



Minutes

Benchers

Date: Friday, December 08, 2017

Present:

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

Unable to Attend: Daniel Smith

Staff Present:

Adam Whitcombe	Jason Kuzminski
Deborah Armour, QC	Michael Lucas
Renee Collins	Jeanette McPhee
Lance Cooke	Doug Munro
Su Forbes, QC	Annie Rochette
Andrea Hilland	Lesley Small
Jeffrey Hoskins, QC	Alan Treleaven
David Jordan	Vinnie Yuen

Guests: Don Avison	Incoming CEO & Executive Director (effective January 1, 2018)
Dom Bautista	Executive Director, Law Courts Center
Mark Benton, QC	Executive Director, Legal Services Society
Claire Marchant	Equity Ombudsperson, Law Society of BC
Jennifer Chow, QC	2018 Bencher
Michelle Casavant	Member, Aboriginal Lawyers Forum
Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
Derek LaCroix, QC	Executive Director, Lawyers Assistance Program
Geoffrey McDonald	2018 Bencher
Margaret Mereigh	Vice-President, Canadian Bar Association (BC Branch)
Prof. Bradford Morse	Dean of Law, Thompson Rivers University
Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
Wayne Robertson, QC	Executive Director, Law Foundation of BC
Linda Russell	CEO, Continuing Legal Education Society of BC
Kerry Simmons, QC	President, Canadian Bar Association (National)
Bill Veenstra	President, Canadian Bar Association (BC Branch)
Michael Welsh, QC	2018 Bencher
Heidi Zetzsche	2018 Bencher

CONSENT AGENDA

1. Minutes & Resolutions

a. Minutes

The minutes of the meeting held on October 27, 2017 were approved as circulated.

The *in camera* minutes of the meeting held on October 27, 2017 were approved as circulated

b. Resolutions

The following resolutions were passed unanimously and by consent.

Electronic Trust Fund Transfers

BE IT RESOLVED to amend the Law Society Rules effective July 1, 2018 as follows:

1. *In Rule 3-64:*

(a) *by rescinding subrule (4) (b) and substituting the following:*

(b) by electronic transfer as permitted by Rule 3-64.1 [Electronic transfers from trust],; and

(b) *by rescinding subrules (6) to (8);*

2. *By rescinding Rule 3-65 and substituting the following:*

Electronic transfers from trust

3-64.1(1) In this rule, “**requisition**” means an electronic transfer of trust funds requisition, in a form approved by the Discipline Committee.

(2) A lawyer may withdraw funds from a pooled or separate trust account by electronic transfer, provided all of the following conditions are met:

(a) the electronic funds transfer system used by the lawyer must not permit an electronic transfer of funds unless,

(i) a person other than the lawyer, using a password or access code, enters data into the electronic funds transfer system describing the details of the transfer, and

- (ii) the lawyer, using another password or access code, enters data into the electronic funds transfer system authorizing the financial institution to carry out the transfer;
- (b) the lawyer using an electronic funds transfer system to withdraw trust funds must not
 - (i) disclose the lawyer's password or access code associated with the electronic funds transfer system to another person, or
 - (ii) permit another person, including a non-lawyer employee, to use the lawyer's password or access code to gain such access;
- (c) the electronic funds transfer system used by the lawyer must produce, no later than the close of the banking day immediately after the day on which the electronic transfer of funds is authorized, a confirmation in writing from the financial institution confirming that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer were received;
- (d) the confirmation required in paragraph (c) must contain all of the following:
 - (i) the name of the person authorizing the transfer;
 - (ii) the amount of the transfer;
 - (iii) the trust account name, trust account number and name of the financial institution from which the money is drawn;
 - (iv) the name, branch name and address of the financial institution where the account to which money is transferred is kept;
 - (v) the name of the person or entity in whose name the account to which money is transferred is kept;
 - (vi) the number of the account to which money is transferred;
 - (vii) the time and date that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer are received by the financial institution;

