

THE LAW SOCIETY OF BRITISH COLUMBIA

MINUTES

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| MEETING: | Benchers | |
| DATE: | Friday January 25, 2008 | |
| PRESENT: | John Hunter, QC, President | Barbara Levesque |
| | Gordon Turriff, QC, 1 st Vice-president | Peter Lloyd |
| | Glen Ridgway, QC, 2 nd Vice-president | Jan Lindsay |
| | Rita Andreone | David Mossop, QC |
| | Kathryn Berge, QC | Thelma O'Grady |
| | Joost Blom, QC | Robert Punnett |
| | Robert Brun, QC | Meg Shaw, QC |
| | Ken Dobell | Richard Stewart, QC |
| | Leon Getz, QC | Ronald Tindale |
| | Carol Hickman | Art Vertlieb, QC |
| | Gavin Hume, QC | James Vilvang, QC |
| | William Jackson | Ken Walker |
| | Patrick Kelly | David Zacks, QC |
| | Bruce LeRose, QC | |
| NOT PRESENT: | Terry La Liberté, QC | David Renwick |
| | June Preston | Dr. Maelor Vallance |
| STAFF PRESENT: | Tim McGee, CEO | Michael Lucas |
| | Stuart Cameron | Bill McIntosh |
| | Brad Daisley | David Newell |
| | Su Forbes, QC | Alan Treleaven |
| | Jeffrey Hoskins | Adam Whitcombe |
| | Howard Kushner | Carmel Wiseman |
| GUESTS: | Catherine Dauvergne, University of British Columbia Faculty of Law | |
| | Miriam Maisonville, Vice-president, CBABC | |
| | Joanne Silver, Director of Stakeholder Relations, CBABC | |
| | Johanne Blenkin, Executive Director and Chief Librarian, BCCLS | |
| | Tom Fellhauer, Chair, CLE Society | |
| | Jamie McLaren, Executive Director, Pro Bono Law of BC | |
| | Wayne Robertson, Executive Director, Law Foundation of BC | |
| | Jim Emmerton, Executive Director, BC Law Institute | |
| | Kathleen Cunningham, member, BC Law Institute | |

1. MINUTES

The minutes of the meeting held on December 14, 2007 were approved as circulated.

2. **PRESIDENT'S REPORT**

Mr. Hunter welcomed Peter Lloyd, Meg Shaw, QC, Robert Brun, QC, and David Mossop, QC to the Bencher table, and welcomed guests.

Mr. Hunter circulated a report on his activities on behalf of the Law Society since taking office. Mr. Hunter said his first area of focus for the year would be the process by which Benchers set priorities. The Executive Committee began a new process at their last meeting and expected to have a package ready for the Benchers at their meeting scheduled on February 29, 2008. Mr. Hunter said he wanted to work hard with all the Benchers to make the new process work to streamline and focus staff resources on key priorities. Mr. Hunter said there were three areas to keep an eye on:

- Core regulatory functions. The Law Society should continue to strengthen what it does to protect the public.
 - Support for Benchers in their adjudicative role was an operational priority in 2006. Mr. Hunter hoped there would be more resources available in that area.
 - Consideration of whether there should be a further separation of the Benchers' adjudicative and prosecutorial functions.
- Continuing professional development. This will be the year in which the CPD plan is completed. Mandatory CPD will be rolled out in January 2009. Most members will appreciate the necessity of mandatory CPD in order to maintain public confidence in the profession.
- Public outreach. The public forums have been very successful in terms of interaction with the community at large. They are an important means of communicating with the public.

3. **CEO'S REPORT**

Mr. McGee welcomed new Benchers on behalf of Law Society staff. He reported on two matters: operational priorities for 2008 and an update on the response of the Federation of Law Societies to the Competition Bureau report. With respect to Law Society finances, Mr. McGee said details on 2007 finances would be reported in April, and first quarter financials in May. He said 2007 ended on or slightly below budget.

