



# Benchers' Notes

May, 2002

Volume 8, Number 1

*These Benchers' Notes cover the Winter Term Convocation of January 28, 2002, Spring Term Convocation of April 1, 2002, Special Convocation, Call to Bar of April 12, 2002, and, the Adjourned Spring Term Convocation of April 29, 2002. The Notes provide discussion of selected topics considered by the Benchers and other items of interest to the Bar. This and previous editions of Benchers' Notes, beginning December, 1999, are available at [www.lawsociety.nf.ca](http://www.lawsociety.nf.ca)*



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## Adjourned Spring Term Convocation, April 29, 2002

At the opening of Convocation, the President noted with pleasure the presence of Bernice Morgan, D. Litt, recently appointed as a lay Bencher and now attending her first Convocation. He welcomed Dr Morgan and stated that her appointment reflects the importance of the work of Benchers and of the role that members of the public have to play in governing the profession.

The purpose of the April 29 Convocation was to determine how best to fund the \$1.7 million cost of fitting-up the Law Society's new office building at 196-198 Water Street. In leading discussion, the President, Jeffrey P Benson, QC, informed Benchers that on Wednesday, April 24, the Advisory Council of the Law Society met to consider a number of options for funding and in order to provide their comments. The Council comprises former Treasurers and Presidents.

The views expressed at the Advisory Council meeting were presented by Robert M Sinclair, QC, Past President and Chair of the Council. Benchers also heard from Lewis B Andrews, QC, Chair of the Insurance Committee, and Tobias McDonald, the Bencher who Chairs the Property Management Committee. After consideration, a decision was taken to borrow from the Law Society's Self-Insurance Funds the \$1.7 millions required for fitting-up costs of the new building, and to repay the loan over a 25 year period at a rate of interest determined annually and equal to a one year Treasury Bill.

To give effect to this decision, Benchers approved a Resolution that acknowledges their obligation to manage the Law Society in a manner that serves the public interest and at a cost prudent for members to sustain. At the conclusion of this topic at Convocation, the President remarked that decisions taken today would impact beneficially upon the public and upon members for decades, permitting the Society to manage its affairs efficiently.

The President also noted that the building is already under construction. Work began on April 1. The contractor requires approximately 26 weeks to completion. An artist's conception of the completed building is shown on the front page of these *Notes*.

One other topic was addressed at Convocation, the Law Society's Financial Statements for 2001. The Executive Director stated that the Society had a \$74,579 deficit in 2001. In his Report to Benchers, he indicated the deficit resulted from a number of expenditures not anticipated when the Budget was approved in December 2000. Chief among these, the Custodianship of Gerard Gushue Law Office in Happy Valley-Goose Bay was a significant factor, costing more than \$30,000. Other increased costs resulted from the mid-year decision to employ a full-time Receptionist for the Law Society. And several Bencher initiatives throughout the year added to expenses, such as the honours and awards granted to members and former members (and the receptions for these awards) conferred by the Law Society for the first time, most notable among these the Doctor of Laws, *honoris causa*, conferred upon Chief Justice Hickman at his retirement. Coupled with increased expenditures, there was a reduction in revenues. Fewer members and students joined the profession last year, reducing fees revenues, and revenues from law library photocopiers decreased markedly. Taken together, decreased Revenues and increased Expenditures resulted in the deficit. Nevertheless, noted the Executive Director, throughout the year Benchers' maintained a watchful eye over finances and approved the added expenditures as they became necessary, a number of them on a one-time basis. For the most part, he concluded, the added expenses are normal variables that can occur in the management of a professional society with complex responsibilities. A copy of the Society's 2001 Financial Statements is included with these *Benchers' Notes*.

## Spring Term Convocation, April 1, 2002

### Eastern Mobility Protocol

The topic of increased mobility amongst lawyers in Atlantic Canada dominated the April 1 Convocation. Attending as guests of the President were Mark McCrae, QC, President of the Barristers' Society of Nova Scotia, and Chuck Johnstone, QC, President of the Law Society of New Brunswick. John Mitchell, QC, President of the Law Society of Prince Edward Island, was unable to attend on this date.



