

THE LAW SOCIETY OF BRITISH COLUMBIA

MINUTES

MEETING:	Benchers	
DATE:	Friday July 9, 2004	
PRESENT:	William Everett, QC, President	Darrell O'Byrne
	Ralston Alexander, QC, 1 st Vice-president	Margaret Ostrowski, QC
	Robert McDiarmid, QC 2 nd Vice-president	June Preston
	Joost Blom, QC	Glen Ridgway, QC
	Ian Donaldson, QC	Patricia Schmit, QC
	Michael Falkins	Alan Seckel, QC, Deputy AG
	Anna Fung, QC	Dirk Sigalet, QC
	Carol Hickman	Grant Taylor
	Gavin Hume, QC	Ross Tunnicliffe
	William Jackson	Gordon Turriff, QC
	Patrick Kelly	Dr. Maelor Vallance
	Terry La Liberté, QC	Art Vertlieb, QC
	Bruce LeRose	James Vilvang, QC
	Patrick Nagle	Anne Wallace, QC
		David Zacks, QC
ABSENT	John Hunter, QC	Lilian To
STAFF PRESENT:	James Matkin, QC, Executive Director	Michael Lucas
	Stuart Cameron	Neil Stajkowski
	Charlotte Ensminger	Alan Treleaven
	Su Forbes, QC	Ron Usher
	Jeffrey Hoskins	Adam Whitcombe
GUESTS:	Dean Bobinski, University of British Columbia	
	Robert Brun, President, CBABC	
	Caroline Nevin, Associate Executive Director, CBABC	
	Wayne Robertson, Executive Director, Law Foundation.	
	James Baird, Chair, CLE Society	
	Don Sherritt, Western Management Consultants	

1. MINUTES

The minutes of the meeting held on June 13, 2004 were approved as circulated

2. PRESIDENT'S REPORT

Mr. Everett reported on the outcome of the referendum on the Law Society annual practice fee. The result means that CBA membership and payment of CBA fees would be voluntary in 2005. Mr. Everett thanked Mr. Matkin and Mr. Hoskins for their work in bringing the referendum to the

members. He also thanked Robert Brun and the CBA for their cooperation in preparing the referendum question. Mr. Everett reiterated that the Law Society would work with the CBA in the period of transition from mandatory to voluntary membership.

Mr. Brun expressed the CBA's disappointment in the outcome of the referendum. He thanked the Benchers for allowing the CBA to have input into the referendum question and process. Mr. Brun reported that the CBABC Executive accepted the result.

Mr. Everett reported that a committee composed of CEOs of several Law Societies was working on a model rule with respect to cash transactions based on the draft principles previously discussed.

Mr. Everett reported on a tribute to Rick Sugden, QC by the profession, which resulted in donations of more than \$250,000 to a scholarship for the UBC trial advocacy program. He reported that the Executive Committee recommended that the Law Society contribute \$10,000 honour of Rick Sugden, QC.

It was agreed that the Law Society would contribute \$10,000, as recommended.

Mr. Everett acknowledged June Preston's retirement. He reviewed Ms. Preston's many career accomplishments and distinctions. The Benchers congratulated Ms. Preston.

3. EXECUTIVE DIRECTOR'S REPORT

Mr. Matkin distributed a written report to the Benchers. He said he would be providing a written report each month.

Mr. Matkin reported that during June 2004 the Land Title Office received over 100,000 filings, of which approximately 10,000 were done electronically.

Ms. Forbes reported on insurance matters. Ms. Forbes reported that insurance coverage of \$5 million, subject to a \$3 million deductible, was in place for Part B (trust protection) insurance from May 1, 2004. Regarding Directors and Officers coverage, Ms. Forbes reported that re-insurance was not possible, but it was possible to obtain coverage with a limit of \$5 million, subject to a deductible of \$25,000. She said the insurance covered Benchers, Law Society staff, committee volunteers and Law Society appointees to other non-profit boards.

Mr. Stajkowski reported that three large tenants were interested in space in the building at 750 Cambie Street and negotiations to fill 65% of the space were underway. Mr. Stajkowski reported that financing for the Wirick matter would be considered in September.

