

ONTARIO LAWYERS GAZETTE

LA REVUE DES JURISTES DE L'ONTARIO



LET RIGHT PREVAIL

The Law Society of
Upper Canada

Barreau
du Haut-Canada

*Taking a look at the **BIG** picture*
**The many ways the legal
profession is making a
difference**

FOCUS

pg. 3

TREASURER'S MESSAGE

- PUBLIC PERCEPTION
IMPORTANT ISSUE TO
LAW SOCIETY & LAWYERS

TAKING A LOOK AT THE BIG PICTURE

- THE MANY WAYS THE
LEGAL PROFESSION IS
MAKING A DIFFERENCE

YOUR PRACTICE pg. 10

EFFECTIVELY MANAGING YOUR OFFICE:

- AVOIDING THE BASIC
"COMMON SENSE" THINGS
CAN LEAD TO TROUBLE

BUDGET 2008

MARK YOUR CALENDAR

NEWEST CERTIFIED SPECIALISTS

TOUR D'HORIZON p. 15

MARIAGE MALHEUREUX, DIVORCE HARMONIEUX

LA FORMATION

POUR DÉFENDRE L'INDÉPENDANCE DU BARREAU

LA QUALITÉ DU FRANÇAIS

NEWS & VIEWS pg. 19

CONVOCATION HIGHLIGHTS

CERTIFIED SPECIALIST PROGRAM REVAMPED

IN MEMORIUM

PARALEGAL UPDATE

LEGAL HISTORY SYMPOSIUM

ARTICLING CONSULTATION

ONTARIO LAWYERS GAZETTE

LA REVUE DES JURISTES
DE L'ONTARIO

Fall/Winter 2007

Vol. 11, No. 2

Automne/hiver 2007

Vol. 11, n° 2

The Ontario Lawyers Gazette (ISSN 1206-5358) is published by the Law Society of Upper Canada, the licensing and regulatory body governing the legal profession in Ontario. Articles appearing in the Gazette do not necessarily represent Law Society policy. Direct all editorial enquiries and correspondence to:

Ontario Lawyers Gazette
Law Society of Upper Canada
Osgoode Hall, 130 Queen Street West
Toronto, ON M5H 2N6
tel: (416) 947-5220 fax: (416) 947-3335
communications@lsuc.on.ca

La Revue des juristes de l'Ontario (ISSN 1206-5358) est publiée par le Barreau du Haut-Canada, corps dirigeant de la profession juridique en Ontario. Les articles publiés dans la Revue ne représentent pas nécessairement la position officielle du Barreau.

Pour communiquer avec nous, s'adresser à :
La Revue des juristes de l'Ontario
Barreau du Haut-Canada

TREASURER
Gavin MacKenzie

**CHIEF EXECUTIVE
OFFICER**
Malcolm Heins

**DIRECTOR,
COMMUNICATIONS**
Roy Thomas

**MANAGER,
COMMUNICATIONS
& EDITOR-IN-CHIEF**
Helen Stone

MANAGING EDITOR
Helen Stone

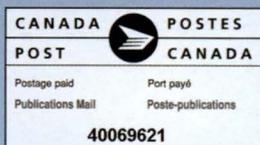
**DESIGN &
ART PRODUCTION**
Perry Lim

**FRENCH LANGUAGE
ADVISOR**
CONSEILLÈRE EN MATIÈRE
DE SERVICES EN FRANÇAIS
Geneviève Proulx

**ONTARIO LAWYERS
GAZETTE ADVISORY
BOARD**
Julian Porter, Chair
Constance Backhouse,
Vice-Chair
Bradley Wright

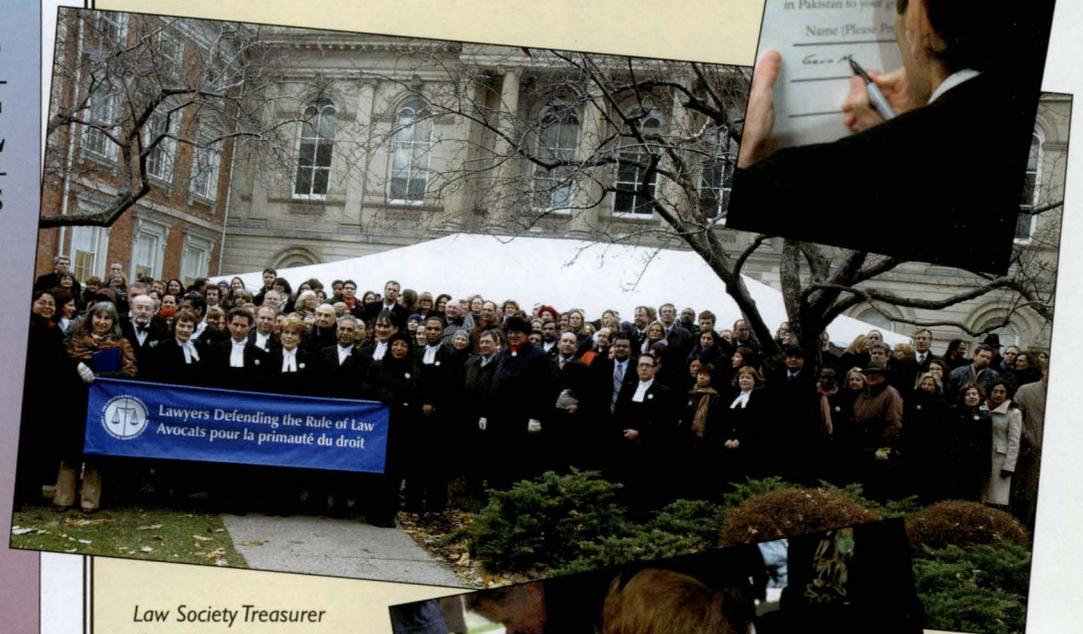
CONTRIBUTORS
Dan Abrahams
Anita Christoff
Denise McCourtie
John Starzynski
Susan Tonkin
Stephanie Wei

PHOTOGRAPHY
Frozen Images Photography
Johan Sörensen Photographer



Printed on paper containing recycled material.

Gathering calling for the return of the rule of law in Pakistan



Law Society Treasurer
Gavin MacKenzie signs
the petition (above), while
bencher Heather Ross
adds her signature of
support (right).



Over 400 lawyers attended a gathering to support the call for the restoration of the rule of law in Pakistan, held November 29, 2007, in front of Osgoode Hall. The event was held to show support for the lawyers, judges and human rights advocates in Pakistan who have been defending the rule of law in that country.

In his opening remarks, Law Society Treasurer Gavin MacKenzie announced, "We are here to raise our voices in protest and to condemn the actions of the Musharraf regime, and show our solidarity, support and admiration for our brave colleagues at the bar in Pakistan who have stood their ground in the face of tyranny."

To further add to their show of support, attendees at the gathering added their names to an international petition.

Other speakers included Heather Ross, Chair of the Human Rights Monitoring Group and bencher, Law Society of Upper Canada; Cheryl Milne, Vice Chair, Constitutional, Civil Liberties & Human Rights Section, Ontario Bar Association; Raj Anand, bencher, Law Society of Upper Canada; and Gregory D. Goulin, President, Ontario Bar Association.

TREASURER'S MESSAGE

Public perception an important issue to the Law Society and Ontario's lawyers

WE TAKE PRIDE IN BEING LAWYERS. We believe our profession serves the public interest and that its independence is integral to the rule of law. Yet it is apparent from the tone of public discourse that many people do not appreciate the vital role the legal profession plays in our society.

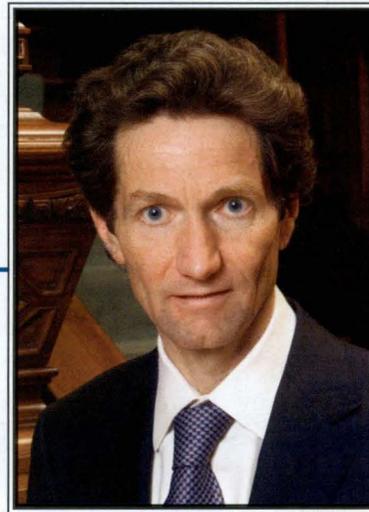
It can be discouraging to work as hard as most lawyers do in the interest of their clients, and in the interest of justice, only to face unwarranted criticism in the

public sphere – particularly as the criticism intensifies. Yet people continue to turn to lawyers when they find themselves in difficult situations. If they are charged with an offence, if they are involved in a contentious divorce, if they are victims of a horrific accident, or if their civil liberties are compromised, they immediately turn to members of the legal

profession. They rightly expect their lawyers to do everything within the law to help them and to be free to represent them without interference. The value of lawyers' services and the significance of the independence of our profession are very much present in private discourse – but often absent in public dialogue.

Bringing this private discourse to light in the public forum is one of the main challenges facing our profession today. The court of

public opinion cannot be ignored; it is the public that grants us the privilege of self-regulation.



Treasurer
Gavin MacKenzie

leurs avocats fassent tout ce qui peut être fait légalement pour les aider, et à ce qu'ils les représentent sans interférence. La valeur des services d'un avocat et l'importance de

l'indépendance de notre profession est très présente dans le discours privé – mais trop souvent absente du discours public.

Un des principaux défis de notre profession aujourd'hui est de faire entrer le discours privé dans le forum public. On ne peut pas faire abstraction de l'opinion publique; c'est le public qui nous donne le privilège de nous auto-réglementer.

À y regarder de plus près, les questions façonnant le discours public sont révélatrices.

MESSAGE DU TRÉSORIER

La perception publique : une question critique pour le Barreau et les juristes de l'Ontario

NOUS SOMMES FIERS D'ÊTRE avocats et avocates. Nous croyons que notre profession sert l'intérêt du public et que l'indépendance du barreau fait partie intégrante de la primauté du droit. Pourtant, il semble d'après le discours public, que de nombreuses personnes ne saisissent pas le rôle vital de la profession juridique dans notre société.

Il est parfois décourageant pour la plupart des avocats, de travailler aussi fort dans l'intérêt de leurs clients, et dans l'intérêt de la

justice, et de se retrouver au centre de la critique publique – surtout quand cette critique sans fondement s'intensifie. Cependant, les gens continuent de faire appel aux avocats lorsqu'ils se trouvent dans des situations difficiles. S'ils sont accusés d'une infraction, s'ils traversent un divorce litigieux, s'ils sont victimes d'un terrible accident ou si leurs libertés civiles sont compromises, ils se tournent immédiatement vers les membres de la profession juridique. Ils s'attendent avec raison à ce que

A closer examination of the numerous issues shaping the public discourse is revealing.

Top of mind for many is access to justice. Discussions of this issue most often involve the problems of delay, the increase in self-representation, the difficulties with legal aid and the high cost of legal services. What is missing are the efforts of our profession to address the complex systemic issues in the courts, the innovative ways lawyers serve their clients and the tremendous number of *pro bono* hours logged each year by lawyers in a multitude of practice settings – a feature of the practice of law that distinguishes it from many other professions and occupations.

Diversity in the profession has also received a great deal of attention recently. Consistent with past years, the latest group of new lawyers to join the profession reflects the population of Ontario. We know from experience that not all who are called to the bar will stay in the profession and we know that members of certain equity-seeking communities are more likely than others to leave. What is not discussed often enough are the efforts of lawyers, law firms and the Law Society to accommodate our profession's increasing diversity.

Lawyer misconduct is the legal topic most often covered by the mainstream media. A few miscreants tend to dominate

coverage of the legal profession. Absent from too many of the media's stories is the profession's response – we do not tolerate misconduct and we actively devote enormous resources to this aspect of our regulatory responsibilities.

With the introduction of the *Access to Justice Act 2006* last year, the Law Society found itself in the spotlight for new reasons. The regulation of paralegals in Ontario is groundbreaking. The government, the media and the public will continue to be keenly interested as we implement our expanded mandate.

Prenons tout d'abord l'accès à la justice : on pense surtout aux problèmes de retard, à l'augmentation de l'auto-représentation, aux difficultés d'obtenir de l'aide juridique et aux coûts élevés des services juridiques. Notre profession ne doit pas lésiner sur les efforts à mettre pour soulever les problèmes systémiques complexes qui existent dans les tribunaux, pour parler des façons novatrices dont les avocats servent leurs clients, et pour faire connaître le grand nombre d'heures *pro bono* que des avocats donnent généreusement chaque année dans de nombreux milieux de pratique – une caractéristique de l'exercice du droit qui distingue notre profession des autres.

Prenons ensuite la diversité de notre profession qui a récemment reçu beaucoup d'attention : comme

par les années passées, le tout dernier groupe de nouveaux avocats représente bien la diversité de la population de l'Ontario. Nous savons d'expérience que tous les avocats qui sont assermentés ne resteront pas dans la profession et nous savons que les membres de certaines communautés visant l'équité risquent plus que d'autres de partir. Cependant, on ne parle pas suffisamment des efforts des avocats, des cabinets et du Barreau pour s'adapter à la diversité croissante de notre profession.

Le manquement professionnel des avocats est le sujet juridique le plus couvert par les médias populaires. Quelques scélérats tendent à dominer les reportages sur la profession juridique. On cite peu, sur la scène médiatique, la réaction de la profession – nous ne

tolérons pas le manquement professionnel et nous affectons d'énormes ressources à cet aspect de nos responsabilités législatives.

Avec l'adoption de la *Loi de 2006 sur l'accès à la justice* l'an dernier, le Barreau s'est trouvé sous les projecteurs pour de nouvelles raisons : la réglementation des parajuristes en Ontario est un concept révolutionnaire. Le gouvernement, les médias et le public continueront de suivre avec intérêt la mise en œuvre de notre mandat élargi.

Les questions qui entravent directement l'autoréglementation sont d'intérêt moindre pour les médias, mais peut-être de plus grande importance pour les avocats. Le droit est de plus en plus traité comme une entreprise motivée par

Of less interest to the media, but perhaps of greater significance to lawyers, are issues directly impinging on self-regulation. Law is increasingly treated as a profit-driven business instead of a profession with a public service calling. As you have read in these pages, the Law Society and the Federation of Law Societies have been involved in discussions with both the federal and provincial governments over various legislative initiatives that could encroach on our ability to regulate ourselves. As the practice of law becomes more diverse and complex, other regulatory organizations are asserting authority over lawyers' activities. Globally,

we have seen incursions on the independence of the American bar through the *Sarbanes-Oxley Act*, and the loss of self-regulation in England and Wales, as well as in Australia.

In Ontario, we are better positioned to resist challenges than were our colleagues in other jurisdictions. We have strong voluntary legal organizations that effectively represent the profession's interest, allowing the Law Society to concentrate on its regulatory role. Moreover, the Ontario Government has demonstrated its confidence in us by expanding our mandate to cover

the regulation of other providers of legal services — at a time when other governments have contracted the profession's self-governing authority.

Nevertheless, we cannot be complacent. What this survey of issues reveals is numerous, diverse pressures on self-regulation of the legal profession, both domestically and internationally. There is cause to be vigilant and reason to shift from the private discourse into the public sphere the important role played by an independent legal profession. ■

Gavin MacKenzie

le profit au lieu d'une profession à vocation. Vous avez peut-être lu dans ces pages que le Barreau et la Fédération des ordres professionnels de juristes ont participé à des discussions avec les gouvernements fédéraux et provinciaux sur divers projets législatifs qui empiètent sur notre habileté de nous réglementer nous-mêmes. Comme l'exercice du droit se diversifie et devient toujours plus complexe, d'autres organisations de nature législative revendiquent l'autorité de réglementer les activités des avocats. Globalement, l'indépendance du barreau américain a été sapée par la Loi *Sarbanes-Oxley*. L'Angleterre, le Pays de Galles et l'Australie ont perdu quant à eux de leur capacité de s'autoréglementer.

En Ontario, nous sommes mieux placés pour résister aux défis que ne l'étaient nos collègues des autres ressorts. Nous avons des organisations juridiques associatives qui représentent bien l'intérêt de la profession, permettant au Barreau de se concentrer sur son rôle législatif. De plus, le gouvernement de l'Ontario a démontré sa confiance en nous en élargissant notre mandat pour couvrir la réglementation d'autres fournisseurs de services juridiques — à un moment où d'autres gouvernements ont donné à forfait l'autorité de réglementer la profession.

Néanmoins, nous devons rester prudents. Ce survol de questions révèle de nombreuses et diverses contraintes liées à l'autoréglementation de la

profession juridique, au pays et à l'étranger. Il nous faut être vigilants et faire passer dans la sphère publique le contenu du discours privé sur le rôle important d'une profession juridique indépendante. ■

*Taking a look at the **BIG** picture*

The many ways the legal profession is making a difference

For many lawyers, it is easy to get caught up in the day-to-day responsibilities of work and home and lose sight of the strength of the legal profession and its ability to positively impact the lives of others.

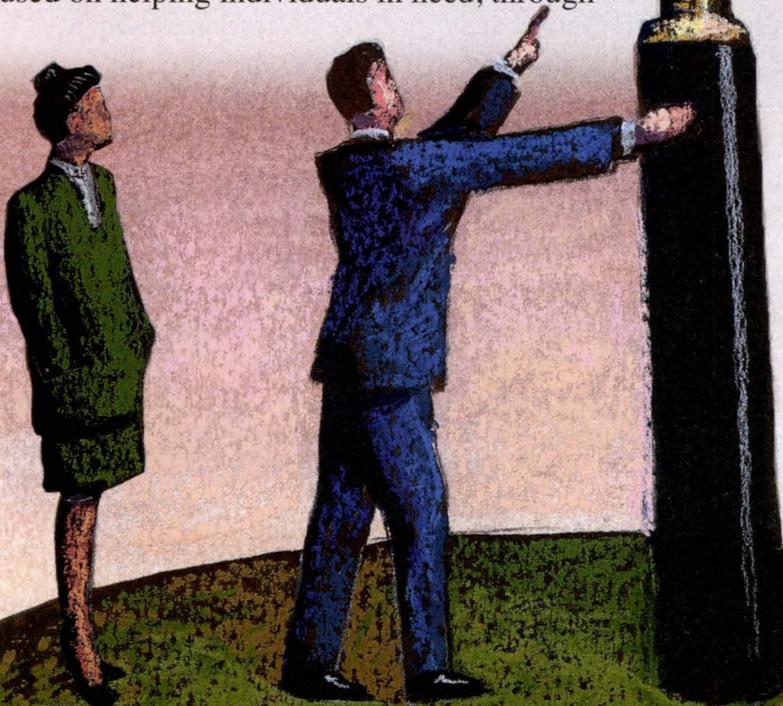
The legal profession is in a unique position to both recognize gaps in the justice system and help close them. Every day, lawyers work hard to enhance access to justice with efforts that range from pro bono work focused on helping individuals in need, through

to involvement in national advocacy campaigns aimed at improving legislation.