When he introduced the visiting Presidents to Benchers, Benson, QC, reminded Benchers that he, in turn, visited the Barristers' Society to address this topic, and will visit the Law Society of New Brunswick on May 4-5. An earlier trip planned for the Presidents to Prince Edward Island was cancelled because of bad weather in February.

The President remarked that the presence today of two of his Atlantic colleagues served to demonstrate the common interest shared by all law societies in Canada in this issue, and the desire to build upon the particular commonalities found in Atlantic Canada. To this end, Atlantic law societies have for some time now been exploring opportunities to cooperate and to harmonize. One example mentioned in an earlier *Benchers' Notes* is the initiative to have a common set of trust account rules in Atlantic Canada; a common Code of Professional Conduct has been discussed as another possibility.

In recent months, the four Atlantic societies have been exploring how best to improve mobility of their members throughout the region and to build upon successes in Western Canada where, generally speaking, members in one western jurisdiction are entitled to practice in another on a visiting basis for up to six months. The time has now come, remarked the President, for similar mobility provisions in eastern Canada and, to this end, the four Atlantic societies have been meeting and discussing. Benson, QC, invited his maritime counterparts to address Convocation.

Mark McCrae, QC, spoke about movement toward a national mobility protocol, such a protocol given momentum by a National Task Force on Mobility of the Federation of Law Societies and chaired by Vern Krishna, QC, Treasurer of the Law Society of Upper Canada. At a national level, mobility is a front-burner issue, stated McCrae, QC, and the work undertaken in Atlantic Canada prepares for changes soon to be applied nationally. Under consideration nationally, for example, are provisions that members visiting one province from another for up to six months will not be tested for knowledge of local laws. In his view, McCrae, QC, stated, it will take another 18 months before full mobility is realized in Canada. Noteworthy also about national mobility trends, he observed, Quebec differences are being taken into account in a way that will permit full mobility of lawyers to and from Quebec.

Chuck Johnstone, QC, President of the Law Society of New Brunswick, spoke about the similarities in concerns and issues facing law societies in Canada and certainly in Atlantic Canada. Sitting through Convocation in Newfoundland, he observed, was much like sitting through one of his own in New Brunswick, so similar are the discussions and concerns. Even the Agendas have many similarities. For this among other reasons, he stated, regional mobility is not only a growing necessity for good business practice in the profession, but sensible as well and absent many of the apprehensions that first concern about such proposals. He stated that his own Council in New Brunswick is giving thoughtful and favourable consideration to the Eastern Mobility Protocol and he was pleased to see first-hand a similar approach in Newfoundland.

The Newfoundland President, Benson, QC, addressed Convocation next and provided a report on the Federation's activities, stating that the presence of two of his counterparts was an appropriate occasion to speak about a few national issues. He began by informing Benchers that this law society has agreed to be licensed as an investigative body under the federal government's PIPEDA legislation. The decision to participate was not without some discussion amongst Benchers, since the federal legislation impacts upon the governance of the profession in the province. In other topics of national concern, law societies continue to fund challenges to the federal government's money laundering legislation. In Newfoundland and Labrador, the Federation of Law Societies and the Law Society of Newfoundland are being represented *pro bono* by John Crosbie, PC, OC, QC, and by Greg Anthony, both of the firm Patterson Palmer.

At the conclusion of these discussions, Benchers voted to adopt a Resolution that will place the Eastern Mobility Protocol on the Agenda for final vote at the June 7 Convocation. One clause of the Resolution proposes the Protocol be amended to include a Notice requirement for members in another Atlantic jurisdiction; members from outside Newfoundland must provide the Law Society notice of their intention to work in this jurisdiction.



## President's Report

At the commencement of Convocation, and before the arrival of his maritime guests, the President addressed the current and local business of the Society. He informed Benchers that on February 4 there was a meeting between several members of the Executive and the Executive Director with the Hon Walter Noel, Minister of Government Lands and Services, and several of his senior Departmental officials, including Mr Donald Laing, the newly appointed Registrar. The meeting lasted approximately two hours and proved informative and beneficial. Notably, the Minister and the Registrar repeated commitments to improve services at the Registry Office and to speed the turn-around time for documents.

The President raised concerns with the Minister about the proposed automobile tort reform initiative. The Minister complimented the work of the Joint Liaison Committee of the Law Society and the Canadian Bar Association in providing helpful comment to government about the proposals. He stated that the proposals were still under review and the government is keeping an open mind about public concerns.

