



Minutes

Benchers

Date: Friday, January 29, 2016

Present:

David Crossin, QC, President	Steven McKoen
Herman Van Ommen, QC, 1 st Vice-President	Christopher McPherson
Miriam Kresivo, QC, 2 nd Vice-President	Nancy Merrill, QC
Jeff Campbell, QC	Maria Morellato, QC
Pinder Cheema, QC	Lee Ongman
Lynal Doerksen	Greg Petrisor
Thomas Fellhauer	Claude Richmond
Craig Ferris, QC	Phil Riddell
Martin Finch, QC	Elizabeth Rowbotham
Brook Greenberg	Mark Rushton
Lisa Hamilton	Carolynn Ryan
J.S. (Woody) Hayes, FCPA, FCA	Michelle Stanford
Dean P.J. Lawton	Sarah Westwood
Jamie Maclaren	Tony Wilson

Excused: Sharon Matthews, QC
Satwinder Bains

Staff Present:

Tim McGee, QC	David Jordan
Deborah Armour	Michael Lucas
Taylor Ashlie	Jeanette McPhee
Renee Collins	Doug Munro
Charlotte Ensminger	Jack Olsen
Su Forbes, QC	Alan Treleaven
Andrea Hilland	Adam Whitcombe
Jeffrey Hoskins, QC	Vinnie Yuen

Guests:	Honourable Robert Bauman	Chief Justice of BC
	Dom Bautista	Executive Director, Law Courts Center
	Mark Benton, QC	Executive Director, Legal Services Society
	Johanne Blenkin	CEO, Courthouse Libraries BC
	Anne Chopra	Equity Ombudsperson, Law Society of BC
	Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
	Aseem Dosanjh	President, Trial Lawyers Association of BC
	Jeff Hirsch	President, Federation of Law Societies of Canada
	Gavin Hume, QC	Law Society of BC Member, Council of the Federation of Law Societies of Canada
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Maureen Cameron	Director of Communications, Canadian Bar Association, BC Branch
	Wayne Robertson, QC	Executive Director, Law Foundation of BC
	Prof. Jeremy Webber	Dean of Law, University of Victoria
	Michael Welsh	Vice-President, Canadian Bar Association, BC Branch
	Ryan Williams	President, TWI Surveys

OATH OF OFFICE

1. Administer Oaths of Office

The Honourable Chief Justice Bauman administered oaths of office to incoming President David Crossin, QC, incoming First Vice President Herman Van Ommen, QC, incoming Second Vice President Miriam Kresivo, QC and all newly elected Benchers, and thanked all the Benchers for their service to the profession.

2. President's Welcome

Mr. Crossin introduced and welcomed Benchers new to the Bencher table, guests representing the various organizations who regularly attend Bencher meetings, and staff regularly present.

CONSENT AGENDA

3. Minutes

a. Minutes

The minutes of the meeting held on December 4, 2015 were approved as circulated.

b. Resolutions

The following resolutions were passed unanimously and by consent.

BE IT RESOLVED that the Benchers appoint President David Crossin, QC and First Vice-President Herman Van Ommen, QC as the Law Society's representatives on the 2016 QC Appointments Advisory Committee.

EXECUTIVE REPORTS

4. President's Report

Before beginning his first report to Benchers, Mr. Crossin confirmed that his reports will attempt to relay notes of importance to Benchers, which may include events he has attended but may not be an exhaustive list. He will also provide a summary of the most recent Executive Committee meeting.

He began his report with a summary of the January 14 Executive Committee meeting. Ms. Merrill introduced two ideas for discussion: a bencher mentoring program to connect new and

existing benchers; and, a young lawyers' working group for engagement with young lawyers. He confirmed the former has been implemented, and he will report back on the latter following the next Executive Committee meeting. He also noted that the Executive has suggested that Derek Lacroix be invited to the next Benchers meeting to provide an update on the work of the Lawyers Assistance Program.

Mr. McGee also provided his annual report to the Executive Committee on Law Society initiatives and challenges from the previous year, a report that will also be given to the Benchers at this meeting. Peter Gall, QC, counsel for the Law Society in the TWU litigation attended to provide an update on the litigation. Details of that update will follow in the in camera session. There was also a discussion regarding developments in the creation of a steering committee for the Law Society's response to the Truth and Reconciliation Commission's (TRC) Calls to Action, the result of which was the memo to Benchers on this Agenda. Kensi Gounden, Manager of Practice Standards, also attended to outline the details of an innovative project being developed to allow proactive and early intervention for lawyers whose professional conduct standards may be at risk. Work will continue on the project for eventual presentation to the Benchers.

