I am also committed to working diligently to recapture the public's respect for our noble profession.

- B.A., McGill University
- LL.B., University of Toronto
- Member, Ontario Bar since 1967

### Career Summary:

- Ontario Securities Commission
- Ontario Law Reform Commission
- OMERS
- Canadian Pacific Limited
- General Counsel, Redpath Industries
- Chairman, Export Development Corporation
- Currently, President, Maureen Sabia International, (Organizational and Strategic Planning)
- Visible and vocal on issues of women's leadership. *Speaker* on a wide spectrum of issues.

### Directorships:

Canadian Tire Corporation Limited, *Audit & Compensation Committees*; Camdev Corporation, *Chairman - Compensation Committee*; Export Development Corporation (1986-1994); Laurentian General Insurance Company Inc. (1988-1991); Sunnybrook Medical Centre; Sunnybrook Foundation (1986-1993), *Chairman & President*; University of Western Ontario (1986-1993), *Chairman - Women in Management Research Project*; University of Guelph (1988-1994), *Chairman - Audit; Finance*





## Harriet Sachs

- partner, Dickson, Sachs, Appell & Beaman
- called 1976
- LL.B. Osgoode Hall 1974
- B.A. Mount Holyoke College; Phi Beta Kappa 1971
- My practice focuses on family law and civil rights
- cases include striking down the military's policy against gays and lesbians, and restraining activities outside two abortion clinics (co-counsel)
- recent publications: co-writer, "Same Sex Issues in Family and Estate Laws" and "Fresh Evidence on Family Law Appeals"
- assistant editor: Canadian Rights Reporter
- member, Canadian Bar Association; County of York Law Association
- Treasurer, Advocates' Society
- live in Toronto with my spouse and our two children

The impact of the Law Society's recent financial decisions must be reviewed. We now must pay almost \$10,000.00 each year to practice law, significantly more than other provinces. That high cost has a disproportionate impact on women, minorities, lawyers serving low income communities, and lawyers beginning their practices.

The threat to Legal Aid funding (which continues) also has a disproportionate effect on those groups.

Alternatives such as public defenders and clinics are regularly overwhelmed with work or are understaffed. Clinics cannot accept cases which take years and a vast quantity of time to obtain a just result. Clinics have other agendas. Only a lawyer working with a Legal Aid Certificate can stick with the process to the end. At present, because the Legal Aid tariff is too low to support the overheads of practice, working with Certificates is a stage to pass through and leave quickly. Consequently the public is deprived of its choice of lawyer, and the judicial system is deprived of experienced lawyers advocating for people who earn too little to pay private rates.

Lawyers who are members of minorities and women earn a greater part of their living from Legal Aid Certificates than others. Their foothold in the profession will be destroyed if the Legal Aid system is eroded and the costs of practice continue to rise. A bar which does not represent the population it serves is bad for the profession and bad for the administration of justice.

"Tail" insurance premiums which require lawyers who resign after June 30, 1995 to pay premiums for five years, are an unreasonable burden on lawyers who need a few years away from practice to care for their children. At \$10,000.00 per year per lawyer, part time practice and job sharing during the early child care years are no longer alternatives.

The new rates are also unfair to lawyers called before the shortfall. They have to pay the same levy even though they were not in practice when the enormous claims liabilities arose. Insurance levies should be pro-rated.

Why the insurance debacle occurred cannot be thoroughly understood from the Law Society's information. Therefore one cannot have confidence in the cure proposed or its effectiveness in preventing a re-occurrence. An independent review of the Errors and Omissions Insurance situation is necessary so that the profession is confident that the correct cure has been found.

We often hear about the "burden of being a Benchers": the time commitment, the need for financial support from one's law firm, the distance to travel if one lives outside Toronto, and so on. It is time to ask whether the cumulative effect is to make the office of Benchers open only to those who have financial support from their firms. Perhaps the time needed for Benchers activities could be lessened; for example, by restructuring the discipline process. Perhaps Benchers could be paid according to the Legal Aid tariff.

I am committed to working for change that is fair and responsive to all members of our profession.