4. REPORT ON OUTSTANDING HEARING DECISIONS

The Benchers received a report on outstanding hearing decisions.

5. WESTERN MANAGEMENT CONSULTANTS

This matter was considered *in camera* .

6. PROPOSED AMENDMENT TO RULE 2-49.1 (IN-HOUSE COUNSEL RULE)

Mr. Alexander reviewed a proposal from the Credentials Committee to amend Rule 2-49.1 to eliminate an inconsistency with the national mobility protocol. He explained that before the implementation of the national mobility protocol, a lawyer transferring from another jurisdiction to practice in British Columbia as in-house counsel could do so without completing the transfer

examination but was restricted to practicing on behalf of his or her employer. In order to have that restriction lifted, the lawyer had to write and pass the examination. A lawyer transferring to British Columbia after implementation of the national mobility protocol is able to have the restriction removed by completing the mobility agreement reading requirement rather than completing an examination. However, a lawyer who transferred prior to the mobility agreement would still be required to complete the examination. Mr. Alexander explained that the proposed rule change would permit the lawyer who transferred before the mobility agreement to have the restriction removed by completing the reading requirement rather than the transfer examination.

It was moved (Alexander/Jackson) to amend the Law Society Rules by rescinding Rule 249.1(2) and (3) and substituting the following:

- (2) On an application under this Rule, the Credentials Committee may exempt an applicant from the requirements to write and pass the transfer examination or the qualification examination or complete the requirement under Rule 2-49.2(3).
- (3) A lawyer who is called and admitted as in-house counsel must practise law in British Columbia only on behalf of the lawyer's employer or one of its subsidiaries or affiliates.
- (4) On application of a lawyer called and admitted as in-house counsel, the Credentials Committee may relieve the lawyer of the restriction under subrule (3), on the lawyer
 - (a) writing and passing the required examination under Rule 2-49, or
 - (b) completing the requirements under Rule 2-49.2(3), if the lawyer
 - (i) has practised law full-time in British Columbia for 2 years, or the equivalent in part-time practice, immediately preceding the application,
 - (ii) is entitled to practise law in the jurisdiction of a reciprocating governing body of which the applicant is a member, or
 - (iii) was, when called and admitted in British Columbia, entitled to practise law in the jurisdiction of a governing body that is now a reciprocating governing body, of which the applicant was a member.

The motion was carried by more than two thirds of the Benchers present.

7. **PROPOSED AMENDMENT TO RULES CONCERNING RETIRED MEMBERS**

Mr. Alexander reviewed the recommendation of the Credentials Committee to relax the requirements for becoming a "retired member" of the Law Society in order to enlarge the cadre of lawyers able to do pro bono services. He noted that aside from the benefits to the public of increasing the availability of pro bono services, the current rules are problematic in that they require 25 consecutive years of membership in order to qualify for retired member status, with the result that a lawyer who takes one year out of membership must practice another 25 before qualifying. Finally he noted that the reinstatement fee might discourage some people from applying to be reinstated as retired members in order to provide pro bono services, particularly judges retiring from the Bench.

It was moved (Alexander/Jackson) to amend the Law Society Rules as follows:

1. *In Rules 2-3(2), 2-4(3) and 3-23(1)(a), by striking "December 31" and substituting "November 30".*
2. *In Rule 2-4, by*

a. *rescinding subrule (1) and substituting the following:*

- (1) A member of the Society in good standing who has done one of the following qualifies to become a retired member:
 - a. Reached the age of 55 years;
 - b. Been a member of the Society in good standing for 20 of the previous 25 years;
 - c. Been engaged in the full-time active practice of law for 20 of the previous 25 years.

b. *Adding the following subrule:*

- (4) The Benchers may, by resolution, waive payment of the annual fee by a retired member or group of retired members.

3. *In Rule 2-52, by adding the following subrule:*

- (2.1) On application from an applicant under subrule (2)(c), the Credentials Committee may waive payment of all or part of the reinstatement fee on any conditions that the Committee considers appropriate.

The motion was carried by more than two thirds of the Benchers present.