These efforts are not widely celebrated within the profession, let alone in the public sphere. It is doubtful, for example, that many people are familiar with the tenacious work of the Federation of Law Societies of Canada regarding anti-terrorism measures.

And it's likely few people fully appreciate the number of individuals touched by the many ongoing and diverse pro bono projects made possible through the volunteer work of a growing number of lawyers.

This compelling and important work deserves to be widely recognized. The stories that follow are just two examples of the numerous ways the legal profession is making a difference, while there are countless, similar stories that also deserve to be told.



ANTI-TERRORISM MEASURES

The delicate balance of security and freedom

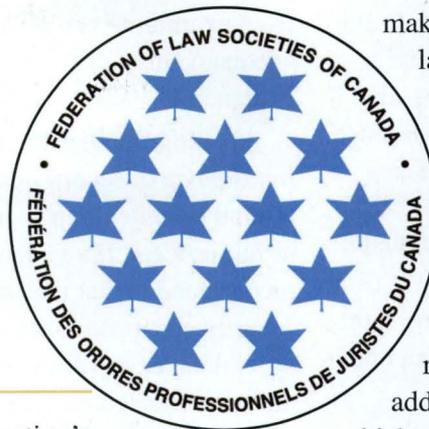
THE JUSTICE SYSTEM IS COMPOSED OF A SUBTLE AND COMPLEX ARRAY OF CHECKS AND BALANCES, ALL INTENDED TO ENSURE FAIR PROCESS.

An independent bar and solicitor-client privilege are integral elements of this process. However, like other components of the system, they are vulnerable to the good intentions of lawmakers struggling to adequately protect the public, particularly in the face of extreme or extraordinary events.

The stress on the Canadian justice system as a result of global terrorism has been well documented by the media. Less frequently reported are the diligent efforts of the many lawyers working – often on a pro bono basis – to maintain balance in the system as it adjusts to new global realities.

The Law Society of Upper Canada and the Federation of Law Societies of Canada both have long histories of intervening in cases impacting the independence of the profession and solicitor-client privilege. Although both organizations have also regularly made submissions to government regarding new legislation, these efforts have increased in recent years.

Two key anti-terrorism measures – the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and Bill C-36, which became the *Anti-terrorism Act*, led the Law Society and the Federation to become more active in the federal legislative arena.



The Federation's concerns with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* involved reporting requirements that threatened solicitor-client privilege. These concerns led to a constitutional challenge. The Federation applied successfully for injunctive relief from the application of the requirements to the legal profession. The injunction continues to apply and covers any new regulations under the Act affecting lawyers. The Federation is currently in discussions with the government over its recently released draft regulations on client identification. (See page 28 for an update on the Federation's activities in this area.)

The Federation's concerns with Bill C-36 led it to make submissions to both the parliamentary and Senate committees studying the bill. In his presentation to the Senate committee, on behalf of the Federation, Peter Royal, Q.C., said, "Bill C-36, honourable senators, expands state powers in significant and disturbing ways. Many of them will deny Canadians the right to independent counsel, and they will intrude on the confidentiality of the lawyer-client relationship. The bill weaves these extraordinary powers into the fabric of our criminal and other laws,

making them part of our legal landscape. The added danger in this is that these exceptional measures and powers will become the norm."

The Federation's submission on Bill C-36 outlined a number of recommendations that addressed its primary concerns, which centred on barriers to the right to counsel and breaches of solicitor-client confidentiality.

Bill C-36 received royal assent in December 2001 with most of the Federation's concerns unaddressed. The *Anti-terrorism Act*, however, was scheduled for review in 2005 and the Federation once again appeared before both parliamentary and Senate committees. The Federation repeated many of its initial concerns and also addressed security certificates and the 'secret evidence' provisions included in the certificate process. Secret evidence is evidence of an extremely sensitive nature, that, due to security concerns, must remain secret, even from the individual under investigation.

Security certificates are not new measures. However, they became an issue in connection to recent anti-terrorism efforts when several high-profile media stories broke about a number of individuals who had been languishing in jail under security certificates – without knowing the case against them. The reaction to the stories of these individuals made it clear that the Canadian public, like the Federation, has little appetite for security measures that compromise basic rights.

The Federation's submission to the Senate committee summarized its

concerns with the security certificate process: "The security certificate process permits the state to present unchallenged evidence in the absence of both the individual affected and the individual's counsel. This seriously undermines an individual's right to two of the cornerstone principles of natural justice: the right to know the case one must meet and the opportunity to do so. It is impossible for counsel to adequately represent a client when "secret evidence" provisions prevent counsel

from examining and testing the adequacy, reliability and quality of evidence."

In recognition of both the importance of security concerns around secret evidence and the right to fair process, the Federation recommended that the subject of the security certificate have access to a special advocate. Special advocates are security-cleared lawyers who are permitted to review secret evidence on the individual's behalf. The Federation looked at two models for

special advocates, the United Kingdom model and the American model, then incorporated the strengths of both into the Canadian model it proposed to the Senate committee.

In addition to its committee submissions, the Federation successfully intervened in *Charakaoui v. Canada* (Citizenship and Immigration), the case that led the Supreme Court of Canada to strike down the security certificate system. The court suspended its judgment

PRO BONO LAW ONTARIO



Lawyers help thousands each year through pro bono projects

Each year, lawyers provide their time and effort to numerous, worthy projects, both within and outside of their profession. In fact, many provide countless hours of volunteer service within their own communities; while others lend their legal expertise to the public through organizations like Pro Bono Law Ontario (PBLO).

Hundreds of lawyers across the province register thousands of pro bono hours annually to help ensure that people have access to legal representation. And in acknowledgement of the benefits this work provides to the public, many law firms now have pro bono policies and are counting pro bono time towards their lawyers' billable hours.

Since it was launched in 2002, PBLO has been working to promote a pro bono culture in Ontario and to develop and broaden the pro bono capacity of the private bar. Today, lawyers from many law firms work in

partnership with PBLO to improve access to justice for low-income and disadvantaged people, as well as the communities and charitable organizations that serve them.

These growing efforts include the Child Advocacy Project, which provides access to lawyers, at no cost, to children and their families who are having problems in school as a result of conditions, such as Attention-Deficit Hyperactivity Disorder, as well as those with behaviour that is symptomatic of physical and intellectual disabilities, bullying and harassment, and illegal expulsion. In 2007, lawyers involved in this venture helped the project's 300th child protect their right to a quality education in Ontario.

PBLO develops innovative programming such as urban renewal projects that focus on sustainable redevelopment of underserved neighbourhoods. PBLO has also recently developed a new project with Sick Kids Hospital called the Medical-Legal Partnership for Children (MLPC). This is an innovative model of patient care whereby legal advocacy and legal service delivery

from taking effect for a year, giving the government until early 2008 to prepare a new law.

Bill C-3 is the government's response to both the committee reviews and the Supreme Court decision on security certificates. The bill includes provisions for special advocates.

For the Law Society and the Federation, the addition of a special advocate to the process is an important win. However, the

government's proposed model has a number of significant limitations. Under the Federation's model, the individual has the right to choose their advocate from a list rather than be appointed an advocate by the judge. This avoids appearances of bias. In addition, the Federation recommends that the advocate be granted access to all information, including underlying information not being presented in court, and access to resources, for instance, to employ experts. Finally, the advocate should

be permitted to meet with the individual and their counsel after reviewing the secret evidence – even though they cannot discuss specifically the evidence. These measures are not included in the government's model. Without these measures, the process is not properly balanced.

The Federation, with the support of the Law Society, is currently preparing submissions expressing these concerns for the Parliamentary committee review of Bill C-3. ■

are incorporated into clinical practice. Pediatric clinicians – doctors, nurses and social workers – are trained in legal advocacy then refer low-income patient families for legal services through an on-site co-ordinating lawyer. PBLO has recruited two large law firms to provide a wide range of legal services to patients and their families through this project.

PBLO also launched the Small Claims Duty Counsel Pro Bono Project a year ago to help unrepresented litigants attending Small Claims Court in North York. Over the past year, lawyers volunteering with the project have helped more than 1,100 people, by acting as free duty counsel. They provide litigants with summary advice, represent them at trials, hearings and settlement conferences, and even help them complete court forms.

“Law Help Centre” Launched

As a result of the success of the Small Claims Project, PBLO has just launched the “Law Help Centre” at Superior Court at 393 University Avenue, in Toronto. Designed as a self-help initiative, it is a two-year pilot program to support low-income unrepresented litigants who have the ability to represent themselves, with minimal legal assistance. Through the program, people will be provided with information about court procedures and processes – and pro bono legal assistance, if they qualify.

Located on the ground floor of the courthouse, the centre is open Monday to Friday, from 9 a.m. to 5 p.m., and makes available procedural information, form completion assistance, duty counsel assistance, as well as referrals to additional resources, for those that need it. PBLO has worked with the Ministry of the Attorney General, members of the judiciary, court staff and pro bono lawyers to prepare all the necessary information for the centre.

PBLO has also developed a roster of pro bono duty counsel lawyers who provide up to 30 minutes of pro bono assistance to each litigant.

“The legal culture has changed quite a bit since we started the organization,” says Lynn Burns, PBLO Executive Director. “We’re very pleased that so many law firms have stepped up to the plate by adopting pro bono policies and are donating lawyers’ time to these important projects. The response to our calls for assistance with projects like the Law Help Centre has been overwhelming. You can tell that the profession at every level is committed to improving access to justice in Ontario.”

For more information about PBLO and its many initiatives, visit www.pblo.org.

EFFECTIVELY MANAGING YOUR OFFICE: Avoiding the basic “common sense” things can lead to trouble

THE LAW SOCIETY RECEIVES BETWEEN 6,000 AND 7,000 COMPLAINTS EACH YEAR. MANY OF THESE RELATE TO SERVICE AND PRACTICE MANAGEMENT ISSUES. OTHERS INVOLVE ALLEGATIONS OF INCIVILITY IN DEALINGS WITH CLIENTS, OPPOSING COUNSEL AND JUDGES. RELATIVELY FEW INVOLVE DELIBERATE ATTEMPTS TO STEAL OR MISAPPROPRIATE CLIENT MONIES FROM TRUST. THERE ARE, HOWEVER, A NUMBER OF “MISHANDLING” CASES IN WHICH SERIOUS CONSEQUENCES MAY FLOW FROM A LAWYER’S FAILURE TO HANDLE TRUST MONIES IN ACCORDANCE WITH THE BY-LAWS.

In many cases, a lawyer’s troubles are amplified significantly by his or her failure to acknowledge or respond to the Law Society in a timely way. In fact, the lawyer has a positive obligation to co-operate with the regulator. This means providing representations and submissions **promptly**. It means facilitating access to client files, as the *Law Society Act* permits. It also means agreeing and permitting one’s staff to be interviewed by an investigator, when circumstances warrant.

It’s unlikely that most lawyers who find themselves in trouble with the Law Society deliberately set out to break the rules or imperil public trust in the profession to which they belong. Misconduct happens most often as a result of poor organizational skills or a lapse (or series of lapses) in judgment. In many cases, lawyers simply fail to practise defensively by dealing assertively with client concerns before they escalate into serious problems.

Fortunately, there are strategies that lawyers can follow to minimize the risk that they will become the subject of a

regulatory investigation, let alone actual discipline. Here are a few.

Always remember, trust money isn’t your money

Money held in trust clearly belongs to the client or other person for whom it is held. It can only be used by the lawyer when the circumstances are such that a trust relationship no longer applies.

The Law Society’s by-laws contain comprehensive rules for how trust monies are to be disbursed, as well as what types of records should be kept. The failure to keep records is itself a possible basis for discipline. Lawyers are expected to know what the rules require of them. For example:

- They must render an account **before** taking money from trust to cover fees and disbursements.
- They cannot transfer a retainer from trust to a general account before work is performed.
- They should also know that trust accounts **must be reconciled by month-end**, and any shortages must

be replenished from the lawyer’s own funds, regardless of how the shortage originated.

- They should be depositing trust money in a proper account, in their name, at a designated financial institution, such as a bank or trust company. The trust account must, however, be kept **entirely separate** from the lawyer’s own money.

It is a little surprising, therefore, when lawyers who should know better manage to confuse their trust accounts with their general accounts. Actually, this can happen insidiously: the lawyer knows he or she has performed the work, but fails to render an account to the client before transferring a retainer from trust to general, to help pay the operating expenses of the practice. Or, money that should be in trust never makes it there – it’s deposited into the general account instead, and the “error” is never addressed.

Then of course, there are the major cases of misappropriation, in which the lawyer takes large sums of money, including proceeds from large real estate transactions.

These situations can be catastrophic, both for the client and for the Compensation Fund, which is funded by the profession to compensate clients for lawyer dishonesty. But these are rare. Far more common are the “accidental” trust shortages, where the lawyer simply fails to ensure there are adequate funds in trust to cover obligations to all of the lawyer’s clients.

From the Law Society’s standpoint, as protector of the public interest, any difference between sloppiness and malfeasance in the management of a trust account is one of degree, not of kind. Using or applying or taking money that belongs to someone else is **wrong**, and money held in trust belongs to someone else, by definition.

Practise good client relations, and be wary of real and potential conflicts of interest

A lot of people become lawyers because it is interesting work. For many, it provides a lifetime of stimulation. But the private practice of law is a business. Like almost any business, its success or failure depends on **good client service**. In particular, this includes a willingness to respond positively and promptly to client needs.

Therefore, it is important to return phone calls and answer correspondence – including e-mail correspondence – promptly. Keep clients **regularly informed** of where their cases are headed. Remember, a lawyer who does not communicate with clients may seem to have something to hide, even if he or she is simply overwhelmed by the pressures of work.

It's also important to **ensure that client expectations are reasonable**. Be forthright and honest in dealing with unrealistic hopes and expectations. Don't make promises you can't keep, and of course, keep the promises you make.

A lot of complaints stem from **conflicts of interest**. Some of these are present at the outset, but may not be detected because the firm lacks the appropriate conflict-checking systems and procedures. Other conflicts emerge when, for example, the lawyer's business relationship with the client starts to crowd out the lawyer's ability to offer independent, impartial legal advice.

Be mindful of conflicts of interest, between yourself and your clients, or between two sets of clients (past or present). When a potential conflict arises, study the Law Society's rules and analyze the nature of the apparent conflict and the most appropriate response to it. Seek legal advice if necessary. Remember, it is **your responsibility** to identify and address conflicts, in a manner that **protects the client's interest above all**.

Be civil and courteous

No professional wants to deal with a fellow professional who is unreasonable, rude, inconsiderate or intemperate. No one wants to have a lawyer swear at them, or question their intelligence in correspondence, let alone in a public forum, such as a trial. No one wants to go up against a lawyer whose courtroom conduct is so egregious and disruptive that a judge criticizes it in the reasons for judgment. Despite the fact that no one wants to experience this treatment from another lawyer, it does not stop it from happening.

The rules are exhaustive on issues of civility, professionalism and courtesy, in a litigation context and elsewhere. Most lawyers manage to remain civil to one another, even when in the midst of a hotly contested adversarial proceeding, and even when the clients are at each other's throats.

Still, the Law Society sees an alarming number of cases in which experienced, and otherwise ethical, lawyers have clearly lost their composure. Apart from apologizing, what else can a lawyer do to avoid complaints based on incivility or discourteous behaviour? Some basic dos and don'ts are as follows:

- Don't resort to sarcasm to make your point. What might seem like witty

repartee to you could be insulting to the recipient. This is true of lawyers and laypeople alike. Don't assume that others share your sense of humour.

- Don't ever make sexist, racist or homophobic comments. Such comments are never acceptable, in any context.
- Don't use profanity. It is never professional, and many people find it offensive.
- Don't put things in writing that you might regret later. If you have any reason to doubt yourself, chances are you should reconsider your approach. Give yourself time to cool down.
- Do apply the 24-hour rule. That is, if you feel angered or provoked by something you receive from another lawyer or even from a client or other member of the public, don't respond immediately. Wait a day. Your response will be more measured.
- Do treat everyone – clients, opponents and members of the judiciary – with the same level of respect, professionalism and courtesy you would expect for yourself.

Following the rules and avoiding the Law Society's regulatory scrutiny is often a matter of simply applying common sense, as well as good business judgment. ■

Complaints

When does a complaint have merit? In simple terms, a complaint has merit if it raises one or more *bona fide* regulatory issues. Once a regulatory issue comes to the Society's attention, typically by way of a complaint from a client or other interested party, the focus is on whether the lawyer's conduct – his or her alleged departure from the *Rules of Professional Conduct* and by-laws – runs contrary to the public interest.

The *Rules of Professional Conduct* and the Law Society by-laws exist to ensure that the public interest is protected. The Law Society's requirements also help maintain public trust in the legal profession. Breaking a rule or failing to follow a by-law places that trust at risk.

The rules and by-laws are available on the Law Society's website at www.lsuc.on.ca.