#### Barrister

370 Bloor Street East  
Toronto, Ontario M4W 3M6  
Phone: (416) 927-9000

Fax: (416) 927-9069

- Graduate of Osgoode Hall Law School, 1983
- Served Articles of Clerkship for Rosen, Fleming, Barristers, under John M. Rosen
- Called to the Bar 1985
- Sole practitioner with practice restricted to criminal law since 1985
- Order-in-Council appointment as a Part-time Assistant Crown Attorney (Rent-a-Crown)
- Guest Instructor Intensive Trial Advocacy Workshop, Osgoode Hall Law School
- Guest Instructor Ontario Centre For Advocacy Training, Criminal Law Trial Advocacy Workshop
- Published case comments and a book review, *Journal of Motor Vehicle Law*
- Member: Advocates' Society, Criminal Lawyers' Association, American Trial Lawyers' Association, Canadian Bar Association; Area Committee - Ontario Legal Aid Plan

## H. Markham Silver

In speaking with many of our colleagues, it is apparent that there are five major areas of concern for the coming term.

### 1. INSURANCE

- a) The profession has a right to know the answers to the questions left unanswered by the Task Force Report. The profession was promised a full accounting, yet what was delivered were accounts for exorbitant premiums and surcharges. A full accounting must be provided.
- b) Premiums *must* be lowered to a level which will not preclude competent lawyers from practicing. The result should be not to exclude younger lawyers with no claims and developing practices, but rather to exclude those with many claims. The majority of the profession who are claim free should not have to subsidize those who have proven to be high risk. Risk based insurance is the only equitable basis for insurance, based on the individual lawyer's risk, not the risk associated with an area of practice.
- c) It is wholly inappropriate that fees billed Legal Aid be included in any calculation of the proposed Volume Surcharge, having regard to the Fees Tariff and the 5% statutory deduction.
- d) The Real Estate and Civil Litigation surcharge should increase with the value of the property or the amount of the claim. The surcharge for a real estate transaction involving a multi-million dollar commercial property in downtown Toronto should not be treated the same as a transaction involving a modest residential property in Dryden. Nor should a multi-million dollar commercial lawsuit attract the same \$25.00 surcharge as a \$2500 claim filed for a client of modest means. Therefore, assuming that a surcharge is even appropriate, there should be a sliding scale in accordance with the value of the transaction.
- e) The imposition of Tail Fees should be re-examined.

### 2. LEGAL AID

I am committed to the current proven Certificate model for the delivery of legal services to those members of the public who are financially unable to privately retain counsel. I find it distressing, however, that the profession is being obliged to shoulder more and more of the responsibility of not only providing the services at substantially reduced rates, but also paying directly through the add-on to the annual fees on an ever increasing basis. The Government must commit to adequate funding of the Plan on the basis that properly funded legal aid enures to the benefit of the public, and as such is in the Public Interest. It is also not inappropriate to consider a modest administrative fee to be charged the users of the plan for each application. Such fee could be waived in exceptional circumstances.

### 3. CONTINUING LEGAL EDUCATION

Continuing Legal Education should be encouraged. However, it must be equally accessible to all members across the province, and made more affordable. Consideration should also be given to a meaningful reduction in Errors and Omissions premiums for participation in CLE.

### 4. CERTIFICATION AS SPECIALIST

The purpose of the Certification Program is laudable. However, the *Law Society* should not use the program as a means of generating profit. The *Society* now charges an Application Fee of \$160.50, an Administrative Fee of \$374.50, payable upon certification but prior to issuance of the certificate, and an annual fee of \$107.00. Did I mention that the certification lapses after 5 years, at which time, having already paid the *Society* \$963.00, one must re-apply? All applications for re-certification are governed by the same criteria as first time certification. Oh yes, fees are non-refundable and may not be applied to subsequent applications. The additional financial burden has acted to deter otherwise eligible candidates from applying. Since each of the specialty committees sit *pro bono*, the question remains as to where is your money going?

### 5. OPEN COMMUNICATION

Perhaps the most important issue is that of communication. The profession has a right to know the position taken by each Benchers on each and every issue. Communication should not be contingent on an election every four years. The Benchers ought to seek out consultation with the profession at large on the contentious issues, such as Insurance, or other matters which affect the day to day practice of law.