8. SIGNATORIES FOR CERTIFICATES AND AUTHENTICATIONS

Mr. Matkin introduced a proposal to amend the Law Society Rules to permit the Executive Committee to appoint by resolution one or more persons who may affix the Law Society seal to documents pursuant to Rule 1-43.

Mr. Everett noted that under Subrule 1-43(1)(a) two or more officers may affix the seal, but under subrule 1-43(1)(b) and subrule (2) one appointed person alone may affix the seal. Mr. Everett questioned why two people were required in one case but only one in the other.

Mr. Hoskins said subrule 1-43(1)(a) gave authority to officers to affix the seal to any document without restriction, but subrule (1)(b) gave authority restricted by the appointing resolution.

Mr. Zacks noted that it is common in the corporate field to allow the appointment of persons to seal corporate documents, particularly when there is a large volume of documents or the documents are of a routine business nature.

Ms. Hickman preferred a requirement that two appointed persons affix the seal.

Mr. Matkin observed that requiring two people to sign a routine certificate of standing or authentication would create significant administrative problems.

It was moved (McDiarmid/Zacks) *to amend Rule 1-43(1)(b) by striking out* “by resolution of the Benchers” *and substituting* “by resolution of the Executive Committee”.

The motion was carried by more than two thirds of the Benchers present

9. LAW SOCIETY (“BEGBIE”) AWARD 2004

Ms. Schmit reviewed a memorandum setting out the recommendation that the Law Society Award Committee for 2004 be awarded to Richard Sugden, QC.

It was agreed to award the 2004 Law Society Award to Richard (Rick) Sugden, QC.

10. REPORT FROM THE TASK FORCE ON THE PRESIDENT’S HONORARIUM

Mr. Alexander, Mr. McDiarmid and Ms. Fung were not present during the discussion and vote on this matter.

Mr. Matkin reviewed the recommendation of the Task Force on the President’s Honorarium to increase the President’s honorarium to \$80,000, and the Vice-presidents’ honoraria to \$30,000, and to index the honoraria to the Consumer Price Index for British Columbia in each future year. Mr. Matkin proposed that the Benchers place the matter before the members at the Annual General Meeting as a resolution.

Mr. Zacks expressed disappointment with the recommendations. He said accepting the office of President resulted in a huge dislocation of a Bencher’s practice because of the greatly increased commitment of time required for such matters as Federation of Law Societies meetings and other presidential duties. He said the proposed amount of the honoraria would effectively limit the presidency to lawyers who as individuals can afford to take that kind of compensation for three years, or who work for law firms that can afford to forego the revenue.

Mr. Ridgway said the amount of the honoraria should be constrained only by what the members would approve.

Mr. Everett noted that the possible appearance of conflict for all Benchers was why the question should be put to the members at the AGM.

It was moved (Ridgway/Vertlieb) to put a resolution to the Annual General Meeting seeking approval of the Task Force’s recommendations.

Mr. O’Byrne commented that the resolution could be contentious.

Ms. Ostrowski said it would be helpful to provide the members with facts about what functions and duties the President and Vice-presidents fulfill.

Ms. Hickman said it was almost impossible for a solo or small firm practitioner to be President without adequate compensation.

Mr. Turriff agreed that the President and Vice-presidents were expected to give up a large part of their practices and there must be some mechanism for providing sufficient compensation without sacrificing the ideals of volunteerism. He expressed concern about what would happen if the members rejected the proposal at the AGM. He suggested that it might be better to wait until next year before putting the question to the members to ensure that the Benchers are fully prepared.

Mr. Rideout agreed that there should be a review of the compensation paid to the President and Vice-presidents. He agreed with Mr. Zacks that there should be an increase.

The motion was carried.

It was moved (Vertlieb/Hickman) to refer the question of compensation for Lay Benchers to the Task Force for further consideration.

Mr. Ridgway was opposed to the motion. He noted that in Alberta Lay Benchers are compensated by the Provincial government. He said the Law Society should recommend to the government of British Columbia that they compensate Lay Benchers.

Mr. Nagle was opposed to the proposition.

The motion was carried. Mr. Nagle voted against the motion.