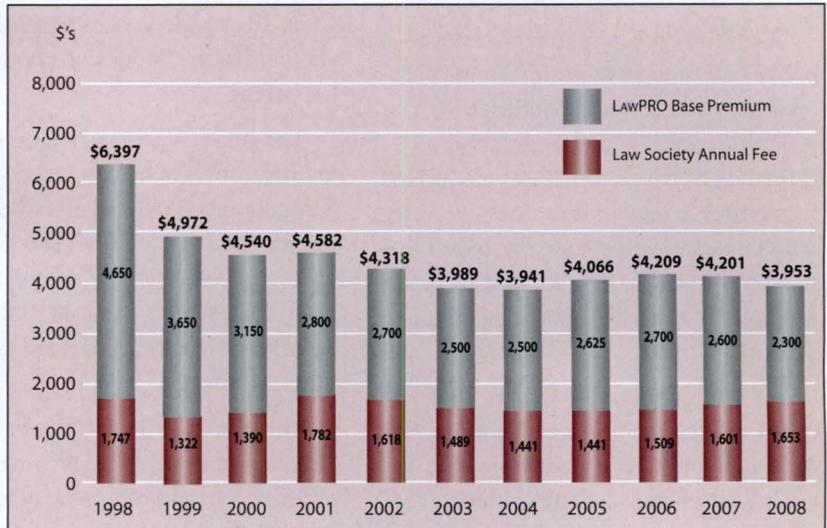
Highlights of the 2008 Budget

- ◆ In 2008, lawyers will pay an annual fee of \$1,653 – a three per cent increase from 2007
- ◆ Combined Law Society annual fee and LAWPRO base premium is \$3,953 – down \$248 from 2007
- ◆ Student Licensing Process fees are set at \$2,940 – an increase of \$190 from 2007

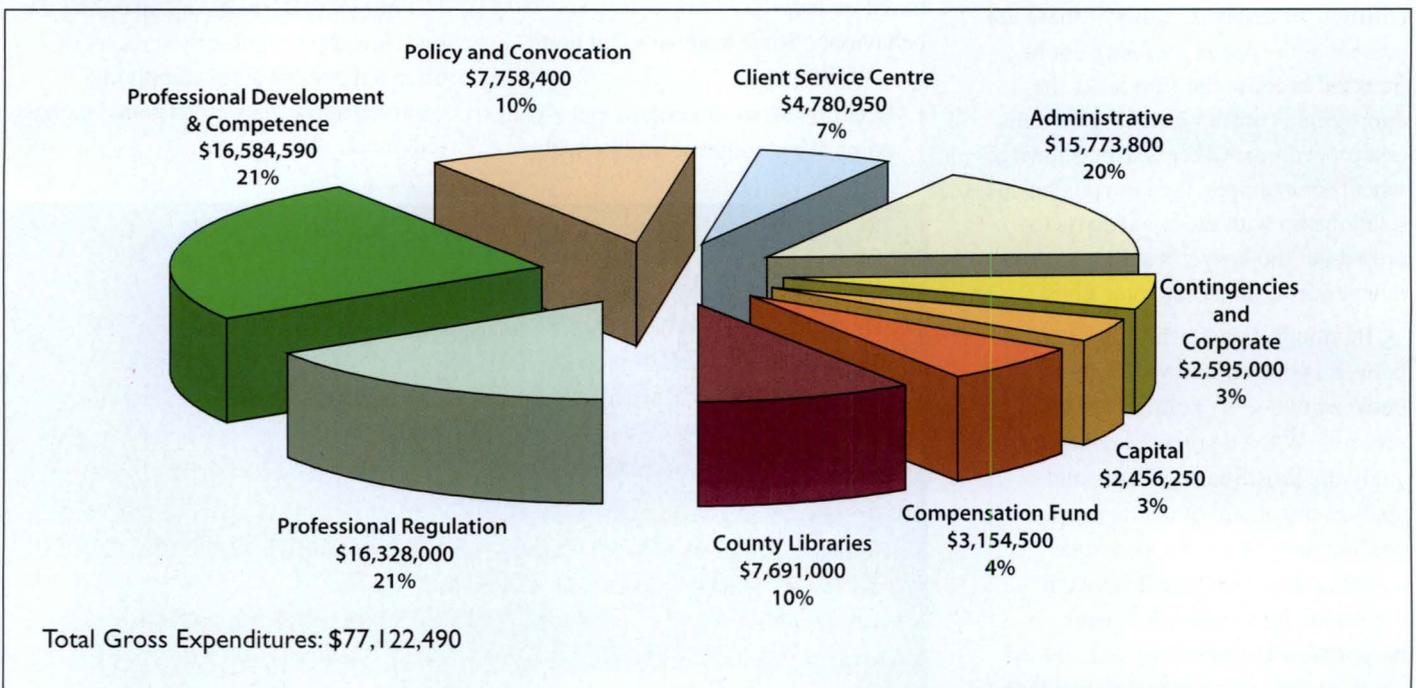
Annual Fee

COMPONENTS	2008	2007	CHANGE
General Fee	\$1,143	\$1,102	\$41
Compensation Fund	\$200	\$200	–
County Library Levy	\$235	\$224	\$11
Capital and Technology	\$75	\$75	–
Total	\$1,653	\$1,601	\$52

Combined Law Society Fee & LAWPRO Base Premium – 1998-2008



Gross Expenditures by Function



YOUR PRACTICE

Mark your calendar for these important dates in 2008

January 2008

- Jan. 1** 2008 annual fees due.
- Jan. 1** Foreign Legal Consultants' annual renewal fee due for FLCs approved prior to April 2003. Failure to pay fee will result in expiry of permit. FLCs approved after April 2003 must pay annual renewal fee on anniversary month of approval.
- Jan. 15** Pre-Authorized Monthly Payment Plan application due.
- Jan. 24** Convocation.
- Jan. 31** Affiliations annual filing report due.
- Jan. 31** Multi-Discipline Partnership annual filing report due.
- Jan. 31** Certified Specialist annual fee and annual certification report due. Failure to submit report and payment by this date will result in revocation of certification.
- Jan. 31** Lawyer Referral Service subscription fees due.
- Jan. 31** LAWPRO 2007 Fourth Quarter Real Estate and Civil Litigation Levy Surcharge filings and applicable payments due.

February 2008

- Feb. 21** Convocation.
- Feb. 29** Deadline for nominations for the 2008 Law Society Medal, Lincoln Alexander Award and Laura Legge Award.

March 2008

- Mar. 5** LAWPRO Lump Sum Payment Discount deadline. Cheques must be dated and received by this date to qualify for the \$150 per lawyer discount on the LAWPRO insurance premium.
- Mar. 27** Convocation.
- Mar. 31** 2007 Member's Annual Report (MAR) due.

April 2008

- Apr. 24** Convocation.
- Apr. 30** LAWPRO 2008 Real Estate and Civil Litigation Levy Surcharge annual exemption form due.
- Apr. 30** LAWPRO 2008 First Quarter Real Estate and Civil Litigation Levy Surcharge filings and applicable payments due.

May 2008

- May 1** Final date to pay 2008 annual fees. Failure to pay fees will result in referral for suspension on or about this date.

- May 7** Law Society Annual General Meeting.
- May 22** Convocation.
- May 31** Final date to file Multi-Discipline Partnership annual report. Failure to file by this date will result in referral for suspension on or about this date.
- May 31** Final date to file Affiliations annual report. Failure to file by this date will result in referral for suspension on or about this date.

June 2008

- June 26** Convocation.

July 2008

- July 29** Final date to file the Member's Annual Report (MAR). Failure to file by this date will result in referral for suspension on or about this date.
- July 31** LAWPRO 2008 Second Quarter Real Estate and Civil Litigation Levy Surcharge filings and applicable payments due.

September 2008

- Sept. 15** LAWPRO CLE Premium Discount deadline: Complete the online declaration by this date to receive the CLE premium credit on your 2009 insurance premium.

October 2008

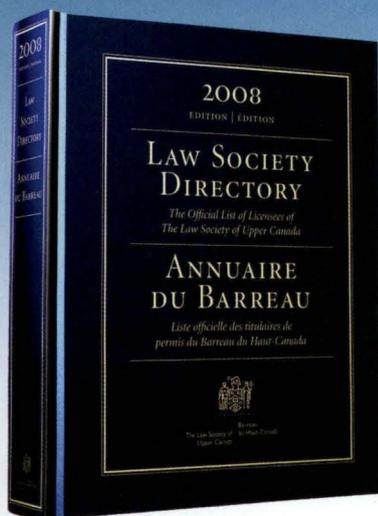
- Oct. 1** Professional Corporation annual renewal application and fee due.
- Oct. 31** LAWPRO 2008 Third Quarter Real Estate and Civil Litigation Levy Surcharge filings and applicable payments due.

November 2008

- Nov. 1** LAWPRO E-filing deadline. LAWPRO renewal applications for 2009 professional liability insurance must be e-filed by this date to be eligible for the \$50 per lawyer e-filing discount.
- Nov. 8** Final deadline to submit LAWPRO renewal application for 2009 professional liability insurance.

December 2008

- Dec. 31** Certificate of Authorization for Professional Corporations who fail to renew by this date will expire.



Law Society Directory, 2008 Edition

The *Law Society Directory* provides access to a complete list of licensed Ontario lawyers who are in good standing with The Law Society of Upper Canada. The Directory includes basic contact information (name, firm name, address, phone and fax numbers, business email address) for all lawyer licensees and contains both alphabetical and geographical listings. The Directory is complete, authoritative and definitive.

The hardcover Directory will supplement the Law Society's online directory resources and will include information related to external services and supports that may assist lawyers in their day-to-day activities and the running of their offices. It will be published by LexisNexis.

There are five ways to order your copy:
 Telephone: 1-800-668-6481 or 905-479-2665
 Fax: 1-800-461-3275 or 905-479-2826
 Email: orders@lexisnexis.ca
 Online: www.lexisnexis.ca/bookstore
 Contact: Your Account Executive



Congratulations to our newest Certified Specialists



The Law Society of Upper Canada is pleased to announce that the following lawyers have achieved the Certified Specialist designation. Certified Specialists have met established standards of experience and knowledge

requirements in designated areas of law and have maintained exemplary standards of professional practice.

Civil Litigation

Hassan Fancy, Mississauga
Robert J. Hooper, Hamilton
Pheroze John Khurshed Jeejeebhoy, Hamilton
Liza C. Sheard, Hamilton
Richard J. T. Shaheen, Woodstock

Criminal Law

Murray H. Shore, Toronto
Mara Greene, Toronto

Environmental Law

Rodney V. Northey, Toronto

Family Law

Brian K. Evans, Whitby

Workplace Safety and Insurance Law

Michael W.V. Shain, Little Current

The entire list of Certified Specialists can be found in the online Directory of Certified Specialists at www.lsuc.on.ca.

Visit the Resource Centre at www.lsuc.on.ca to learn more about the Certified Specialist Program, or phone us at 416-947-3315 or 1-800-668-7380, ext. 3315.

THE ONTARIO LAWYERS ASSISTANCE PROGRAM (OLAP)

Providing Free Counseling to the Profession



Ontario Lawyers' Assistance Program
Programme d'aide aux avocats d'ontario

One of the services that OLAP provides to the profession, law students and their immediate families, is no-cost counseling. An agreement with an international provider of employee assistance programs – Shepell.fgi – facilitates counseling to assess and determine a course of future counseling needs by offering the opportunity to talk, identify the issues, address them, and work out a plan of action.

Appointments and counseling are readily available across the province, so callers do not have to travel to the GTA to get help. Help is available in your own backyard. Therapists and counselors are trained at the Masters level with over five years of related experience.

Issues that may be dealt with include: addiction assessment for alcohol, prescription or illegal drugs, gambling, excessive Internet use and inappropriate sexual behavior;

assessment for mental wellness concerns such as grief/loss, stress, suicidal ideation and trauma; mood disorders, such as anxiety, depression and bi-polar/mood disorder illness; relationship issues, such as divorce/separation, child management, blended family, couple, family; food and eating disorders, such as anorexia/bulimia and weight problems; health issues; and work-related concerns, such as career issues, discrimination, job loss, sexual harassment, stress and work relations conflict.

There is a one-number intake for assessment: **In the GTA, call 905-238-1740; outside the GTA, call 1-877-576-6227.**

All calls are treated with the same strict confidentiality policy as those for peer support requests. Your name or identifying information will never be disclosed to anyone outside the OLAP team. However, statistical information is collected to ensure that present and future

needs are met appropriately.

It may be that a caller requires and would benefit from both counseling and peer support. OLAP provides this all-round, holistic approach to addressing issues callers may have.

To talk to one of the OLAP team members, please call 1-877-576-6227. The team is made up of Leota Embleton, Program Manager; Doron Gold, Case Manager; Terri Wilkinson, Case Manager; Catherine Hendrick, Administrative Assistant; and John Starzynski, OLAP's Volunteer Executive Director. John can be reached at 1-877-584-6227. Please visit the website at www.olap.ca for additional resources and information related to lawyers' wellness. If you would like a member of the OLAP staff to speak to your organization, legal committee, firm or local law association, please contact us.

Mariage malheureux, divorce harmonieux

La grande majorité des gens qui sont passés par un divorce, y compris les avocats et avocates, le savent : divorcer est pénible. Cependant, un nouveau mode de règlement amiable des conflits

sans recours aux tribunaux prend de plus en plus d'ampleur. Il s'agit de la pratique du droit collaboratif qui trouve sa première application dans le règlement des conflits familiaux.

Cette méthode a été mise au point en 1990 par un avocat du Minnesota, Stu Webb, dont un dossier particulièrement difficile lui a fait perdre une proche amitié avec un collègue, avocat de la partie adverse. Désenchanté par le processus de négociation traditionnelle, dans lequel il a constaté que le lien entre la complexité d'un dossier et l'identité de l'autre procureur avait plus de poids que les points de droit à être déterminés, il a créé le droit collaboratif qui met l'accent sur la négociation. Considérant que très peu de dossiers aboutissent à un procès (5 %), et que la plupart se règlent en cours de route, avec un fort taux

d'insatisfaction, les gens adhèrent progressivement à cette forme de négociation empreinte de dignité. Ainsi, le droit familial collaboratif gagne en popularité aux États-Unis, au Canada, au Québec, en Angleterre, en Australie, aux Bermudes et maintenant en France.

La *Revue des juristes* a rencontré M^e Nathalie Boutet pour discuter de son enthousiasme pour cette méthode. Elle a pratiqué toutes les méthodes traditionnelles, de la négociation au procès, en passant par la médiation et

l'arbitrage. Mais depuis qu'elle a découvert le droit collaboratif, elle a un regain de satisfaction dans son travail. « Quand ça marche, c'est extraordinaire pour les clients et pour les avocats. On n'est pas toujours en train de se faire attaquer par l'autre avocat, et les gens se rendent compte qu'ils sont là pour

travailler ensemble et non pour s'entre-déchirer », affirme-t-elle.

Les préoccupations qui ont conduit à l'expansion de cette méthode sont la volonté des parties de parvenir à une solution pacifiée, dans un processus dont elles sont les

acteurs; la volonté commune des parties de privilégier l'intérêt des enfants en tenant compte de l'intérêt de chacun des parents; la conscience que les juges n'ont que peu de temps pour trancher les points de désaccord et ne disposent pas toujours des éléments essentiels pour trancher, et la longueur et les coûts d'une procédure judiciaire pour une solution aléatoire.

M^e Boutet explique : « Dans le droit collaboratif, les négociations se font toujours en présence des avocats. Le travail se fait face à face. Cela évite

d'écrire des lettres qui pourraient être mal interprétées et permet d'éliminer une possible perception d'agressivité et un manque de compréhension des intentions de l'autre. Les avocats utilisent beaucoup d'éléments de psychologie et doivent suivre une formation. Il ne s'agit pas d'une méthode rigide, mais il y a tout de même certaines étapes à suivre dans la méthode et il faut bien les connaître. »

Le bon déroulement de ce mode de règlement repose sur l'entente et l'honnêteté des acteurs. Dans une première rencontre, les parties doivent signer un contrat de participation toujours en présence de leurs avocats ou avocates, qui se sont déjà parlé pour analyser notamment les questions pressantes et le niveau de détachement de la relation. En effet, c'est à ce stade qu'ils sauront si leurs clients ou clientes sont de bons candidats au droit collaboratif, c'est-à-dire s'ils sont prêts sur le plan émotif, et s'ils peuvent négocier et prendre des décisions. Le contrat de participation contient les raisons pour lesquelles les clients ont choisi ce processus. Ils et elles acceptent dans celui-ci de se parler avec respect, de se traiter avec décence et de divulguer toute leur information financière. De cette façon, le contrat signé devient une référence de base. M^e Boutet le qualifie de « moyen efficace pour rafraîchir la mémoire des clients sur leurs motivations premières, au besoin ». À chaque rencontre, les clients établissent leurs priorités, pour les régler une à la fois.



M^e Nathalie Boutet

M^e Boutet ajoute : « C'est efficace, car au début, les clients voient tout comme une grosse montagne insurmontable, ils ont du mal à concevoir des solutions. Nous leur mettons des balises, nous les aidons à diviser les problèmes en blocs pour qu'ils s'y retrouvent, et nous leur servons de guides pour fixer les priorités. Il s'agit de la négociation raisonnée, sur laquelle nous recevons une formation. Un des grands thèmes de la négociation raisonnée est d'enseigner aux clients à parler de ce qu'ils veulent d'une façon réfléchie et personnelle. S'ils veulent la maison, les faire réfléchir à leur motivation, en allant au-delà de leur seule position. On les aide à faire face à ce qui leur fait peur, à leur rage, à leurs inquiétudes ».

Afin de garantir la bonne foi du processus et de donner toutes les chances possibles de réussite à la démarche, les avocats et avocates s'engagent à se décharger du dossier en cas d'échec des négociations et d'enclenchement d'une procédure judiciaire. « On veut que les clients se sentent libres de tout dévoiler sans être limités par la crainte que la partie adverse en sache un peu trop », explique M^e Boutet.

Le droit collaboratif est un travail d'équipe, avec une structure malléable. S'ils ne peuvent pas s'entendre dans la vie, les clients ont l'occasion de travailler ensemble avec l'aide des avocats et avocates pour trouver les meilleures solutions pour leur famille. Tout au long du processus, chaque époux a son avocat ou avocate à ses côtés. De plus, les clients décident des dates, des rencontres, des heures, des priorités à présenter, et prennent un seul expert pour faire des évaluations. « En droit collaboratif, on ne travaille pas seulement au plan juridique et financier, mais on veut assurer le bien-être des clients pendant tout le processus. Par exemple, on leur demande de répéter ce que le conjoint vient de dire pour s'assurer que c'est entendu et compris à mesure, pour éviter les éclatements dus au manque de

communication propre à de nombreux couples », soutient M^e Boutet.

Nathalie Boutet considère que les avantages sont considérables. « C'est nettement moins stressant pour tout le monde, pour les avocats et pour les clients. Les horaires sont stables, il n'y a pas de batailles, on connaît les lieux de rencontre à l'avance. On travaille vers le même objectif. C'est formidable. »

M^e Boutet se réjouit de voir que la formule prend de l'élan et ajoute que le processus collaboratif fait une place importante à la multidisciplinarité. Ce modèle permet d'inclure entre autres des

psychologues, des travailleurs sociaux et des comptables. Les clients choisissent ensemble la personne ressource dans le domaine pertinent et évitent ainsi les écueils de l'antagonisme. Elle constate qu'on trouve de plus en plus d'information sur ce sujet dans les médias, les journaux juridiques, le Web et dans les bureaux de professionnels comme les conseillers matrimoniaux et les psychologues.

