

THE LAW SOCIETY OF BRITISH COLUMBIA

MINUTES

MEETING: Benchers

DATE: Friday, December 12, 2008

PRESENT: John Hunter, QC, President
Gordon Turriff, QC, 1st Vice-president
Glen Ridgway, QC, 2nd Vice-president
Haydn Acheson
Rita Andreone
Kathryn Berge, QC
Joost Blom, QC
Robert Brun, QC
Ian Donaldson, QC Life Bencher
Leon Getz, QC
Carol Hickman
Gavin Hume, QC
William Jackson
Patrick Kelly
Stacy Kuiack
Terence La Liberté, QC
Bruce LeRose, QC
Barbara Levesque
Jan Lindsay
David Mossop, QC
Thelma O'Grady
Robert Punnett
David Renwick
Allan Seckel, QC, Deputy AG
Meg Shaw, QC
Richard Stewart, QC
Ronald Tindale
Art Vertlieb, QC
James Vilvang, QC
Ken Walker
Dr. Maelor Vallance

ABSENT: Peter Lloyd
David Zacks, QC

STAFF Tim McGee
PRESENT: Michael Bernard
Barbara Buchanan
Stuart Cameron
Su Forbes, QC
Jeffrey Hoskins
Howard Kushner
Bill McIntosh
Jeanette McPhee
Doug Munro
David Newell
Alan Treleven
Adam Whitcombe
Carmel Wiseman

Michael Lucas

GUESTS: Johanne Blenkin, Executive Director, BCCLS
Anne Chopra, Equity Ombudsperson
Dean Donna Greschner, Faculty of Law, University of Victoria
Jack Huberman, QC, Executive Director, CLE Society
Miriam Maisonville, President, CBABC
James Bond, First Vice President, CBABC
Caroline Nevin, Executive Director, CBABC
Jane Mundy, Reporter, Lawyers Weekly
Wayne Robertson, Executive Director, Law Foundation
Herman Van Ommen, Bencher-elect, County of Vancouver

CONSENT AGENDA

1. Minutes

The minutes of the meeting held on November 14, 2008 were approved as circulated.

The following resolutions were **passed unanimously and by consent.**

2. Federation of Law Societies 2009 Levy

Resolved: to approve the Federation's proposed \$20 per lawyer levy for the Federation's July 1, 2009 to June 30, 2010 fiscal year, as set out in Mr. Treleaven's memorandum to the Benchers (Tab 2 of the 2008-12-12 Agenda Materials).

3. Rules Amendment for 2009 Fee Schedule

Resolved: to amend Schedules 1, 2 and 3 in the Law Society Rules to align with the 2009 practice fee approved by the members at the 2008 Annual General Meeting, as set out in Mr. Hoskins's memorandum to the Benchers and accompanying draft resolution (Tab 3 of the 2008-12-12 Replacement Materials).

4. Conveyancing Practices Task Force Final Report

Resolved: to accept and approve for publication the final report of the Conveyancing Practices Task Force (Tab 4 of the 2008-12-12 Agenda Materials).

REGULAR AGENDA – for Discussion and Decision

5. President's Report

Mr. Hunter reported that the 2008 Bench and Bar Dinner was a success, attended by more than 300 members of the Bench, Bar and public. He noted particularly the strength of the speech delivered by John McAlpine, QC in accepting the 2008 Law

Society Award. Mr. Hunter described the event as a close collaboration between the Law Society and the BC Branch of the Canadian Bar Association, conveying the collegiality that exists between the two organizations.

Mr. Hunter reported that effective January 1, 2009, the current BC statutes and regulations will be available online and free of charge through the Queen's Printer and CanLII websites. He applauded the work of many people over several years that led to this very positive development for the BC public, acknowledging particularly Deputy Attorney General Allan Seckel, QC, Law Foundation Executive Director Wayne Robertson, Law Society Past-Presidents Robert McDiarmid, QC and Anna Fung, QC, and Law Society Chief Information Officer Adam Whitcombe.

Mr. Hunter updated the Benchers on recent developments in the BC Supreme Court Rules revision process. He highlighted a December 9th meeting of representatives of the various organizations involved in the revision process, noting the openness and positive tone of the dialogue and that further discussions among the parties will continue through the balance of December and into the New Year.

Mr. Hunter briefed the Benchers on the status of the 2009 Executive Committee election. He reported that Bruce LeRose, QC and Art Vertlieb, QC have been elected, and that balloting for the third vacancy resulted in a tie-vote, triggering a by-election. Mr. Hunter advised the Rules require that by-election to be held at the next scheduled Benchers meeting (i.e. the current meeting).

6. CEO's Report

Mr. McGee highlighted the various matters discussed in his written Report to the Benchers dated December 12, 2008.

