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## **BANACK'S BENCHER NEWS #2**

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August 21, 1995

TO:  
FAX:

### **Legal Aid**

Since my last newsletter, an enormous and exhaustive consultation effort was undertaken by the Law Society Legal Aid Committee. Benchers travelled throughout the Province and attended 46 meetings with the profession in order to discuss the issues surrounding the Legal Aid Plan. Information was provided to you in the urgent flyer sent from the Law Society. We have received feedback from various professional associations, including the comments of C.B.A.O. members and numerous letters from individual practitioners. A comprehensive brief was received from the Criminal Lawyers' Association with extensive recommendations which you should review.

Although the Attorney General asserts a commitment to a judicare model of legal aid, there has been no retreat from the Government's public statement that \$130 million is to be withdrawn from the Legal Aid budget. The current level of service cannot be provided with such a restrictive budget.

Those in the profession who have responded indicate a wish to continue to provide acceptable access to justice for all Ontario residents, but not "on the backs of lawyers". 40% of Ontario lawyers deliver some level of service through legal aid and they must, at the very least, have the security that work performed on the strength of Legal Aid certificates will in fact be paid for in the future. No one can provide that guarantee at the present time.

This matter will be debated in Convocation on August 29, 1995.

I anticipate that a motion will be advanced that the Legal Aid Plan should stop issuing certificates as of September 1, 1995, until the Government promises to pay, in a timely fashion, for the legal services. Another anticipated motion will propose that payments for all Criminal work be made on a time basis and that the block fee structure be replaced. Such motions will crystallize the issues and will make our profession the first to engage in a public dispute with the Attorney General. We of course run the risk that the underlying purpose of the motion will be misinterpreted and misstated by both the Government and the public to the detriment of the profession. As a matter of principle, the Government will not wish to lose a show down and there will be no winners in the ensuing dispute in which any position will likely be characterized as "greedy lawyers' job action".

The consultation process elicited responses in order to implement a short term plan to meet current budgetary problems. Events may overtake that approach. PLEASE CONSIDER YOUR POSITION AND ENSURE THAT ALL BENCHERS ARE INFORMED OF YOUR VIEWS, PARTICULARLY WITH RESPECT TO THE ANTICIPATED MOTIONS.

As I expect that this matter will receive considerable media attention in the coming weeks, I will not forward a further newsletter to you at that time.

### **Errors & Omissions Insurance**

On a positive note, the Chairman of LPIC has reported that the deficit reduction effort has had success. The deficit has been reduced by approximately \$28 million since November, 1994 and it is forecast that by December 31, 1995, the deficit will be approximately \$100-\$110 million, compared with the deficit of \$153 million shown in the financial statements as at June 30, 1994. It therefore appears that we are on track to retire the deficit within the time frame set out in the Insurance Task Force report because the collection of the various surcharges and policy changes are now really beginning to impact.

If you have any questions, require additional information or have any suggestions or criticisms to offer, either before or after August 29th, please do not hesitate to send them to me by fax (416-977-3316) or telephone.

Larry Banack