



Benchers Bulletin

October 1992 Vol. 1 No. 2

Legal aid at a crossroads

Ontario's Legal Aid Plan is celebrating its 25th anniversary this year. The Plan is widely regarded as the finest program of public legal assistance in the world.

During the past year, the Plan has been subject to critical re-assessment by

Ontario Legal Aid Plan



25 Years
of Service

the Ontario government. At a time when government revenues have been sharply reduced and every effort is being made to trim an enormous deficit, all government programs are being

closely scrutinized to identify areas of possible savings. This is particularly so in the case of programs, such as legal aid, that have experienced large budgetary increases in recent years.

Over a three-year period the Plan's budget has increased 76 per cent from \$173.8 million in 1989/90 to a projected \$306.5 million in 1992/93. The Plan was facing a projected shortfall of \$37 million at the start of this fiscal year.

Many members of the profession have been very concerned that the government might scrap the Plan in favour of a province-wide clinic system of employed lawyers, and move to a "public defender" model to provide services in the criminal law field. The Law Society has consistently argued against such changes, and has recently and forcefully re-affirmed the profession's commitment to the Plan in its

present form, maintaining that the independence of the bar and the right to choose independent counsel are principles that should be paramount. Delivery of legal aid through a staff model or public defender system would violate those principles, resulting eventually in a deterioration in the quality of service, especially in times of peak demand, when staff lawyers would be required to assume ever larger caseloads.

In the area of family law, where it appears that access to services poses a problem in some areas, the Law Society has agreed, subject to certain conditions, to cooperate in the development of an alternative delivery system. Law Society representatives are cooperating with the government in the establishment of a limited number of family law pilot projects. Assistance in this initiative is being provided subject to the assurance from senior provincial government officials that the pilot projects will be submitted to rigorous evaluation.

In the field of immigration law, the Law Society indicated that until such time as proper consultations with the immigration bar had occurred, Convocation was not in a position to make a decision about pilot projects.

The Law Society has acknowledged the urgent need for a critical re-assessment of the Plan to ensure that services are being provided on the most-effective basis possible, consistent with the need to maintain the quality of service. The Law

In this issue:

- *Bencher election committee*
- *Intellectual property certification*
- *Incorporation of law practices*
- *Mortgage investment Regulations*
- *New lay Bencher*

continues...

Society has also recognized that the profession must demonstrate a genuine commitment to the effort to reduce costs, where possible, and maintain a high quality of services.

For these reasons the Law Society has undertaken a number of initiatives that, combined with a rate of growth in legal aid demand that is less than forecast, will succeed in reducing the Plan's shortfall to \$7 million from a projected \$37 million.

The Law Society has approved new regulations to the *Legal Aid Act* which will implement various cost-saving remedies recommended by the criminal law tariff sub-committee. Sub-committees in criminal, family and immigration law were constituted last winter to review their respective tariffs and determine where costs could be trimmed in both the long and short-term. These sub-committees were comprised of lawyers from across the province who provide legally-aided services in those fields.

In addition, with the Society's support the Attorney General was able to receive an extraordinary grant of \$8.5 million from the Law Foundation's reserve fund.

As a result of these initiatives, the Law Society is optimistic that the balance of funds necessary to meet the Plan's requirements for this year will be met by the government and that a request for an increase to the legal aid levy will not be necessary. Although the levy has been the subject of discussion in the recent past, no formal request has been made by the government. The Law Society recognizes the difficult financial circumstances in which lawyers find themselves today and is of the view that it is the duty of governments to fund social programs and individual professions should not be subject to a surtax in order to pay for them.

The Law Society has expressed directly to the Attorney General's Ministry its concerns about the government's long-term commitment to the present legal aid plan. The Treasurer wrote to Deputy Attorney General George Thomson last month requesting assurances that the government remained committed to judicare as the primary method of legal services delivery. Mr. Thomson's response was very constructive and made explicit reference to the Government's intention to main-

tain the certificate system as the standard method of delivery of legal aid.

In the meantime, the Law Society will continue to direct its policies toward the strengthening of the Plan in its present form, and will press for funding to meet the Plan's needs during the current and future years, as well as for appropriate and much-needed tariff increases, particularly in the field of family law.

Complete details concerning the Legal Aid Plan's finances and changes in deductions will be contained in the cheque mailings that are being sent to Ontario lawyers billing the Plan for services. Copies are also available by contacting the Communications Department at (416) 947-3335.

Bencher election committee scheduled to report in February

A special committee on Bencher elections chaired by Ottawa Bencher David Scott has been constituted and will report to Convocation in February 1993.

The nine-member committee will include one representative each from the County and District Law Presidents' Association and the County of York Law Association and will consult broadly with professional groups. The committee will review the issue of whether Convocation should reaffirm the November 1991 reform proposals, which called for regionally-based elections, as the appropriate long-term procedure for future elections. If the decision is made that the format proposed in 1991 is not appropriate, the committee will make recommendations on a number of matters, namely:

- whether the present method employed in the recent 1991 election should be preserved
- whether judicial regions or other regions should be used for the purposes of regional elections if such a format is proposed
- if regional elections are proposed, whether lawyers should have the right to vote for all candidates or only the candidates in their region, or some combination

- how many benchers should be elected from each region.

Individual members and organizations are invited to forward written submissions to Simon Hodgett, Secretary, Special Committee on Benchers Elections.

Intellectual property added to Certification Program

The Intellectual Property Law Specialty Committee is now ready to consider applications. If qualified, lawyers may be designated as Specialists in Patent Law, Trade-mark Law, Copyright Law, or any combination thereof. Those qualifying in all three areas may designate themselves as Specialists in Intellectual Property (Patent, Trade-mark, and Copyright) Law or simply as Intellectual Property Specialists.