## Paul D. Slan

### Role of the Law Society

I believe that the Law Society has one function to perform, namely the protection of the public. The Law Society cannot be viewed as a lobby group protecting the self-interest of the legal profession. There are numerous other groups serving lawyers' interests, such as the Canadian Bar Association and the County and District Law Associations. The Law Society should govern the profession objectively and fairly, with its primary consideration being the public interest.

I have worked in my own small firm for the past seven years. The Law Society should recognize that the most numerous providers of legal services in Ontario are sole practitioners and small firms. These groups are facing perhaps their most difficult period in recent history. The public cannot be protected if large numbers of lawyers are forced out of the profession because of the economic hardships imposed by the Law Society.

### Errors and Omissions

The Law Society administers its own insurance program. I believe that there is a fundamental conflict between its administering such a program and protecting the public. The obvious point of an insurance company is to resist claims in an effort to reduce costs. How can the Law Society claim to protect lawyers from the claims of the public, when it holds itself out as the protector of both?

An example of another conflict is the recent handling of the errors and omissions crisis. When the program's difficulties came to light, the very people that administer the program conducted an investigation into its mismanagement. Not surprisingly, the Law Society's Insurance Task Force recommended the Law Society continue to operate the Errors and Omissions program.

The Law Society has shown itself to be incapable of operating an insurance company. It should get out of the insurance business, leaving Errors and Omissions to be operated either by an independent agency or insurance company.

### Continuing Legal Education

There are too many providers of this service. At the very least, the Law Society should consider merging its CLE program with the Canadian Bar Association. The Law Society should also consider setting standards for CLE providers, so that lawyers get value for their money.

The Law Society is presently considering mandatory CLE. I support mandatory CLE provided that it is operated on a reasonable and cost-efficient basis. I believe that most lawyers support CLE and are committed to delivering the best service to their clients.

The Law Society should recognize the importance of CLE by offering its programs on a minimal or no cost basis.

### Legal Aid

There is one system of justice for legally-aided clients and another for private clients. The Law Society must find a way to rectify this situation without continuously having to go to the Provincial Government for assistance.

The Law Society should recognize that Legal Aid is really a political issue; namely what priority does the Province intend to give access to justice. With its mandate to protect the public, the Law Society should promote an adequately funded Legal Aid program. The Law Society should pursue a political commitment for adequate funding by the Province.

- Date of Birth: April 23, 1948
- Call to the Bar: 1977
- Area of Practice: Family Law/ Mediation
- Size of Law Firm: 3 lawyers
- Professional Activities:
- past Chair, Family Law Section, CBAO
- Executive, Family Law Section, CBAO
- Council Member, CBAO
- Family Law Committee, Advocates Society
- Instructor, Bar Admission Course
- Bench and Bar Committee, Ontario Court (General Division)
- Child Representation Panel, Official Guardian



## Cindy L. Smith

I have only been in practice for five years and cannot provide for you a long list of appointments and committees. However, I have run my own practice and managed to stay afloat for the last few difficult years. In 1995, I expect that I will have to pay, including taxes, between \$9,000.00 and 10,000.00 for fees and insurance premiums, never having had a claim. When I first started in this business, my fees for the year 1990-91 were \$951.00 and my insurance premiums for 1991 were \$2,054.00 (new calls, a category subsequently eliminated and now brought back for a reduced rate, had to pay \$510.00 more than those practicing for 5 years without a claim because we had not yet proven ourselves). It really wasn't so long ago. Every time it seems like I am finally getting ahead, the Law Society has its hand out. As a result I felt it was time to quit complaining and to attempt to do something to stop this madness.

