

 **Banack's Bencher News**

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*Issue #22*

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*March 26, 1999*

**BAR ADMISSION COURSE REFORM:** After almost 7 years of various deliberations, a Task Force Report containing 14 Recommendations was debated in March Convocation. Multiple representations were received from the profession in relation to the consultation process, the need for structural reform and the availability of alternatives. As a result, another model, named the Student Choice was advanced that contemplated three scheduling options permitting a call to the bar as early as October/November. Convocation adopted the recommendation of the Task Force that will commence with Phase 1 in 2001 to maintain the continuation of the current model, however, allow for the Student Choice model as well. For a better understanding of the extent of the analysis which included a consideration of the purpose of the course, available technology, the role of articling and competency testing, I suggest you obtain the Task Force Report contained in Convocation's material of March 26, 1999 by contacting Mr. Bob Bernhardt at 947-3300 or 1-800-668-7380.

**LPIC:** The Insurance Task Force delivered its annual report, concluding that many of the 1999 recommendations had been implemented. The Chair of LPIC, Bencher Ross Murray and President, Malcolm Heins, have certainly fulfilled the mandate given to them. These include the requirement that: LPIC be operated in a commercially reasonable manner, some coverage be limited and other coverage eliminated, costs should reflect risk, and that claims should be settled fairly and expeditiously. In 1998, annual premiums collected from lawyers totalled \$80.0 Million, while the volume, transaction and claims history surcharges contributed \$40.3 Million.

**BENCHER COMPENSATION REFERENDUM:** In 1998, Benchers were called upon to attend to Law Society business on approximately 49 days (representing approximately 340 hours), plus the days spent on Task Forces, working groups, writing discipline decisions or dealing with members of the profession. In considering your response to the referendum question, you may wish to consider issues such as a desire to promote access to be elected to the Bench, economic hardship, the need to eliminate elitism, long hours of service, the honour and the voluntary nature of the service provided to the profession. For your information, the composition of the current Bench elected without compensation is: 57% of elected Benchers are sole practitioners or from firms of 2 to 4 lawyers; only 15% are from firms with 50 or more lawyers. While 30% of Ontario lawyers are women, 32% of the elected Benchers are women.

**RULES OF PROFESSIONAL CONDUCT:** An enormously important debate will take place at a Special Convocation on April 29, 1999 dealing with the Law Society Rules. A Task Force final report, including draft new rules, will be available for your review shortly. Hopefully, all interested law associations will secure copies and comment before April 29th. Please contact Mr. Varro at 947-3300 if you wish to obtain your copy. The report proposes many changes and innovations in respect of the Rules concerning solicitation, referral fees, conflicts of interest, advocacy and competence.

**COMPLAINTS:** Approximately the same number of files were opened in 1998 as in the preceding year. The age of the files discloses that matters are being dealt with more promptly and thoroughly within reduced time spans. It will be instructive to track the ADR Pilot Project, begun in January, 1999 to see how it impacts on the complaint process.

**LAWYER FUND FOR CLIENT COMPENSATION:** The Fund paid out grants totalling \$4.5 million in 1998 compared with \$5 million in 1997. Following the experience from past years, the single largest claim area (76.5%) related to the loss of mortgage investment funds and thereafter trust misappropriation claims (10.5%). At year's end, there were approximately 250 open claims.

**DISCIPLINE:** 1998 saw 252 matters authorized and referred to the Discipline Department, compared with 409 matters in 1997. The significant decrease is largely attributable to the reduced prosecutions for failure to make annual filings due to the introduction of the self reporting option; an innovation I instigated. It remains to be seen whether the new ADR initiative reduces formal proceedings in 1999.

**BAR ADMISSION COURSE:** Enrollment in Phase 1 and 3 has remained relatively constant in the last two years. In 1999, 1,230 lawyers were called to the bar, representing an increase of approximately 10% over the preceding year.

**SPECIALIST CERTIFICATION:** There are currently 569 certified specialists in Ontario. The program is self-funding. The Construction Bar has demonstrated a need for a specialist certification in its area. I have endorsed that proposal and also suggest that a Real Estate designation is appropriate and should be pursued with equal vigour for our colleagues practising in that area.

**COUNTY AND DISTRICT LIBRARIES:** All 48 have been provided with computers, CD Roms, electronic access to publications and free access to the Quicklaw database.

**EQUITY INITIATIVES:** The Law Society Equity Advisor has now been hired and a discrimination/harassment ombudsperson will be appointed within the next several months.

**THE HONOURABLE MR. JUSTICE SAM FILER:** On March 22, 1999, the League for Human Rights of B'Nai Brith Canada awarded Justice

Filer the Special Human Rights Award. Justice Filer has suffered from ALS for approximately 16 years. His multiple accomplishments and contributions made him a most fitting candidate for the award. Although his physical activities have been curtailed by the debilitating disease, he continues to perform judicial functions on a regular basis. I am pleased and proud to be part of a profession served by a judiciary led by Justices McMurtry, Lesage and Smith, who have implemented a process permitting Justice Filer to continue to contribute to our society by focusing on what he is able to do rather than on what he cannot. Justice Filer and his energetic and resourceful wife, Ms. Toni Silberman, serve as role models and our Court has demonstrated the moral and ethical leadership which provides an appropriate standard for our own personal and professional lives.

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