



Benchers Bulletin

May 1993 Vol. 1 No. 8

Message from departing Treasurer

As my term as Treasurer comes to an end, I want to express my gratitude for the privilege of serving the profession in that position and to touch briefly upon some of the many important issues

that Convocation has dealt with during the past year.

I have enjoyed the past twelve months enormously. It has been very exciting to play a part in the development of the profession's policies and programs, and a great pleasure to work with the



Allan Rock

Benchers in establishing our priorities and advancing toward their achievement. I have especially enjoyed the opportunity to travel throughout Ontario, visiting county and district law associations and hearing directly from lawyers about their concerns and their perspectives.

While the profession can draw some measure of satisfaction from the progress the Law Society has made on various fronts in this past year, it is clear that significant challenges remain in key areas:

- Although the Legal Aid Plan was fully funded in 1992-93, recently-announced government cutbacks and a projected shortfall in income from the Law Foundation have created new anxiety about sources of funding for the current fiscal year. The profession will have to renew its efforts to persuade government to accord the appropriate level of priority to legal aid funding, in order to ensure that this crucial social service remains intact.
- An important beginning has been made in meeting the challenge of ensuring equity of access to legal education and practice. Convocation has long since recognized that the profession must reflect the diversity of On-

tario's population, and is encouraged to know that an increasing number of visible minorities are enrolling in and graduating from law schools. The profession must ensure equitable access by all to articling and employment opportunities and to advancement within the profession. The Society is engaged at present in a number of initiatives to assure access, and I am confident that those continuing efforts will meet with success through the co-operation of the profession.

- Some months ago, Convocation initiated a complete review of our Rules of Professional Conduct in order to determine whether they provide, in their present form, sufficient guidance to the profession. The review was authorized following a two-day Benchers' conference on current professional values, and reflects the priority that the Law Society attaches to the preservation and enhancement of professionalism among lawyers. The review of the rules, which is expected to take between two and three years to complete, will include the publication of discussion papers on topics of professional interest, so that the Law Society can elicit the views of the profession and ensure that a new formulation of the rules is responsive and sufficiently reflects the complexities of modern practice.
- In March of this year, Convocation approved significant changes to the way in which Benchers are elected. The new procedures, which are expected to be in place for the next election in 1995, will guarantee representation in Convocation by each of the province's judicial regions, while preserving the right of lawyers throughout Ontario to participate in the election of the majority of Benchers, no matter where they might practice.
- Convocation recently approved a proposal from the Legal Education Committee that the Law Society's efforts be redoubled in con-

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nection with the enhancement of continuing legal education, particularly in areas outside the major urban centres. The Society has been concerned for some time about its obligation to ensure high quality, uniform and accessible CLE throughout the province. The Society will be proposing various models for discussion, many of which are intended to forge partnerships with local law associations for the purpose of facilitating the production and presentation of CLE programs locally.

Convocation's agenda is filled with important items that will require energy and commitment if the challenges that they present are to be met. I have every confidence that the profession will continue to discharge its responsibility

to serve the public in accordance with the highest standards in the years to come.

The one-year term as Treasurer to which I was elected last June would ordinarily end on June 25th this year with the election of my successor. I have decided, however, to step aside effective June 1st because of my recent nomination as a candidate in the forthcoming federal election. My decision to do so has been based on my overriding concern that neither the Law Society nor the office of Treasurer should be subjected to any hint of criticism or even comment arising from my political involvement. I am indebted to Ken Howie, who as Chair of Finance, will become Acting Treasurer until the election of my successor at the June Convocation.

Three candidates to contest Treasurer election in June

On June 25th, benchers will elect a new Treasurer among the three candidates listed below. The successful candidate will assume office immediately.



Paul Lamek, Q.C.

*Partner Genest Murray DesBrisay
Lamék, Toronto
Elected bencher 1987
Chair Legal Education Committee
Fellow, International Academy of
Trial Lawyers
Fellow, American College of Trial
Lawyers
Called to the bar 1964*



Colin D. McKinnon, Q.C.