- (viii) the time and date that the confirmation in writing from the financial institution was sent to the lawyer authorizing the transfer;
- (e) before any data describing the details of the transfer or authorizing the financial institution to carry out the transfer is entered into the electronic funds transfer system, the lawyer must complete and sign a requisition authorizing the transfer;
- (f) the data entered into the electronic funds transfer system describing the details of the transfer and authorizing the financial institution to carry out the transfer must be as specified in the requisition;
- (g) the lawyer must retain in the lawyer's records a copy of
 - (i) the requisition
 - (ii) the confirmation required in paragraph (c).
- (3) Despite subrule (2) (a), a lawyer who practises law as the only lawyer in a law firm and who has no non-lawyer staff may transfer funds electronically if the lawyer personally uses
 - (a) one password or access code to enter data into the electronic funds transfer system describing the details of the transfer, and
 - (b) a different password or access code to enter data into the electronic funds transfer system authorizing the financial institution to carry out the transfer.
- (4) No later than the close of the banking day immediately after the day on which the confirmation required in subsection (2) (c) is sent to a lawyer, the lawyer must
 - (a) produce a printed copy of the confirmation,
 - (b) compare the printed copy of the confirmation and the signed requisition relating to the transfer to verify that the money was drawn from the trust account as specified in the signed requisition,
 - (c) indicate on the printed copy of the confirmation
 - (i) the name of the client,

- (ii) the subject matter of the file, and
 - (iii) any file number
- in respect of which the money was drawn from the trust account, and
- (d) after complying with paragraphs (a) to (c), sign, date and retain the printed copy of the confirmation.
- (5) A transaction in which a lawyer personally uses an electronic funds transfer system to authorize a financial institution to carry out a transfer of trust funds is not exempted under Rule 3-101 (c) (ii) [*Exemptions*] from the client identification and verification requirements under Rules 3-102 to 3-106.
 - (6) Despite subrules (2) to (4), a lawyer may withdraw funds from a pooled or separate trust account by electronic transfer using the electronic filing system of the land title office for the purpose of the payment of property transfer tax on behalf of a client, provided that the lawyer
 - (a) retains in the lawyer's records a copy of
 - (i) all electronic payment authorization forms submitted to the electronic filing system,
 - (ii) the property transfer tax return, and
 - (iii) the transaction receipt provided by the electronic filing system,
 - (b) digitally signs the property transfer tax return in accordance with the requirements of the electronic filing system, and
 - (c) verifies that the money was drawn from the trust account as specified in the property transfer tax return.

Electronic deposits into trust

3-64.2 A lawyer must not receive money into a trust account by means of electronic transfer unless the following conditions are met:

- (a) the lawyer must obtain a confirmation in writing providing details of the transfer from the financial institution or the remitter of the funds within 2 banking days of the deposit;

- (b) the deposit must generate sufficient documentation to enable the lawyer to meet the record-keeping requirements under this division.

Payment of fees from trust

- 3-65** (1) In this rule, “fees” means fees for services performed by a lawyer or a non-lawyer member of the lawyer’s MDP, charges, disbursements and taxes on those fees, charges and disbursements.
- (1.1) A lawyer who withdraws or authorizes the withdrawal of trust funds for the payment of the lawyer’s fees must withdraw the funds
 - (a) with a cheque payable to the lawyer’s general account, or
 - (b) by electronic transfer in accordance with Rule 3-64.1 [*Electronic transfers from trust*] to the lawyer’s general account.
 - (2) A lawyer who withdraws or authorizes the withdrawal of trust funds under subrule (1.1) in payment for the lawyer’s fees must first prepare a bill for those fees and immediately deliver the bill to the client.; *and*
3. *In Rule 3-66 (2), by striking “Rules 3-64 and 3-65 apply” and substituting “Rules 3-64 to 3-65 apply”.*

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

Bencher Election Rules – Rule 1-22

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 1-22 (1) (b).

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

Code of Professional and Ethical Responsibilities for Tribunal Adjudicators

BE IT RESOLVED to approve the Code of Professional and Ethical Responsibilities for Tribunal Adjudicators.

External Appointments: Legal Services Society and Land Title & Survey Authority

BE IT RESOLVED to re-appoint Mr. Marzban to the Legal Services Society’s Board of Directors for a second two-year term commencing January 1, 2018.

BE IT RESOLVED to nominate Kenneth Jacques, Patrick Julian and Lorena Staples, QC for consideration by the LTSA Board of Directors, for an appointment to its Board for a three-year term commencing April 1, 2018.

Introductions of guests:

Mr. Van Ommen was pleased to announce the hiring of new CEO Don Avison who will join the Law Society January 1, 2018. He welcomed Mr. Avison, providing a brief background of his accomplishments, including former posts as Deputy Minister of Justice and Deputy to the Premier in the North West Territories, and Deputy Minister of Health and of Education in BC.