In overview, remarked the President, the meeting with the Hon Walter Noel was important because the work of his Department is significant in the legislation it brings forward and which impact upon the practice of law. The Law Society expects that meetings with the Department will occur on a regular basis.

## Vice-President's Report

The Vice-President, William HN Goodridge, QC, mentioned that recently the Supreme Court of Canada ruled on issues surrounding police searches of law offices, and the court maintained the importance of solicitor-client privilege. In matters directly relating to current business, the Vice-President mentioned that many other law societies are structured in a way that permits professional staff to dismiss complaints that hold no merit and to deal summarily with minor infractions. He is investigating the appropriateness of adopting all or part of such procedures for this law society.

## Committee Reports

### Property Management Committee

Tobias McDonald, Chair, reported. Mr McDonald informed Benchers that the lowest tender for construction of the Law Society's new building was provided by Redwood Construction. He recommended to Benchers that they formally accept the bid. Mr McDonald stated that a great deal of care has been expended in the preparation of specifications for the new building and this will reduce the need to revise costs after construction gets underway, with the possible exception of the exterior brickwork. The brickwork may need to be replaced, and this possibility is already factored as a potential further expense. In approving the Redwood bid, Benchers also approved the cost of replacing the brickwork should it become necessary.

### Limited Liability Partnerships and Law Corporations

In the absence of the Chair, Robert Stack, the President tabled the Report of the Committee. He stated that the work of the LLP SubCommittee is not far enough advanced to be completed by June as originally intended, but the Law Corporations subcommittee has now chosen a model for law corporations legislation and will make recommendations to Benchers by the June deadline.

### Legislation Committee Report

Brian Furey, Chair, tabled a Report and mentioned a new Rule pertaining to Family Law, and amendments to the *Trustee Act*. The Rule and amendments will be placed on the Society's web site in the next week or two, and members are requested to comment about them directly to Mr Furey. The Committee noted that on this day, April 1, the new *Class Actions Act* came into effect.

### Code of Ethics Review and Revision Committee

Augustus G Lilly, QC, Chair, was present to discuss the Committee's Report. He reminded Benchers of their request some months ago that the Committee review guidelines for working with new technologies such as computers and the internet. Lilly, QC, provided an overview of the Report's recommendations and proposed that they be placed on the Society's web site



for consideration by members. The Report is now posted at the website; members are encouraged to review the recommendations and contact Lilly, QC, directly with comments. Benchers will vote to adopt the changes to the *Code of Professional Conduct* at the June Convocation.

### **Draft Practice Advisory: File Closure, Retention and Destruction Policy**

The President commented that professional staff are developing a practice advisory on this topic in response to ongoing enquiries from members. In preparing the policy, staff canvassed widely for the views of others in Canada, and reviewed a number of published articles. A draft of the advisory was tabled and discussed briefly by the Executive Director. He stated that the advisory in its present draft is a very conservative document that likely overstates the cautions and procedures appropriate in resolving file closure, retention and destruction questions. Nevertheless, the draft is a starting point for discussion and will be reworked for Benchers' further consideration in June.

### **Changes in Status**

Benchers approved the following applications for changes in status:

#### **Applications to Elect Non-Practising Status:**

Brenda Duffy	Diane Rowe
John Frecker	Stephanie Tuff
Wendell O'Reilly	

#### **Applications to Resume Practising Status:**

Ann McLoughlin	Meaghan R Young
Darragh McManamon	Heidi Wells

#### **Application to Resign Membership:**

Weldon Furlotte

Members are reminded that any time there is a change in your practising status, you must notify the Law Society in writing. Under the *Rules of the Law Society* changes in practice include: change from practising to non-practising; change from non-practising to practising; change of employment from one firm to another or to or from sole practice; commencement of practice; and departure from the province to pursue a career elsewhere. Appropriate Forms to accommodate the notice requirements are available by contacting Janice Whitman at Law Society offices.

## **Educational Notes**

### **Continuing Legal Education**

The Joint Committee on Continuing Legal Education has commenced its programming for 2002 and a number of CLE Seminars have recently been held.