I believe that there are many lawyers out there in similar situations who are concerned about resolving the issues facing lawyers today in a manner that will permit us to continue our practices and to earn a decent living. My position on what I view as the primary issues is as follows:

### E. & O.

- Premiums are prohibitive and must be reduced
- Consideration should be given to competitive insurers, risk based insurance or alternative measures which will result in savings
- The E&O gravy train must be ground to a halt by instituting a tariff schedule for those counsel who take on the work which should be done fairly and with regard to the potential for conflict of interest

### LEGAL AID

- The current model of delivery by certificates should remain in place
- Solicitors should be guaranteed timely payment
- Administrative costs should be reduced
- Funding should be increased through other means, consideration given to user fees and more contributory certificates

### REMUNERATION FOR BENCHERS

- There should be none

### MANDATORY C.L.E.

- C.L.E. as it presently exists is often prohibitively expensive to individual practitioners and small firms
- Consideration should be given to non-profit, affordable, general update courses in various areas of law the objective being to alert lawyers to new changes

### LAW SOCIETY OPERATIONS

- Reduce the administrative and operating costs of the L.S.U.C.
- Provide greater accountability for expenditures paid to outside counsel in all areas

### BENCHER ACCOUNTABILITY

- Ensure accountability of the benchers to the membership rather than to themselves
- Ensure proper consultation with the bar before implementation of measures that impact upon the membership at large

### GENERAL OBJECTIVES

- Provide a voice and to address issues concerning the day to day practice of law which seems to have been forgotten as of late
- To end the secrecy

Born in Toronto. Obtained Honours B.A. from the University of Toronto in 1985. Obtained LL.B., *cum laude*, from the University of Ottawa in 1988. Articled at Gardiner, Roberts in Toronto and returned as an associate upon admission to the Bar in March, 1990. In September, 1990, went into private practice. Since January, 1993 has operated as a sole practitioner in downtown Toronto in shared space with other sole practitioners. Practice is restricted to Criminal and Family Law, a vast portion of which consists of legal aid work. Member of the Criminal Lawyers' Association.





## Irwin Steinberg

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I have been practising law in the Metropolitan Toronto area since 1972. As a partner in a medium size firm (10 lawyers) I am well aware of the myriad of problems facing lawyers either practising on their own, or, in small to medium size firms.

Although there are endemic problems to this **business** generally, there are also problems unique to those of us not in one of the major downtown firms.

Frequently, we find ourselves coming out of law school wanting to be lawyers but inundated with the stresses and burdens of the small businessman. We graduate thinking we will be professionals, removed from the trite and mundane requirements of commercialism, but find ourselves instead forced into being entrepreneurs. Often, it is confusing if not impossible to reconcile what may first appear to be antithetical goals.

My purpose in running as a benchner is not to effect the present balance of power as between the large and small law firms. The reality is more often than not that our goals and aspirations are the same. We all want a law society that epitomizes the best of our profession. We all want a profession that has trained its members to be equipped to handle the complex legal issues confronting us at the close of the twentieth and commencement of the twenty-first centuries. We all want affordable continuing education seminars and inexpensive access to research materials. We all want our public image, now tainted, to regain some of the lustre it once had. We all want our once honourable profession to regain its honour.

Additionally, however, I do believe that there are grave concerns of a financial, managerial, and practical nature plaguing those of us operating outside the mega-firms that can only be addressed and brought to the attention of the Law Society by those of us who live the situation on a day-to-day basis. If you do not "walk in our shoes" you cannot possibly comprehend the enormity of the burdens that we the "small businessman" must cope with in order to survive daily in our chosen profession. Many of us are "caving in" under the weight of these burdens. There is a crisis amongst us that must be addressed forthwith. Time is **definitely of the essence**. Rhetoric will no longer be tolerated. Positive action is the only recourse that will suffice. Having started my own practice over twenty-three years ago, and, having weathered the changes both good and bad that have inundated us over the years, I feel myself uniquely qualified to represent **us** as a benchner of **our** society.

The urgency of our present predicament cannot be ignored any longer. I will not ignore it!!

Born Toronto, Ontario

Date - April 14, 1945

Graduated University of

Toronto - B.A. - 1967

Queens University LL.B. - 1970

Articled at two Litigation firms during 1970-1971 - doing predominately Civil Litigation.

Returned to firm of Raphael, Wheatley and Macpherson after Articles.

Late 1972 went into practice on my own.

