



Minutes

Benchers

Date: Saturday, June 08, 2019

Present:

Nancy G. Merrill, QC, President	Geoffrey McDonald
Craig Ferris, QC, 1 st Vice-President	Christopher McPherson, QC
Dean P.J. Lawton, QC, 2 nd Vice-President	Jacqui McQueen
Jasmin Ahmad	Phil Riddell, QC
Jeff Campbell, QC	Elizabeth Rowbotham
Jennifer Chow, QC	Mark Rushton
Barbara Cromarty	Karen Snowshoe
Anita Dalakoti	Michelle D. Stanford, QC
Jeevyn Dhaliwal	Sarah Westwood
Martin Finch, QC	Michael Welsh, QC
Brook Greenberg	Tony Wilson, QC
Lisa Hamilton, QC	Guangbin Yan
Roland Krueger, CD	Heidi Zetzsche
Jamie Maclaren, QC	
Claire Marshall	

Unable to Attend: Pinder Cheema, QC
Steven McKoen, QC
Carolynn Ryan

Public Session – Staff Attendance:

Staff:

Don Avison	Jason Kuzminski
Natasha Dookie	Michael Lucas
Su Forbes, QC	Jeanette McPhee
Kerryn Garvie	Alan Treleaven
Jeffrey Hoskins, QC	Adam Whitcombe, QC

Guests:	Lynne Charbonneau	Member, Futures Task Force, Law Society of BC
	Ross F. Earnshaw	President, Federation of Law Societies of Canada
	Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
	Dr. Peter German, QC	Principal, Peter German and Associates
	The Honourable Heather J. Holmes	Associate Chief Justice of the Supreme Court of British Columbia
	Shannon Salter	Chair, Civil Resolution Tribunal
	Frederica Wilson	Deputy CEO, Federation of Law Societies of Canada

CONSENT AGENDA

1. Minutes of May 3, 2019 meeting (regular session)

The minutes of the meeting held on May 3, 2019 were approved as circulated.

2. Minutes of May 3, 2019 meeting (*in camera* session)

The minutes of the *in camera* meeting held on May 3, 2019 were approved as circulated.

3. External Appointments: Legal Services Society Appointment

The following resolution was passed unanimously and by consent.

BE IT RESOLVED to appoint Karen Christiansen, CPA, FCA to the Legal Services Society Board for a term of three years.

REPORTS

4. President's Report

Ms. Merrill reported on her attendance at the 14th Annual International Bar Association Bar Leaders conference in Budapest, Hungary on 22-23 May, 2019. Some areas covered included countries with or without mandatory professional liability insurance, work being done on harassment and bullying, and its overlap with mental health.

Ms. Merrill also referred to the recent publication of the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, and indicated thought would be given as to next steps. She attended various other events, including call ceremonies in Victoria and Vancouver, and formed a selection committee to review submissions and choose a design for the Law Society Awards. Finally, Ms. Merrill indicated the Ad Hoc Bencher Election Working Group had met and that she would report on that in more detail at the next Bencher meeting on July 12.

5. CEO's Report

Mr. Avison reported on various meetings that he and Ms. Merrill had attended with provincial Ministers, in particular in relation to anti-money laundering and legal aid. He said the Law Society would also be appearing before the Standing Committee on Finance the following week and Ms. Rowbotham would be attending on behalf of the Law Society Benchers.

Mr. Avison referred to the recent referendum proposing changes to the general meeting rules and the positive result, and indicated the changes would be made in time for the annual general meeting in the fall.

A number of Benchers and staff had volunteered their time recently to teach ethics courses as part of the Professional Legal Training Course and Mr. Avison expressed his thanks for their participation.

Mr. Avison then discussed the findings in the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls and said the Truth and Reconciliation Advisory Committee had a preliminary discussion about the report. Further discussions would take place and consideration would be given as to how the recommendations could inform cultural competency training and create expectations for the entire profession.

6. Remarks from President, Federation of Law Societies of Canada

Ross Earnshaw began with introductory remarks about the Federation of Law Societies of Canada and the role it plays relative to the provincial and territorial law societies. He described the goals of the Federation as facilitating a harmonized approach to national issues and providing a vehicle for collective action by the law societies. He indicated that CanLII, which provides free online access to legal information, was a success story of collaboration at the national level.