He also provided introductions to newly elected Benchers Jennifer Chow, QC, Geoffrey McDonald, Michael Welsh, QC and Heidi Zetzsche, noting that the recent Bencher elections resulted for the first time in a majority of women Benchers at the Bencher table, and in Vancouver County, more women than men being elected.

Additionally, he acknowledged those Benchers who were attending for their last Bencher meeting. On behalf of Benchers, he thanked Satwinder Bains, Tom Fellhauer, Lee Ongman, Greg Petrisor and Claude Richmond for their 8 years of service as elected or appointed Benchers, and Woody Hayes, FCPA, FCA and Dan Smith for their term of service as appointed Benchers.

He also noted that the hearing panel pools have recently undergone the first major replenishment since their inception 6 years ago; training of new pool members has already begun.

Finally, he welcomed to the meeting the new Equity Ombudsperson Claire Marchant, who started in her role earlier in the Fall.

Ms. Kresivo then announced Second Vice-President Craig Ferris, QC as the new Tribunal Council Chair for 2018.

GUEST PRESENTATION

2. Remarks from President of Canadian Bar Association (National)

National CBA President Kerry Simmons, QC provided an update for Benchers on CBA developments and initiatives. This is the first year of the new governance structure that incorporates a smaller but more diverse board than ever before, and changes to accessibility resulted in a doubling of attendance at last year's AGM.

Advocacy is integral part of the CBA's function; Ms. Simmons met recently with the Minister of Justice and the Treasury Board regarding concerns on the breadth of proposed legislation on solicitor client privilege. She also had the chance to connect with representatives of the

Federation of Law Societies and other international leaders at the International Bar Association Conference in Sydney, Australia.

She has had the privilege of travelling to many of the provinces and territories to listen to lawyers, particularly the younger members of the Bar, share their experiences with articling, admission and legal ethics. She recognized the significant influence the CBA can have on these important issues, and noted the importance of understanding lawyers' experiences as we make decisions that shape and frame our profession.

Of particular significance is our response to how lawyers feel about their own wellness. How does a lawyer build a practice without drowning under the pressure? We need pathways to healthy coping mechanisms, and work environments where it is okay to talk about thriving emotionally and spiritually. She applauded the Law Society for its inclusion of wellness in its continuing professional development recommendations, and emphasized the culture change that must occur to make this a healthier profession.

DISCUSSION/DECISION

3. Approval of Strategic Plan Initiatives

Mr. Van Ommen noted that the proposed Strategic Plan, based on Benchers' suggestions and feedback, had been considered by the Executive Committee and was being presented to Benchers for approval.

Following his invitation for questions or comment, it was asked how the plan would be prioritized and resourced. Mr. Van Ommen noted that it was the role of the Executive Committee and the CEO to provide a list of priorities for the Operational Plan each year.

When asked by another Bencher to provide his thoughts on the inclusion of mental health and wellness, Mr. Greenberg noted that the broad topic itself would require prioritization and consideration of resources, and could benefit from the creation of a task force to focus discussion.

Other Benchers provided their thanks for the considerable work that went in to creating the plan, noting it to be an excellent roadmap for the 3 years ahead.

Following a call for a vote, the plan was approved unanimously.

4. Law Firm Regulation Task Force: Second Interim Report

Mr. Van Ommen noted the concerns expressed by Benchers last meeting on the self-assessment tool, particularly as it related to sole practitioners. In response, staff have made revisions

designed to make the tool easier to use for all users. Additionally, after discussion of the initiative as a whole, the Executive Committee has recommended the creation of a pilot project to test the tool and to see how the initiative works in practice. The proposed resolution was circulated to the Benchers.

He noted that the Equity and Diversity Advisory Committee has provided comments and welcomed comments or questions from others. Some members of the Equity and Diversity Advisory Committee noted the Committee's strong support for a clause promoting equity and diversity, but also noted its concern regarding the current wording of that clause as more aspirational than practical. However, Committee members expressed caution concerning wording that appeared to create a positive duty, preferring instead language that suggested a goal rather than a duty.

Ms. Kresivo noted that there will be a newly constituted Task Force moving forward, and encouraged dialogue between it and the Equity and Diversity Advisory Committee to consider alternative language.

