



Benchers Bulletin

January 1993 Vol. 1 No. 4

Equity initiatives reflect changing demographics

The Law Society's committee on equality in legal education and practice has developed a series of initiatives designed to respond to Ontario's rapidly changing demographics.

Census figures from 1986 indicate 8.6 per cent of Ontarians were racial minorities and this figure is expected to be more than 25 per cent in 20 years. By 2001, 2.8 million racial minorities will reside in Ontario—50 per cent of whom will be located in Metro Toronto. Blacks comprise the single largest minority group in Ontario followed by Chinese, Indo-Pakistani, West Asian and Arab communities.

Several law schools have initiated measures to ensure that future lawyers will be more representative of the community they serve. Currently, 25 per cent of students admitted to Ottawa, Queens, Osgoode and Windsor law schools are aboriginals or members of visible minority groups, as are 20 per cent of students entering the bar admission course.

A cursory glance at the Ontario legal

community reveals that minorities are under-represented. Recent surveys and other evidence show that black lawyers do not have the same range of choices among places to practice. Disproportionate numbers of visible minority lawyers are employed by government or are engaged in private practice—often because of a lack of alternatives.

The Law Society's challenge is to devise programs and policies to ensure a level playing field once individuals from minority groups apply for articling positions and permanent employment.

In an address to the Delos Davis Law Guild last December, Treasurer Allan Rock unveiled plans to adopt employment equity initiatives for use in law offices which would facilitate the hiring and advancement of minorities.

Toronto benchers Stephen Goudge chairs the Society's equity committee which has carriage of this task, and is also spear-heading a number of related initiatives including:

- *Professional conduct rule on employment equity.* Research is underway to identify barriers to employment equity and to gather judicial comments on equity issues. By April or May, 1993 this process will yield recommendations with respect to drafting a rule to deal with employment equity similar to that developed for sexual harassment.
- *Education equity awards.* First established in 1991, the goal of the awards is to promote diversity and equity in legal education. The awards—each valued at \$1,666—are made available to one second- or third-year visible minority law student from each Ontario law school. The criteria are based primarily on financial need.
- *Assistance to foreign-trained lawyers.* A sub-committee on access to legal education is developing proposals for an educational

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Law Society Medal Nominations

Nominations are invited for the Law Society Medal. Members submitting nominations are asked to set forth reasons and give the names of references. In doing so, nominators should bear in mind the purpose of the award which is to recognize outstanding service that is in accordance with the highest ideals of the legal profession. Nominations should be submitted to Richard Tinsley, Secretary, before May 3, 1993.

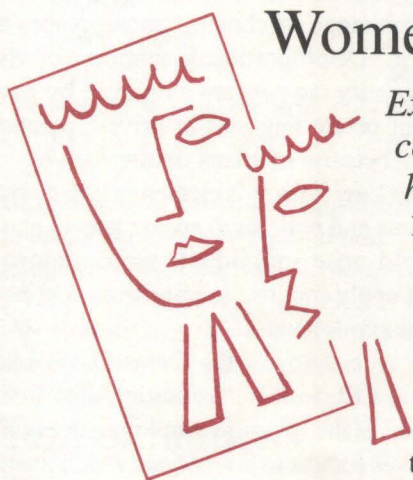


program to assist foreign-trained lawyers to qualify in Ontario. This initiative will address the inequalities identified in a 1989 task force report on access to professions and trades.

- *Increasing placement opportunities for visible minority articling students and lawyers.* With a view towards launching a similar initiative, the access to legal education sub-committee is studying a statement of goals on minority hiring, retention and promotion developed by the New York City Bar Association, which sets a 10 per cent hiring goal for visible minority lawyers during the period 1992-97. Focus groups with representatives from Ontario law firms

will be set up to examine the issues surrounding the development of a comparable policy in Ontario.

- *Survey of black law students, articling students and lawyers.* A Law Society survey probing the experience and perceptions of 110 blacks who have pursued a career in the Ontario legal profession was conducted in August 1992. The results will be released in the near future pending review by the Black Law Students' Association of Canada. Although response rates were only about 50 per cent, the preliminary findings suggest that a significant number experienced some form of discrimination during the course of their education or employment.



Women in the legal profession...

Exhibit celebrates history

It was just over 100 years ago that the Ontario legal profession admitted the first female to its ranks. In

1892, Clara Brett Martin

became not only the first woman to gain admission to the Law Society of Upper Canada but was also the first female lawyer in the British Commonwealth.

The Law Society of Upper Canada will pay tribute to the achievements and contributions of women in the legal profession in a new exhibit to open next month at Osgoode Hall.

"Crossing the Bar: A Century of Women's Experience 'Upon the Rough and Troubled Seas of Legal Practice' in Ontario" will feature a wide assortment of artifacts, photographs and documents from the Society's archival holdings and from the collections of private lenders and institutions. The exhibit chronicles the history of women's experience at the bar within the context of wider social developments and highlights the personal challenges facing women who chose a career at the bar.