Mr. Earnshaw then spoke about each of the three key priorities for the Federation; anti-money laundering, taking another look at the National Committee on Accreditation system, and truth and reconciliation.

Finally, Mr. Earnshaw spoke about the valuable contribution that Law Society of BC Benchers, Mr. Avison and other staff have made to various Federation initiatives over the years and the contribution they continue to make.

7. Update of Federation Anti-Money Laundering Activities

Frederica Wilson, Deputy CEO of the Federation of Law Societies of Canada, provided an update on the federation's engagement with the federal government on anti-money laundering. Ms. Wilson is co-chairing a joint working group on anti-money laundering. Representatives from the Law Society of BC will take part and its first meeting is on June 26. Nine objectives have been identified, including strengthening lines of communication and sharing trends on data.

DISCUSSION/DECISION

8. Benchers' Nominee for 2020 Second Vice-President

Ms. Merrill announced that two candidates had put their names forward for the position of the Benchers' nominee for 2nd Vice-President for 2020. She indicated voting would take place electronically and that an election would be held starting June 17 for a period of two weeks.

9. Equity and Diversity Advisory Committee's Proposed Name Change

Jasmin Ahmad, Chair of the Equity & Diversity Advisory Committee, introduced and spoke to the item. The Committee recommended that its name be changed to add "inclusion", to make the name of the Committee more consistent with its mandate and signal to the public the importance of inclusion to the legal profession. Ms. Ahmad described inclusion as creating an environment where people feel welcome, supported, valued and given the opportunity to fully participate.

The recommendation before Benchers for decision was as follows:

BE IT RESOLVED:

The Equity and Diversity Advisory Committee change the Committee name to the "Equity, Diversity and Inclusion Committee" and update the Committee's Terms of Reference as required.

Ms. Ahmad put forward a motion to amend the resolution that was before the Benchers to include "equity" in the name of the Law Society's Diversity and Inclusion award.

The resolution, including the amendment stated above, was passed unanimously.

10. Executive Committee Election Rules

The Governance Committee's memorandum on the Executive Committee election rules was before the Benchers for discussion only. Claire Marshall, member of the Governance Committee, spoke to the item.

Ms. Marshall indicated she had consulted with other appointed Benchers. They were also in support of the Governance Committee's recommendation to amend the Executive Committee election rules to bring consistency to how appointed Benchers are elected to the Executive Committee.

The Governance Committee's recommendations are as follows:

BE IT RESOLVED TO:

- a. Amend Rule 1-41(1) to recognize that there are four Benchers to be elected under the Rule.
- b. Reconcile the voting methods described in the Rule such that the voting for both the elected and appointed Bencher positions, if necessary, occurs in the manner provided for the elected Bencher positions.
- c. Clarify the processes for nominating elected and appointed Benchers such that they are consistent.
- d. While the elected and appointed Benchers would continue to nominate their respective candidates, if a vote for the elected Bencher and appointed Bencher positions on the Executive is required, all Benchers, elected and appointed, would eligible to vote for all four positions.

Some Benchers expressed concerns about the optics of allowing elected Benchers to vote for which appointed Bencher(s) should serve on the Executive Committee and thought it was important to preserve the independence of appointed Benchers. Conversely, it was recognized that with such a small group of appointed Benchers it may be problematic if more than one appointed Bencher wants to put their name forward to be on the Executive Committee and only appointed Benchers are able to vote in that election.

Mr. Riddell commented that the issues raised were discussed by the Governance Committee and the Committee's view was that all Benchers are equal and there was no need to continue to differentiate between appointed and elected Benchers.

The item will be on the July 12, 2019 Bencher meeting agenda for decision.

11. Bencher Code of Conduct

Phil Riddell, QC, member of the Governance Committee, introduced and spoke to the item on behalf of the Governance Committee. He reiterated the item was on the agenda for discussion only and proposed updates to the existing Bencher Code of Conduct.

Benchers sought clarification on a number of matters, including the nature and description of conflicts of interest (e.g. personal or professional, and whether "substantial" conflict provides enough guidance), and the prohibition preventing former Benchers from representing the Law Society in discipline matters.

Benchers agreed the draft Code of Conduct and comments raised by Benchers at the meeting would go back to the Governance Committee for further consideration before coming back to Benchers for decision at the July 12, 2019 Bencher meeting.