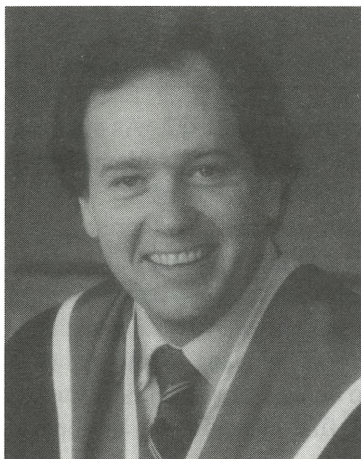
Have practised in partnership since 1973.

My area of expertise includes Civil Litigation, Commercial and Real Estate Law.

Present partnership comprises ten lawyers consisting of four partners and six associates.

Office situated in North York, Ontario.

I am married with two sons both attending Ontario Universities.



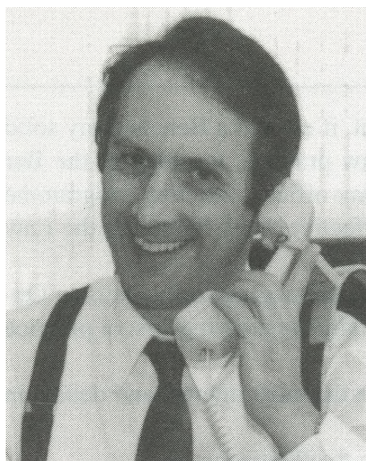
## Herb Stover

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I WILL ENDEAVOUR TO PURSUE ALL AVENUES\* LEADING TO COST REDUCTION IN E & O FEES.

\*Defined as: Continuing Legal Education; Claims Representation; Discipline; ADR; Differentiated Insurance Rate Structure; Independent Review of Private Insurance Alternatives; Benchers Accountability.

I attended Queen's Law School, articulated for David P. Cole and Robert G. Bigelow (as they then were) and was called to the bar in 1988. I am a sole practitioner in the areas of child welfare, criminal, and family law. I am a member in: the Canadian Bar Association – Ontario, the Criminal Lawyers Association, and the County of York Law Association. I am a panel member of the Ontario Legal Aid Plan Area Committee – Toronto, and a panel member of the Office of the Official Guardian for Independent Representation of Children.



## Murray Teitel

I am a one-man civil litigation department in a two-person firm. I am running for benchers because somebody has to do something about the mess in which the profession finds itself.

The interests of sole practitioners and members practising in small firms will not be promoted by benchers practising in mega firms. I have nothing against these people personally. Some of them are quite charming, in fact. But they are not responsive to our needs. They practise high above street level in the rarefied atmosphere of luxury offices located on the upper floors of faceless downtown towers. They probably don't even know what our problems are.

I think one of the biggest problems facing us is that each year there is both an increase in our numbers and a decrease in the amount of work available from which we have to earn our livelihoods. While I realize this is a very sensitive issue, I do stand for fair and equitable restriction on the numbers entering the profession. Every other profession does it. Even cab drivers do it.

I feel if we don't restrict our numbers, we will soon see lawyers so desperate for work that they will be taking on matters they are unqualified to handle. This will result in a swelling in the number of negligence claims.

This brings me to another serious problem facing the profession and that is the \$154,000,000.00 L.P.I.C. deficit. This has resulted not only in the imposition of a special levy but also in enormous increases in our errors and omissions premiums and annual fees. These increases will probably put some members out of business.

It is very unfortunate that the benchers somehow managed to lose track of \$154,000,000.00 during these tough economic times when every stray hundred million really counts. I think that those benchers whose firms did defence work for L.P.I.C. had a conflict of interest in that they both set the rates at which counsel would be paid and did the actual work. I would be opposed to directors sitting on L.P.I.C.'s expanded board obtaining defence insurance work from L.P.I.C.

If elected, I would do whatever I could to ensure that Legal Aid funding is not eroded and that the province does not move to a clinic system for the servicing of legally aided clients.

I feel that our profession today is at a crossroads and that if sole practitioners and members practising in small firms do not speak up for their rights, they will be left by the wayside. It is for this reason that I am running and asking for your support. If not now, when?

Called in 1982.

Married with three children.

Practised in Thornbury, Ontario, and since 1983 has been practising with Newman, Weinstock, in Toronto (Civil litigation and family law).