The first program of 2002 dealt with the new *Class Actions Act*. The seminar included presentations from Mr Ward Branch of Branch, MacMaster, Vancouver, BC, and Ms Katherine Crosbie of the Office of the Legislative Counsel, St John's. Attendees at this seminar were introduced to this new legislation and advised of some practical issues relating to the legislation, including the certification procedure, costs and procedural issues relating to class actions. The seminar was presented in St. John's on February 7 and the following day at Steady Brook. The Committee is grateful to Mr Branch and Ms Crosbie for their presentations.

On March 1, 2002 there was a seminar entitled *The "New CBCA": Reform of the Canada Business Corporations Act – What does it mean for your practice?* The seminar dealt with the many substantial changes to the *Canada Business Corporations Act* which recently came into effect. Many thanks to our presenters Mr Robert Weist, Deputy Director, Canada Business Corporations Act, Ottawa and Mr Thomas Kendell, QC, McInnes Cooper, St John's.

As a follow-up to the legal research seminars held during the Fall of 2001, Law Society Librarians, Harriet Mercer and Gail Hogan, have been offering legal research training sessions on *E-Carswell*. These sessions have been offered throughout March and April, 2002 and interest in the seminars has been very high, as members are recognizing the benefits of effectively using this research product. The Committee appreciates the ongoing efforts of Ms Mercer and Ms Hogan in developing and leading these training seminars.

On April 26, 2002 there was a seminar entitled *Employment and Labour Law: Caselaw and Legislative Update*. Six topics were addressed, namely: Human Rights and Employment Law Update, Labour Arbitration Update, Labour Relations Board Update, Occupational Health and Safety Update, Wrongful Dismissal Update and an update on the Workplace Health, Safety and Compensation Commission. Those attending were apprised of the latest legislative and judicial developments in these areas and benefited



from the presentations and materials prepared for the seminar. The Committee greatly appreciates the contributions of our presenters: Ms Judith Begley, Stewart McKelvey Stirling Scales; Mr Barry Fleming, Human Rights Commission; Mr Denis Mahoney, McInnes Cooper; Mr Darren Stratton, White Ottenheimer & Baker; Ms Donna Strong, Workplace Health, Safety & Compensation Commission and Mr Ian Wallace, Stewart McKelvey Stirling Scales.

Programming being planned for the Spring and Fall of 2002 includes such topics as Wills and Estate Planning, Family Law, Civil Litigation and Personal Injury, Intellectual Property, Criminal Law and Alternative Dispute Resolution. We shall continue to offer seminars which are relevant and helpful to practitioners, and we always welcome your suggestions for future topics in this regard.

## CLE Seminars



**CBCA Seminar – March 1, 2002**

I-r: Thomas Kendell, qc, Robert Weist, Frank O'Brien



**Employment/Labour Seminar – April 26, 2002**

I-r: Frank O'Brien, Donna Strong, Judith Begley, Denis Mahoney, Barry Fleming, Darren Stratton, Ian Wallace

## Law Society Rules

### Marking Examinations

6.11(4) The bar admission committee shall cause each examination paper which has received a mark of at least 55% and below 60% and may cause other examination papers, to be reviewed and remarked to verify the mark assigned and, if warranted, shall assign a different mark.

*(Amended: Rule 6.11(4),  
Spring Term Convocation, April 1, 2002)*

(The full text of all Rules of the Law Society is available on the Law Society website: [www.lawsociety.nf.ca](http://www.lawsociety.nf.ca))

*The Professionals' Assistance Program,  
a support group for Lawyers,  
can be of assistance in many situations.*

**For further discussion or consultation, contact:**

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## Discipline Notes

### Complaints Authorization Committee Dispositions

The Complaints Authorization Committee is a committee of Benchers that reviews the Secretary's report concerning allegations that have been investigated and ultimately determines whether an allegation constitutes a complaint. The powers of the Complaints Authorization Committee are prescribed by section 45 of the *Law Society Act, 1999*. Where there are reasonable grounds to believe a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint and the Complaints Authorization Committee may counsel or caution the respondent or refer the matter on to the Discipline Committee. A decision of the Complaints Authorization Committee is final and not subject to appeal.