GUEST PRESENTATIONS

12. Dr. Peter German, QC – Phase Two Report – Session with Benchers

Dr. Peter German, QC began by providing an overview and timeline of anti-money laundering issues in British Columbia, work that has been done to investigate the problems in this area and two reports he has published on the topic (*Dirty Money - Part 1* and *Dirty Money – Part 2*).

Dr. German spoke about his work and the findings in each of the two reports. The focus of the first report was money laundering in lower mainland casinos and the focus of the second report was BC real estate, luxury vehicle sales and horse racing. He said lawyers touch on so many different aspects of transactions (e.g. real estate and the use of trust accounts). One solution may be for there to be minimal reporting of financial transactions by lawyers (e.g. trust ledgers), which is already occurring in the United States and in Australia. In the United Kingdom, a special body exists to serve as a repository for reporting by lawyers. Dr. German invited lawyers to come up with a workaround or solution to make financial transactions more transparent.

UPDATES

13. Legal Aid Advisory Committee: Mid-Year Report

Ms. Merrill, Chair of the Legal Aid Advisory Committee, thanked committee members and staff for their work to date. She indicated steps had been taken to form a legal aid coalition and that further work would take place later in the month. Ms. Merrill then reported that the Committee had considered Resolution 2 from the 2018 Annual General Meeting and discussed whether legal aid should be administered independent of government or what such independence would look like. Regarding an economic analysis of legal aid, Ms. Merrill said the Committee has not moved forward with this topic because better data collection is required to inform the work.

Ms. Merrill said the Committee was seeking Bencher approval to remove two items from the Committee's mandate:

- Mandate Item 2(b)(vi): *Working with government, the courts and the profession about ways to reduce the time and cost associated with mega-trials.*
- Mandate Item 2(b)(vii): *Working with the courts to determine how active case management might be used to support a more efficient and cost effective litigation system, thereby making legal aid more sustainable.*

The motion to remove both of the above items from the Committee's mandate was passed unanimously.

Finally, Ms. Merrill indicated that advancing the work of the legal aid coalition, and lobbying government to properly fund legal aid and educate the public through a government relations campaign would be the focus of the Committee's work for the balance of the year.

14. Access to Legal Services Advisory Committee: Mid-Year Report

Michelle Stanford, QC, Chair of the Access to Legal Services Advisory Committee, provided an update on the topics the Committee is considering in 2019.

First, the Committee continued work from 2017 on developing a proof-of-concept model for a non-profit legal services delivery program. The Committee sought Bencher approval to consult with lawyers, firms and justice system stakeholders for the purposes of obtaining better information regarding the potential market for services in the area of family law and immigration to people who struggle to access the existing services lawyers provide and which might usefully be provided as a non-profit "law firm" model. The motion to approve the Committee's recommendation was passed unanimously.

Ms. Stanford spoke about optional questions added to the Annual Practice Declaration about pro bono work. The Committee intends to consider data gathered from the addition of these questions with a view to being able to provide better advice to the Benchers regarding what the Law Society can do to foster greater access to lawyers by members of the public who, at present, might struggle to access the services of a lawyer. Ms. Stanford also reported that it provided advice to the Executive Committee about establishing an award for outstanding contribution to pro bono work, and the award was approved by Benchers at the May 3 meeting.

Finally, Ms. Stanford provided an update on the Access to Justice funding the Law Society provides to the Law Foundation and recognized Wayne Robertson, QC's contribution and commitment to the Fund over the years.

15. Report on Outstanding Hearing & Review Decisions

Mr. Ferris provided an update on outstanding hearing and review decisions and thanked Benchers for completing their reports on time.

FOR INFORMATION

16. IBA Report on Bullying and Sexual Harassment in the Legal Profession

There was no discussion on this item.

17. Law Society Submission to 2019 Judicial Compensation Committee

There was no discussion on this item.

18. Canadian Military Memorial Registration: Law Society Honor Roll

Mr. Krueger informed Benchers that he had prepared a submission regarding the Law Society of BC Honor Roll and sent it to Veterans Affairs Canada for publication on its website. The Law Society Honor Roll would now be searchable under the Canadian Military Memorials Database.

19. Three Month Bencher Calendar – June to August 2019

There was no discussion on this item.

KG

2019-06-08