Operational priorities in 2008 include completing some initiatives:

- Bringing the field audit program to expected levels.
- Bringing the in-house custodianship program to expected levels and completing the in-sourcing of files.
- Leveraging the small firm practice course into other areas.
- Continuing progress in government relations.
- Continuing to increase and improve support for Benchers in their adjudicative role.
- Monitoring key performance measures.
- Supporting the Benchers priorities and planning process.
- Completing the mandatory CPD program in preparation for implementation in 2009.
- Continue to engage with employees and strengthen the Law Society working environment. The 2007 employee survey highlighted the need to work on feedback and career development for employees. 2008 is the first year of operation under a collective agreement with staff lawyers.
- Continue to work with the Finance Committee to bring forward a clearly articulated plan for setting fees and capital planning, examine the funding requirements and appropriate levels for the Trust Accounting Fee, and consider the appropriate frequency and scope of financial reporting to the membership.

The Federation of Law Societies committee on the Competition Bureau report met to consider the report. The report was reasonably balanced and the overall reaction to the report was neutral to favourable. Across the country there has been very little media attention or government comment on the report. The Federation's communication plan remains the same – the Law Societies are prepared to consider reforms so long as the public interest is protected. The individual Law Societies will have some time to crystallize their ideas on how to approach changes and the Federation will bring those ideas together and report later in the year.

Mr. McGee congratulated Alan Treleven on his appointment to the mandatory education committee of the Association for Continuing Legal Education, in international organization promoting excellence among continuing legal education professionals.

4. REPORT ON OUTSTANDING HEARING DECISIONS

The Benchers received a report on outstanding hearing decisions.

5. REPORT FROM THE BC LAW INSTITUTE

Jim Emmerton, Executive Director of the British Columbia Law Institute gave a presentation on the work being done by the Institute.

Kathleen Cunningham, the Law Society's appointee to the Law Institute, said she had been involved with the Institute's work for some time and had seen it grow into a highly professional and excellent organization. She noted that the Institute's Elder Law Conference was very well received. Ms. Cunningham thanked the Benchers for appointing her to the Institute.

Mr. Getz asked what steps the Institute took to publicize its work. Mr. Emmerton said reports are published on the Institute's website and are exchanged with a number of organizations. The Institute issues press releases when issuing a consultation paper. Additionally, the Institute works with the media on some issues of particular public interest such as an upcoming article on predatory lending practices to be published in the Vancouver Sun. Ms. Cunningham said the Institute had been active in promoting the BC *Trustee Act* as a model statute across Canada.

Mr. Turriff said he was pleased to see an emphasis on independence of law reform. He asked if the Civil Justice Reform Task Force had asked the Institute to undertake any projects on its behalf. Mr. Emmerton said he was not aware of any such requests. He said the Institute wanted to be seen as professional and objective, and not as an advocacy group.

Mr. Zacks asked if the Institute worked with the Uniform Law Commission. Mr. Emmerton said the Institute is a member of the Uniform Law Commission and the current project on unincorporated associations is a ULC project.

Mr. Kelly referred to Mr. Hunter's earlier remarks about public outreach. He said the Law Society would be exploring the theme of youth and the law in a public forum, and he asked if the Institute was doing any work in that area. Mr. Emmerton said it was not an area of focus at the moment but he would be interested in discussing what the Institute might do.

Ms. Andreone asked how the Institute brought its work to the attention of decision makers. Mr. Emmerton said the Institute has direct contacts with both the provincial and federal governments. Ms. Cunningham said the government did not participate directly in the Trustee Act project but was aware of it and the Attorney General was very supportive of the Institute's involvement in that area.

Mr. Hunter thanked Mr. Emmerton and Ms. Cunningham for attending and informing the Benchers.

6. FINANCE COMMITTEE – SELECTION OF BENCHER AND LIFE BENCHER

The Benchers selected Ms. Berge as the non-Executive Committee Bencher member of the Finance Committee.

The Benchers selected Mr. LeRose as the Bencher-at-large member of the Finance Committee.

The Lay Benchers selected Mr. Lloyd as the Lay-Bencher member of the Finance Committee.

7. EXECUTIVE COMMITTEE – SELECTION OF LAY BENCHER

The Lay Benchers selected Mr. Kelly as the Lay Bencher member of the Executive Committee.