Mr. Alexander, Mr. McDiarmid and Ms. Fung returned.

11. LAW SOCIETY REPRESENTATIVE ON THE BC JUSTICE REVIEW TASK FORCE

Mr. Everett was not present during the discussion and vote on this matter. Mr. Alexander assumed the Chair.

Mr. Alexander recalled that the Justice Review Task Force was originally created some years previously to deal with a more rational allocation of superior court resources. The group has met periodically and done some good work. The matter was before the Benchers to decide if Mr. Everett should replace Richard Margetts as the Law Society representative on the task force. Mr. Alexander said the Executive Committee's view was that the task force should have a closer connection to the Bencher table than Mr. Margetts was able to provide.

It was moved (Nagle/Hume) to appoint Mr. Everett to the Justice Review Task Force instead of Richard Margetts.

Ms. Schmit was in favour of a closer tie to the task force, particularly from the perspective of the Access to Justice Committee.

Mr. Jackson asked if the Executive Committee's intention was to recommend the appointment of the immediate past-president each year, or would Mr. Everett's appointment to the task force continue past the end of 2005.

Mr. Alexander said the Executive Committee anticipated that Mr. Everett would continue for a period of time after which the appointment would be reviewed, but no fixed term was contemplated.

Mr. Vilvang agreed with having a sitting Bencher on the task force was opposed to appointing the current president because of the workload.

Ms. Hickman noted that if having a sitting Bencher on the task force was critical, then the past-president ought not be appointed.

Mr. LaLiberté said there should be a formal role for the immediate past-president, and he encouraged the Executive Committee to consider creating such a role.

Mr. Matkin noted that the Justice Review Task Force would be considering potentially significant changes to the Rules of Court. Mr. Everett was particularly interested in that aspect of the task force's work.

Mr. McDiarmid supported the motion but said the principle of having a sitting Bencher was important idea that should be explored. He suggested that a logical Bencher to appoint would be the Chair of the Access to Justice Committee.

Mr. Turriff endorsed appointing Mr. Everett. He commented that the task force had conducted its business privately, but in his view law reform should be done publicly. He said if the Law

Society was to contribute to the process, it should ensure that it is made public. Mr. Turriff did not think the task force had accomplished much since its inception. He noted that if the task force intended to revise the Rules of Court, he was unaware of it. Mr. Turriff noted that the Law Institute had been functioning for some years as the successor to the Law Reform Commission, and was able to assist the task force with its work, but it lacked adequate funding. He suggested that if the Law Institute was provided with some money, it could contribute to the work. He questioned why the Law Institute had not been brought into the process. Mr. Turriff urged the Law Society to ascertain the future intentions of the task force and either get it running effectively or abandon it in favour of promoting something else.

Mr. Vertlieb proposed to place a term limit of December 31, 2005 on the appointment.

It was agreed to amend the motion to include a term limit of December 31, 2005 on the appointment.

Mr. Zacks said the appointee should be asked to attend the Benchers meetings and report quarterly.

It was moved (Zacks/Ostrowski) to amend the motion to add that the person appointed be required to provide regular reports to the Benchers on the initiatives of the task force and their status. Mr. Zacks said that if an insistence on confidentiality by the task force prevented the appointee from making such reports, then the Law Society should reconsider its participation.

Ms. Ostrowski noted that Mr. Margetts had reported to the Access to Justice Committee but had been constrained by confidentiality.

Mr. Turriff said Ms. Ostrowski's comments confirmed that the Attorney General was requiring task force members to keep matters confidential

Mr. McDiarmid agreed that justice reform should be a public process. He noted that the Law Society was required to act in the public interest, and the Benchers should send the message that they want regular reports.

Mr. Zacks agreed that the public interest requires that reform not be done secretly.

The motion to amend by requiring the appointee to report regularly to the Benchers was defeated

The motion, as amended to include a term limit, was carried.

It was moved (LaLiberté/Hume) to refer to the Executive Committee the issue of creating a formal position of Past-president.

The motion was carried.

Mr. Everett returned and resumed the Chair.