A question was also posed regarding how long the pilot would run and when implementation of the full program was anticipated. Mr. Van Ommen noted that the details of the pilot had yet to be developed, but confirmed that it was important to take the necessary time to process information arising from the pilot before reporting back to Benchers and moving forward with the project as a whole.

Also questioned was whether the ultimate program would include model policies, rather than the "educational resources" proposed for the pilot, with the suggestion that it is important to have consistency between the pilot and the ultimate program. Mr. Van Ommen noted that the Task Force was not foreclosing the eventual possibility of model policies, but that it recommended using the language "educational resources" for present purposes. If information obtained as a result of the pilot project suggests that firms want model policies, the ultimate program can include such policies. Suggestion was made that the term "sample policies" be used instead for the purposes of the pilot project.

In response to the question of whether Benchers would be first to participate in the pilot, Mr. Van Ommen clarified that the pilot would not be designed for just Benchers, but for wider participation.

Suggestion was made that recommendation 9 be tabled pending the Equity and Diversity Advisory Committee's input and further consideration. Concern was expressed that there could be some risk moving forward with this element without further consideration. Support for the inclusion of the recommendation was also expressed, with the acknowledgment that the current

wording was broad enough to capture the intent, and further revisions could be made in future if necessary.

Ms. Merrill then moved (seconded by Mr. Ferris) the approval of a resolution that Benchers adopt recommendations 1 – 9, 11, 14, 16 and 17, and adopt recommendations 12 and 13 of the said Report, but replace the phrase “model policies” in each recommendation with the phrase “educational resources”, and that in place of recommendations 10 and 15, the Benchers resolve that the implementation of law firm regulation will be commenced with a pilot project.

In discussion of the motion to amend, some Benchers noted that the wording of recommendation 9 is broad enough so as not to preclude future refinement as input is received; others agreed and noted that this recommendation would be conspicuous in its absence if removed, and further, that its removal would send the wrong message. Others stressed the importance of approving all recommendations now to avoid delay of the pilot project.

However, others questioned whether there was sufficient information before Benchers to ensure a considered decision and expressed concern that the imposition of obligations such as posed by recommendation 9 could result in a backlash akin to that experienced in Ontario. In response, it was observed that the best way to receive important feedback is through the pilot process.

Mr. Van Ommen called for a vote on the motion to amend; with 3 in favour and 28 opposed, the motion to amend failed.

A vote was called on the main motion; the motion was approved, with 28 in favour and 3 opposed.

5. CPD Final Review Report

Lawyer Education Advisory Committee Chair Dean Lawton, QC noted that the CPD Final Review Report was made available to Benchers for consideration last meeting, recalling that some suggestions had been made regarding language changes and some clarifications had been sought. Director, Education and Practice Alan Treleaven summarized those suggestions and clarifications, including, of note, the inclusion of language recognizing multiculturalism, diversity and equity issues. Clarification was also provided around receiving CPD credit for training on how to chair or conduct meetings and serve effectively on boards, as distinct from actually conducting those activities, for which no credit would be given. Also clarified was the effective date that the “carry over” option would begin, which is January 1, 2019.

In answer to a question regarding carry over of credits, Mr. Treleaven clarified that, beginning in 2019, a lawyer will be able to carry over unused credits of 6 hours to the next year, effectively reducing the next year’s requirement by the amount carried over. However, he also clarified that

the required 2 hours of ethics or practice management training cannot be carried over and must be completed each year.

Following a call for comments or questions, the issue of CPD credits for pro bono services was raised. Noting that recommendation 10 specifies that pro bono activity be ineligible for credit, several Benchers supported the suggestion that pro bono services provided through a verifiable pro bono clinic should be eligible for at least a portion of CPD credit hours. Such services should be recognized and credited as they provide invaluable training for lawyers, encourage a greater connection with the wider community, and facilitate increased access to justice.

In response, comment was made that if increased access to justice was a focus of this suggestion, more work may be required to determine which activities, from “low bono” to pro bono to legal aid work, might be eligible. Suggestion was made that recommendation 10 be removed from the recommendations being considered, until such time as further work might be done by the Access to Legal Services and Lawyer Education Advisory Committees.

Comment was also made that other practice areas, such as family law, involve “pro bono” type work routinely; while beneficial socially, it may not be appropriate for continuing education credits.