The Complaints Authorization Committee interprets counselling as less severe than cautioning. A letter of counsel recommends to the respondent to avoid similar conduct in the future. A letter of caution is a warning or admonishment to the respondent. Law Society Rule 9.06(5) prescribes that the Complaints Authorization Committee may direct the Secretary to advise members of the Society about the circumstances giving rise to the counsel or caution but in so doing omit information that may disclose the identity of the respondent. Law Society Rule 9.06(6) prescribes that the Secretary shall notify the complainant and the respondent in writing of the fact that a respondent has been counselled or cautioned.

### Integrity and Failure to Respond

The Complaints Authorization Committee issued a strongly worded caution to a member for failure to provide accurate information concerning the member's role *vis-à-vis* an estate and for failure to respond to another solicitor and to the Law Society in a timely fashion. The committee cautioned a member that misrepresenting, to an opposing party, one's position with respect to an Estate and failing to respond to another solicitor and to the Law Society in a timely fashion does not comply with the standard of conduct contemplated by chapters I and XVI of the Code of Professional Conduct.

The Rules and commentaries are reproduced below.

#### Chapter I, Rule

*The lawyer must discharge with integrity all duties owed to clients, the court, other members of the profession and the public.*

#### Chapter I, commentary 1

*1. Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If the client is in any doubt about the lawyer's trustworthiness the essential element in the lawyer-client relationship will be missing. If personal integrity is lacking the lawyer's usefulness to the client and reputation within the profession will be destroyed regardless of how competent the lawyer may be.*

#### Chapter XVI, Rule

*The lawyer's conduct toward other lawyers should be characterized by courtesy and good faith.*

#### Chapter XVI, commentaries 6 and 10

*6. The lawyer should answer with reasonable promptness all professional letters and communications from other lawyers that require an answer and should be punctual in fulfilling all commitments.*

*10. The same courtesy and good faith should characterize the lawyer's conduct toward lay persons lawfully representing others or themselves.*

## Quality of Service and Advising Clients

The Complaints Authorization Committee cautioned a member for failure to keep the client reasonably informed and for failure to notify the client of a missed limitation period. The committee cautioned a member that failure to apprise the client of developments with respect to the client's litigation and failure to advise the client of a missed limitation period for approximately 27 months in that instance, does not comply with the standard of conduct contemplated by chapter II, commentaries 7 (a), (b), (c), (e) and (k) and chapter III, commentary 10 of the Code of Professional Conduct.

The Rules and commentaries are reproduced below.

#### Chapter II, Rule (b)

*The lawyer should serve the client in a conscientious, diligent and efficient manner so as to provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation.*



## Chapter II, commentary 7

7. Numerous examples could be given of conduct that does not meet the quality of service required by the second branch of the Rule. The list that follows is illustrative, but not by any means exhaustive:

- (a) failure to keep the client reasonably informed;
- (b) failure to answer reasonable requests from the client for information;
- (c) unexplained failure to respond to the client's telephone calls; . . .
- (e) informing the client that something will happen or that some step will be taken by a certain date, then letting the date pass without follow-up information or explanation; . . .
- (k) withholding information from the client or misleading the client about the position of a matter in order to cover up the fact of neglect or mistakes.

## Chapter III, Rule (a)

The lawyer must be both honest and candid when advising clients.

## Chapter III, commentary 10

10. The duty to give honest and candid advice requires the lawyer to inform the client promptly of the facts, but without admitting liability, upon discovering that an error or omission has occurred in a matter for which the lawyer was engaged and that is or may be damaging to the client and cannot readily be rectified. When so informing the client the lawyer should be careful not to prejudice any rights of indemnity that either of them may have under any insurance, client's protection or indemnity plan, or otherwise. At the same time the lawyer should recommend that the client obtain legal advice elsewhere about any rights the client may have arising from such error or omission and whether it is appropriate for the lawyer to continue to act in the matter. The lawyer should also give prompt notice of any potential claim to the lawyer's insurer and any other indemnitor so that any protection from that source will not be prejudiced and, unless the client objects, should assist and co-operate with the insurer or other indemnitor to the extent necessary to enable any claim that is made to be dealt with promptly. If the lawyer is not so indemnified, or to the extent that the indemnity may not fully cover the claim, the

lawyer should expeditiously deal with any claim that may be made and must not, under any circumstances, take unfair advantage that might defeat or impair the client's claim. In cases where liability is clear and the insurer or other indemnitor is prepared to pay its portion of the claim, the lawyer is under a duty to arrange for payment of the balance.