*Partner Beament Green Dust,
Ottawa
Elected bencher 1987
Chair Professional Standards
Committee
Certified specialist in criminal
and civil litigation
Former chair, County & District
Law Presidents Association
Called to the bar 1970*

"I believe that the Law Society must continue its various initiatives aimed at reforming our processes and policies to ensure that both our members and the public continue to have confidence in our ability to be self-governing. To that end, we must be highly sensitive and responsive to our members' needs and the expectations of the public. We should be seriously concerned about the 48 per cent of our members who **choose** not

to vote in bencher elections. Addressing the concerns of those who feel estranged from the Law Society, for whatever reason, must be a priority for the new Treasurer."



Marc Somerville, Q.C.

*Partner Gowling, Strathy &
Henderson, Kitchener
Elected bencher 1987
Chair Professional Conduct
Committee
Certified specialist in civil
litigation
Former alderman and
deputy mayor of Cambridge
Called to the bar 1967*

"In recent years the Law Society has made significant progress in addressing substantive issues facing the profession. If elected Treasurer, I shall encourage the Law Society to complete a number of the initiatives that are currently under consideration, including the comprehensive review of our Rules of Professional Conduct. I look forward to working with the Attorney General to ensure early approval of the amendments to the *Law Society Act* which implement, among other matters, our Discipline Procedures Reform package.

There is more to be done. These are times of fundamental change in the practice of law in Ontario. The Treasurer, with the support of Convocation, must seek to ensure that in this challenging climate, the interests of the public and the profession are protected and advanced. I would be honoured to have that responsibility."

Specialists up for renewal

The specialist certificates of approximately 200 of Ontario's 624 certified specialists will be up for renewal on August 24, 1993. Certified in the area of either civil or criminal law, these members represent the first pool of lawyers to be certified by the Law Society of Upper Canada whose specialist program was first launched in 1988. Today the specialty designation is granted in six areas of legal practice, namely: criminal, civil, combination criminal and civil, family, immigration and intellectual property.

Specialist certificates have currency for a period of five years from their date of issue and the Certification Committee has now established formal criteria for renewal of the designation. Candidates must meet the following requirements:

- be a member in good standing of the Law Society of Upper Canada
- have a satisfactory professional standards record over the currency of the specialist certificate
- demonstrate continued substantial involvement in the specialty field, consistent with the present certification standards
- demonstrate satisfactory participation in continuing legal education or other forms of professional development over the past five years
- comply with the usual peer review (references) requirements
- be subject to the usual application, administrative and annual fees.

Applications for certification may be requested from the Certification Office at (416) 947-4062.

E&O levy set to rise

Based on figures for January 1993, the February issue of Benchers Bulletin expressed cautious optimism that the claims outlook was beginning to improve. While the dollar value of claims has decreased somewhat, the volume of claims has not abated. High volume levels are thought to be recession driven and similar trends have surfaced in a number of common law jurisdictions on several continents.

In order to meet E&O's 1997 deficit elimination target and to prevent a further rise in the deficit which now stands at approximately \$24 million, the supplemental level is being increased by \$400 per member. The first \$200 is payable with the next insurance instalment due July 1.

The majority of members will now pay \$1,700 for insurance coverage for the second half of 1993. Members are encouraged to submit payment prior to June 30 to avoid the 8 per cent PST on insurance premiums unveiled in the May 19 provincial budget.

Law in the 90's: profession or business?

The challenges presented to the legal profession by the increasing pressures of commercialism emerged as one of the dominant themes at a conference held by the Law Society last fall to address the issue of professionalism in the 90's.

The two-day conference focused on the changes in professional values and standards which have occurred over the past 25 years. Issuing from the conference were a series of recommendations and conclusions aimed at identifying the role of the Law Society in forging a new concept of professionalism that is responsive to the contemporary realities of legal practice.

A Law Society special committee is being struck to study the impact of commercialism on the practice of law. The committee is expected to examine closely the consequences of the growing emphasis on profit-maximization which is exemplified by the practice, common in many firms, of establishing annual billing targets. Close attention will be focused on the extent to which the following have been affected:

- access to legal services
- professional standards and quality of service to clients
- professional development opportunities for junior lawyers
- independence of the profession
- lifestyle choices and expectations among lawyers.