Also discussed were recommendations 22A and 22B regarding wellness credits. Clarification was sought as to whether these credits were available to group study. Mr. Lawton confirmed that the intent was to ensure a disciplined approach to study in this area, so if group study were properly designed, it may be eligible. In response to another question, Mr. Lawton also clarified that physical therapy modalities were excluded from credit after consultation with LAP, but noted that courses focused on education regarding physical wellness may receive credit, depending on how they are framed.

Mr. Wilson noted that, since advocating for the inclusion of recommendation 22B which includes caps on wellness credits, he has had the opportunity to consider the potential impact on other areas as well and now agrees with the appropriateness of moving 22A which does not include caps.

Mr. Van Ommen then called for the motion, noting that if any wished to have certain recommendations excised, a motion to amend should follow. Ms. Hamilton moved (seconded by Ms. Westwood) the approval of all recommendations in the CPD Review Final Report, including 22A but not 22B.

In discussion, Mr. Maclaren reiterated his support for providing credit for pro bono activities, noting that, for much of BC’s population, the only connection they may ever have with a lawyer may be through a pro bono clinic. He also noted that he supported a cap on pro bono credits, and

that it may be difficult to establish caps at a later date if the opposite approach is taken at this time. He then moved to amend (seconded by Mr. McKoen) the original motion to exclude recommendation 10 for further review by applicable committees.

In discussion, support for the amendment included the observation that areas such as family law may provide pro bono type service, but most lawyers do not practice in areas that touch the greatest need and there is currently a crisis in access to justice that demands the use of any and all tools available.

It was noted by some that the amendment would be supported if the issue was returned to the applicable committees for review of what constitutes pro bono, amongst other considerations.

Following the call for a vote, the motion to amend was passed, with 28 in favour and 3 opposed.

The main motion as amended was then approved unanimously.

6. Early Intervention Working Group Final Report

Chair Craig Ferris, QC reported, beginning by thanking members Jeff Campbell, QC, Woody Hayes, FCPA, FCA and Michelle Stanford, as well as CLO Deb Armour, QC, Acting CEO Adam Whitcombe and Policy and Legal Services Manager Michael Lucas for their valuable support.

The working group engaged in a review of the reliability of data and the building of a data base. It concluded that if we were able to obtain relevant data, and from that data draw meaningful conclusions, the project would be valuable. However, the group concluded that the relatively weak correlations that can be drawn from the data collected are insufficient to justify the further investment needed to create regulations. While it cannot recommend proceeding on the current data base, it does note that further analysis should be pursued if other opportunities arise.

Mr. Ferris then moved (seconded by Mr. Campbell) that the working group be wound up, now that their work is complete. The motion was approved unanimously.

DISCUSSION/DECISION

7. Year-End Advisory Committee Reports

- **Access to Legal Services Advisory Committee**

Chair Martin Finch, QC began by thanking committee members and staff, with particular thanks to Policy and Legal Services staff lawyer Doug Munro for providing direction and focus for the committee's work.

The Committee has continued its conversations exploring details regarding the provision of legal services and engaging perennial concerns like limited scope retainers and unbundling legal services, and has continued to advise Benchers as issues arise. Authority was sought from Benchers to create a mechanism to gather information that would facilitate more effective strategic planning around access to justice issues. The Executive Committee has since approved a questionnaire regarding pro bono services that will form part of the voluntary portion of the Annual Practice Declaration.

He also thanked Mr. Van Ommen for facilitating a meeting with managing partners of large Vancouver law firms regarding coordinating ways for lawyers to provide pro bono services and improved access to legal services more generally. Developing a model vehicle will likely be included in the work of next year's committee, with the aim of advancing access to legal services in the city.

He noted the valuable contributions of the Honourable Thomas Cromwell, who identified potential ways to deconstruct current regulations that may inadvertently present impediments to access. The work of identifying and simplifying regulations to ensure lawyers are better able to provide greater access to legal services will also be a task for next year's committee.

While review of these issues is often broad in scope, this should continue to be balanced with the implementation of specific tools to improve access, such as facilitating improved website access to increase awareness of ways the public can access pro bono or low bono legal services.

Mr. Van Ommen thanked Mr. Finch and the committee for tackling these difficult and timely issues.