"Crossing the Bar" runs from March 25 to August 27, 1993 at the Law Society of Upper Canada Museum, Osgoode Hall. Opening hours at Monday to Friday, 10:00 am to 4:30 pm. Call Elise Brunet at (416) 947-4041 for further information.

Committee examines gender issues

The Law Society has appealed to a number of professional legal organizations across Ontario in an effort to enlist their participation in a coordinated effort to resolve a number of pressing gender issues raised in the Law Society's 1991 report "Transitions in the Ontario Legal Profession." The Canadian Bar Association's Task Force on Gender Equality, chaired by former Supreme Court Justice Bertha Wilson, is expected to confirm and further elaborate on the findings of gender inequality in the legal profession when it reports later this year.

The coordinating committee would consolidate the efforts of a number of legal organizations which are working simultaneously on various initiatives to promote gender equality in the profession.

According to the Law Society's proposal, the coordinating committee's mandate would include the creation of a number of working groups in every region of the province, each of which would be responsible for addressing certain gender-related issues and reporting their findings back to the coordinating committee.

Among the issues that merit timely consideration are the following: alternative work arrangements, parental/family responsibility policies, job security and satisfaction, bias and discrimination, including multiple discrimination affecting minorities and the disabled, systemic bias and exclusion.

It is imperative that participation on the coordinating committee be as inclusive as possible. Organizations and individuals wishing to participate in this initiative are encouraged to write to Susan Elliott, Chair, Women in the Legal Profession Committee.

Prepaid plans get green light

In keeping with the Law Society's commitment to enhance access to legal services, benchers adopted a report at January's Convocation which recommends that the Society "actively promote and encourage" the establishment of prepaid legal plans in Ontario.

The Report of the Special Committee on Access to Legal Services noted however that the establishment of such plans are subject to the following guidelines:

- Employees who must enrol in a pre-paid legal service plan as a condition of their employment must be entitled to choice of counsel.
- The plan provider must not interfere with lawyers' ability to exercise independent professional judgment on behalf of their client.
- The plan provider must ensure that systems are developed to prevent violations of Rule 5-Conflict of Interest.
- Advertising and trade names must be accurate and must not lead to or create unjustified expectations.
- Lawyers may participate in prepaid legal plans without violating Rule 12's prohibition against telemarketing providing that personal contact with a plan member is not undertaken by a lawyer who would be providing legal services under the plan, or any organization controlled directly or indirectly by such plan.

The Law Society will pursue a number of initiatives to facilitate the establishment and operation of prepaid plans. The report proposes amendments to the Law Society regulation in order to allow for the filing of forms 2 and 3 on behalf of plans rather than individuals and to enable referrals to be made to staff offices without violating current rules against steering.

A Society public opinion survey conducted by Decima Research last year found that only 17 per cent of the public were aware of prepaid legal services plans and only two per cent were currently enrolled in one.

Copies of the prepaid legal services report and the Decima survey are available by contacting the Communications Department at (416) 947-3465.

Insurance Update

- *Levy exemption: pro bono work for non-profit organizations.* Lawyers who are exempt from paying the E&O levy and who wish to perform pro bono services on behalf of non-profit organizations may now apply for a continuing E&O exemption by submitting an executed form detailing the entity on whose behalf they member would be acting, the nature of the professional services to be performed and the time frame for completion of the services.

- *Corporate counsel.* Errors & Omissions insurance coverage does not apply to corporate counsel in the event their employer files a claim or suit against the solicitor-employee. Such claims or suits are currently excluded under the LPIC policy and having reviewed the issue, the Law Society has determined that the relationship between the employer and corporate counsel is not reflective of the solicitor-client relationship in private practice. Coverage therefore, will not be extended to corporate counsel.
- *Contract lawyers subject to E&O levy.* Members who work exclusively as contract lawyers for government and private sector entities are reminded that they do not qualify for exemption from the E&O levy. Levy exemption rules require that they be employees of such entities.

LSUC to keep name

Traditionalists prevailed in the debate whether to change the name of the Law Society of Upper Canada to the Law Society of Ontario.

During January Convocation, a motion to change the Society's name, moved by Toronto bencher Stuart Thom and seconded by Sudbury bencher Robert Topp, was defeated by a vote of 12 in favour and 17 against.

During the course of the debate, one bencher pointed out that the Metro Toronto phone book reveals that Upper Canada has enjoyed a renaissance in usage: Upper Canada Coffee Works & Tea Mill, Upper Canada Soap & Candle Makers, Upper Canada Post & Beam...Law Society of Upper Canada.