In the meantime, the Law Society has adopted a series of policy statements that spell out its obligations to both the profession and the public in the areas of education, standards and regulation. Accordingly, the Law Society has committed itself to:

- ensuring that the Rules of Professional Conduct set out the ethical principles by which lawyers should govern themselves in fulfilment of their responsibilities to the public
- maintaining the standards of competence which the public has a right to expect of a self-governing profession
- encouraging continuing ethical discourse within the profession
- making known to the public the ethical standards by which the profession has agreed to govern itself.

Upcoming Events

Osgoode Hall

Discipline Convocation June 24

Regular Convocation June 25

The Osgoode Society

Bibliophiles and those with a keen interest in Canadian law and legal history are encouraged to join the Osgoode Society and receive their upcoming book *Legacies of Fear* free of charge. A membership application is enclosed with this mailing.



Established in 1979, the Osgoode Society has published 18 books and directs an oral history program which

has conducted over 170 interviews on developments in Canadian legal history.

Articling positions still needed

The Law Society has been contacted by a number of highly qualified students who have not yet secured an articling position for the 1993-94 articling year. Members who are able to offer a position commencing this summer for either the full 12-month term or a portion thereof are requested to contact Mimi Hart, Director of Placement, at (416) 947-3420 or fax (416) 947-9070, providing the particulars of the available position.

The Law Society
of Upper Canada



Le Barreau
du Haut-Canada

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Convocation attendance and roll-call votes

May 28, 1993	Attend		Motions*	
	a.m.	p.m.	1	2
Arnup, John				
Bastedo, Thomas	✓	✓		A
Bellamy, Denise	✓		Ab	
Bragagnolo, Rino	✓	✓	A	A
Brennan, Lloyd	✓	✓	A	A
Campbell, Colin	✓	✓		F
Carter, Robert				
Copeland, Paul	✓	✓	A	A
Cullity, Maurice	✓	✓	A	A
Curtis, Carole				
Elliott, Susan				
Epstein, Philip	✓	✓		A
Feinstein, Abraham	✓		A	F
Finkelstein, Neil	✓	✓	A	A
Goudge, Stephen	✓		A	F
Graham, Netty	✓	✓	A	F
Hickey, Michael	✓	✓	A	A
Hill, Casey				
Howie, Kenneth	✓	✓		F
Howland, William	✓		A	F
Kiteley, Frances	✓	✓	A	F
Krishna, Virender	✓			A
Lamek, Paul	✓	✓	A	A
Lamont, Donald	✓	✓	F	A
Lax, Joan	✓	✓	A	A
Legge, Laura	✓		A	A
Lerner, Samuel				
Levy, Earl				
McKinnon, Colin	✓	✓	Ab	F
Manes, Ronald	✓		A	
Martin, Arthur				
Mohideen, Fatima	✓	✓	A	F
Murphy, Daniel	✓	✓		F
Murray, Ross	✓	✓	A	A
O'Brien, Brendan				
O'Connor, Dennis	✓	✓		F
O'Connor, Shirley				
Palmer, Julaine	✓	✓	A	F
Peters, Patricia	✓		F	F
Richardson, Nora	✓	✓	A	
Robinette, John				
Ruby, Clayton	✓	✓	A	F
Scace, Arthur				
Scott, David	✓	✓	F	A
Sealy, Hope	✓		A	F
Somerville, Marc	✓	✓	A	F
Strosberg, Harvey	✓	✓		F
Thom, Stuart	✓	✓	F	A
Topp, Robert	✓		F	A
Wardlaw, James	✓	✓	F	F
Weaver, Mary	✓		F	A
Yachetti, Roger	✓		F	A
Rock, Allan (Treas.)	✓	✓		

Non-voting Benchers in attendance

R. Cass, A. Lawrence, G.H. Farquharson, K. Jarvis, P.B. Pepper.

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

1. To delete item in Legal Aid report authorizing \$20,000 for a consultant to determine the proper role of the Committee and its relationship to Convocation. Lost 27 to 8, two abstentions.
2. That the recommendation to not allow BAC students extra consideration for reasons of lack of language proficiency be reconsidered by the Legal Ed. Committee. Lost 19 to 18.