

Communiqué

Number 117

10th December 1981

The Benchers voted at a Special Convocation today to discontinue the present Preferred Areas of Practice Programme, and adopted the recommendations of a Special Committee on Advertising the Nature of a Practice that the Rules be changed to provide that false, misleading or promotional advertising should continue to be prohibited; members be allowed to continue to show up to three areas of practice on signs and letterheads and elsewhere, but must include the words "preferred area (or areas) of practice"; no names of preferred areas to be used except those which have first been approved by the Society; those who advertise one or more preferred areas of practice must file with the Society every two years a certificate that during the preceding two years no less than 20% of their practice time was spent on each preferred area listed. An acceptable alternative for the certificate due in January 1984 would be to state that the requisite points had been earned under the old Preferred Areas of Practice Programme. Those newly called would file the certificate at the end of their first two years of practice; members can again show that their practice is restricted to a named area or areas of law, and the present rules respecting advertising the location and hours of practice, languages spoken, initial consultation fee etc. are unchanged.

A Special Committee on Recent Amendments to the Income Tax Act relating to Work in Progress reported today. The new requirements would apply to all fiscal periods ending after 1981 which poses a problem for many firms, particularly small ones which would not have accurate records from which to calculate their work in progress, and the amendment fails to provide an adequate phasing-in period. The Department of Finance has indicated, apparently, that the cost of work in progress at the end of a fiscal period could be defined so as to refer only to direct costs associated with the work in progress and will not include indirect costs, such as secretarial salaries, rents, and overheads. Direct costs will, however, include disbursements on behalf of clients, and salaries of employed lawyers, articling students and law clerks. Sole practitioners and partners will not need to arrive at a 'cost' for their time spent on a file. The Treasurer will write to the Minister of Finance pointing out the areas of concern, including the fear that the amendment would discourage firms from participating in the Ontario Legal Aid Plan, under which interim billing is not permitted.

Amendments to the Law Society Act Regulation and Rules will be sought to give responsibility to the Discipline Committee to decide issues of misconduct and penalty with an appeal lying directly to the Divisional Court. Convocation would still be responsible for general discipline policy. A number of procedural changes are also needed and the Committee will report back with detailed draft amendments.

A senior insurance executive will be sought to join the Society's staff to assume overall management of the Errors and Omissions Insurance Plan.

Patrick Luciani of Welland was disbarred. He had failed to maintain sufficient balances in his trust account to meet his trust obligations, solicited investments by clients in a corporation in which he had a substantial interest without advising them to obtain independent legal advice, and failed to fulfill a personal undertaking.

Kenneth Jarvis,
Secretary.