8. PROVINCIAL COURT PRACTICE DIRECTION RE: ACCESS TO THE COURTS BY LAWYERS AND ARTICLED STUDENTS WHO HAVE DISABILITIES.

Mr. Vertlieb noted that the recent practice direction from the Provincial Court regarding access by lawyers and articled students with disabilities was the result of ongoing work of the disability working group under the Equity and Diversity Committee. He said this was the first time this had been done in Canada and was an indication of how the work of committees can result in real change.

Ms. Hickman said that Chief Judge Stansfield had met with the Unbundling of Legal Services Task Force and had commented on the practice direction, saying he was pleased to have the consultation and would welcome it on other subjects.

9. PLANNING AND PRIORITIES

Mr. McGee introduced a preliminary discussion of the planning process the Benchers would engage in at their meeting in February. He said the Executive Committee would prepare a briefing book on priorities for that meeting.

Ms. Andreone asked if the President's list of priorities would be included in the matters under consideration. Mr. Hunter confirmed that was his understanding of the proposed process.

Ms. Andreone asked whether matters already in progress would be completed. Mr. Hunter said they would, subject to an assessment of the resources required for completion to ensure that they would not absorb a disproportionate amount of the Law Society's resources.

Ms. Andreone asked if the Discipline Committee should bring forward its priorities, or alternatively, if those should be taken as having already been put forward. Mr. Hunter said the regulatory committees were not specifically asked to report but if there was something of particular concern that the committee thinks might fall between the cracks, it should be brought up for consideration. Mr. McGee said the work being done by regulatory committees would be included in the analysis to review the resources being used, but matters that are in the process of being implemented operationally will likely continue. However, it is possible that some projects might be ended if they do not serve a useful purpose.

Ms. Levesque said the Benchers must be able to understand the context in which the Law Society operates and should not assume that everyone has the same understanding of that context. It would be helpful to have some information on that operating context to ensure that all the Benchers are starting with a common understanding. Mr. McGee noted that there was some information of that kind in the material circulated to the Benchers. He said in some cases acquiring the necessary knowledge is a strategic objective in its own right.

Ms. Hickman said the exercise of assessing and putting forward a list of priorities was very useful for the committees and task forces and it would be helpful for the regulatory committees to do the same thing. She asked if the Benchers would receive all the reports from the committees and task forces. Mr. McGee said the reports from the committees and task forces would be distilled into a standard template, but if the Benchers want the full reports they would be available.

Ms. Hickman said she hoped matters that were nearing completion such as the work of the Unbundling of Legal Services Task Force would not be ended prematurely.

Mr. Hunter agreed that it made sense to complete things that were nearly finished unless they were likely to absorb unreasonable amounts of resources.

Mr. Turriff said the order in which the Benchers do things is important. He said the Benchers should start with the fundamental question of whether independence of lawyers is a constitutional imperative, a public right, or a gift to lawyers from the legislature. He said he did not know how to respond to some of the more particular questions, such as those raised by the Competition Bureau report until the bigger question was answered. He urged the Benchers to start at the top and work down to the more detailed questions.

Mr. Getz asked how a Bencher might bring a new idea to the Benchers for consideration. Mr. Hunter said the process was not intended to make a closed circle of ideas, but to strike a balance and avoid dealing with a constant stream of new matters that distract from priorities. He said there will have to be a mechanism for getting new ideas into the mix. The most probable route would be through the Executive Committee. He cautioned that when the Benchers seek to prioritize new matters, they must do so with an adequate knowledge base.

Mr. LeRose recalled that the "Bencher concerns" section was added to the Benchers agenda so that Benchers could raise new matters.

Mr. Kelly said the Benchers must remain open to new ideas, especially those that come from the public. The new process may allow them to be appropriately considered and will enhance the Benchers' ability to identify new but important ideas.

Mr. McGee described the process as a way of doing things rather than an event. The plan will be reviewed and revised over time. The Executive Committee's process must capture new ideas that are important and be nimble enough to get them to the Benchers for consideration along with the necessary information to make a proper assessment of priority.

10. SELECTION OF THE LSBC REPRESENTATIVE ON THE FEDERATION OF LAW SOCIETIES COUNCIL

This matter was discussed *in camera* .

11. OPEN DISCUSSION OF BENCHER CONCERNS.

This matter was discussed *in camera*.

DMGN
08-02-22