Pour en savoir davantage sur la pratique du droit collaboratif, on peut consulter le site www.collaborativepracticetoronto.com. ■

La Formation

Tout nouveau en France, le droit collaboratif a fait l'objet, en juin 2007, d'une formation de deux jours organisée par l'Institut du droit de la famille et du patrimoine conjointement avec le Conseil national des barreaux. Avec l'assistance de M^e Cori Kalinowski de Toronto, M^e Nathalie Boutet du cabinet Basman Smith de Toronto et M^e Louise Woodfine de Montréal, une pionnière dans la formation au Québec en droit collaboratif, ont été invitées à donner la formation.

La formation se fait généralement sur cinq jours en deux étapes : une introduction de deux jours suivis de trois jours de perfectionnement. Toutefois, comme le droit collaboratif n'est pas encore bien établi partout, les critères de formation peuvent varier. Ainsi dans les ressorts où on commence à peine à s'y intéresser, on accepte des avocats et des avocates qui n'ont qu'une formation de deux jours, comme aux Bermudes, où M^e Boutet a d'ailleurs été donner cette formation en septembre 2007. M^e Boutet et

M^e Woodfine ont remanié les documents des formateurs américains (avec leur permission bien sûr) et les documents déjà en français pour créer une brique de 80 pages (des articles, des lettres aux clients, des contrats de séparation, des chartes, des outils de travail, des contrats de participation, des trousseaux pour les clients, etc.).

À Paris, devant 40 personnes, elles ont rapidement dû adapter leur formation au système juridique français où les règles de procédure sur les obligations de divulgation financière sont beaucoup plus souples. Déjà, M^e Boutet avait dû s'adapter aux différentes règles aux Bermudes, où la divulgation financière est totalement différente de celle du Canada. Par ailleurs, son goût pour la formation lui a aussi valu une invitation à faire une présentation en français avec Louise Woodfine dans le cadre du 8^e forum d'éducation de l'*International Academy of Collaborative Professionals* en octobre 2007 pour parler de l'impact des différences culturelles sur les négociations d'accords collaboratifs.

Pour défendre l'indépendance du Barreau

LE BARREAU DU HAUT-CANADA A PUBLIÉ RÉCEMMENT UN DOCUMENT VISANT À SOULIGNER L'IMPORTANCE D'INFORMER LES CLIENTS ET LES CLIENTES DE LEUR DROIT À L'EMPLOI DU FRANÇAIS DANS UN CONTEXTE JUDICIAIRE ET QUASI JUDICIAIRE – ET PLUS PARTICULIÈREMENT SUR LES RESPONSABILITÉS DES AVOCATS ET DES AVOCATES.

À l'automne 2006, le Groupe d'étude sur la règle de droit et l'indépendance du Barreau remettait son rapport au Conseil. Ce rapport visait à montrer les avantages d'un Barreau indépendant, au sein duquel les avocats et avocates pouvaient évoluer en toute liberté sans craindre de pressions ou de représailles, surtout de l'État. Un Barreau indépendant sous-entend que toute personne peut se faire représenter en toute sécurité et avec diligence, que la protection de la loi n'est refusée à personne et que personne n'échappe à ses conséquences. Le groupe de travail a fait état des points qui forment la base d'un barreau indépendant. L'indépendance du Barreau est un élément essentiel pour une société libre et démocratique; essentiel aussi pour l'indépendance de la magistrature et la primauté du droit.

À la demande du groupe, huit articles ont été préparés pour publication sous forme de livre. Sous la présidence de Lorne Sossin, doyen associé et professeur agrégé de la faculté de droit de l'Université de Toronto, les auteurs sont : Michael Code, Angela Fernandez et Kent Roach, également professeurs à la faculté de droit de l'Université de Toronto; Philip Girard, professeur de droit et d'études canadiennes à

l'Université de Dalhousie; Patrick Monahan, professeur à l'école de droit d'Osgoode Hall; Paul Paton, professeur adjoint de droit à l'Université Queen's de Kingston et Wesley Pue, titulaire de la Chaire Nemetz en histoire du droit.

Les articles du livre se portent à la défense de l'indépendance du Barreau de diverses façons. Par exemple, Angela

Fernandez analyse les limites des sondages d'opinion pour évaluer la perception qu'a le grand public des avocats lorsqu'ils sont représentés dans la culture populaire. Il appert qu'à cet égard, le public nord-américain est très influencé par les personnages fictifs qui leur sont présentés et a tendance à se faire une idée négative des avocats en dépit de

bonnes expériences personnelles.

Fernandez conclut que les organes de réglementation devraient déployer leurs efforts pour faire connaître le travail accompli par les avocates et les avocats pour que les preneurs de décisions ne se laissent pas influencer par ces perceptions lorsqu'ils veulent modifier le cadre réglementaire de la profession en Ontario.

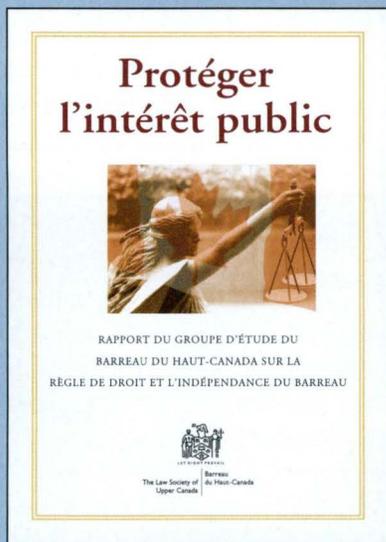
Les professeurs Michael Code et Kent Roach ont préparé un article sur le secret professionnel dans le contexte de la sécurité nationale, dans lequel ils expliquent que la relation de

confidentialité qui existe entre le procureur et son client est l'un des piliers de l'efficacité et de l'équité de notre appareil judiciaire. Code et Roach examinent les répercussions des certificats de sécurité sur le secret professionnel. Ils démontrent que les décisions de la Cour suprême du Canada font parfois preuve d'ambiguïté à l'égard de la protection du secret professionnel qui continue de subir un effritement en raison des nouvelles exceptions mandatées par la sécurité nationale, entre autres.

Dans son article sur les mythes rassurants ou les réalités troublantes, Philip Girard fait l'historique du concept du barreau en tant qu'entité indépendante qui devrait assurer en théorie la protection des droits de tous contre l'ingérence de l'État. Il démontre en parallèle l'évolution des idées et des pratiques liées à l'indépendance du Barreau et de l'appareil judiciaire en Angleterre et au Canada, de 1650 à 1950.

Patrick Monahan défend l'indépendance du Barreau au même titre que celle de la magistrature et en fait l'apologie en tant que principe constitutionnel au Canada. Paul Paton, lui, demande si les avocats doivent agir comme « chiens de garde », comme dénonciateurs ou comme instruments de l'État. Son article porte sur la remise en cause de la tradition d'indépendance des avocats et du principe de l'immunité et de la confidentialité dans deux contextes : la législation sur le blanchiment d'argent et les réformes de la gouvernance des grandes entreprises. Enfin, Wesley Pue fait une étude comparative de l'indépendance de la profession au regard des réformes faites dans d'autres pays du Commonwealth.

Vous pouvez faire la lecture de ces articles dans l'ouvrage publié chez Irwin Law et disponible au www.irwinlaw.com sous le titre *Protéger l'intérêt public : Rapport du groupe d'étude du Barreau du Haut-Canada sur la règle de droit et l'indépendance du Barreau*. ■



En bref

Budget et cotisation 2008

Le budget approuvé pour 2008 hausse la cotisation annuelle à 1 653 \$. Par ailleurs, la prime de LAWPRO sera de 2 300 \$. Détails à la page 20.

Amélioration du programme d'agrément des spécialistes

Le programme d'agrément des spécialistes a été amélioré pour encourager la participation au programme et augmenter son accessibilité. Détails à la page 27.

Règlements administratifs et règles

Le Règlement administratif n° 7.1 clarifie maintenant ce que doivent surveiller les avocats et avocates lorsqu'ils confient certaines tâches à

des non-titulaires de permis, et décrit les conditions de comparution au tribunal d'un non-titulaire de permis pour l'établissement du calendrier au nom d'un avocat. La règle 5.01 a été modifiée en conséquence. De plus, les règles 4.03 et 6.03 du *Code de déontologie* ont été modifiées pour permettre aux avocats titulaires de permis de communiquer avec une partie représentée dans le but d'avoir une seconde opinion.

Compte en fiducie – parajuristes

Les parajuristes titulaires de permis seront tenus de suivre les mêmes règles que les avocats à l'égard des comptes en fiducie et des livres et registres.

La version française des règlements administratifs approuvée

Le Conseil a approuvé les versions françaises des nouveaux règlements administratifs de 1 à 15, sauf le n° 4 qu'il avait déjà approuvé en mai.

Carrières en justice

L'AJEFO a lancé officiellement son site carrières en justice (www.carrieresenjustice.ca), un site interactif qui contient des renseignements pour aider les jeunes à choisir une carrière. Le Barreau a participé à la réalisation de ce projet. Le site décrit toutes les carrières potentielles dans le secteur de la justice, offre un cheminement dans l'appareil judiciaire et un abécédaire judiciaire, et propose un coin des profs.

La qualité du français

Voilà deux ans, le Barreau remplaçait son Cours de formation professionnelle (CFP) par un nouveau Processus d'accès à la profession conçu strictement pour évaluer les compétences de base d'entrée dans la profession. Ce changement a éliminé la composante d'enseignement et de cours magistraux de l'ancien CFP pour laisser aux étudiants et étudiantes, maintenant appelés candidats et candidates, le soin d'étudier à leur rythme en préparation aux examens.

Les documents de référence, en français et en anglais, ont tous été ajustés pour tenir compte des changements adoptés par le Conseil. Les documents de référence qui ont été élaborés visaient seulement à soutenir l'étude autodidacte en vue des examens. La portée de ces documents a, par conséquent, été de beaucoup réduite.

La traduction des nouveaux documents a été faite par des traducteurs chevronnés, à qui on a remis les anciens textes du cours d'admission en guise de référence. Les documents en français ont été vérifiés dans une suite d'étapes d'assurance de la qualité. De plus, les textes en français et en anglais font l'objet d'une révision annuelle afin d'en assurer l'amélioration constante.

Récemment, le Barreau a nommé une équipe de personnel bilingue pour examiner la qualité des documents en français. L'équipe a trouvé que les textes étaient de qualité supérieure. Le Barreau a également décidé de créer un groupe d'étude de la traduction française pour contrôler la révision des textes de référence et l'élaboration des futurs examens en français. Le groupe est formé de M^e Josée Bouchard, conseillère principale en matière d'équité au Barreau, M^e Paule Hageltorn, avocate à Ottawa, et M^e Sonia Ouellet, directrice générale de l'Association des juristes d'expression française de l'Ontario (AJEFO). Les trois membres de ce comité sont des avocates formées en common law, et sont des francophones originaires de la région d'Ottawa. Elles possèdent également toutes trois de l'expérience en enseignement dans leur langue maternelle.

Leur mandat consistera à relire régulièrement les examens après traduction pour en assurer la cohérence avec l'anglais et avec le matériel de référence, et pour veiller à en conserver la bonne qualité.

CONVOCATION November 2007 Highlights**Priorities set, goals to be established for 2007–2011 bencher term**

Convocation approved nine priorities for the 2007-2011 bencher term. Convocation also approved a process for moving forward with the priorities.

Listed in no particular order, the nine priorities are:

- Discipline
- Access to justice
- Regulation of paralegals
- Small firms and sole practitioners
- Governance structure
- Strategic communications
- Maintenance of high standards and ensuring effective competence
- Diversity within the profession
- Licensing and accreditation

See page 26 for more information on the priority planning process.

Rules 4.03 and 6.03 amended

Convocation amended Rules 4.03 and 6.03 of the *Rules of Professional Conduct* to permit lawyer licensees to communicate with a represented party for the purposes of a second opinion. Convocation also approved minor housekeeping amendments to the rules.

Protocol on law office searches approved

Convocation approved in principle the Federation of Law Societies of Canada's "Protocol on Law Office Searches" as a guideline for lawyers and Law Society staff. The protocol addresses processes for law office searches consistent with the Supreme Court of Canada's decision in *Lavallee*. The Law Society's work on the protocol as part of a national initiative of the Federation and for its application in Ontario will continue.

Rule 5.01 and By-Law 7.1 amended

Convocation adopted a new Rule 5.01 of the *Rules of Professional Conduct* on supervision and amended By-Law 7.1 [Operational Obligations and Responsibilities]. These

revisions were in response to matters raised by Convocation in October as a consequence of adopting By-Law 7.1 and repealing Rule 5.01.

By-Law 3 and By-Law 15 amended

Minor amendments were made to By-Law 3 [Bencher, Convocation and Committees].

By-Law 15 [Certified Specialist Program] was amended to reflect changes to the program approved by Convocation at its October meeting.

Appointments

Bencher Alan D. Gold was re-appointed to the Judicial Appointments Advisory Committee.

Bencher Melanie Aitken, Susan Elliott, Julian Porter and Jack Rabinovitch were appointed to the Law Society Medal/Lincoln Alexander Award/Laura L. Legge Award Committee.

Bencher Melanie Aitken, Susan Elliott, Doug Lewis, Julian Porter and Jack Rabinovitch were appointed to the LL.D. Advisory Committee.

Bencher Paul Schabas was appointed to the Human Rights Monitoring Group. ■

Visit our website for full Convocation reports:

All reports and materials noted in Convocation Highlights are available through the Law Society's website at www.lsuc.on.ca.

October 2007 Highlights

Law Society's 2008 Budget and Annual Fees

The Law Society's 2008 budget was approved with only a three per cent increase in lawyers' annual fees. This means the 2008 total fee for a practising lawyer in Ontario will increase by \$52 to \$1,653. The 2008 fee is still five per cent lower than the fee in 1998. See page 12 for budget details.



Law Society's Certified Specialist Program revamped to boost participation

Convocation approved a proposal to continue and improve the Law Society's Certified Specialist Program. The changes are designed to encourage increased lawyer participation and enhance accessibility and awareness. See page 27 for more information on the revamped program.

New by-law clarifies lawyer's supervisory responsibilities over non-lawyers at set-date courts

Convocation approved a new by-law addressing a lawyer's supervisory responsibilities over non-lawyers whom the lawyer engages to provide services within the lawyer's practice. By-Law 7.1 [Operational Obligations and Responsibilities] also sets out the conditions under which a non-lawyer may appear in court to set trial dates on behalf of a lawyer. More information is available on page 29.

Appointments

October Convocation began with a series of committee and other appointments.

Bencher Janet Minor was appointed Chair of the Equity and Aboriginal Issues

Committee. Ms. Minor was also appointed to the Ontario Justice Education Network Board of Directors for a term of three years.

Bencher Avvy Go was appointed to the Human Rights Monitoring Group.

Bencher Mary Louise Dickson was appointed the Treasurer's designate on the Ontario Bar Association Council for a period of two years.

Jack Ground and Bencher Jack Rabinovitch were appointed to the Finance Committee. Mr. Ground was also appointed to the Hearing Panel.

Benchers Nicholas Pustina, Susan McGrath and Baljit Sikand were appointed to the Compensation Fund Committee.

Convocation also agreed that the Real Estate Issues Working Group be composed as follows:

Bencher Bradley Wright (co-chair)
Don Thomson (co-chair)
(Toronto Practitioner)
Bencher Bob Aaron
Clare Brunetta (CDLPA)
Sally Burks (Ottawa Practitioner)
Ray Leclair (Ontario Bar Association)
Greg Mulligan (Orillia Practitioner)
Bencher Nicholas Pustina
Bencher Alan Silverstein ■

September 2007 Highlights

Trust account and record keeping requirements for paralegals approved

Convocation approved recommendations from the Paralegal Standing Committee on trust accounts and record-keeping requirements. Paralegal licensees will be required to follow the same rules as lawyers regarding trust accounts and books and records.

Maintaining trust accounts is an important consumer protection practice. The use of trust accounts ensures that client fees are available for refund in case the licensee is incapacitated or otherwise unable to provide the paid-for services.

To aid implementation of the new requirements for currently practising paralegals, Convocation also approved a two-year phase-in period for fees collected prior to licensing.

LawPRO insurance premiums

Convocation accepted LAWPRO's report outlining changes to the Law Society's professional liability insurance program for 2008. The base premium for professional liability insurance coverage for Ontario lawyers in 2008 will be \$2,300 per lawyer, \$300 less than in 2007.

Paralegal college accreditation criteria approved

Convocation approved the competency profile and application package for accreditation of paralegal college programs. Colleges interested in offering an accredited paralegal program have until May 1, 2010 to submit an accreditation application, be approved and establish their program in accordance with their application.

Graduates of non-accredited programs may apply to enter the licensing process if they meet transitional criteria. Convocation approved criteria for transitional applicants in February 2007.

Human Rights Monitoring Group to expand activities

The Law Society's Human Rights Monitoring Group will explore the possibility of establishing a network of leading human rights organizations to develop collaborative strategies to address human rights violations against lawyers and judges. The establishment of a network of organizations is expected to aid the group in increasing the effectiveness of its work.

The group will also collaborate with the Law Society of Zimbabwe to assist in strengthening its self-regulatory capabilities and the independence of the profession in Zimbabwe. Arnold Tsunga, Executive Director, Zimbabwe Lawyers for Human Rights and Acting Executive Secretary of the Law Society of Zimbabwe, met with benchers in March 2007 and discussed potential opportunities for collaboration.

The Human Rights Monitoring Group was established to monitor human rights violations that target members of the legal profession and the judiciary as a result of the discharge of their legitimate professional duties. When intervention is appropriate, the group recommends responses to Convocation for approval.

Paralegal fee categories established

Convocation approved three annual fee categories for paralegals:

1. 100% of annual fee – paralegal licensees who provide legal services as defined in the *Law Society Act*, whether they are practitioners or employees.
2. 50% of the annual fee – paralegal licensees who are working but do not provide legal services.
3. 25% of the annual fee – paralegal licensees who are not providing legal services and do not engage in any remunerative work or are in full-time attendance at a university, college or designated educational institution, or are on maternity or adoption leave.

The paralegal fee categories mirror the categories currently in place for lawyers.

By-Law 4 amended

Convocation amended By-Law 4 [Licensing] to include content that was inadvertently omitted when Law Society By-Laws 1- 38 were revoked, and 15 new by-laws were made. The new by-laws were made to reflect changes to the *Law Society Act* stemming from Bill 14 – the *Access to Justice Act, 2006*. The omission involved an exemption from one of the L1 licensing requirements respecting law school deans and law school teachers.