12. FUTURES COMMITTEE MANDATE

Mr. McDiarmid reported that the Futures Committee would be bringing to the Benchers a proposal to alter its mandate to take away the responsibility for monitoring the work of task forces, having concluded that the Executive Committee is more appropriate for that task. He said the Committee intended to focus on big issues within the Law Society's mandate, such as how law reform is conducted. Mr. McDiarmid expected the Committee would provide a report in the next meeting.

13. PROPOSED *SAFE CARE ACT*, DISCUSSION PAPER AND INVITATION FOR COMMENT

Mr. Zacks was in favour of opposing the proposed legislation because he viewed it as a significant infringement on the freedoms of citizens of the province. However well intentioned it might be, legislation that allows people to be snatched of the streets was reminiscent of Nazi Germany.

Mr. Rideout did not think the Law Society should become involved with the legislation at this stage. He was sympathetic to the victims of exploitation, but he noted that a large number of people had input into the legislation, and said the Law Society lacked the expertise to comment. He noted that the CBA has an active legislative committee.

Mr. Alexander shared Mr. Rideout's view. He said the proposed legislation would be widely debated and the Law Society had not stake in the specific discussion.

Mr. Turriff recalled the *Heroin Treatment Act* in the 1970's, which was considered by many to unduly interfere with civil rights and was not brought into force. Mr. Turriff recalled that the BC Civil Liberties Association was very involved in that challenge, and he wondered whether that organization was taking any stand in relation to the proposed *Safe Care Act*. He said if they are, the Law Society could be quite comfortable taking no position, but if they are not, the Law Society should either encourage them to do so, or comment on the legislation.

Ms. Wallace disagreed with Mr. Zacks position. Ms. Wallace said that as a prosecutor in youth court, she thought the proposed Safe Care Act was a good piece of legislation, although it required a great deal of public scrutiny. The legislation would provide a needed tool to deal with some extreme situations. She suggested the Access to Justice Committee should review the legislation to decide whether to comment or not.

Mr. Vilvang said he did not know enough about the situation the *Act* was meant to deal with to make a decision. He suggested that the Law Society invite the Pivot Society to make submissions to the Access to Justice committee as to whether the Law Society should comment.

Mr. Jackson opposed making a recommendation because the legislation raised a highly charged philosophical issue between civil libertarian and paternalistic approaches to government involvement.

Ms. Preston said she had consulted with her colleagues on the issue. She said the question for "front line" people working with street youth was the commitment of resources for ongoing support outside the situation covered by the proposed legislation. She said the experience in Alberta was that this kind of legislation tended to move the targeted activities "underground".

Mr. Robertson said the BC Civil Liberties Association was actively involved in making submissions on the legislation with Law Foundation funding.

Ms. Ostrowski noted that this issue had begun with the Access to Justice Committee, and appeared to be working its way around in a full circle. Ms. Ostrowski drew the Benchers' attention to the time frame for comment.

Ms. Hickman said there was a legal issue that would impact on Law Society members who would have to deal with the legislation regularly. She suggested the Law Society should take the position that it should be involved in the drafting of the legislation.

Ms. Preston reiterated the view that the legislation was only part of a range of tools and resources needed to deal effectively with the problem of exploited youth. She suggested that the

government relations committee might take the matter up to draw attention to the bigger picture of how children and families get into the situations intended to be dealt with by the Act.

Mr. Ridgway said there would be lawyers and others involved in debating and drafting the legislation, and he questioned what role the Law Society would have.

Ms. Schmit said the issues involved were as important as to civil liability proposals on which the Law Society prepared a full policy work up, although she noted that the issues were very difficult. She urged the Benchers to refer the matter back to the Access to Justice Committee with instructions to advise the government that the Law Society might want comment but could not provide a full response within the time frame, and wanted to be kept informed as the proposal progressed.

It was moved (Schmit/Hickman) to refer the matter back to the Access to Justice Committee to tell the government that the Law Society is interested in the proposed legislation, wants to be fully informed, and may have comments in the future.

Mr. Rideout noted that the legislation was proposed for 2005, which was still some time off. He did not think the Benchers should simply drop the matter, but felt it was too early for the Law Society to respond. He asked Mr. Brun if the CBA legislation committee was considering the matter.

