



## IN MEMORIAM:

**AUSTIN M. COOPER, Q.C. LL.D:** Austin Cooper passed away peacefully on September 24th. The Law Society awarded Austin an honorary LL.D degree at a Special Convocation on August 15, 2013. For 60 years Austin had been the quintessential mentor and role model for countless members of the Bar. He was always a strong proponent of legal aid and successfully defended the first murder case funded by the plan. He won numerous awards and contributed directly to the profession as an elected Bencher from 1971 to 1987. He will be fondly remembered and sadly missed as a hero of our profession. His Funeral Service will be at 5:00 p.m. Sunday, September 29, 2013 at Benjamin's Park Memorial Chapel, 2401 Steeles Avenue West, Toronto.

**MARSHALL CROWE:** Marshall passed away on August 16, 2013 at the age of 92. He became a lawyer when he was close to 70. He served the profession as an elected Bencher and the public as a soldier, diplomat, executive and confidential advisor to Prime Ministers and the Federal Cabinet. In recognition of Marshall's contributions, he was awarded the Law Society Medal in 2002. Marshall had a winning smile. He was fair minded and you always knew what he was thinking. A memorial gathering is planned in Ottawa on October 17th from 5:00 p.m. at the Rideau Club.

## CONGRATULATIONS:

**JUSTICE WENDY MATHESON:** Wendy Matheson was appointed to the Superior Court in June. She made an enormous and valuable contribution to Convocation in the time she served as an elected Bencher. She will be missed in Convocation.

**AVY YAO-YAO GO:** In accordance with the Law Society By-Law, Avy has been elected to fill the vacancy created by the appointment of Justice Matheson.

## CONVOCATION PROCESS:

To facilitate the work of Convocation, the Treasurer has instituted a process for approving consent agenda items. The importance of this initiative is demonstrated by merely looking at the recent material provided for Convocation that included 691 pages. Like many well run Boards, this allows for advance notice of routine or non-controversial matters that can be approved collectively without debate. However, any Bencher may have an item removed from the consent list and addressed in the ordinary fashion.

## LAW SOCIETY FINANCES:

The Law Society has long term investments that are professionally managed. As at June 30, 2013, the fair value of the of the 3 portfolios was about \$73.0 million. Over the past four years the overall gross returns have increased relative to the benchmarks.

## 2014 LAW SOCIETY LEVY:

The Finance Committee has worked with staff in assessing budget projections over a three year period in order to make a recommendation for next year's membership levy. Funding is required to maintain Law Society functions that cost in excess of \$100 million. Over 70% of that comes from annual fee revenue paid by lawyers and paralegals. About \$7.0 million comes from the Continuing Professional Development programme, which is intended to be cost neutral. Like many businesses, staffing costs amount to more than half the overall budget expense. Convocation is scheduled to consider the budget in October. Stay tuned.

## 2014 LAWPRO COVERAGE:

Our base premium of \$3,350 will remain unchanged for the fourth consecutive year. To reflect changes in coverage and claims the premium would have increased by about \$200 per lawyer except that LAWPRO accessed the E & O fund to avoid a premium increase. The annual cost of claims again exceeds \$100 million per year. Significant losses continue to arise from lawyers allowing claims to be administratively dismissed. Accordingly, commencing in 2014, lawyers who have a claim paid because of such a dismissal will face an increased deductible (by \$10,000.). The punitive nature of the increased deductible is intended to change our behaviour through improved diarizing, staff training and responses to Court notices.

Cybercrime is a "new" problem facing lawyers as well as society generally. LAWPRO will

provide us with coverage of up to \$250,000. But this development is a wakeup call for law firms to undertake risk management programmes and take advantage of planned LAWPRO education programmes.

## CPD:

**December 31<sup>st</sup>** is the deadline by which lawyers must have completed 12 hours of continuing education which includes 3 hours of mandatory practice management and ethics education. In 2014, the Law Society will charge \$25.00 or \$50.00 registration fees for its professionalism programs. By doing so the Law Society expects to keep registration fees down for substantive programs. This is a significant change from the original commitment that Law Society professionalism programs would be offered free of charge.

## CONTINGENCY PLANNING:

The Law Society Reports filed annually reveal that 80% of the profession do not have practice contingency plans in place. This is critical because about 95% of Ontario firms are sole practitioners or small firms made up of aging lawyers. Convocation identified this as a priority requiring urgent attention. As a result, Contingency Planning Guides are posted on the Law Society website. In addition, a free live webcast is scheduled for **October 28, 2013**. It is up to each of us to protect our clients, our practice, and ultimately our estate. Do something.

## NEW LAW SCHOOLS:

LAKEHEAD UNIVERSITY has opened the first new Ontario Law school in more than 40 years. Designed to respond to the shortage of lawyers and articling positions in the north, the new faculty intends to offer a focus on aboriginal and environmental law. The founding dean is Lee Stuesser and the school is located on the site of the former Port Arthur Collegiate Institute.

TRINITY WESTERN UNIVERSITY, a private Christian liberal arts university in Langley, British Columbia has applied to the Federation of Law Societies for approval of a law school it hopes to open in 2015. Some are uncomfortable with establishing that school as the University describes its mission "as an arm of the Church, to develop godly Christian minds; growing disciples of Christ who glorify God through fulfilling the Great Commission, serving God and people in the various market places of life." It is understood by the Langley Times that the University has a covenant that "all students have to sign that includes abstaining from pre-marital sex, consuming alcohol on campus and viewing pornography. It also says the Bible reserves marriage between a man and a woman." A 2001 Supreme Court of Canada decision permitted the University to establish a School of Education on the basis of a freedom of religion Charter right and the absence of demonstrable discrimination (<http://canlii.ca/t/dmd>). It appears that the thrust of today's opposition among students and Law Deans is unrelated to the Christian themed mission statement but is rather a concern that the University will discriminate against law students based on sexual orientation. One of the questions to be explored is whether such a faith-based school would be discriminatory having regard for the Supreme Court decision.

## CONVOCATION REPORTS:

All reports to Convocation can be viewed at <http://www.lsuc.on.ca> in order to more fully understand the issues facing Convocation, you may wish to review previous editions of Banack's Bencher News at <http://banackresolutions.com/bencher-newsletter/>.

If you would like to either receive this newsletter via email or be removed from the subscription list, please send a message with your instructions to: [larry@banackresolutions.com](mailto:larry@banackresolutions.com).

**PLEASE NOTE MY NEW COORDINATES**

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