He joined Mr. Hunter in noting the significance of the completion of the agreement that will result in free online access to the current BC statutes and regulations as of January 1, 2009. Mr. McGee acknowledged the support and guidance of President John Hunter, QC and past Presidents Anna Fung, QC and Rob McDiarmid, QC, as well as the hard work and perseverance of Adam Whitcombe of the Law Society and Wayne Robertson of the Law Foundation over many months in helping to bring this deal to fruition.

Regarding the 2008 Employee Survey results, Mr. McGee noted that the staff participation rate was 77% - the highest since the Law Society began conducting employee surveys in 2006. Ryan and Tudor Williams of TWI Surveys will present the survey results at the January 30, 2009 Benchers meeting.

Mr. McGee briefed the Benchers on the Law Society's first public forum of 2009 — *Clearing the Path to Justice* — and noted that the January 28th event will feature the Right Honourable Beverly McLachlin. The Chief Justice of Canada will attend a reception to be hosted by the Law Society in her honour beforehand. She will participate on the forum panel, and will entertain questions afterward. Mr. McGee

asked the Benchers to hold the date in their calendars and to look for details early in the New Year.

Mr. McGee also updated the Benchers on recent improvements to BencherNet (the Society's online information centre for Benchers) and on plans for the Law Society "Greenways" Initiatives, a program directed at improving our organization's environmental performance.

Mr. McGee reported on a recent milestone in the Law Society's custodianship program: the court ordered discharge of our in-house custodian Sherelle Goodwin on a member matter, completing the first custodianship conducted entirely by a member of our in-house custodianship team.

Mr. McGee acknowledged the imminent departure of long-time Law Society staff member David Newell. After eighteen years as a staff lawyer, including the past 10 years as Corporate Secretary, Mr. Newell is leaving the Law Society at the end of January to join the Workers' Compensation Appeal Tribunal as a Vice Chair.

Mr. McGee closed his report by thanking Mr. Hunter for his year of distinguished service as Law Society President, and by welcoming President-elect Gordon Turriff, QC, who will take up the office of President on January 1st.

7. Report on Outstanding Hearing and Review Reports

The Benchers received a report on outstanding hearing decisions.

STRATEGIC PLANNING AND PRIORITIES MATTERS – for Discussion and/or Decision

8. 2008-2010 Strategic Priorities Overview and Progress Report on Implementation; and 2009-2011 Strategic Priorities Planning

Mr. Hunter provided an overview of the strategic planning and priority-setting process that was implemented by the Benchers a year ago. He said that although the process started slowly, significant progress has been made toward focusing staff time and resources and Bencher meeting agendas on the priorities established by the Benchers early in 2008. Mr. Hunter noted that Mr. Turriff and Mr. McGee plan to meet with each of the advisory committees early in 2009 to encourage their vigorous participation in the strategic planning process throughout the year.

Mr. McGee referred the Benchers to the Policy Planning and Priorities memoranda and Strategic Priorities grid prepared by Mr. Lucas (Tab 8 of the 2008-12-12 Agenda Materials), and briefed them on the Executive Committee's discussion of those materials at their November 27th meeting. He described the Committee's perspective on the current three-year rolling process for strategic planning as "stay the course." The Executive Committee emphasized the need for regular communication to the Benchers regarding the strategic purpose and progress of the activities of advisory committees, task forces and staff.

Mr. McGee referred to the final bullet point on p. 1 of the Dec 3/08 memorandum (p. 800) as a succinct expression of management's operational focus:

- Executing priorities requires constant repetition and disciplined follow-through to ensure that everyone understands them, buys into them, and is following them without deviation.

Mr. McGee stated the importance of reporting out by the 2008 Advisory Committees, noting that incremental change to the current strategic priorities may well follow from the Benchers' review and discussion of the 2008 AC reports at the January 30, 2009 Benchers meeting. Mr. McGee also noted the importance of applying more strategic focus to the structure and content of Bencher meetings and agendas in 2009.

Mr. Lucas suggested the Benchers use the 2008 priorities grid (Tab 8) as context for the pending Advisory Committee reports, noting that while some priority projects were largely completed in 2008 (particularly in the area of education), most of the priority areas and projects identified in the grid will be ongoing in 2009.

Mr. LeRose encouraged the Chairs and Vice-Chairs of 2009 Advisory Committees to be proactive in their development and promotion of important ideas and issues in the course of their committee work, whether or not those ideas and issues are included on the Benchers' current list of priorities. Mr. Hunter endorsed that view.

9. Supreme Court Rules Revision

Mr. Hunter reviewed the history of the current civil rules revision process and asked the Chair of the Civil Justice Reform Task Force Chair to brief the Benchers on developments since their last meeting.