The Certification Program began certifying specialists in 1988 in the areas of civil, criminal and the combined specialty of civil and criminal law. Specialist designations are now offered in six areas of law. Currently, 599 lawyers are certified as specialists by the Law Society of Upper Canada. The following is a summary of lawyers by specialty who have been certified in Ontario:

Civil	389
Criminal	117
Civil & Criminal	40
Family	46
Immigration	7

Applications are available from the Certification Program office at (416) 947-4062.

Incorporation of law practices awaiting government approval

The Law Society is awaiting proclamation by the Lieutenant Governor of the amendments to the Law Society Act passed in 1990 (S.O. 1990, c.8)

which would permit a "law corporation" to practise as a barrister and solicitor.

In May of this year, Convocation adopted the report of a special committee setting out a regulatory scheme to govern the practice of law by corporations. The regulations have been sent to the Ontario government for approval.

Forms, fees and other administrative details necessary for implementing the scheme are almost complete. Members will be notified and explanatory information will be made available as soon as the legislation and regulations are in force.

Changes to mortgage investment Regulations

Regulation 573 has been amended requiring members to provide more information as to their activity in private mortgage work and requiring new forms to be signed by the investor-client and the lawyer in order to provide more disclosure to the client of the details of the mortgage investment.

Copies of new Forms 4 and 5 will be forwarded to members along with the annual filing forms in the next couple of weeks. Inquiries should be directed to the Audit Department at (416) 947-3393/94/95 or toll free at 1-800-668-7380.

Law Society welcomes new lay Bencher

The Law Society welcomes the appointment of new lay Bencher Hope Sealy of Toronto. Currently



Hope Sealy

the host of CBC's Meeting Place, Ms. Sealy has enjoyed a varied career in television, radio, marketing and public relations.

Ms. Sealy has been appointed a member of the Professional Conduct and Discipline Policy Committees.

Upcoming Events

at Osgoode Hall, all members welcome

- **November 11**
Annual General Meeting, 5 p.m.
- **November 12**
Remembrance Day Service
World War II Memorial, 12:30 p.m.
- **November 12 & 13**
County and District Law Presidents' Association
Plenary Meeting
- **November 26**
Special Convocation (Discipline), 9 a.m.
- **November 27**
Regular Convocation, 9 a.m.

Treasurer's Diary

Law Society Treasurer Allan Rock has met with a number of law associations and professional organizations across the province in recent weeks, including the Frontenac Law Association, County of Carleton Law Association, Dufferin County Law Association and the Criminal Lawyers' Associations of London and Ottawa.

Future visits are planned to Ingersoll and Sudbury and to the Muskoka Law Association. The Treasurer welcomes the opportunity to meet with interested members and their organizations. Requests should be directed to Richard Tinsley, Secretary, at (416) 947-3344.

Annual General Meeting Notices

Notices of motions to be made at the Annual General meeting on November 11, 1992, appeared in the October 23 issue of the Ontario Reports.

The motions are made pursuant to Rule 52 (5) of the *Law Society Act*, which provides that motions are to be made by at least 10 members in good standing. The motions do not necessarily reflect the position of the Law Society.

The Law Society
of Upper Canada



Benchers Bulletin

is published nine times annually by
The Law Society of Upper Canada
Communications Department
Osgoode Hall,
130 Queen Street West
Toronto, Ontario M5H 2N6
Tel: (416) 947-3334
Fax: (416) 947-3991



Printed on
paper containing
recycled material

THE LAW SOCIETY OF UPPER CANADA ENDORSES THE WHITE RIBBON CAMPAIGN

MEN WORKING TO END MEN'S VIOLENCE AGAINST WOMEN

Women everywhere in Canada live in fear of violence. An estimated one in four men are physically violent towards women at some time in their lives. And, for the most part, the rest have been silent.

The White Ribbon Campaign is an effort by men to break this silence. By wearing White Ribbons December 1 to 6, leading up to the commemoration of the Montreal Massacre, we help focus the reflection and discussion which can bring impetus to change. We also encourage

men to join women in working towards ending men's violence against women.

The work of the White Ribbon Campaign extends far beyond this one week of activity. Changing attitudes requires continuous debate and education. To that end, the White Ribbon Campaign invites you to participate in the campaign in your law office or workplace.

Please break the silence!



WHITE RIBBON
CAMPAIGN

GET INVOLVED.

INFORMATIONAL MEETING

Hosted by the
Lawyers' subcommittee of the
White Ribbon Campaign.

TIME:
November 24, 1992, 4:30 p.m.
PLACE:
Osgoode Hall, 130 Queen St. W.
GUEST SPEAKER:
Ian Scott, Q.C.

Convocation Attendance

October 23, 1992

Allan Rock, Treasurer

Paul Copeland, Paul Lamek, Roger Yachetti, Ross Murray, Donald Lamont, Julaine Palmer, Fatima Mohideen, Thomas Bastedo, Stephen Goudge, Maurice Cullity, David Scott, Ronald Cass, Casey Hill, Susan Elliott, Neil Finkelstein, Mary Weaver, Colin Campbell, Harvey Strosberg, William Howland, Kenneth Jarvis, Allan Lawrence, Brendan O'Brien, Daniel Murphy, Arthur Scace, Stuart Thom, Hope Sealy, Frances Kiteley, Barry Pepper, Colin McKinnon, Vern Krishna, Lloyd Brennan, Patrick Furlong, Gordon Farquharson, Robert Topp, James Wardlaw, Earl Levy, Abraham Feinstein, Marc Somerville.

En français?

Si vous désirez obtenir ce bulletin en français ou tout autre document du Barreau déjà publié en français, veuillez en aviser le Service des communications.