Mr. Crossin also attended the recent ceremony welcoming the newly appointed Judge Sudeyko at the Provincial Court in North Vancouver. He emphasized the importance of such ceremonies, and invited Benchers to consider attending welcoming ceremonies on behalf of the Law Society in their own regions, particularly if they have a connection to a newly appointed member of the Bench.

Finally, Mr. Crossin congratulated newly appointed Queen's Counsel Nancy Merrill, Jeff Campbell and Barbara Buchanan.

5. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (attached as Appendix 1 to these minutes), which was a review of the successes and challenges of 2015, and a preview of the year to come.

He began, however, by acknowledging and recognizing Policy lawyer Jack Olsen who is retiring, noting Jack's integral contributions to the Ethics Committee and Practice Advice over his long career with the Law Society. His considerable wisdom and calm but firm leadership will be greatly missed.

In his summary of his written report he outlined the four foundational areas of the Strategic Plan, Budget, Staff Engagement and the Key Performance Measures.

Looking ahead to 2016, Mr. McGee noted that economic volatility, such as we are currently experiencing, can often put pressure on the areas of complaints and reported claims against lawyers. We will be monitoring such pressure and will assess resources if necessary as the year unfolds.

Key internal considerations for the year ahead will include our three strengths: our people, our systems and our strong financial model. We need to be able to measure success as well as challenge to ensure we continue to meet outcomes with respect to regulating in the public interest; to that end, Mr. McGee reviewed the Key Performance Measures report contained as an appendix to his report.

He provided highlights of the report, under the headings of: Professional Conduct and Discipline; Trust Assurance; Credentialing, Articling and PLTC; Practice Advice and Standards; and, the Lawyers Insurance Fund.

Ms. Forbes will present more fully on the Lawyers Insurance Fund at a later meeting, but a key measure of this program is its affordable fee. This is a function of how well it is run. Ms. Forbes and her team are world leaders on helping lawyers avoid problems, which helps keep the fee low.

6. Briefing: Federation of Law Societies President

Mr. Crossin introduced Jeff Hirsch, President of the Federation of Law Societies and past President of the Law Society of Manitoba. Mr. Hirsch expressed his gratitude for being invited here to speak at the first meeting of the year, commenting on how special the first gathering of a new group of Benchers is.

Further, he lauded the Law Society of BC as an ‘anchor’ member of the Federation, stressing that the Federation is its members, as opposed to a separate, monolithic organization. It is the vehicle through which law societies work together on matters of common interest. Those matters have included developing national mobility protocols, developing a model code of professional conduct which has been almost universally adopted, creating complaint standards, and a national competency profile.

Mr. Hirsch thanked Law Society of BC Federation representative Gavin Hume, QC for his tireless work on the Federation Council, and particularly his leadership on the development of the model code of conduct. He also acknowledged and thanked First Vice-President Herman Van Ommen, QC for his work on the National Requirement Review Committee. He praised the hard work and leadership of Mr. McGee, whose involvement with the Federation has made him a key figure on major initiatives, and thanked Law Society staff members Alan Treleaven, Adam Whitcombe, Deb Armour, Jeff Hoskins, QC and Michael Lucas for their work in support.

After completing its recent phase of internal reflection and governance review, and as the demand for national collaboration continues to grow, the Federation has learned the importance of listening to the law societies to discover emerging ways to work together. As good communication is needed to nurture good relationships, he pledged to be present and accountable as President, noting this will be but the first of his visits here this year.

Mr. Crossin thanked Mr. Hirsch, and noted that he looked forward to continued dialogue. He also echoed Mr. Hirsch's commendation of Mr. Hume, remarking on his tireless efforts and tremendous contributions to our justice system.

Mr. Hume directed the Benchers to his report in the materials, which summarizes the business of the December 2015 Federation meeting. He noted that the focus was governance and restructuring, but time was also spent on the National Admissions Standards project, anti-money laundering, and the role of the Federation internationally. The decision was also made to intervene in the Supreme Court of Canada case concerning the potential disclosure of information protected by solicitor client privilege as a result of a Privacy Commissioner order; decision is pending on whether to intervene in the case concerning the ability of law societies to require a member to engage in continuing professional development.

GUEST PRESENTATIONS

7. 2015 Employee Survey Results

Ryan Williams, President, TWI Surveys, attended to summarize and analyze the results of the Employee survey, framing the governance issue for Benchers around the question: does the organization create a context in which employees can be engaged, and are they open to being engaged?

He confirmed that the Law Society continues to do an excellent job creating such a context. The results show a clear understanding of the mandate, and a shared sense of responsibility for it. Employees find the work challenging and meaningful, and overall results are higher than the benchmark 10 years ago when this survey began. Results show employees value the work-life flexibility and balance, as well as their relationships with colleagues. Overall, the strengths emerging from the results include: "knowing and understanding my area"; understanding the mandate; "understanding how my work contributes"; and, relationships between managers and employees.