Rules of Practice and Procedure amended

The Rules of Practice and Procedure

were amended to reflect recent changes made to the *Law Society Act*, by-laws and rules. The Rules of Practice and Procedure were revoked and replaced due to the number of housekeeping amendments required.

By-Laws 2 & 3 amended

Convocation amended By-Law 2 [Corporate Provisions] and By-Law 3 [Benchers, Convocation and Committees] to reflect the new mandates for the Audit and Finance Committees.

Compensation Committee mandate approved

Convocation approved the mandate for the Compensation Committee. The Compensation Committee was established in March 2007 to oversee the Chief Executive Officer's compensation package.

Guidelines for the Determination of Grants from the Compensation Fund amended

The Guidelines for the Determination of Grants from the Compensation Fund were amended to reflect the amended *Law Society Act*.

Appointments

Bencher Bob Aaron was reappointed as the Law Society's representative on the Canadian National Exhibition Association.

Barbara Laskin was appointed to the Hearing Panel.

Bencher Jennifer Halajian was reassigned from the Access to Justice Committee to the Professional Development and Competence Committee.

Bencher Allan Lawrence was appointed to the Access to Justice Committee. ■

Exemptions from paralegal regulation

Convocation considered five requests from groups seeking exemptions from mandatory paralegal licensing for their members. Exemptions were approved for the following:

- Injured Workers Outreach Services.
- Ontario Federation of Labour staff and consultants representing union members in workers' compensation matters (under the Occupational Disability Response Team), including their work in representing families of deceased workers.
- Trade union representatives acting on behalf of retired persons who

were formerly members of the trade union and while providing services to another local of the same union.

- Union representatives assisting families of deceased workers at Coroners' Inquests.
- Members of the following listed voluntary standard-setting associations, subject to certain restrictions: the Human Resources Professions of Ontario; the Ontario Professional Planners Institute; the Board of Canadian Registered Safety Professionals and the Appraisal Institute of Canada.

In addition, Convocation approved a minor wording change to the existing

exemptions under By-Law 4, for the Office of the Employer Adviser and the Office of the Worker Adviser. The change more accurately reflects the services they provide.

Following the approval of these exemptions, amendments to By-Law 4 [Licensing], subsections 62(0.1) and (1) of the *Law Society Act* were also approved by Convocation.

Convocation also approved the sending of a response to a letter from the Prosecutors' Association stating that, should any of the current exemptions be removed in the future, a further grandparenting period will be considered at that time.

Appointments to Committees approved

Convocation approved appointments to Law Society Committees, Task Forces and Working Groups.

Finance and Audit Committee Report

Convocation approved mandates for the new Audit and Finance Committees; the Corporate Resolution on the management of the Errors and Omissions Insurance Fund Investment to comply with the regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*; as well as funding to address issues of accommodation and accessibility for female benchers.

By-law amendment approved regarding LAWPRO deductible

Convocation approved an amendment to By-Law 6 to require lawyer licensees to pay the LAWPRO deductible when required to do so. A breach would trigger the s. 47.1 summary suspension of a licensee's licence. (The policy for a new by-law was previously approved at March Convocation.)

Housekeeping amendments made to Rules of Professional Conduct

As a result of amendments to the *Law Society Act*, effective May 1, 2007, Convocation approved amendments to the *Rules*

of Professional Conduct. These amendments replace some old terminology with current language, update some definitions and references in the rules and, where appropriate, include references to paralegals.

Rules of Practice and Procedure amended

Convocation approved an amendment to section 3.06(1) of the Rules of Practice and Procedure to remove the words "or otherwise made public." It now reads: "A tribunal may order that information disclosed in the course of a proceeding open to the public is *not to be published* by any person..."

Eligibility criteria approved for Hearing Panel Adjudicators

Convocation approved eligibility criteria for non-bencher lawyers and non-bencher non-lawyers seeking appointment to the Hearing Panel. The motion follows the April 26, 2007 decision by Convocation to approve the eligibility of four non-bencher lawyers and four non-bencher non-lawyers to be members of the Law Society's Hearing Panel.

French version of By-Laws approved

Convocation amended By-Laws 1 to 15 (except 4) to include the French version. Convocation approved the English and French versions of By-Law 4 on May 25. ■

Roll-Call votes

June 28, 2007

Re: Report of the Paralegal Standing Committee

Re: Exemption Requests

The following was accepted as a friendly amendment: That the exemptions in paragraphs 4, 14, 30, 34 and 43 indicate "exemption from licensing".

1. It was moved by Mr. Dray, seconded by Ms. Warkentin, that Convocation approve an exemption from licensing for the volunteers working with member groups of the Injured Workers Outreach Services funded by the Workplace Safety and Insurance Board (WSIB). Carried. Vote: For – 35; Against – 8; 2 Abstentions.

2. It was moved by Mr. Dray, seconded by Ms. Warkentin, that Convocation approve an exemption from licensing for the Directors of the Ontario Federation of Labour and the consultants seconded to the OFL programme called the Occupational Disability Response Team (ODRT), including their work in representing the families of deceased workers. Carried. Vote: For – 37; Against – 7; 2 Abstentions.

3. It was moved by Mr. Dray, seconded by Ms. Warkentin, that Convocation approve an amendment to By-Law 4 to exempt from licensing trade union representatives while acting on behalf of retired persons who were formerly members of the trade union, and while providing services to another local of the same union. Carried. Vote: For – 41; Against – 3; 2 Abstentions.

4. It was moved by Mr. Dray, seconded by Ms. Warkentin, that Convocation approve an exemption from licensing for union representatives assisting the family of a deceased worker at a coroner's inquest. Carried. Vote: For – 40; Against – 4; 2 Abstentions.

5. It was moved by Mr. Dray, seconded by Ms. Warkentin, that Convocation approve an exemption from licensing for members of the listed voluntary associations, on the terms set out in the report at paragraphs 44 to 51. Carried. Vote: For – 34; Against – 9; 2 Abstentions.

Re: Report of the Paralegal Standing Committee Supplementary Report

Re: Motion – Paralegal Trust Accounts

6. That Convocation approve the following trust account requirements for paralegals:
a. That paralegals be required to have trust

accounts if they will be receiving money belonging to their clients, but that block fees of under \$1,000 be exempted from the requirement to be placed in trust and may be deposited in paralegals' general accounts;

b. that all block fees above the \$1,000 threshold, and all other client moneys such as settlement funds, be required to be deposited in a trust account – paralegals who do not wish to operate a trust account would be required to have all settlement funds made payable to the client;

c. that a prescribed retention letter explaining the clients' rights be developed and be required to be used by paralegal licensees;

d. that rules be developed governing the handling of funds and the keeping of books and records by paralegals;

e. that educational supports and resources be developed for paralegals pertaining to the keeping of books and records and the use of trust accounts;

f. that the rules be effective when licences are granted, estimated to be in spring 2008, permitting a suitable transition period;

g. that the trust account rules be reviewed in two years time as part of the statutory review required at that time.

Lost. Vote: For – 4; Against – 34; 6 Abstentions.

September 20, 2007

Re: Report of the Paralegal Standing Committee

Re: Trust Account and Record Keeping Requirements

1. It was moved by Ms. Curtis, seconded by Mr. Aaron, that paragraphs 3(c) and (d) of the main motion be deleted. Lost. Vote: For – 7; Against – 40.

2. It was moved by Mr. Wright, seconded by Mr. Silverstein, that the transitional period set out in paragraph 3(d) be amended by deleting May 1, 2010 and substituting December 31, 2008. Lost. Vote: For – 13; Against – 34.

Re: Equity & Aboriginal Issues Committee

Re: Human Rights Monitoring Group

3. It was moved by Ms. Ross, seconded by Mr. Anand, that Convocation approve the following recommendations:

a. That the Human Rights Monitoring Group ("Monitoring Group") explore the possibility of developing a network of organizations, and work collaboratively with them, to address human rights violations against judges and lawyers.

b. That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the "LSZ") to assist it in strengthening its self-regulation capabilities and the independence of the profession.

Carried. Vote: For – 28; Against – 12; 3 Abstentions.

October 25, 2007

Re: Report and Addendum of the Professional Development and Competence Committee

Re: Certified Specialist Program

It was moved by Ms. Pawlitza, seconded by Ms. Dickson, that the Certified Specialist Program continue as a Law Society program as follows:

a. Commencing January 1, 2008, or as soon thereafter as is feasible but not later than January 1, 2009, and thereafter on an ongoing basis, the program be run on a self-funding, cost-recovery basis out of fees generated by those lawyers applying for certification and Certified Specialists renewing their certification.

b. The threshold for eligibility for certification as a specialist in any given specialty area is set at 30% of practice in that area.

c. A person may be certified in not more than two specialty areas at any one time.

d. Applicants for certification will demonstrate completion of 36 hours of continuing legal education, specifically related to the area of specialty, in the three years prior to application (an average of 12 hours per year) as well as 50 hours of self-study in the area related to the specialty per year in the three years prior to application.

e. Certified Specialists will demonstrate, annually, completion of 12 hours of continuing legal education and 50 hours of self-study for each specialty.

f. Certified Specialists will be entitled to include credentials "C.S." after their names.

g. The Specialty Committees will be disbanded and the program application

process will move to an administrative compliance process.

h. The Certification Board will be reconstituted to be composed of between eight and 12 members, one of whom will be a lay bencher, two of whom will be elected benchers and the balance of whom will be lawyers who are not benchers. All lawyers on the Board, including the elected bencher members, will be Certified Specialists.

2. That the necessary amendments be made to By-Law 15 [Certified Specialist Program] for Convocation's approval.

It was moved by Mr. Wright and accepted as a friendly amendment that the last sentence in paragraph 1(h) read as follows:

"All lawyers on the Board, including the elected bencher members if possible, will be Certified Specialists."

The main motion as amended was approved. Carried.

Vote: For - 42; Against - 1. ■

CONVOCATION ATTENDANCE AND ROLL-CALL VOTES

	Attendance				Motions*										
	Jun 28	Sep 20	Oct 25	Nov 22	Jun 28						Sep 20			Oct 25	
					1	2	3	4	5	6	1	2	3	1	
Aaron, Robert		✓	✓	✓								F	F		F
Aitken, Melanie	✓	✓	✓	✓	F	F	F	F	F		Ab	A	A	F	F
Anand, Raj	✓	✓	✓	✓	F	F	F	F	F	Ab	A	A	F		
Backhouse, Constance	✓	✓	✓	✓	F	F	F	F	F	Ab	A	A	F		
Banack, Larry	✓	✓	✓	✓	A	A	F	F	A	A	F	F	A	F	
Boyd, Marion	✓			✓	F	F	F	F	F	F					
Campion, John	✓	✓		✓	F	F	F	F	F	A	A	A	F		
Carpenter-Gunn, Kim	✓	✓	✓	✓		F	F	F	F	A	F	F	F	F	
Caskey, James	✓	✓	✓	✓	F	F	F	F	F	Ab	A	A	A	F	
Chahbar, Abdul Ali	✓	✓	✓	✓	F	F	F	F	F	A	A	A			F
Chilcott, W. Dan			✓												F
Conway, Thomas	✓	✓	✓	✓	F	F	F	F	F	A	A	A	A	F	
Crowe, Marshall	✓	✓	✓	✓	F	F	F	F	F	A	A	A	A	F	
Curtis, Carole	✓	✓		✓	A	A	A	A		A	F	F	F		
Daud, Aslam															
Dickson, Mary Louise		✓	✓	✓							A	A	F	F	
Dray, Paul	✓	✓	✓	✓	F	F	F	F	F	F	A	A	Ab	F	
Elliott, Susan															
Epstein, Seymour	✓	✓		✓	F	F	F	F	F	A	A	A	Ab		
Finlayson, George D.	✓	✓	✓		F	F	F	F	F	F	A	A	A		
Go, Avvy	✓	✓	✓	✓	A	F	F	F	A	A	A	F	F	F	
Gold, Alan	✓			✓											
Gottlieb, Gary L.	✓	✓	✓	✓	A	A	A	A	A	A	F	F	F	F	
Halajian, Jennifer	✓	✓	✓	✓	A	A	F	F	A	A	F	F	A	F	
Hare, Susan	✓		✓		A	F	F	F	A	A					F
Hartman, Carol	✓	✓	✓	✓	F	F	F	F	A		A	A	F	F	
Heintzman, Thomas G.		✓	✓	✓							A	A	F	F	
Henderson, Paul	✓	✓	✓	✓	F	F	F	F	F	Ab	A	A	A	F	
Hunter, George															
Krishna, Vern	✓	✓	✓		F	F	F	F	F	A	A	A	A	F	
Lawrie, Brian		✓	✓								A	A	F	F	
Legge, Laura	✓		✓	✓											
Lewis, Doug		✓	✓	✓							A	A	A	F	
Marmur, Dow	✓		✓	✓	Ab	Ab	Ab	Ab	Ab	A					F
McGrath, Susan	✓	✓	✓	✓	F	F	F	F	F	A	A	A	A	F	
Millar, Derry	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Minor, Janet	✓	✓	✓	✓	F	F	F	F	F	A	A	F	F	F	
Pawlitza, Laurie	✓	✓	✓	✓	F	F	F	F	F	Ab	A	A	Ab	F	
Porter, Julian	✓	✓	✓	✓	F	F	F	F	F	A	A	A	A	F	
Potter, Judith	✓	✓	✓	✓	A	A	F	A	A	A	F	F	F	F	
Pustina, Nicholas J.	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Rabinovitch, Jack	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Robins, Sydney	✓	✓	✓	✓	F	F	F	F	F	A	A	A		F	
Rock, Allan	✓				F	F	F	F	F	A					
Ross, Heather	✓	✓	✓	✓	A	A	A	A	A	A	A	F	F	A	
Rothstein, Linda	✓	✓	✓		F	F	F	F	F	A	A	A	F	F	
Ruby, Clayton	✓	✓	✓	✓							A	A	F	F	
St. Lewis, Joanne	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Sandler, Mark	✓	✓			F	F	F	F	F	A	A	A			
Scace, Arthur															
Schabas, Paul	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Sikand, Baljit	✓	✓	✓		Ab	Ab	Ab	Ab	Ab	Ab	A	A	F	F	
Silverstein, Alan	✓	✓	✓	✓	F	A	F	F	A	A	A	F	A	F	
Strosberg, Catherine	✓	✓	✓	✓	F	F	F	F	F	A	A	A	F	F	
Strosberg, Harvey															
Swaye, Gerald	✓	✓	✓	✓	F	F	F	F	F	A	A	F	F	F	
Symes, Beth	✓	✓		✓	F	F	F	F	F	A	A	A	F		
Tough, Bonnie	✓		✓	✓	F	F	F	F	F	A					F
Warkentin, Bonnie	✓	✓	✓	✓	F	F	F	F	F	F	A	A	F	F	
Wright, Bradley	✓	✓	✓	✓	F	F	F	F	F	A	A	F	F	F	
MacKenzie, Gavin (Treas.)	✓	✓	✓	✓											

Non-voting benchers in attendance:

June 28, 2007 -
P. Copeland, A. Feinstein,
A. Lawrence, R. Murray, J. Wardlaw.

Sept. 20, 2007 -
P. Furlong, A. Lawrence,
R. Murray.

Oct. 25, 2007 -
J. Ground, A. Lawrence,
D. Murphy, J. Wardlaw.

Nov. 22, 2007 -
A. Lawrence, D. Murphy,
R. Murray, J. Wardlaw.

There were no motions in the November 22 Convocation requiring a roll-call vote.

*Motions A=against F=for Ab=abstain

Six new lay benchers appointed to Convocation

SIX NEW LAY BENCHERS HAVE JOINED CONVOCAATION: DR. ASLAM DAUD, SEYMOUR EPSTEIN, RABBI DOW MARMUR, JACK RABINOVITCH, BALJIT SIKAND AND CATHY STROSBERG WERE RECENTLY APPOINTED TO THE BOARD BY THE LIEUTENANT GOVERNOR-IN-COUNCIL. THE NEW LAY BENCHERS JOIN MARION BOYD AND ABDUL CHAHBAR WHO WILL CONTINUE TO SERVE UNDER THEIR OLD APPOINTMENTS. IN ADDITION TO EIGHT LAY BENCHERS (NON-LAWYERS AND NON-PARALEGALS), THERE ARE 40 LAWYER BENCHERS, ELECTED BY THE PROFESSION, AND TWO PARALEGAL BENCHERS.

Dr. Aslam Daud, of Maple, is a healthcare professional with extensive experience in the Canadian and American pharmacy and health care systems. He earned his medical degree at the University of Karachi in Pakistan (1987). Dr. Daud is Chairman and Executive Director of Humanity First – a non-profit charitable NGO involved in humanitarian relief and development work.

Seymour Epstein, of Toronto, is a senior business executive of several companies, including Epstein Enterprises Inc., CENetwork Inc. and Kelman Tecknologies Inc. He served as an appointed bencher from 1999 to 2003. He is also the chairman and president and one of the moving forces behind the McMurtry Gardens of Justice. His community involvement includes serving as Chairman and President of Law Gardens Inc. (since 1998) and Governor of the Royal Agricultural Winter Fair (since 1991). He earned a Bachelor of Engineering Degree at the University of McGill (1962).

Rabbi Dow Marmur, of Toronto, is a rabbi who has served as senior rabbi at the Holy Blossom Temple in Toronto (1983 to 2000). Prior to coming to Canada, he served congregations in London, England, for 21 years. He is a Fellow of Massey College, an Honorary Fellow of St. Michael's College and has an Honorary Doctorate from Regis College - all of the University of Toronto. His community involvement includes being president of the Toronto Board of Rabbis, as well as a board member of the Interfaith Social Action Reform Coalition. He was ordained as a rabbi in 1962.

Jack Rabinovitch, of Toronto, is the president and CEO of Nodel Investments, a private real estate and investment company, and was for many years the executive vice-president of Trizec Corporation. He is also a Director of MaRs, a scientific/research/commercial enterprise, a trustee of the Art Gallery of Ontario and a Governor of the Toronto Public Library. He was honoured to receive

the Order of Canada and the Order of Ontario. His community involvement includes being a trustee of the Princess Margaret Hospital Foundation and being responsible for the construction of the new Princess Margaret Hospital. In 1994, Mr. Rabinovitch founded the Giller Prize for Canadian Fiction which honours the memory of his late wife Doris Giller. He earned his Bachelor of Arts Degree from McGill University (1952) and Honorary Doctorate Degrees from the University of Toronto and McGill University.