- **Equity and Diversity Advisory Committee**

Chair Nancy Merrill, QC thanked committee members and staff lawyer Andrea Hilland for their hard work and commitment throughout the year. She noted that 2017 is the 25th anniversary of the Law Society Gender Equality Report and the committee has been engaged in analysis of progress made in the interim. Results of that analysis, which show that all recommendations directed at the Law Society have been achieved, will be published in Benchers Bulletin and on the website. She also noted that the new Equity Ombudsperson was hired earlier in the year, and indeed, joins us for the meeting today.

The committee is also considering a project to collect anecdotes from racialized lawyers to raise awareness of discrimination in the profession. Also underway is work to review options to support lawyers to take parental leave, as well as to provide continued focus for mental health issues in the profession. A series of articles is anticipated for the Benchers Bulletin; Mr. Greenberg will write on mental health issues, Ms. Ahmad will write on the experience of

racialized lawyers and Ms. Hamilton on parental leave. The committee is also continuing its work on recommendation 9 regarding the Law Firm Regulation project.

Finally, Ms. Merrill also noted that Jennifer Chow, QC is the first recipient of Diversity and Inclusion Award, which will be presented at an event this evening.

- **Lawyer Education Advisory Committee**

Though Chair Dean Lawton, QC's report was provided under the earlier agenda item, he took this opportunity to note his thanks to committee members as well as Director, Education and Practice Alan Treleaven and Deputy Director of PLTC Annie Rochette, and Policy staff lawyer Alison Luke for their hard work throughout the year.

- **Legal Aid Advisory Committee**

Chair Nancy Merrill, QC thanked the committee members, as well as Policy and Legal Services Manager Michael Lucas, Policy staff lawyer Doug Munro and Paralegal Aaron Bockner for their hard work and commitment throughout the year.

The committee has been focused on a number of initiatives, including exploring the possibility of research into the benefits of legal aid to society. Funding for such a research project may be available through the Law Foundation, and discussions have begun with Associate Professor Dandurand who's done similar research in the past. The committee intends to hold another colloquium in 2018, which Justice Cohen has graciously agreed to facilitate once again. Confirmation of the topic will await the outcome of the 2018 provincial budget, on which the committee has drafted submissions to the government.

Additionally, the committee is developing educational materials and resources, PLTC has agreed to include legal aid on its spring curriculum, the committee is creating a speakers list and has coordinated with the University Deans to talk to law students about the importance of legal aid work. Also, the committee continues to advocate with the government regarding public improvements to legal aid; members met with MLA's in September, and the Executive Committee approved intervention in legal aid test case litigation for which Richard Peck, QC will represent the Law Society on a pro bono basis.

With the assistance of Communications Director Jason Kuzminski, the committee is also working on a communications plan which includes an increased social media presence, and is focused on continuing to find ways to keep legal aid in spotlight to both lead and educate on this important issue.

- **Rule of Law and Lawyer Independence Advisory Committee**

Chair Craig Ferris, QC thanked committee members and staff for their hard work throughout the year. He noted that the committee hosted a successful lecture earlier in the year, with plans to host another in 2018, as well as a successful essay contest. It wrote and published on a number of different issues this year, including on the rule of law and political developments in the United States, on the independence of judges and the impact of criticism of the courts, border security, changes to legislation regarding solicitor client privilege, and the issue of delay in the courts and how that affects the rule of law. The committee also joined with other bar associations in a letter to Zimbabwe concerning changes to its constitution, and continued its work regarding Bill C-59, writing a letter to the Federal government outlining concerns.

Additionally, members met with Lawyers Rights Watch Canada regarding lawyers in other jurisdictions being targeted by government, and met with the BC Civil Liberties regarding whether solitary confinement is a tool being abused in this country.

Policy issues were also explored concerning whether regulation of alternate legal service providers could impact lawyer independence, and gave some consideration to how lawyers can safeguard themselves when practicing in other countries.

In the near future the committee will provide the Executive Committee with a memo on where the parameters lie regarding section 3 of the Legal Profession Act, providing factors to consider when exploring what it means to uphold and protect the rule of law.

The committee has also begun looking at the issue of publication of judicial expenses, and may be looking to write to the government on proposed legislation that could have an impact on judicial independence and the rule of law.

Finally, Mr. Ferris also highlighted for Benchers issues that are likely to rise to the fore in 2018, including alternate business structures which are being reviewed in other jurisdictions as a possible tool to enhance access to justice.