Despite largely positive results, some challenges are indicated, particularly around resources and job development potential. There could be many explanations for a perceived lack of resources, requiring an examination of each department for possible causes. Challenges around job development are common to organizations of limited size. A focus going forward will be

retention of senior employees. Overall, the challenges emerging from the results include: resources to do the job; job opportunities/growth; salary; “opportunity to provide input on decisions that affect me”.

DISCUSSION/DECISION

8. Truth and Reconciliation Commission Recommendations: Next Steps

Mr. Crossin provided an update on the progress towards creating a steering committee to assist with the consultation process, noting productive discussions with Judge Len Marchand, Jr., Judge Steven Point, and Michael MacDonald of the Indigenous Bar Association. He also directed Benchers to the memo provided by Policy lawyer Andrea Hilland which suggests a pathway forward for the consultation process and the ensuing action plan. The emerging goal is for the Law Society to be, and to be seen as, a change agent for the fundamental changes to the cultural landscape being contemplated.

Mr. Crossin underscored the tension between the desire to take immediate action, and the recognition that those actions must be respectful and sensitive. The short term objective is to consult with the Aboriginal legal community concerning an action plan to implement relevant recommendations; the longer term goal is to establish a permanent structure to advance, promote and maintain important issues.

He sought feedback from Benchers on the progress thus far, noting that the subject merits full and ongoing discussion. Mr. Lawton reported connecting with Ry Moran, the Director of the National Centre for Truth and Reconciliation who has offered to meet and assist where possible. Dean Webber from UVic Law noted that school’s keen interest in the area and encouraged the Law Society to maintain strong lines of communication with the law schools as it moves forward. Dean Morse from TRU Law echoed the sentiments, speaking for both himself and Dean Dauvergne from UBC’s Allard Law. He also noted the interest of Justice Sinclair, who would be pleased to help where possible as well.

Mr. Crossin thanked Ms. Hilland for her excellent work thus far.

9. Equity and Diversity Committee: Justicia Report

Ms. Morellato, Chair of the Equity and Diversity Committee, reported to the Benchers on the Justicia project, asking for an endorsement of the recommendations so that the proposed communication plan can be implemented.

The Justicia materials themselves, compiled with input from leading female lawyers across BC, set out objectives and advice for how to develop a practice. The first phase of Justicia focused on best practices for collecting demographic data, and implementing parental leave policies and

flexible work arrangements. This second and recently completed phase focusses on leadership, partnership and business development. The next phase is to adapt this work for smaller firms, acknowledging that most women work in firms of 3-4 or fewer lawyers.

She commended the work of Andrea Hilland and the collaboration of the Equity and Diversity Committee with the 17 Justicia law firms in BC.

Mr. Crossin thanked Ms. Morellato and the Committee, offering any help the Benchers could provide for this important work. He then called for a vote on the motion that Benchers endorse the best practice materials for business development, partnership, and leadership (Morellato, Rowbotham); the motion was passed unanimously.

REPORTS

10. Report on Outstanding Hearing & Review Decisions

Written reports on outstanding hearing decisions and conduct review reports were received and reviewed by the Benchers.

11. Finance and Audit Committee: 2015 Enterprise Risk Management Plan - Update

Ms. Kresivo, Chair of the Finance and Audit Committee introduced Jeanette McPhee, Chief Financial Officer, to update the Benchers on the Enterprise Risk Management Plan, the objective of which is to examine possible risks, areas of greatest risk, and put in place a plan for managing those risks. She underscored this as a key area of responsibility for Benchers to ensure that such a plan is in place.

Ms. McPhee noted that we must manage risks to ensure we can achieve our strategic goals, but also take risks to grow and be innovative. She referred Benchers to the full plan contained in the Agenda package, describing the process involved which includes assessing risk, determining mitigation strategies, developing an action plan, implementing that plan and continuing to monitor those risks. A full review is done every three years; this year's is an annual review only.

The areas of risk generally fall into the categories of regulatory, financial, operational, and insurance. To prioritize risks, the likelihood and consequences of each risk are reviewed, then a "heat map" is created to arrange risks from high risks, which are always monitored, to low risks which we do not need to monitor that closely. Amongst the top 10 risks identified are failure to fulfill statutory duties, failure to appropriately sanction a lawyer, natural disaster and loss of data or information. Two specific risks of focus this year were a potential market downturn and potential privacy breach.

Mr. Crossin thanked Ms. McPhee and Ms. Kresivo, who reminded Benchers that Finance and Audit committee meetings are open for Benchers who have questions or would like to learn more about the financial information of the Law Society.

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