Baljit Sikand, of Mississauga, is the owner and president of Bloomingdale Limousine Inc., a business that employs more than 100 people in the Greater Toronto Area. His community involvement includes being a volunteer with Dunwin Sikh Gurdwara in Mississauga, a sponsor of the Springdale Sports and Culture Club Khabadi Team in Brampton, and a volunteer at the Credit Valley Hospital in Mississauga. He earned his Masters Degree in Economics from Punjab University in Chandigarh, India (1979).

Catherine (Cathy) Strosberg resides in Windsor. She graduated from the University of Windsor in 1975 with a Bachelor of Science in Nursing. A member of the College of Nurses of Ontario, she has worked as a nurse and also as a nursing instructor. She served as a consultant to lawyers in medical malpractice matters. She was also a member of the Canada Pension Plan Review Tribunal for three years. ■

Convocation sets priorities for 2007-2011 benchers term

CONVOCATION HAS ESTABLISHED NINE PRIORITIES FOR THE 2007-2011 BENCHER TERM. THEY ARE:

- Discipline
- Access to justice
- Regulation of paralegals
- Small firms and sole practitioners
- Governance structure
- Strategic communications
- Maintenance of high standards and ensuring effective competence
- Diversity within the profession
- Licensing and accreditation.

The priorities were identified at a Priority Planning session held in September. Benchers, senior management and policy staff of the Law Society convened for a two-day planning session to map out Convocation's priorities for the next four years.

"The discussions that took place at the retreat were invaluable in focusing Convocation," says Law Society Treasurer Gavin MacKenzie. "The number of pressing issues on the table demanded that we, as a group, hone in on those of greatest importance – and we have done just that."

Over the two-day facilitated session, benchers discussed what Convocation's priorities should be, what success in those areas might look like, and what needs to be done to get there. Benchers also discussed matters that should be de-emphasized.

The Priority Planning Committee, which is chaired by the Treasurer, brought forward the priorities for approval by Convocation at its November meeting. The committee will now consult with benchers and staff to develop recommendations for goals for each priority area and recommendations for achievement of those goals. The committee plans to report back to Convocation during the first half of 2008. ■

Quality of French

TWO YEARS AGO, THE LAW SOCIETY REPLACED ITS BAR ADMISSION COURSE (BAC) WITH A NEW LICENSING PROCESS THAT WAS DESIGNED STRICTLY FOR THE PURPOSE OF ASSESSING ENTRY-LEVEL COMPETENCIES. THE CHANGE ELIMINATED THE LECTURING OR TEACHING PORTION OF THE PREVIOUS BAC, SO THAT STUDENTS, NOW CALLED "CANDIDATES," COULD ORGANIZE THEIR STUDIES AT THEIR OWN PACE TO PREPARE FOR THE EXAMINATIONS.

All reference materials in both English and French were adjusted to reflect the changes adopted by Convocation. Reference materials were developed that would be used only to support self-study for the examinations. As a result, the scope of the materials was greatly reduced.

The translation of new materials into French was conducted by experienced translators, who were given the previous admission course documents for reference. The French materials were double-

checked at several stages to ensure quality. In addition, the materials written in English and in French are reviewed annually to ensure their continuous improvement.

Recently, the Law Society appointed a team of bilingual representatives to review the quality of the French language materials. The review found that the materials were of superior quality. The Law Society also made the decision to establish a French translation review group to monitor the revision of the

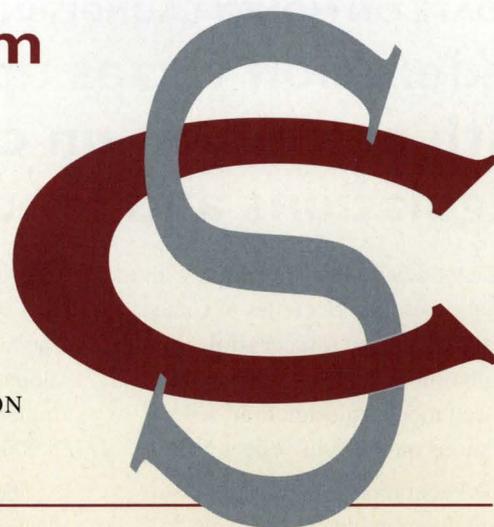
reference materials and development of future examinations in French. The review group members are: Josée Bouchard, Equity Initiatives Senior Advisor for the Law Society, Paule Hageltorn, practising lawyer in Ottawa, and Sonia Ouellet, Executive Director of the Association of French-speaking Jurists of Ontario (AJEFO). All three members of the committee are trained in common law and are Francophones originally from the Ottawa region. They also

all have experience in teaching in the French language.

The mandate of the review group will be to regularly review the examinations following translation, to ensure consistency with the English version and the reference materials, ensuring that the established high quality of the materials is continued. ■

Certified Specialist Program is revamped to boost participation

CONVOCATION APPROVED A PROPOSAL ON OCTOBER 25, 2007 TO CONTINUE AND IMPROVE THE LAW SOCIETY'S CERTIFIED SPECIALIST PROGRAM. THE CHANGES ARE DESIGNED TO ENCOURAGE INCREASED LAWYER PARTICIPATION AND ENHANCE ACCESSIBILITY AND AWARENESS.



The decision followed a detailed review of the program and input from the profession.

The Certified Specialist Program provides lawyers with the right combination of experience and education, enabling them to distinguish themselves by becoming recognized leaders in their field.

The program will operate as follows:

- Certified Specialists will be entitled to include the credentials "C.S." after their names. This added incentive will increase awareness of the program both within the profession, as well as with the public.
- The number of continuing legal education courses that Certified Specialists will be required to take has been reduced from 18 to 12 hours, with no specification regarding participation as a learner. The requirement for 50 hours of self-study for each specialty remains the same.
- The threshold for eligibility for certification as a specialist in any given specialty area is reduced to 30 per cent of practice in that area.

- A lawyer will only be able to be certified in two specialty areas at any one time.
- Applicants to the Certified Specialist Program must demonstrate that they have completed 36 hours of continuing legal education (CLE) specifically related to the areas of specialty, in the three years prior to application – which is an average of 12 hours per year. (The previous requirement was 90 hours of CLE over five years – or 18 hours a year.) As before, applicants must also demonstrate 50 hours of self-study in the area related to the specialty per year in the three years prior to application.
- The program application process will move to an administrative compliance process based on standards and criteria developed by the Specialty Committees. Specialty Committees played an essential role in the redesign of the program, initiated in 2004. The committees put substantial time and effort into the development of criteria that are widely accepted within the profession as

accurately defining the knowledge and skills requirements for each of the specialty areas. After three full years of application, these standards and criteria have proven to be extremely effective in benchmarking specialists and thus committees are no longer required to vet each application.

- The Certification Board will be reconstituted to consist of between eight and 12 members, including one lay benchner and two elected benchers. The rest will comprise lawyers who are not benchers.
- The program will operate on a self-funding cost-recovery basis from fees generated by lawyers applying for certification and from Certified Specialists who renew their certification. This will commence either by January 1, 2008 or as soon as possible – but not later than January 1, 2009.

For more information about the Specialist Certification Program, please visit the Resource Centre on the Law Society website at: www.lsuc.on.ca.

UPDATE ON MONEY LAUNDERING

Federation wraps up consultation with profession on client identity regulations and model rule

The Law Society, in conjunction with the Federation of Law Societies of Canada, recently concluded a successful consultation with the profession on a proposed model rule and draft federal regulations on verifying client identity.

The Federation is using the information obtained through the consultation in its continuing discussions with the Department of Finance on the draft regulations. The information is also assisting the Federation in finalizing the model rule for implementation by law societies across Canada.

The draft regulations, under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, purport to apply to the way lawyers identify clients, verify their identity and maintain client records. They were 'pre-published' by the Department of Finance in June 2007 for comment and consultation.

In a separate initiative, the Federation of Law Societies prepared a model rule on requirements for client identification

and verification. This is the second of the Federation's model rule initiatives. The model rule on cash transactions was adopted by the Federation and implemented by Canadian law societies in 2005 and 2006.

The Federation has been in discussions with the Department of Finance on the subject of the new regulations for the past year. These ongoing discussions are part of a dialogue that began a number of years ago between the Federation and the federal government on the *Proceeds of Crime (Money Laundering) and Terrorist Finance Act*. The Federation's primary concern at that time was the threat to the independence of the bar and solicitor-client privilege arising from the requirement that lawyers throughout Canada and notaries in Quebec secretly report confidential client information to the government with respect to suspicious transactions and large cash transactions.

This concern led to the Federation's constitutional challenge to the act. The Federation applied successfully for injunctive relief from the application of the reporting requirements to the legal profession pending the hearing of the challenge. The injunction continues to apply and covers any new regulations under the act affecting lawyers. The government subsequently decided to exempt "legal counsel" (i.e. lawyers and Quebec notaries) from the reporting requirements through an amendment to the act.

The government is committed to building an anti-money laundering regime that meets international standards by including the regulation of lawyers, and dialogue between the federal government and the Federation on this subject is continuing. At the same time, the Law Society, through the Federation will continue its work to address any risk of money laundering within the legal profession through appropriate Law Society regulation, ensuring the public interest is protected through the preservation of solicitor-client privilege and the independence of the bar.

More information on the model rule and draft regulations is available on the Law Society website. ■

Chief Justice's Colloquia on the Legal Profession focus on leadership and ethics

The challenges of leadership and legal ethics in action were the topics of the most recent Colloquia on the Legal Profession.

The Honourable Bob Rae gave a well-received keynote address on the Challenges of Leadership at the eighth colloquium, hosted by the University of Western Ontario in London. Rae was followed by a number of high-profile speakers who examined leadership in different contexts including legal education, the non-profit sector, governance and business.

The Honourable Warren K. Winkler, Chief Justice of Ontario and Law Society Treasurer Gavin MacKenzie opened the well-attended ninth colloquium, which took place at York University in Toronto. Attendees of the daylong event heard engaging presentations from judges, academics and practitioners exploring the complex ethical dilemmas lawyers face in their everyday practice.

Details of the upcoming tenth Colloquium will be posted on the Law Society's website as they become available.

New by-law passed regarding supervision of non-lawyers

CONVOCATION APPROVED A NEW BY-LAW ON OCTOBER 25, 2007, THAT SETS OUT A LAWYER'S RESPONSIBILITY FOR SUPERVISING INDIVIDUALS TO WHOM THEY DELEGATE WORK

By-Law 7.1 [Operation Obligations and Responsibilities] applies to lawyers. It sets out what is and is not permissible in delegation of tasks to anyone who is not a lawyer. This includes both licensed paralegals and unlicensed employees or agents.

Direct supervision is required for all permissible, assigned tasks. Certain tasks or functions may not be assigned. For

example, signing correspondence other than correspondence of a routine nature may not be delegated.

The by-law permits non-lawyers to give or accept undertakings on behalf of a lawyer, appear on purely administrative matters, such as scheduling dates before an adjudicative body on behalf of a lawyer, or taking instructions from a client – as long as the lawyer has given the person prior express instruction and authorization to do so – and the other requirements in the by-law are met.

By-Law 7.1 does not apply to supervision of articling students. Nor is it restricted solely to advocacy services.

By-Law 7.1 replaces subsections 5.01 (1) through (6) of Rule 5.01 of the *Rules of Professional Conduct*. These subsections have been repealed.

Lawyers are urged to familiarize themselves with the new by-law, which can be found on the Law Society's website at: http://www.lsuc.on.ca/media/bylaw7_1.pdf ■

IMPROVEMENTS TO LAW SOCIETY'S TRIBUNALS PROCESS CONTINUE

Hearing Panel composition revised

NON-BENCHERS WILL SOON JOIN benchers on the Law Society's Hearing Panel. Convocation recently established eligibility criteria, paving the way for the Law Society to begin recruitment of four non-bencher lawyers and four non-bencher, non-lawyer individuals to participate as adjudicators on regulatory matters. The addition of these eight adjudicators will assist in securing non-lawyer representation on every hearing panel and will add lawyer panelists who can contribute particular expertise.

The addition of non-benchers to the Hearing Panel is the latest in a series of improvements made to the Law Society's tribunals process, which began with the establishment of the Tribunals Task Force in 2004.

The Tribunals Task Force was formed as both public scrutiny and media criticism of professional self-regulation was increasing. As the viability of self-regulation depends on government and public acceptance and

support, the Law Society is committed to regularly re-evaluating, updating and improving its processes and approaches.

The Task Force reviewed the Law Society's tribunals process from Proceedings Authorization Committee authorization to the release of orders and decisions. The review included an examination of the hearings, appeals, decision-making and decision release procedures.

The Tribunals Task Force's final report, delivered to Convocation in May 2005, made numerous recommendations to improve the timeliness, transparency, consistency and accessibility of the tribunals process. Amendments to the Rules of Practice and Procedure, the writing of an adjudicator code of conduct, and the establishment of a standing Tribunals Committee for ongoing policy development are a sample of the many recommended initiatives. Also recommended was the creation of the Tribunals Composition Task Force.

The Tribunals Composition Task Force considered five potential tribunal models identified by the Tribunals Task Force, including a model that would establish a tribunal that is completely independent of the Law Society. After examining each model, the Tribunals Composition Task Force articulated a number of common principles that informed its decisions on the appropriate composition of the Law Society's Hearing Panel. It also determined that the independence of the bar requires the Law Society to maintain control over its disciplinary processes, including the tribunals process. The Task Force's recommendation to add non-benchers on the Hearing Panel are based on these considerations.

The Tribunals Task Force and the Tribunals Composition Task Force reports are available on the Law Society website in the Reports Index under the Convocation and Reports tab.

IN MEMORIAM

Tribute to Brendan O'Brien, Q.C., LSM 1909-2007

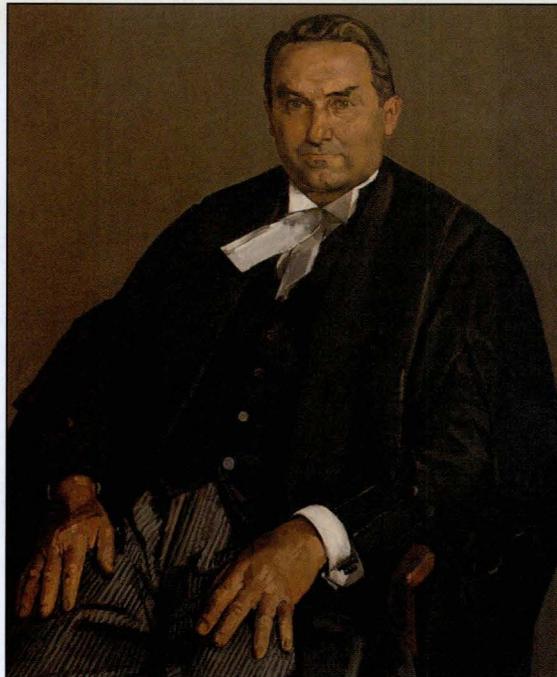
by Gavin MacKenzie, Treasurer,
The Law Society of Upper Canada

Since I was elected as a bencher 12 years ago, I have had occasion to say many times that one of the great privileges of serving in that capacity is the opportunity to become acquainted with the leaders of an earlier generation at the bar who have continued to provide Convocation with the benefit of their wisdom and experience in their capacity as former Treasurers. I have always cited Brendan as one of the best examples of this: he continued to contribute for a great many years after we ceased to have any reasonable claim on his time.

Indeed, Brendan continued to attend monthly Convocations faithfully, sharing his wisdom and experience on issues about which he felt deeply, until the age of 96.

Throughout his career, Brendan epitomized the finest traditions of the legal profession, traditions that are the very foundations of the profession's independence. His contributions, not only to the Law Society, but to the administration of justice in Ontario and to the people we serve, have been immense and lasting.

Brendan was an outstanding advocate, largely due to his extraordinary ability to discern and evaluate the central issues upon which complex cases turned. During a distinguished professional career that spanned more than six decades, he exemplified the ideals of professionalism and civility. His



knowledge of the law, his sharp intellect, and his distinctive style of advocacy often brought other practitioners to his doorstep for his counsel, particularly on difficult problems of practice and ethics.

Brendan always felt an acute desire to give back to the profession. As early as the 1950s he lectured both at Osgoode Hall Law School and in the Bar Admission Course. Many senior members of the Bar of Ontario - a significant proportion of whom are now themselves retired from practice - still remember feeling privileged to have been taught by one of Ontario's brightest legal minds.

Brendan was elected a bencher in 1959 and served on many standing committees and special committees of Convocation. In 1966, his dedication to his profession and to the Law Society resulted in his election as Treasurer.

During his two terms as Treasurer, he made a variety of significant and lasting contributions including, for example, outlining a plan that would eventually become the basis for the creation of Law Foundation of Ontario. In his book, *The Law Society of Upper Canada and Ontario's Lawyers 1797-1997*, Christopher Moore wrote that perhaps Brendan's "most effective contribution was the opinion letters Convocation occasionally sought from him on thorny issues, in which he carefully and dispassionately set out all the alternatives in such a way that the right choices suddenly seemed easy."

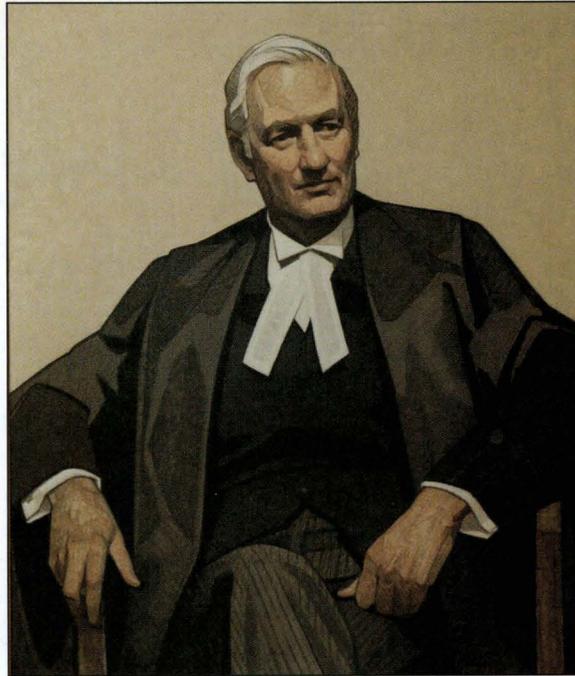
Apart altogether from his work on behalf of the Law Society of Upper Canada, Brendan was also a long-serving and active member of the Canadian Bar Association and the founding president of the Osgoode Society for Canadian Legal History.

