
BANACK'S BENCHER NEWS #6

May 3, 1996

Legislative Package: After years of inaction, Convocation approved a package of proposed legislative amendments which has been forwarded to Queen's Park for scrutiny and hopefully early implementation. Many of the changes will increase the efficiency of the administration of Law Society business and revamp the discipline process. In that respect, discipline committees will make final decisions, subject to review by a limited appeal panel. The previous automatic hearing process by all Benchers at Discipline Convocation, occupying at least one day per month, will be eliminated. As well, it will be possible to expedite the disciplinary process and/or take interim measures, where necessary, as against members involved in dishonest or improper actions. The legislative package should be available for your review, upon request, from the Law Society Communications Department.

Legal Aid: The only positive note in this area is that the Government cut-backs announced in April expressly stated that Legal Aid and clinic funding would not be reduced at the present time. However, feedback from family and criminal law practitioners has convinced me that we were wrong to maintain a level of issued certificates and permit fees to fall below the threshold that can ensure proper preparation and diligent representation. The most often heard suggestion is to significantly decrease the number of certificates and permit adequate funding to allow proper representation. The current situation is unsatisfactory and the problems remain unresolved. I speculate that, in the near future, Convocation will again be forced to consider whether it is the appropriate body to affect the social change which will result from continued administration of the circumscribed legal aid plan, rather than by the elected provincial government which, by reason of its fiscal management, is in the driver's seat. If the plan is turned over to the Government, the problem will be that the profession can never again expect to have supervisory authority over its application and the new plan administrator may have different priorities than those which are important and have sought to be protected by our profession to date.

Paralegals: Convocation has authorized and budgeted for the prosecution of the unauthorized practice of law by paralegals, although we may never have enough money to do the job completely. The public is entitled to protection from untrained "legal advisors". However, we cannot ignore the realities of the market place, nor the fact that competently trained paralegals can fulfil a cost-effective, useful function for the public and those lawyers electing to utilize and supervise the work of paralegals. The Government should decide that the resolution of this problem lies in the proper training, certification and insurance of paralegals, rather than their elimination which the public would view as the profession's parochial attempt to protect "lawyers' turf".

Fax Feedback: The last Newsletter sought feedback with respect to issues of importance to you and ways in which we could be better served by the Law Society. Because of the number of responses received, I cannot reproduce the entire list of issues identified, however, it was provided to the Treasurer, Susan Elliott, for her use. The following summarizes the information which provides an anecdotal list of the concerns of those responding:

Most Pressing Problems

Financial concerns/staggering overhead
Maintaining quality client service
Stress
Home life
Paralegals
Title insurance
Competence of opposing counsel
Decline in professional courtesy
Deterioration of professional ethics
Public perception of profession
Rationalization of C.L.E.
Maintaining professional competence
Professional collegiality

Law Society Improvements

Law Society dues payable monthly
Change O.R. format
Reduce mailings
Insurance optional--client choice
Revise role statement/represent lawyers
Enhance lawyers' image
Reduce bureaucracy
Mandatory minimum tariffs
Facilitate part-time work
Create lawyer's pension plan
Significant punishments for improper conduct

Responses to the following question: "Would you agree to an increase in your own annual insurance levy of \$250.00-\$500.00 in order to provide reduced premiums to the large group of lawyers who are now finding it impossible to survive economically and meet their financial obligations in today's economy?"

Yes: 9

No: 51

Other: 11

Internet: The Law Society home page should be up and running by May 15, 1996. The initial presentation was tremendous and I urge those of you with electronic access to check it out. Hopefully, we are not far from having the capacity to electronically file our returns and reduce unwanted mail by simply being able to view the information we really want as we need it.

Numbers in the Profession: After reviewing multiple background reports and participating in information gathering sessions, Convocation spent an entire day debating the issue of numbers in the profession. Having regard to the diverse concerns expressed, the Law Society reaffirmed its policy of not restricting numbers entering the profession and of vigorously pursuing the enhancement of lawyer competence. With the economic distress being experienced by so many of our colleagues, it is necessary that we continue our efforts to maximize the ability of honest, hard-working lawyers to earn a decent living while serving the public in the highest traditions of the profession. Please fax back any suggestions.

L.P.I.C.: The 1994 deficit will, hopefully, be reduced to below \$100M by the end of this year. This is still a staggering sum, but at least progress will have been made in the deficit being reduced by one-third. The Ontario Court (General Division) has ruled that the *Law Society Act* authorizes the existing mandatory insurance scheme which is therefore beyond the scope of the *Competition Act*. Convocation has asked L.P.I.C. to determine when a member is uninsurable and establish criteria as to when a member who has had multiple claims may be obliged to reattend the Bar Admission Course to continue as an active practising member of the profession.

IF YOU HAVE ANY TRANSMISSION DIFFICULTIES WITH RESPECT TO THIS NEWSLETTER OR WISH NAMES ADDED OR DELETED, PLEASE RETURN THIS PAGE BY TELECOPIER AND YOUR REQUEST WILL BE IMPLEMENTED. FAX# (416) 977-3316

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