Bar Admission Course instructor (civil litigation).

Member, Joint Committee on Court Reform.

Has been counsel on numerous legally significant cases which have been widely published in the law reports and discussed in ten different legal textbooks.

Op-ed page writer for The Toronto Star and three other Canadian newspapers.





## Marlene Thomas

I am a first time candidate for Benchers. I believe that, if elected a Benchers, my solid background of almost nineteen years in a public law practice, teaching at the Bar Admissions Course, "hands on" involvement with my office's articling programme and other activities in the profession will provide effective "new blood" to the Law Society of Upper Canada.

The next four years promise to be exceptionally challenging for lawyers in Ontario, with issues such as legal aid funding, insurance and the growing cost of practice in the forefront of members' concerns.

I believe that the following matters will generate the most interest and debate in the profession in the upcoming days:

- access to and delivery of affordable legal services to all citizens;
- accountability of members for professional conduct in the public interest;
- reinforcing the relevance of the Law Society as a governing body to all Ontario lawyers;
- communication with the profession regarding decisions to be taken in Convocation;
- improving the management of crucial issues such as legal aid funding and insurance;
- opportunities for women and minorities to participate and advance at all levels of the profession;
- settling the ongoing debate regarding the nature of legal education and continuing legal education;

In this time of rapid technological change and economic re-positioning of our society, it is more important than ever for the Benchers to work together with all Ontario's lawyers to enhance our professional lives, while continuing to meet our clients' needs.

If elected as a Benchers, I look forward to serving the profession towards these goals. I ask for your support in this spring's Benchers election.

### Education:

- High School in New Brunswick;
- Dalhousie University (B.A., 1971);
- Queen's University (LL.B., 1974)

### Career Outline:

- Called to the Bar of Ontario, 1976;
- Law clerk to Chief Judge of Ontario Provincial Court, Criminal Division (1976 - 1977);
- Senior Counsel at Toronto Regional Office, Department of Justice-Canada, practising civil litigation and administrative law;
- Criminal prosecutor, 1977-1980;
- Instructor at Bar Admissions Course in Public Law and Interviewing;

### Committees:

- Member of the Law Society of Upper Canada Immigration Specialization Committee;
- CBAO Academic Legal Education Committee;
- Department of Justice committee dealing with equal opportunities for women.

### Associations:

- Canadian Bar Association;
- County of York Law Association;
- Lawyers Club;
- Women's Law Association.



## Newton Wong

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The Law Society is a very sacred and treasured institution necessary for the survival of the profession.

In these turbulent times, we must reassess, take from the past the fundamental values of integrity, honour and fairness but at the same time deal with the harsh realities of strengthening our profession's insurance in order that new and existing members of the bar focus on the Practice of Law and not on the Financing of Law.

As a Benchers, it is not only important to address the interest of the public and its members but also provide a direction and vision for the profession as a whole.

We must seek new avenues to make the Law Society a more efficient body in order that our profession remain self-regulated for generations of new members.

I am honoured that my colleagues have nominated me to be a candidate for benchers. I wish to thank them and especially my dear friend, Dorinda Chiang, for their kind support.

I have always endeavoured to be of assistance to the community. I look forward to serving if given the opportunity.

### Education:

1987 - University of Ottawa,  
Bachelor of Laws

1984 - University of Toronto  
(Trinity College), Bachelor of  
Arts

### Work:

Owner of law firm in down-  
town Toronto, general practice,  
emphasis on civil litigation,  
corporate, commercial real  
estate and estates.

### Community:

Board of Governors of George  
Brown College, Toronto.

Past President of the Associa-  
tion of Chinese Canadian  
Lawyers in Ontario.

Past Vice-President of Federa-  
tion of Chinese Canadian  
Professionals in Ontario.

Chairman of the FCCP Confer-  
ence, 1992 at the Royal York  
for over 600 attendees from  
medical to accounting issues.

Advisor Federation of Chinese  
Canadians in Markham

Instructor in Estate planning  
and Corporate tax, Law Society  
Bar Admission Course

Director of Numerous Boards

### Hobbies:

Work, fishing, badminton