Professor Blom outlined recent discussions of the Law Society Civil Rules Working Group with senior officials in the Ministry of Attorney General, regarding planning an approach to gathering baseline data on actual costs of accessing the civil justice system — both within and outside the court system — and developing an evaluation process for assessing the effectiveness of pending rules reform measures. Professor Blom also referred the Benchers to a draft Law Society letter of response to the Rules Revision Committee's call for submissions (Tab 9 of the Late Materials, 2008-12-12). Professor Blom said the draft letter has three main points:

- a. there is a need for strong baseline data and a strong evaluation process that is linked to the changes to be implemented via the Rules revisions;
- b. broad consensus is needed, both as to the process and content of Rules revision; and
- c. there are important areas with potential for reform that lie outside the actual Supreme Court Rules, including use and enforcement of the existing rules governing costs.

Professor Blom moved (seconded by Mr. Punnett) that the draft letter be adopted by the Benchers and that Mr. Hunter be authorized to forward it to the Rules Revision Committee. The motion carried.

REGULAR AGENDA – Other Matters for Discussion and/or Decision

10. Client Identification and Verification Rules Amendments

Mr. Getz reported on the deliberations of the Act and Rules Subcommittee that have been ongoing since the Benchers passed a resolution adopting Rules 3-91 to 3-102 at their November 14th meeting. He noted that during that time the Subcommittee has considered some 41 issues on the agenda of the Federation task force dealing with the model rules. Mr. Getz referred the Benchers to Mr. Hoskins’s memorandum and the accompanying draft Rules amendments and suggested resolution (Tab 10 of the 2008-12-12 Agenda Materials) for particulars of the various changes being recommended by the Subcommittee.

Mr. Getz moved (seconded by Ms. Andreone) that the draft amendments and suggested resolution be adopted. The motion carried.

11. Canadian Common Law Degrees

Mr. Turriff briefed the Benchers on the process followed by the Credentials Committee in carrying out President Hunter’s request that it review the recent Consultation Paper prepared by the FLS Task Force on the Canadian Common Law degree. The Credentials Committee Chair expressed his appreciation to the subcommittee (comprised of Mr. Stewart, Mr. LeRose and John Leathley, QC) he had appointed to carry out that task, and asked Mr. Stewart to report on the subcommittee’s work.

Mr. Stewart referred the Benchers to Mr. Lucas’s memorandum and the accompanying draft letter (Tab 11 of the 2008-12-12 Agenda Materials). He advised that the draft letter is proposed by the Credentials Committee as the Law Society’s response to the FLS Task Force’s Consultation Paper. Mr. Stewart outlined the consultations carried out by the subcommittee, noting particularly the value of the input provided by the deans of the UBC and University of Victoria law schools, and described the several stages of deliberation and revision employed by the subcommittee in producing the present draft letter.

Mr. Stewart moved (seconded by Mr. LeRose) that the draft letter be adopted by the Benchers and then sent to the Federation of Law Societies as the Law Society’s response to the FLS Task Force’s Consultation Paper. The motion carried.

Mr. Hunter thanked the Credentials Committee and its subcommittee for their thorough and independent assessment of the Consultation Paper.

12. Draft Family Law Rules Recommendations

Ms. Hickman reported as Chair of the Family Law Task Force regarding the task force's deliberations in carrying out the Executive Committee's June 2008 request to consider whether the Law Society should respond to the BC Supreme Court Family Rules Consultation, taking into account the Society's responses to the draft Civil Rules Consultation. Ms. Hickman referred the Benchers to Mr. Munro's memorandum and the accompanying draft letter (Tab 12 of the 2008-12-12 Agenda Materials) and moved (seconded by Mr. Kuiack) that the draft letter be adopted by the Benchers and then sent as the Law Society's response to the BC Supreme Court Family Rules Consultation. The motion carried.

Ms. Hickman thanked Mr. Munro for his hard work and valuable assistance to the task force.

REGULAR AGENDA – for Information Only

13. PLTC and the Admission Program

Mr. Turriff briefed the Benchers on the Credentials Committee's deliberations regarding one of a series of recommendations set out in the January 2007 report of the Small Firm Task Force concerning the Law Society's articling program: namely, to remove the current requirement that students must secure an articling position before enrolling in PLTC.

The Credentials Committee concluded that while the recommendation is a laudable effort to create opportunities for students, its implementation could be expected to provide more impediments or costs to students generally. Mr. Turriff referred the Benchers to Mr. Lucas's memorandum (Tab 13 of the 2008-12-12 Agenda Materials) for elaboration of the Committee's thinking.

Mr. Turriff moved (seconded by Mr. Jackson) that the Benchers resolve not to adopt this recommendation of the Small Firm Task Force. The motion carried.

14. 2009 Executive Committee By-election

President Hunter reported that Carol Hickman had been elected to fill the third Bencher-at-large position on the 2009 Executive Committee.

Mr. Turriff thanked Mr. Hunter on behalf of all the Benchers for his dedication and leadership as Law Society President for 2008.

The Benchers also considered a number of other matters *in camera*.

2009-01-12/WKM