Mr. Brun offered to find the answer to Mr. Rideout's question and report later in the meeting. He later reported that CBA Section Chairs were to review the proposed legislation.

The motion was carried.

14. THE LAW SOCIETY'S EQUITY OMBUDSPERSON PROGRAM A BACKGROUNDER

Ms. Wallace reviewed the history of the Equity Ombudsperson program. She noted that a previous review of the program had resulted in changing the method of payment to the Equity Ombudsperson to an hourly rate. However, Ms. Wallace also noted that in each year since then, the cost of the program had exceeded the budget for it, and 2004 appeared to be no different as the budget of \$30,850 was nearly exhausted. Ms. Wallace reported that the Executive Committee recommended that the Benchers increase the amount budgeted for this year to a maximum of \$45,000. She drew the Benchers' attention to a comparison to budgets of similar programs in other jurisdictions. Ms. Wallace reported that Anne Chopra had been the Equity Ombudsperson since 1999 and no extensive review of the program had been done since that time. She reported that the Equity and Diversity Committee recommended a review of the program. Ms. Wallace reported that the Executive Committee recommended that the Benchers create a review task force that includes an elected Bencher and a lay Bencher. Ms. Wallace added the suggestion that the task force also include a member of the Equity and Diversity Committee.

Mr. Turriff asked whether the Equity Ombudsperson contract would be renewed for a further year if the review was not completed before the expiry of the current term.

Mr. Matkin said the contract would continue on a month-to-month basis.

Ms. Schmit noted that relative to the LAP program, the number of contacts to the Equity Ombudsperson seemed small. She suggested that the budget should not be increased pending the review and a comparison to the LAP program.

Ms. Wallace said that the review was intended to assess the funding level necessary to do the job required of the Ombudsperson. With respect to LAP, Ms. Wallace noted that the position of

Equity Ombudsperson was somewhat similar but the nature of the problems and the people the Ombudsperson deals with are quite different.

Mr. McDiarmid referred to the terms of reference for the Equity Ombudsperson program. He reviewed the goals and objectives of the Equity Ombudsperson program, which he suggested were worthwhile, and noted that the Equity Ombudsperson was supposed to report directly to the Executive Director. Mr. McDiarmid suggested that the Executive Director should review the program using what resources he considers appropriate.

Ms. Fung was in favour of allocating adequate funds to the program and reviewing the program. She suggested that the review should include consideration of expanding the mandate of the program to include the clients of lawyers.

Mr. Vertlieb said there should not be one member who lives in fear of threat to their career or integrity because of some form of discrimination, and until there is another way of protecting against that, the Benchers should not lose track of the Equity Ombudsperson program. He noted that LAP focused more on rehabilitation, but the ombudsperson program was more in the nature of protection. In terms of review, LAP had an independent reviewer to preserve the confidentiality of the program. Mr. Vertlieb said the Benchers should support the program, but in the context of a proper review. He said it would send a terrible message to lawyers if the Benchers did not adequately fund the program.

Ms. Ostrowski favoured the budget allocation and review. Ms. Ostrowski viewed the work of the Ombudsperson as dealing with a type of complaint that required a different forum than the Law Society's complaint process because of the nature of the problems.

Ms. Preston said that from a public perspective, just having the program spoke volumes. She said lawyers should be reminded that the service exists, and she noted that the Law Society of Alberta pays more for its program with fewer members.

Mr. Kelly said the Ombudsperson can mitigate the damage caused by misunderstanding or possibly more serious problems. From a cost/benefit point of view, the cost of a single lawyer being charged with discrimination would likely be much greater than the cost of the program.

It was moved (Wallace/Jackson) to ratify the Executive Committee's adjustment of the budget allocation for the Equity Ombudsperson program for 2004 to a maximum of \$45,000.

The motion was carried.

It was moved (Wallace/Nagle) to form a task force of three people, to include a lay Bencher, an elected Bencher and a member of the Equity and Diversity Committee to advise the Benchers on how a review of the Equity Ombudsperson program should be conducted.