In formal recognition of his outstanding contributions to his profession, its governing body and the people of Ontario, Brendan was awarded both of the Law Society's highest honours. Convocation conferred on him an Honorary Doctor of Laws degree in 1979 and awarded to him the Law Society Medal in 2005.

Brendan O'Brien was an outstanding person, lawyer, bencher and Treasurer. His presence will be greatly missed by all who had the privilege of knowing him. ❖

IN MEMORIAM

Kenneth Jarvis 1927-2007



In the early hours of September 8, 2007, Kenneth Phillips Jarvis, Q.C., RCA, passed away peacefully in Millbrook, Ontario. A lawyer, a skilled singer, a nationally renowned sculptor and an accomplished photographer, Kenneth Jarvis was truly a modern day Renaissance man.

Called to the Bar of Ontario in June 1956, he practised law for a short time, then joined the staff of the Law Society of Upper Canada in 1958. In his book, *The Law Society of Upper Canada and Ontario Lawyers 1797-1997*, Christopher Moore wrote that Kenneth Jarvis “joined the Law Society staff partly because the demands of downtown practice left him too little time for his art.”

He served the Law Society with dedication and loyalty first as the Deputy Secretary (1958-1966), then as the Secretary (1966-1987), and finally as Under Treasurer (1987-1988). During that time he combined his love of legal history, art and photography with his responsibilities at the Law Society. His photographs of Osgoode Hall regularly graced the pages of the *The Law Society Gazette* and his sculptures of legal legends adorned not only the halls of Osgoode Hall, but also legal institutions across the country, including the Supreme Court of Canada and the University of Alberta’s Law Institute.

His deep appreciation of the traditions of the law, the Law Society and the history of Osgoode Hall, was evident in everything that he did.

Kenneth Jarvis retired as the Secretary of the Law Society in 1987. During his tenure he was a trusted confidant and advisor to numerous treasurers and benchers. His influence on, and his contributions to the Law Society and the legal profession are undeniable.

Upon his retirement, Convocation honoured his service and many contributions by appointing him an Honorary Bencher of the Law Society at the same ceremony at which they conferred this honour upon then British Prime Minister Margaret Thatcher.

On September 15, 2007, Kenneth Jarvis was remembered and honoured at a service held in Toronto attended by his family, friends and many admirers. Donations in his memory may be made to the Order of St. John, Federal District, or the Osgoode Society for Canadian Legal History. ❖

Paralegal regulation begins

It's been a year since the Access to Justice Act 2006 was passed, expanding the Law Society's regulatory authority to include paralegals. Since then, several significant milestones have been reached in the development of a regulatory scheme for paralegals practising in Ontario. The Law Society's Paralegal Standing Committee, which includes paralegals, lawyer benchers and three lay benchers, continues to lead the work on establishing the new regulatory model.

In this issue of the Ontario Lawyers Gazette, we take a look at the most recent developments to the new regulatory model.

A total of 2,178 experienced paralegals and graduates of post-secondary paralegal courses have now applied to write the licensing examination. October 31, 2007 marked the end of the six-month provision for grandparent paralegal applicants to apply to write the examination.

Approved applicants will write the examination on January 17, 2008 at one of five locations throughout the province, and the Law Society will be issuing the first paralegal licences to those who pass by May 1, 2008.

In the meantime, the names of all paralegals who have completed applications for licensing can be viewed on the Paralegal Candidate Directory on the Law Society's website. Only candidates listed in this directory may continue to practise until the first licences are issued.

New Policies: Books, Trust Accounts & Cash Limits

A number of policies recommended by the Paralegal Standing Committee have been approved by Convocation. These focus on everything from bookkeeping to fee categories.

Like lawyers, paralegal licensees will be required to keep proper books and records. Rules regarding trust accounts will also be the same as they are for lawyers – and paralegals will be required to comply with these rules as soon as they become licensed.

“Mediator” gets house arrest for contempt related to unauthorized practice of law

SETTING AN IMPORTANT PRECEDENT, Madam Justice Patricia Hennessy of the Superior Court of Justice recently sentenced North Bay mediator and paralegal Maureen Boldt to four months of house arrest for contempt of court. Justice Hennessy previously found that Boldt had disobeyed a 1990 court order prohibiting her from engaging in the unauthorized practice of law, specifically with respect to the preparation of “separation agreements” or “mediation agreements” in the context of her family mediation business. The October 1, 2007, sentencing decision also prohibits Boldt from carrying on

business for four months and requires her to pay \$35,000 in costs to the Law Society.

Over the past 13 years, Boldt had repeatedly defied the law and put consumers at risk by continuing to provide legal services that she was not authorized or qualified to provide. Her sentence commenced October 15.

“This is the first time in living memory that someone has been sentenced to house arrest as a result of unauthorized practice,” said Law Society Treasurer Gavin MacKenzie, after learning of the decision. “The unauthorized practice of law, particularly in the delicate area of

family law, poses a very serious risk to the public.”

The courts have noted that the creation of binding legal agreements by individuals who lack the necessary training and expertise can have potentially devastating effects on people's lives.

In her decision, Justice Hennessy noted, “Ms. Boldt showed deliberate and willful contempt of the court's order. She profited from her continued violations of the court order. Her unauthorized practice of law has had serious and prejudicial consequences for some of her clients.”

However, a transitional period has been granted to grandparent applicants only. This means that funds received by a grandparent applicant prior to his or her licensing may be left in the operating account until the services are provided, but must be transferred to a trust account by May 2010 if the services have not been provided.

As with lawyers, interest on paralegal trust accounts will be paid to the Law Foundation of Ontario, with 75 per cent of the total going to Legal Aid Ontario (LAO), as set out in the *Law Society Act*.

Additionally, the same rules that apply to lawyers regarding the receipt of cash from clients or third parties, will also apply to paralegals – a limit of \$7,500 – as found in Law Society By-Law 9. This by-law was established to assist in the fight against money laundering.

Paralegal fee categories will also mirror the three categories that exist for lawyers, as set out in By-Law 5.

Insurance Requirements

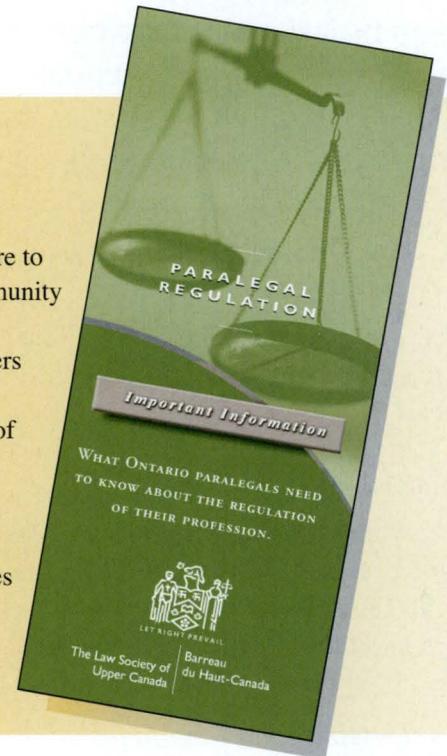
Like lawyers, paralegals who provide legal services to the public must carry professional liability insurance.

The required coverage for paralegal licensees is \$1 million per claim and \$2 million per year in the aggregate. ■

Law Society produces paralegal brochure

The Law Society has published a brochure to answer questions that the paralegal community and related stakeholders may have about paralegal regulation. The brochure answers questions about who needs a licence, licensing requirements, permitted scope of practice, examinations, insurance, complaints, and more.

The new brochure is available in both English and French on the paralegal pages of the Law Society's public website at www.lsuc.on.ca.



Justice Hennessy also noted, "This is extremely serious for someone who in the past, has appeared in court, works within the framework of the administration of justice and who regularly makes appearances and submissions on behalf of clients before quasi-judicial bodies. Her conduct is a grave offence to the court and to the rule of law."

Treasurer MacKenzie said the Law Society appreciates that the courts are willing to send a clear message that consumers must be protected from unqualified people who seek to provide legal advice and representation. "It is also essential to the effective administration of justice that court orders be respected, as the court has clearly said in this case," he noted.

History snapshot

1998: Boldt is convicted in Provincial Offences Court of the unauthorized practice of law. Based on a joint submission, she is fined \$100. She undertakes not to commit further breaches of the *Law Society Act*.

2000: An injunction is granted against Boldt restraining her from unauthorized practice, in particular, restraining her from offering and providing services in the preparation and drafting of separation agreements. The court also issues a declaration that Boldt was in violation of her undertaking.

2006: Boldt is found to have flagrantly breached the order. She is found in contempt. Sentencing is postponed pending appeal, but the Court of Appeal dismisses Boldt's appeal.

2007: Boldt is sentenced to four months house arrest. She is also prohibited from carrying out her paralegal business for four months and ordered to pay \$35,000 in costs.

Work of the Task Force on the Rule of Law and the Independence of the Bar now published

THE INDEPENDENCE OF THE BAR IS A CONCEPT MUCH DEFENDED AND HIGHLY ESTEEMED BUT NOT EASILY DEFINED NOR READILY UNDERSTOOD. MOREOVER, THERE ARE FEW COMPREHENSIVE WORKS, PARTICULARLY FROM A CANADIAN PERSPECTIVE, EXPLAINING THE CRITICAL IMPORTANCE OF AN INDEPENDENT BAR TO A FREE SOCIETY.

In the Public Interest aims to fill this gap. The Report of the Law Society's Task Force on the Rule of Law and the Independence of the Bar has now been published, together with six commissioned research papers by leading legal academics. The volume is an invaluable reference work on all aspects of the importance of an independent legal profession.

While recognizing that there is no single definition or understanding of the concept of an independent bar, the report espouses two main idea(l)s — independence of judgment and independence of control.

The first idea (and ideal) of independence is that a lawyer, in reconciling her or his duties to a client and to the court, must exercise independent judgment. The second idea (and ideal) of independence is that the lawyer must remain free of external manipulation, state interference or ulterior influence in performing his or her duties.

- In the Public Interest -

Beginning with a Statement of Principles, and drawing on the commissioned papers, the task force's report explores the evolving concept of an independent bar through four different lenses:

- 1) The independence of the bar as a constitutional principle;
- 2) The origins of the independence of the bar;
- 3) The relationship between the independence of the bar and the public; and
- 4) How the independence of the bar has developed in the context of two recent case studies: the scope of lawyer-client confidentiality in relation to money laundering and

the right to effective representation by a lawyer in relation to security certificates in the immigration and national security areas.

A compelling read, the report offers thoughtful consideration of the history of the independent bar, its meaning and significance in contemporary Canadian society and the particular challenges facing the bar as it evolves in the post 9/11 and Sarbanes-Oxley world – more than exceeding its goal of providing sustenance to the public debate on the issue.

The six commissioned papers included in the volume are equally engaging. By examining the idea of an independent bar through divergent frameworks, the papers help the reader build an increasingly sophisticated understanding of the concept.

To follow are brief descriptions:

- 1) **Michael Code and Kent Roach**, University of Toronto, "The Independence of the Bar and the Public Interest: the Scope of Privilege and Confidentiality in the Context of National Security"

This paper explores the impact on solicitor-client confidentiality resulting from Parliament's security certificate procedures enacted under the *Immigration and Refugee Protection Act*.

- 2) **Angela Fernandez**, University of Toronto, "Polling and Popular Culture (News, Television, and Film): Limitations of the Use of Opinion Polls in Assessing the Public Image of Lawyers"

The first part of this paper discusses the inability of positive personal experiences with lawyers to displace global negative perceptions. The second part links negative public perception to lawyer's job dissatisfaction and the third considers the Canadian context.

3) **Philip Girard**, Dalhousie University, “The Independence of the Bar in Historical Perspective: Comforting Myths, Troubling Realities”

This paper looks at the history of the ideas and practices connected to the independence of the bar, in England and Canada from about 1650 to 1950.

4) **Patrick J. Monahan**, Osgoode Hall Law School, “The Independence of the Bar as a Constitutional Principle in Canada”

This paper explores the extent to which an independent legal profession can be understood as a constitutional as opposed to a statutory principle in Canada by reviewing a variety of written and unwritten aspects of the Canadian Constitution.

5) **Paul D. Paton**, Queen’s University, “The Independence of the Bar and The Public Interest Imperative: Lawyers as Gatekeepers, or Instruments of State”

This paper reviews the money laundering litigation and Section 307 of the *Sarbanes-Oxley Act* of 2002 as case studies of the changing direction of lawyers’ obligations to clients and to the public interest, examining how the idea of lawyers as “gatekeeper” is being recast.

6) **W. Wesley Pue**, University of British Columbia, “Death Squads and ‘directions over lunch’: A Comparative Review of the Independence of the Bar”

A comparative review of diverse perspectives on the independence of the bar, this paper examines understandings of an independent bar, various

In the Public Interest



THE REPORT AND RESEARCH PAPERS OF
THE LAW SOCIETY OF UPPER CANADA’S
TASK FORCE ON THE RULE OF LAW AND THE
INDEPENDENCE OF THE BAR



The Law Society of
Upper Canada | Barreau
du Haut-Canada

frameworks for conceptualizing professions and alternative regulatory models.

In the Public Interest is available through Irwin Law at www.irwinlaw.com. ■

About the Task Force

The Task Force on the Rule of Law and the Independence of the Bar was established in the fall 2005 with a mandate to produce a report, to be used by legislators and the courts, examining the interdependence of an independent bar and the rule of law.

The task force included Law Society representatives and eminent

Canadian authorities on the topic. The members of the task force were bencher Neil Finkelstein (Co-Chair), bencher Professor Constance Backhouse (Co-Chair), bencher Earl A. Cherniak Q.C. (Co-Chair), the Honourable Jack Major, the Honourable Michel Proulx, the Honourable Sydney Robins, Sheila Block, David Scott,

Q.C., Jack Giles, Q.C., David Jackson and Professor Richard Simeon.

The task force was assisted by Special Adviser Carol Hansell. Professor Lorne Sossin of the University of Toronto acted as the research director.

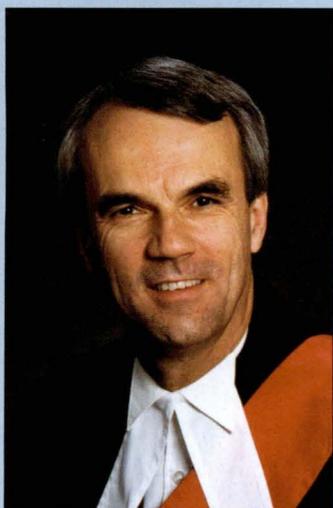
LL.D.s awarded along with LL.B.s at 2007 Call to the Bar Ceremonies

Every year, as part of its call ceremonies, the Law Society presents honorary degrees of Doctor of Laws (LL.D.) to distinguished individuals who exemplify the values held in esteem by the legal profession. Honourees then serve as inspirational keynote speakers for the graduates.

This year, the Law Society held five ceremonies between June 12 and June 19 to call to the Ontario Bar the province's 1,121 new lawyers. The first ceremony was held in Ottawa, the second in London, and the final three in Toronto.

At each ceremony, Law Society Treasurer Gavin MacKenzie presented an honorary doctorate to each keynote speaker: in Ottawa, the Honourable Brian W. Lennox, LL.D., former Chief Justice of the Ontario Court of Justice; in London, the Honourable W. Dan Chilcott, Q.C., LL.D.; in Toronto, Barbara Jackman, LL.D.; and, also in Toronto, on behalf of the late Honourable Justice Archie Campbell, LL.D., Doug Hunt, Q.C., spoke after accepting Justice Campbell's posthumous award.

The Honourable Brian W. Lennox, LL.D.



Your training and your special knowledge, combined with the responsibilities that you are undertaking today in repeating the Barristers' Oath, create an obligation on you that is different from that of any other profession. Our democracy is founded upon the principle of the rule of

law: laws that you have studied, laws that you will learn, or laws that some of you may eventually help to create. As lawyers, you have not only the ability, but also now the obligation, to ensure the protection of the enduring values of Canadian society as expressed in our Constitution: freedom of conscience and religion, of thought and expression; democratic rights; life, liberty and security of the person; freedom from arbitrary or unreasonable state intrusion; the right to an independent and impartial tribunal; equality, tolerance and justice. The oath that you take today is neither a hollow promise nor a simple, technical pre-requisite to becoming a lawyer. It is the essence of our obligation as lawyers in society. You are undertaking a professional career that requires integrity and commitment, and you are promising to uphold both the

Constitution and the law. You have worked extremely hard to reach this point. Many of you have made real sacrifices, as have those closest to you; some of you will be continuing a proud, family

tradition; others will be breaking new ground and fulfilling an ambition that may have existed in your family for years. It is a proud and a glorious moment for all of you. ♦



The Honourable W. Dan Chilcott, Q.C., LL.D.

Having been at the bar for over 50 years, I can mention a few attributes that may be helpful in your practice whether you are a litigator or doing solicitor's work. I will not expand on them as their everyday meaning is perfectly clear: You will need imagination, energy, discipline, civility, compassion and trustworthiness. Some say the four H's will be enough: Hard work, Humility, Honesty, and Humour. These four are

certainly a good foundation, but I think you must add integrity, common sense (the greatest gift of all), independence, commitment, and courage. All of these add up to REPUTATION – the most precious asset a lawyer can possess. I am told by the practising bar of all ages that the practice of law today is a high-stress

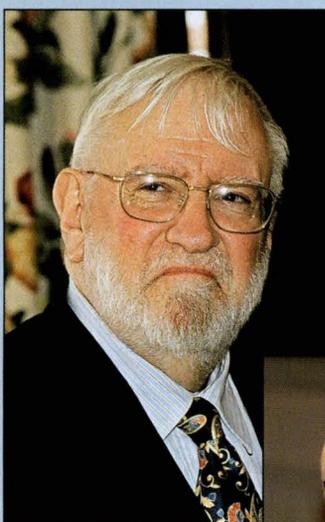
vocation. So also remember to relax – enjoy yourself and your family and the world about you – because life is much more than dedication to the practice of law or the pursuit of success and wealth. And never be intimidated: If you wish to try something new, try it. I give you an old but still relevant quote: “The tragedy

of life does not lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disgrace not to reach the stars - but it is a disgrace to have no stars to reach for. Not failure but a low aim is the sin.” ❖



Barbara Jackman, LL.D.

