
BANACK'S BENCHER NEWS #7

HAVE WE MADE A DIFFERENCE?

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FIRST ANNUAL REVIEW

That is the question being asked by all of the new Benchers elected in May, 1995. The answer, of course, is uncertain. After only one year, there has clearly been no significant shift in perception that the Law Society has turned the corner or is functioning more effectively and efficiently in fulfilling its statutory mandate as it spends our dues.

It is interesting to wonder whether at some point in time the "newly elected" Benchers may become apologists for the status quo. I do not think that is the case, and I believe that many of us continue to strive for the reforms or improvements we wrote about in the Spring of 1995, however, it is now fair to consider what we have managed to address and deal with.

Legal Aid: We were confronted with a crisis that was responded to by way of extensive Bencher consultations and communications with the Attorney General. Did we succeed in maintaining a first class Legal Aid delivery system that was the pride of Ontario? Obviously no. What did we accomplish? We managed to forestall the government from immediately implementing its common sense revolution edict to save \$130M. that would have seen the termination of the Legal Aid Plan as we know it. The cost? A much reduced and significantly less effective means of ensuring access to justice. Grade: A for effort; C for success; D for outcome as it affects the public. Where are we going? A newly approved, trimmed down Legal Aid Committee should help the Law Society become more businesslike in its administration of the Plan. Based on current funding, I do not believe that the profession should indefinitely bear the responsibility for implementing government philosophy which it effects by controlling access to justice through availability of resources. Stay tuned for a Fall assessment of the Plan's status and possibly a fresh motion that the Plan administration be returned to the Government.

L.P.I.C.: Now that was a substantive and public relations disaster! Was the criticism warranted? Of course. However, in the past year, the thrust of Convocation has been to require that L.P.I.C. address our captive insurance market as a competitor and require innovation and price competitiveness. We have seen the reduction of the paralysing deficit. However, the coming year will demonstrate whether L.P.I.C. can "deliver the goods" to earn any degree of confidence from the Profession in the product or service we are obliged to purchase as confirmed by the recent Court decision that the Law Society is empowered to maintain a mandatory insurance program. As a profession, not only do we need reduced premiums, but we need alternate and perhaps selective costing to accommodate part-time practitioners and to recognize and charge for inherent insurance risks. Change and improvement must still be the order of the day at L.P.I.C. I know that the current L.P.I.C. management team is fully aware of the difficulties and I have a cautious reserved optimism that we will see progressive enhancements to the policy and administration. Grade: B+

Governance: I confess that before starting this job, I had no idea what was meant by the term "governance" nor how it applied the work of the Law Society. However, within months of becoming involved and attending an enormous number of meetings of Convocation, committees, sub-committees and workshops, it was painfully obvious that the 200 year old method of doing business at the Law Society had to change. Although instinctively the entire Profession knew that there were problems at Osgoode Hall, until I had the opportunity of viewing the situation from the inside, I could not even begin to get a handle on what some of the causes might be. Before we arrived, an enormous amount of work and thought had already gone into the problem. Although the direction had not been fully mapped out, a more current management approach utilizing a C.E.O. and policy governance model that would require Law Society staff to be effective, pro-active and deserving of their jobs was obviously needed. The cushy, historic atmosphere that Law Society staff were paid to do the bidding of transient, elected Benchers was perhaps overstated, but correct in part. After hundreds of hours of discussion, committee meetings and debate, Convocation has adopted a new approach. Text books are written on the approach and reports available for your review, if you wish. Significant staff changes have been made at the Law Society during the past year and, presumably, if necessary will continue to be made to fulfil the administrative mandate now required of the staff. Is the new system perfect for our circumstance? Not likely, but the approach can be amended as may be necessary in the course of time to reflect our needs. Will it work? I believe it will and I am certain that it must be an improvement over the system which had been in place last May. Grade: A+ for effort; ? for effectiveness.

Program Review: All pre-existing Law Society programs have been scrutinized. Some have been eliminated and some varied but others have been maintained, perhaps merely because no suitable alternative could be implemented. Convocation has and will continue to grapple with the relevancy and cost-effectiveness of every program to maintain only legitimate, justified activities that we should be pursuing as a self-regulating profession. Grade: B

French Speaking Discipline Panels: As a result of two separate debates, Convocation has now approved a policy entitling French speaking colleagues the opportunity to elect to have discipline proceedings conducted in the French language. To the extent possible, the discipline panels will be made up of French speaking Benchers. However, it is expected that there are an insufficient number of Benchers capable of conducting hearings in French and accordingly it will be necessary to identify and train an appropriate panel of French speaking lawyers who may be capable of participating in such discipline hearings. The necessary qualifications and selection process for panel members has not yet been determined. Grade: A

Proactive Strategy: In recent months, there have been motions, rhetoric and speeches relating to the distress many of us are facing as lawyers in the 90's. Our problems are accentuated by Legal Aid, cost of practice, client service needs, and a changing legal environment, all of which must be balanced against our family and professional commitments. At the July Convocation, staff was given the task of producing a strategy report to canvass areas in which we may be helped, including the reduction of fees, levies, career counselling, mentoring and skills development. Convocation wants to help. If you have suggestions, whether large or small, please forward them to me. Grade: A

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