- **Recruitment and Nominating Advisory Committee**

Mr. Van Ommen reported as chair of this committee, noting its very recent creation. He thanked committee members as well as Manager, Executive Support Renee Collins for their hard work. The committee's emphasis will be on recruiting qualified applicants for appointment by the Law Society to external boards and organizations. Establishing new and effective processes remains a work in progress.

EXECUTIVE REPORTS

8. President's Report

- **TRC Advisory Committee Report**

Mr. Van Ommen reported as co-chair of this committee, noting the significant impact it has made since its inception in 2016. Earlier in the year, the concerns of the committee regarding the Begbie statue were brought to the attention of Benchers, resulting in the removal of the statue. Though controversial, the decision was lauded by the Indigenous community as an important step towards reconciliation.

Much of the year was spent planning and preparing for the symposium held in November which brought together over 300 people in the room and another 200 online to listen and learn and discuss. An important piece of the symposium was the creation of the powerful video *But I Was Wearing a Suit*, which documents the stories of Indigenous lawyers experiencing stereotyping and discrimination in our courts and our legal system. Participants described profound reactions to the video, and provided overwhelmingly positive feedback on the symposium as a whole.

In follow up, staff will prepare a report with recommendations for further steps we can take toward reconciliation.

- **Bencher Calendar**

Mr. Van Ommen noted that the calendar, started earlier this year, remains a work in progress and depends for its success on Bencher participation. He encouraged Benchers to continue to advise of upcoming events in their districts, and observed that a robust calendar of events can help facilitate greater engagement with lawyers and the local Bar associations around the province.

- **Briefing by the Law Society's Member of the Federation Council**

Mr. Van Ommen reported that, following the recent Federation Conference discussions in Victoria, a focus of the upcoming Federation Council meeting will be consideration of the review of the NCA program to determine whether and how the Federation should move to develop a substantive competency-based profile. He also noted that suggestions relating to proposed revisions to the Model Code by BC have not been included in the draft to be considered by the Federation Council, and he anticipates discussing with the Council the reasons why, as well as discussing a process by which law societies can provide feedback in working toward a proposal that is acceptable to a greater number of law societies. He recognized the importance of trying to achieve uniformity amongst the law societies.

- **Final Remarks**

Mr. Van Ommen announced the results from the recent Executive Committee election, congratulating successful candidates Lisa Hamilton, QC, Dean Lawton, QC, Steve McKoen andCarolynn Ryan. He thanked all candidates for their willingness to participate.

He also thanked Adam Whitcombe for stepping into the role of Acting CEO for the past months, a role he filled admirably, even while maintaining his ongoing duties as Chief Information and Planning Officer. On behalf of Benchers, Mr. Van Ommen expressed his gratitude and appreciation.

9. CEO's Report

Mr. Whitcombe provided highlights of his monthly written report to the Benchers.

He noted that this was his last Bencher meeting as Acting CEO and thanked Mr. Van Ommen, the Executive Committee and Benchers for their support. He also thanked all of the Law Society staff for their assistance, with particular mention of his own direct reports including Mr. Kuzminski and Ms. Collins.

Mr. Whitcombe also paid tribute to outgoing President Van Ommen, noting particularly his impactful work on Law Firm Regulation and the separation of the Law Society's insurance function, among other projects. On behalf of staff, he presented Mr. Van Ommen with a gift as a token of our appreciation for his support throughout the year.

CBA(BC) President Bill Veenstra then presented Mr. Van Ommen with a gift on behalf of the CBA(BC), thanking him for the steady hand with which he guided the profession in his year as President. Describing Mr. Van Ommen as a calm, thoughtful ambassador, he wished him well on his future endeavors.

In response, Mr. Van Ommen reiterated that it had been his pleasure to serve as President, and a privilege to be a Bencher for 9 years. The opportunity to serve as Bencher and work with such a great group of people has been the most satisfying endeavor of his career.

He then introduced Miriam Kresivo, QC as President for 2018, presenting her with the President's pin, noting that the Law Society would be in very good hands.

Ms. Kresivo thanked Mr. Van Ommen, noting her appreciation for their collegial working relationship over the last year. She applauded him for his tireless efforts on behalf of the Law Society and for the leadership he provided on successful initiatives undertaken by the Law Society during his tenure as Bencher and as a President.

She also echoed Mr. Van Ommen's gratitude for Mr. Whitcombe's assistance, noting how tirelessly he had worked through challenging times. She then welcomed Mr. Avison to his new role, and looked forward to working with him in the new year.

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