FYI

- **ADR.** The Sub-committee on Dispute Resolution will release its report next month. Ottawa bencher Lloyd Brennan, chair of the sub-committee, promises that the report's recommendations will break new ground in dispute resolution in Ontario. A summary of the report will be included with the next Benchers Bulletin.
- **Annual Reports.** Members are reminded that the Law Society's 1992 Annual Report is available in both English and French. Copies can be requested by calling the Communications Department at (416) 947-3465.
- **Proceedings of Convocation.** Beginning in February 1993, transcripts of Convocation proceedings will be forwarded to all County Law Libraries on computer diskette. Transcripts will no longer be forwarded in printed paper form.

Upcoming Events

Osgoode Hall, Toronto

February 16-17

Federation of Law Societies Meeting

February 26

Convocation

March 3 - August 27

Exhibit: Crossing the Bar (see inside)

Treasurer's Diary

Allan Rock looks forward to addressing the members of law associations in the following locations:

Hamilton	February 11
Sudbury	February 18
Owen Sound	February 24
Durham	March 4
Kenora & Thunder Bay	March 5
Kirkland Lake	March 8

In response to member requests, included with this month's Bulletin are spine labels to assist in storing and organizing Law Society newsletters. The labels fit a 1.5-inch binder. Also included is a telephone directory that outlines the services provided by departments and lists direct access numbers.

Text of motions

Legal Aid

- #1 That the Report of the Student Legal Aid Societies Subcommittee be referred back to the Legal Aid Committee for further consideration. Carried by a vote of 21 to 15.

LSUC name change

- #2 That the Law Society membership be polled by way of referendum to determine whether the name should be changed to the Law Society of Ontario. Lost by 22 to 8 with one abstention.
- #3 That the feeling of the membership be sought by way of a plebiscite on the question of whether the name of the Society should be changed to the Law Society of Ontario. Lost by 21 to 9 with one abstention.
- #4 That steps be taken toward the end of changing the name of the Law Society of Upper Canada to the Law Society of Ontario. Lost by 17 to 12 with two abstentions.

Benchers Bulletin

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Convocation attendance and roll-call votes

Jan. 29, 1993	Attend		Motions*			
	a.m.	p.m.	1	2	3	4
Arnup, John						
Bastedo, Thomas	✓	✓	A	A	A	F
Bellamy, Denise						
Bragagnolo, Rino	✓	✓	F	A	A	A
Brennan, Lloyd	✓	✓	A	A	F	F
Campbell, Colin	✓		F			
Carter, Robert						
Copeland, Paul	✓	✓	A	F	A	A
Cullity, Maurice						
Curtis, Carole	✓		A			
Elliott, Susan	✓	✓	A	F	F	F
Epstein, Philip	✓	✓	A	F	A	Ab
Feinstein, Abraham	✓	✓	F	A	A	A
Finkelstein, Neil	✓	✓	F	A	A	F
Goudge, Stephen	✓	✓	A	A	A	F
Graham, Netty	✓	✓	A	A	A	A
Hickey, Michael						
Hill, Casey	✓	✓		A	A	A
Howie, Kenneth	✓	✓	A	A	A	A
Howland, William	✓		F			
Kiteley, Frances	✓		A			
Krishna, Virender	✓	✓	F	A	A	A
Lamek, Paul	✓	✓	F	A	A	A
Lamont, Donald	✓	✓	F	A	A	A
Lax, Joan	✓	✓	A	A	F	F
Legge, Laura	✓		F			
Lerner, Samuel						
Levy, Earl	✓	✓	F	A	A	A
McKinnon, Colin	✓	✓	A	A	F	F
Manes, Ronald						
Martin, Arthur						
Mohideen, Fatima	✓	✓		F	A	F
Murphy, Daniel						
Murray, Ross	✓	✓	F	A	A	A
O'Brien, Brendan	✓	✓	A	A	A	A
O'Connor, Dennis						
O'Connor, Shirley						
Palmer, Julaine	✓	✓	A	F	F	F
Peters, Patricia	✓	✓	F	A	F	A
Richardson, Nora	✓					
Robinette, John						
Ruby, Clayton						
Scace, Arthur	✓	✓	A			
Scott, David	✓	✓	F	F	F	A
Sealy, Hope	✓	✓	F	F	A	F
Somerville, Marc	✓	✓	F	A	A	A
Spence, James	✓	✓		Ab	Ab	Ab
Strosberg, Harvey	✓		F			
Thom, Stuart	✓	✓	F	A	F	F
Topp, Robert	✓	✓	F	F	F	F
Wardlaw, James	✓	✓	F	A	A	A
Weaver, Mary	✓	✓	F	A	A	A
Yachetti, Roger	✓		F			
Rock, Allan (Treas.)	✓	✓				

Non-voting Benchers in attendance

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

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

Text of motions and vote results are outlined in an article on this page.