In becoming members of the bar, you do not just have a responsibility to practice ethically in the best interests of your client and as officers of the court, you have a responsibility to work on perfecting our system of justice. For too long, those who participated in the justice system in Canada were mostly men, middle class, and white. Today, there are not only more women entering the profession, but, reflective of our multi-cultural society, there are more minorities. However, as bencher and Law Professor Constance Backhouse wrote in her book, *Colour Coded: A Legal History of Racism in Canada, 1900 – 1950*, “the Canadian legal system has played a principal and dominant role in creating and preserving racial discrimination. Racism is a deeply imbedded, archly defining characteristic of Canadian history. This is a legacy that has contributed in tenaciously rooted and fundamental ways to the current shape of Canadian society.” Despite the fact that there are more minorities and women than ever before in the legal profession, racism and sexism still exists in our legal system. It is of fundamental importance that we all recognize that there are serious problems in our justice system and that we must work to improve it and make it more responsive to the needs of all. The worst that we can do is laud ourselves for what a wonderful system we have. It is good, it is dynamic and it will never be the ideal system of justice that we all want and believe in unless we work at making it so. ❖



Doug Hunt, Q.C., on behalf of the late Honourable Justice Archie Campbell, LL.D.

I am accepting this post-humous honorary Doctor of Laws Degree on behalf of the late Justice Archie Gray Campbell. Before Justice Campbell died, the Treasurer informed him that he would be receiving this prestigious award today. While Justice Campbell undoubtedly knew that he would not be present today to receive it, he was very pleased and excited, because he loved the law and everything about it. He committed his professional life to serving the public. His generous spirit and his personality set Archie apart from all other lawyers and judges of his time. He treated each person with respect and courtesy, no matter what their rank or status. He had a profound sense of justice and he constantly struggled to be certain that justice was administered fairly and evenly in every situation over which he had influence. What do I think that Archie Campbell might have said to those of you who are so fortunate to be embarking on the great adventure that is the practice of law? I think that he might have exhorted each of you to embrace this new challenge with everything you have, but not to let it consume you to the exclusion of all of the other interesting aspects of life that make it rich and memorable. I think that he might have said that while you should passionately pursue justice at every turn, continue to be open to all of the other delights in the world around you, and do not take yourself too seriously. And he would have undoubtedly said, “Have fun and laugh.” ❖



▲ The late Honourable Justice Archie Campbell

Doug Hunt, Q.C. ▶

Law Society hosts symposium on history of Canadian legal profession

To celebrate the 175th anniversary of Osgoode Hall, the Law Society held an on-site symposium on the History of the Canadian Legal Profession on October 12. The one-day event highlighted the legal profession's long and rich history with a diverse offering of papers from scholars across the country. Presenters explored historic themes relating to the profession's early history, legal education, social change, professional ideology and writing legal history.

The symposium concluded with a thought-provoking discussion on the future of legal history scholarship and suggestions for encouraging research in the field.

More than 120 people attended the symposium, which was followed by a reception. This was the final celebration held at Osgoode Hall this year in honour of the building's anniversary. ■

History symposium Chairs, from left to right: Jim Phillips, Professor of Law, University of Toronto; Law Society bencher Constance Backhouse, Faculty of Law, University of Ottawa; and W. Wesley Pue, Faculty of Law, University of British Columbia.



"Early History of the Profession in Canada" panellists are shown here, from left to right: Jean-Philippe Garneau, Professor of History, University of Quebec in Montreal; Deidre Rowe Brown, PhD Candidate, OISE, University of Toronto, and Executive Assistant to the Treasurer, Law Society of Upper Canada; Jim Phillips, Professor of Law, University of Toronto; June Girvan, Volunteer-in-Chief, J'Nikira Dinqinsh Education Centre's History-in-the-Street Initiative: North Star Legacy/Reconciliation Day in Ottawa; and Jeffrey Welsh, PhD Candidate, Queen's University.



Panellists of "Writing the History of the Profession" are, from left to right: Donald Fyson, Professor of History, University of Laval; Christopher Moore, author and legal historian; session Chair Susan Lewthwaite, PhD, Research Co-ordinator, Corporate Records and Archives, Law Society of Upper Canada; Philip Girard, Faculty of Law, Dalhousie Law School; and Gregory P. Marchildon, Canada Research Chair, Graduate School of Public Policy, University of Regina.



▲ Panellists for “History Aspects of Professional Ideology” are, from left to right: Rhodri Windsor-Liscombe, Head of Department of Art History, Visual Art and Theory, University of British Columbia; Eric M. Adams, Professor of Law, University of Alberta; Graham Price, Barrister & Solicitor, Member of Alberta, NWT, Nunavut and Manitoba Bars; session Chair Philip Girard, Faculty of Law, Dalhousie Law School; and Hamar Foster, Professor of Law, University of Victoria.



175 Years • 175 ans Osgoode Hall



▼ The panellists who presented “Legal Education in Historical Perspective,” are, from left to right: David G. Bell, Professor of Law, University of New Brunswick; Mélanie Brunet, PhD, Sessional Lecturer, Department of History, University of Toronto; and Charles Levi, Graduate Student, Master of Information Studies, University of Toronto.

▲ “The Profession and Social Change: Individual and Collective Studies” panellists are, from left to right: Susan Lewthwaite, PhD, Research Co-ordinator, Corporate Records and Archives, Law Society of Upper Canada; session Chair W. Wesley Pue, Faculty of Law, University of British Columbia; Dorothy E. Chunn, Professor of Sociology & Anthropology, Simon Fraser University; and Law Society bencher Constance Backhouse, Professor of Law, University of Ottawa.



Law Society develops new strategies to assist articling students facing challenges in obtaining articles

THE LAW SOCIETY IS FORGING AHEAD WITH NEW, PROACTIVE STRATEGIES DESIGNED TO ADDRESS CHALLENGES STUDENTS MAY FACE WHEN ENTERING THE PROFESSION. THE STRATEGIES WILL BE DEVELOPED BASED ON THE FINDINGS OF THE ARTICLING CONSULTATION REPORT COMMISSIONED BY THE EQUITY AND ABORIGINAL ISSUES COMMITTEE. THE CONSULTATION TOOK PLACE IN 2006 AND THE REPORT WAS PRESENTED TO CONVOCATION IN JUNE 2007.

Conducted by the market research firm, The Strategic Counsel, the study was designed to uncover some of the challenges to obtaining articles, as well as any common issues among those who were unable to find articling positions. The consultation also looked at specific experiences of students seeking articling positions, including those from Francophone, Aboriginal and equality-seeking communities, as well as mature and internationally trained (NCA) students.

“We wanted to make sure we understood the needs of these students so that we could develop successful programs to provide assistance and address the specific challenges faced by some students,” explains Josée Bouchard, Law Society Equity Initiatives Advisor. “Not all students encounter the same challenges. For example, mature students don’t necessarily face the same challenges as racialized, Francophone, or internationally trained (NCA) students,

and mature women may face different challenges than mature men when entering the profession.”

A target group of 299 students who were still seeking articling positions or had withdrawn from the process was identified. Of that group, a total of 52 were interviewed.

While those who participated in the consultation experienced difficulty in securing an articling position, three communities of interest to the Law Society reported particular challenges that were in many respects, unique to them: NCA students, mature students and members of racialized communities.

NCA Students

NCA students participating in the consultation said they faced challenges related to finding information about the accreditation process and finding an articling position once they became accredited.

In response to concerns identified by this group, the Law Society plans to increase information and networking opportunities for NCA students by organizing two symposiums in spring 2007. The concept builds on the experience of providing similar, specialized symposiums to Aboriginal students. The Aboriginal student symposiums began in 2004 and students and lawyers who have participated in the program have responded very positively.

Mature Students

The consultation found that mature students, regardless of whether they had partners or children, often face challenges that their younger colleagues do not. For example, they often believe that their age is a detriment to their job prospects.

Findings also show that, in particular, female mature students of childbearing age face the greatest barriers – because of perceptions about family responsibilities and how that might detract from their job performance.

As a result of the findings, practical guidelines and resources will be developed to help legal employers adopt recruitment policies and/or practices that are fair and inclusive, and take into account the unique experiences of mature students as well as those of racialized and NCA students.

Racialized Communities

Members of racialized communities who participated in the study also said they faced challenges that their colleagues did not. While they noted that there were no reports of overt

racism or racially based inappropriate questions asked during articling interviews, they inferred from their experiences that their racialized status impeded their job search.

Some participants, for example, pointed to cultural conventions that would be difficult for them to adhere to. Additionally, these participants had the perception that there is a greater prevalence of family networks with connections in the legal community among those who are not members of racialized communities.

As a result, practical and helpful strategies to help racialized students in entering the profession are being developed.

Other Strategies

The Equity and Aboriginal Issues Committee also plans to:

- ❖ Work with career offices of the Ontario law schools to develop strategies to address the challenges outlined in the Articling Consultation Report.
- ❖ Enhance student access to information about diverse career opportunities, including opportunities in legal clinics, with the government, in education, in corporations and in private practice.

The strategies stemming from the Articling Consultation Report complement many other projects and initiatives undertaken by the Law Society, including a recent consultation about developing strategies to retain women in private practice. This important project examines best practices to retain women in private practice and looks at the best practices in other jurisdictions. The study, along with recommendations, will be

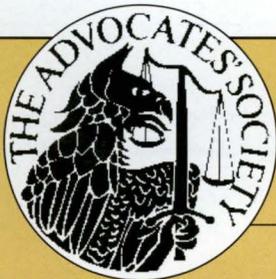
presented to Convocation in the winter of 2008.

Another recent survey polled some 5,000 lawyers at the entry level to see what factors affect their career choices when entering the legal profession. Results from this study are also anticipated at the beginning of 2008.

The Law Society also recently initiated a mentoring and peer support program tailored to the needs of students and lawyers with disabilities.

“We continue to be proactive in enhancing our programs and looking at new initiatives,” says Bouchard. “The Articling Consultation Report provides us with another building block.”

For more information about equity initiatives and programs, visit the Law Society website at www.lsuc.on.ca. ■



Michael Eizenga

THE ADVOCATES' SOCIETY announces new executive

Michael Eizenga, of Siskind, Cromarty, Ivey & Dowler LLP in London, has been named President of The Advocates' Society for the 2007-08 term. Joining Mr. Eizenga on the Executive Committee are **Peter J. E. Cronyn**, of Nelligan O'Brien Payne LLP in Ottawa (First Vice-President); **Sandra A. Forbes**, of Davies Ward Phillips & Vineberg LLP in Toronto (Second Vice-President); **Marie T. Henein**, of Henein and Associates in Toronto (Treasurer), and **Mark D. Lerner**, of Lerner's LLP in London (Secretary).

The Advocates' Society is a professional association for advocates, with some 3,600 members throughout Ontario. It is the primary provider of advocacy skills training in the province and it plays a prominent role in justice reform initiatives and in preserving and strengthening the position of advocates and the rights of the public.

For more information about the Advocates' Society, visit www.advocates.ca.



THE LEARNING PARTNERSHIP

Take Our Kids to Work™

at Osgoode
Hall

Osgoode Hall rang with the sound of young voices as the Law Society of Upper Canada again hosted students for the annual Take Our Kids to Work Day on November 7. Lawyers were invited to register grade nine children they knew for a program designed to give students an overview of legal careers.

Over 200 students participated, and the popular program filled up quickly. The students heard from a variety of knowledgeable speakers with a wealth of information including:

- Nancy Reason, Manager, Professional Development, The Law Society of Upper Canada;
- Cettina Cornish, Counsel, Professional Development & Competence, The Law Society of Upper Canada;
- Steve McClyment, Senior Investigation Counsel, The Law Society of Upper Canada;

- Francine Herlehy, Assistant Dean (Student Services), Faculty of Law, University of Windsor;
- Joseph Salmon, student, Osgoode Hall Law School;
- Reena Lalji, Associate, Gowlings;
- and Martha McKinnon, Executive Director, Justice for Children & Youth.

Over the course of the afternoon, participants engaged in presentations and discussions on how to become a lawyer, the law school and the law student experience, working in a firm and a legal clinic and on what makes a bad lawyer. Attendees took home a CD-ROM with interactive resources on planning a legal career.

Take our Kids to Work Day is a national initiative of the Learning Partnership that began in 1994. This is the second year that the Law Society has made the program available to lawyer licensees and their guests.

NEWS • ROUNDUP

Child Advocacy Project



The Child Advocacy Project kicked off the 2007 school year with its Recruitment and Training Session on August 28. Lawyers interested in volunteering with the Child Advocacy Project were invited to participate in the training session, which served as a general primer as it relates to human rights and children. A record 45 new volunteer recruits heard Martha Mackinnon, Executive Director of Justice for Children & Youth, and Jeffrey Rosekat

of Gardiner Roberts, speak on recent and upcoming changes to the *Education Act*, safe school policies and education law.

The Child Advocacy Project is a free service of Pro Bono Law Ontario, conducted in partnership with The Advocates' Society (Ontario's largest law association) and Justice for Children and Youth. The program is dedicated to safeguarding the public education rights of children and youth across Ontario.

Through the service, volunteer lawyers provide free legal services to:

- Students who are involved in the Special Education process
- Children and youth who are at risk of being suspended or expelled
- Children and youth who are being denied the right to enrol in school
- Students who feel unsafe at school.

For more information, please visit www.childadvocacy.ca.

Louis Riel Day public forum looks at co-management issues

Leaders from Métis and First Nations communities gathered at the Law Society on November 16 to discuss perspectives on negotiating and managing co-management agreements with the federal and Ontario governments. More than 90 people attended the forum, held in honour of Louis Riel Day. Aboriginal Affairs Minister Michael Bryant provided opening remarks to the forum, talking about his Ministry's priorities. Shown here, from left to right are: Austin Acton, law student; John Beaucage, Grand Council Chief, Anishinabek Nation; Justice Duncan, lawyer, EcoJustice Canada; Jean Teillet, partner, Pape Salter Teillet LLP; and Tony Belcourt, Métis Nation of Ontario President.



National Aboriginal Day

In recognition of National Aboriginal Day, which is traditionally celebrated on June 21 each year, the Law Society of Upper Canada hosted a public legal education seminar and reception on June 7, 2007. The seminar provided a perspective of both the role of Aboriginal judges and the situation for Aboriginals accused within the criminal justice system. The panel of speakers included two Aboriginal judges – Justice Harry LaForme, of the Court of Appeal for Ontario; and Justice Todd Ducharme, of the Superior Court of Justice of Ontario, who also serves as a deputy judge for the Supreme Court of the Northwest Territories. Justice LaForme, who is the first Aboriginal person appointed to any appellate court in Canada, told the audience



of approximately 120 people that there is a “strong tendency for the media and the public to focus on Aboriginal protesters as law-breakers rather than on the fact that they are protesting broken laws, also known as breaches of treaties or dishonoured treaties.” Shown above: former bencher Tracey O'Donnell and Justice Harry S. LaForme.

Pride Week forum examines future of lesbian, gay, bisexual and transgender legal activism

To celebrate Pride Week, a group of the legal community's most ardent advocates and activists gathered at Osgoode Hall on June 20, 2007 to discuss potential obstacles faced by the lesbian, gay, bisexual and transgender (LGBT) community. Forum panellists noted that while LGBT activists have successfully achieved a measure of equality in Canada that is among the best in the world, there is still work to be done, primarily in the areas of education and access to justice. The forum attracted some 130 participants. The Law Society and The Sexual Orientation and Gender Identity Section of the Ontario Bar Association co-hosted the forum and the reception that followed.

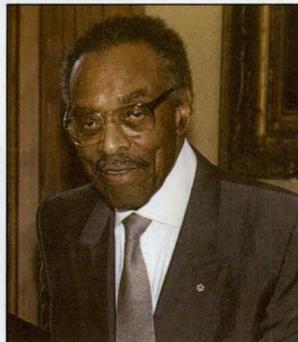
2008 Nominations Requested



Law Society Medals

The Law Society Medal was established in 1985. The purpose of the award is to recognize outstanding service within the profession, whether in a particular area of practice, the academic sphere or in some other professional capacity. The award may be made for devotion to professional duties over a long period or for a single outstanding act of service in accordance with the highest ideals of the legal profession.

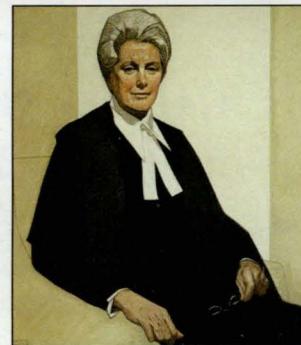
Nominations for this award should be submitted in writing with a current curriculum vitae and letters of support. Persons who have been nominated in past years, but not recognized, may be nominated again.



Lincoln Alexander Award

The Lincoln Alexander Award is awarded annually in recognition of an Ontario lawyer who has demonstrated long-standing interest and commitment to the public and to the pursuit of community service on behalf of residents of Ontario. The award was created in 2002 in honour of The Honourable Lincoln M. Alexander, P.C., C.C., O.Ont., Q.C., former Lieutenant Governor of Ontario, Member of Parliament, federal Cabinet Minister, and 2002 Law Society Medal recipient, to reward his dedication to the people of Ontario and the legal community.

Nominations for this award should be submitted in writing with a current curriculum vitae and letters of support. Persons who have been nominated in past years, but not recognized, may be nominated again.



Laura Legge Award

In May 2007, Convocation approved the establishment of the Laura Legge Award. This award is to be given annually, beginning in 2008, to a female member of the Law Society who has exemplified leadership within the profession.

Laura Legge has been a member of the Law Society of Upper Canada since 1948. She became the first elected female bencher, the first woman ever to serve as Treasurer and is a senior partner of the firm of Legge & Legge. This award has been created to recognize her exemplary professional career, her mentorship of other lawyers, her long-standing service to the Law Society and her admirable contribution to community service.

Nominations for this award should be submitted in writing with a current curriculum vitae and letters of support.

Deadline for nominations is February 29, 2008

Deidré Rowe Brown, Office of the Treasurer
Osgoode Hall, 130 Queen St. West, Toronto, Ontario M5H 2N6



The Law Society of
Upper Canada | Barreau
du Haut-Canada

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6



NOTIFICATION OF CHANGE OF ADDRESS: return mailing label, amended accordingly, to the Client Service Centre, at the above address or contact LSUC at (416) 947-3318 or e-mail to records@lsuc.on.ca