The motion was carried.

15. PRESENTATION OF LAW SOCIETY GOLD MEDAL

Mr. Everett introduced Kathy Lynn Grant, the recipient of the Law Society Gold Medal. Mr. Everett reviewed some of Ms. Grant's many accomplishments and presented her with the Gold Medal.

Dean Bobinski congratulated Ms. Grant and thanked the Benchers for their attention to the Law School.

16. ANNUAL PRACTICE DECLARATION AND MANDATORY PROFESSIONAL DEVELOPMENT REPORTING

Mr. Whitcombe gave a demonstration of how to complete the on-line form to be used for the annual practice declaration and reporting professional development activities.

17. LAND TITLE AUTHORITY

Mr. Alexander reported that the implementation of the Land Title and Survey Authority was under the direction of two groups, a group of senior level bureaucrats, and a stakeholder advisor committee made up of representatives of various stakeholder groups including the Law Society, First Nations, surveyors, realtors, and land title agents. The stakeholder advisory committee is providing advice to Godfrey Archibald, who is the acting CEO of the Authority. The first task was to recommend a governance model and method of appointing the first board of directors. The earlier recommendation was for a board of nine members of which three were appointed by the Law Society, two by the government and the remaining four by First Nations, notaries, the real estate industry and surveyors. However, that model did not meet with the approval of the stakeholder advisory committee. The committee proposed a nine-member board with only one director nominated by each of the Law Society and government, to be chosen by a special committee from four or five nominees put forward by each nominating entity. Mr. Alexander reviewed an alternative proposal that would have the Law Society, government and the surveyors each appointing two directors to an eleven-person board, with the remaining nominating entities nominating one director each. No officers of stakeholders would be permitted to be directors. Mr. Alexander suggested the alternate proposal was workable and recommended that the Benchers endorse it.

It was moved (Ridgway/Vertlieb) to endorse the formula for appointment of directors as described by Mr. Alexander.

The motion was carried.

18. ATTORNEY GENERAL'S REVIEW OF CIVIL LIABILITY

The Benchers received for information a letter from the Attorney General.

19. TRANSITIONS: LAW SCHOOL TO ARTICLES AND ARTICLES TO PRACTICE

The Benchers received for information a report on the flow of students from law school to articling and into practice.

20. OPEN DISCUSSION ON ISSUES OF CONCERN TO THE BENCHERS

Ms. Fung noted that when there is a lengthy delay between giving oral reasons for decision and issuing written reasons it is difficult for the Discipline Committee to consider whether to seek a review of the decision. She said this concerned the Discipline Committee, and she urged Benchers sitting on hearing panels to avoid oral decisions, if possible, and avoid lengthy delays between oral reasons and written reasons.

Ms. Fung also raised a concern about canceling the Benchers meeting scheduled for October 29, 2004. Following discussion, Mr. Everett said the Executive Committee would consider ways to avoid canceling the meeting and advise the Benchers.

Mr. Ridgway raised a concern from the Practice Standards Committee. The committee was concerned that as a result of changes in process, only a small amount of work was flowing to the committee.

Mr. Vilvang noted that the Complainants Review Committee had a heavy workload, and he suggested that some members of the Practice Standards Committee might be seconded to the CRC.

Mr. Zacks noted that the Ethics Committee had postponed consideration of conflicts issues pending discussion at the Federation of Law Societies and was still awaiting the outcome. Mr. Everett said he would raise the matter with the Federation.

The rest of the meeting was conducted *in camera*.

Mr. Ridgway recalled that Mr. Brun had mentioned that the CBA lease included a re-negotiation clause in the event of loss of universal CBA membership. He asked if this could cause cash flow problems for the Law Society.

Mr. Matkin said the matter would be examined.

Mr. Everett said the Law Society had committed to work with the CBA during the transition.

Mr. Vilvang raised the concern that the Benchers had not been informed in a timely way about a potentially serious defalcation.

21. WIRICK UPDATE

The Benchers received a written report and Mr. Cameron gave an update on the Wirick investigation and special compensation fund claims.

DMGN/sla
04-08-24