



The Legal Aid Letter  
is sent by The Law Society of Upper Canada  
to its members each month carrying news of the  
Ontario Legal Aid Plan

Number 1

June, 1978

The Legal Aid Letter is being sent to all lawyers, members of the judiciary, members of the Provincial Parliament, community-based legal staff, law professors and university student newspapers, the media, and many others involved in or concerned with the delivery of legal services in Ontario. We hope you will find this monthly letter both useful and informative and we urge you to bring to our attention any matter affecting legal aid in order that such information can be acted upon.

#### HIGHLIGHTS OF THE YEAR

During the fiscal year which ended on March 31, 1978, the Plan received 105,118 applications for assistance and 76,730 legal aid certificates were issued -- 41,854 for criminal matters and 34,876 for civil (mainly matrimonial) actions. Another 175,916 individuals were assisted by duty counsel in the Province's courts.

Compared to the previous year, the number of applications for certificates rose by 1.9%, number of certificates issued rose by 0.1% and demand for duty counsel rose by 11.03%.

The cost of the Plan for the 1977-78 fiscal year was \$31.3 million, of which about \$26 million came from the Provincial Government. (About \$6 million of that amount is recovered from the Federal Government under a Federal-Provincial cost-sharing agreement on criminal matters.) About \$3 million came from the Law Foundation, \$1.6 million was contributed by legal aid clients and the balance was made up of judgments and miscellaneous income. The statutory reduction of 25% on all fees paid represented a financial contribution by private lawyers of \$7 million.

The budget for the 1978-79 fiscal year is \$31.9 million, an increase over the previous year of about 2%.

#### COMMUNITY-BASED CLINICS

During the last fiscal year, 15 additional community-based legal clinics were funded, bringing to 28 the number of clinics in Ontario. Operating on a budget of \$1.7 million, the clinics assisted thousands of individuals with landlord-tenant, consumer, welfare, unemployment insurance, workmen's compensation, housing, immigration and environmental problems. With a budget of \$2.5 million for the 1978-79 fiscal year, the clinical delivery system is expected to expand to 35 such community facilities.

The community-based clinics, together with the Plan's six university-affiliated Student Legal Aid Societies and almost 40 duty counsel clinics, ensure that those who traditionally have not had access to lawyers are now able to receive assistance.

#### CLINICAL FUNDING REGULATION

Community-based legal clinics are funded through the Plan and a three-member Clinical Funding Committee, operating within the guidelines of the Clinical Funding Regulation, makes recommendations to the Director of the Plan and to Convocation regarding the suitability of applicants for such funds. The regulation has not been altered since its creation in 1976 when it was enacted as an interim measure to meet a funding procedure problem which then existed. On May 10, the Clinical Funding Committee asked Convocation to recommend to the Attorney-General the appointment of a commissioner to study the existing Regulation and, where necessary, to suggest changes to it.

#### APPOINTMENTS

Joseph K. Pearce, Q.C., has been appointed Area Director for Lennox and Addington and J.F. McCartney, solicitor, has been appointed Area Director for Thunder Bay.

(over)

## TARIFF

The proposed changes to the legal aid tariff were formally presented to Attorney-General Roy McMurtry on March 10, 1978. Ministry and Plan officials subsequently met to discuss the financial implications of the proposals, which are now awaiting presentation to Cabinet.

## PUBLIC DEFENDER

On May 5, 1978, Attorney-General Roy McMurtry addressed the Legislature concerning a study by his Ministry of the merits of adding a Public Defender element to the existing legal aid plan to improve services to residents of Metropolitan Toronto.

Mr. McMurtry noted that his study group was working in co-operation with members of the Law Society of Upper Canada's legal aid committee, the Advocates' Society and others. The Attorney-General assured Members of the Legislature "...that the Public Defender system is being investigated not out of cost consideration, but rather because of the ever increasing number of concerned judges and lawyers who approach me to discuss the poor quality of legal representation being offered by some lawyers under the present legal aid system."

Stressing that his Ministry's study of the Public Defender system "...is limited to considering its utility as an addition to the present legal aid system, not as a replacement for it," Mr. McMurtry said, "Persons charged with criminal offences who qualified for legal aid would continue to be able to retain any lawyer who would accept a legal aid retainer; the Public Defender office would simply be one of their options."

The Chairman of the legal aid committee, John Bowlby, Q.C., and the Attorney-General have met on numerous occasions to discuss this subject and both are of the view that the public may well benefit from the study now underway. Both agree that all viable methods of delivering legal services should be explored.

## REMINDER

Members of the profession who accept legal aid certificates are reminded of their responsibility under Regulation 66 of The Legal Aid Act which reads, "Where any circumstances comes to the attention of a solicitor which indicates that his client may not have been entitled to or may no longer be entitled to the certificate under which the solicitor is acting, the solicitor shall forthwith report such circumstances to the area director." The Plan may decline to pay the account of any solicitor delivering legal services pursuant to a legal aid certificate who neglects his responsibility under the Regulation.

## APPEALS

Solicitors who acknowledge Provisional Certificates for appeals are alerted that unless the certificate specifically authorizes the ordering of a transcript of the trial proceedings, judgment, etc., the Plan is not bound to pay for such transcript. Procedures exist whereby a transcript may be ordered but its preparation held pending determination of the Plan's funding of an appeal. Transcript costs are such a significant part of the total cost of appeals that the Plan will not undertake to pay for transcripts unless and until the Area Committee endorses the appeal being undertaken under the Plan's auspices.

## ACROSS THE COUNTRY

MANITOBA....The Government will introduce a \$35 user fee for all legal aid clients except those on welfare....Legal Aid Manitoba staff will be cut by nine....The Government will hold back 15% of fees paid to lawyers....The University of Manitoba's student legal aid clinic will close....The Manitoba Trial Lawyers Association has asked for an increase in fees - the first in five years....QUEBEC....About 60 staff lawyers staged a sit-in at the headquarters of the province's Legal Services Commission to back demands for pay boosts to bring them into line with Crown Attorneys. The lawyers are affiliated with the Confederation of National Trade Unions....The province's legal aid budget this year is \$30 million, up \$3 million from last year....SASKATCHEWAN....Organized workers at legal aid clinics throughout the province held a one-day study session in May and threatened further work disruptions if the proposed layoff of 17 employees is not cancelled. The workers are members of the Canadian Union of Public Employees....BRITISH COLUMBIA....An experimental program of prepaid legal services for members of unions and professional organizations should be ready for testing in November.