### Quality of Service

The Complaints Authorization Committee cautioned a member for improper management of a family law file and for failure to communicate directly with the client. The committee cautioned a member that such conduct does not comply with the standard of conduct contemplated by chapter II of the Code of Professional Conduct.

The Rule and commentary are reproduced below.

## Chapter II, Rule b

*The lawyer should serve the client in a conscientious, diligent and efficient manner so as to provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation.*

## Chapter II, commentary 7

7. Numerous examples could be given of conduct that does not meet the quality of service required by the second branch of the Rule. The list that follows is illustrative, but not by any means exhaustive:

- (a) failure to keep the client reasonably informed;
- (b) failure to answer reasonable requests from the client for information;
- (c) unexplained failure to respond to the client's telephone calls; . . .
- (h) slipshod work, such as mistakes or omissions in statements or documents prepared on behalf of the client;

### Responsibility to Lawyers Individually

The Complaints Authorization Committee cautioned a member for failure to respond to communications from successor solicitors. The committee cautioned the member that failure to respond for a three year period in that instance, does not comply with the standard contemplated by chapter XVI of the Code of Professional Conduct.



The Rule and commentary are reproduced below.

Chapter XVI, Rule

*The lawyer's conduct toward other lawyers should be characterized by courtesy and good faith.*

Chapter XVI, commentary 6

*The lawyer should answer with reasonable promptness all professional letters and communications from other lawyers that require an answer and should be punctual in fulfilling all commitments.*

### Avoiding Questionable Conduct

The Complaints Authorization Committee cautioned a member for being discourteous toward an individual who was self-represented. The committee cautioned the member that such conduct does not comply with the standard of conduct contemplated by chapters XVI and XIX of the Code of Professional Conduct.

The Rules and commentaries are reproduced below.

Chapter XVI, Rule

*The lawyer's conduct toward other lawyers should be characterized by courtesy and good faith.*

Chapter XVI, commentary 10

*The same courtesy and good faith should characterize the lawyer's conduct toward lay persons lawfully representing others or themselves.*

Chapter XIX, Rule

*The lawyer should observe the rules of professional conduct set out in the Code in the spirit as well as in the letter.*

Chapter XIX, commentary 10

*The lawyer should try at all times to observe a standard of conduct that reflects credit on the legal profession and the administration of justice generally and inspires the confidence, respect and trust of both clients and the community.*

### Withdrawal

The Complaints Authorization Committee counselled a member for failure to seek leave of the Court to withdraw as solicitor of record, as prescribed by Supreme Court Rule 23.06. The committee counselled the member that failure to comply with Supreme Court Rule 23.06 does not comply with the standard of conduct contemplated by chapter XII, commentary 3 of the Code of Professional Conduct.

The Rule and commentary are reproduced below.

Chapter XII, Rule

*The lawyer owes a duty to the client not to withdraw services except for good cause and upon notice appropriate in the circumstances.*

Chapter XII, commentary 3

*3. Where withdrawal is required or permitted by this Rule, the lawyer must comply with all applicable rules of court as well as local rules and practice.*

### Complaints Authorization Committee Practice Notes

#### Withdrawal

The Complaints Authorization Committee reminds members that the Rule in chapter XII of the Code of Professional Conduct prescribes that *The lawyer owes a duty to the client not to withdraw services except for good cause and upon notice appropriate in the circumstances.* The commentaries include discussion of the circumstances which may lead to withdrawal, what constitutes appropriate notice and the solicitor's duties following withdrawal. In particular, commentary 3 prescribes *Where withdrawal is required or permitted by this Rule, the lawyer must comply with all applicable rules of court as well as local rules and practice.*

The Complaints Authorization Committee directs members to Supreme Court Rule 23 - Change of Solicitors and, in particular, to 23.06 which prescribes, in part, *the solicitor may apply to the Court for an order declaring that the solicitor has ceased to be the solicitor acting for the party, and the Court may so order, but unless and until the solicitor files the order on every party, the solicitor shall be considered the solicitor of the party until the conclusion of the proceeding.*

The Committee recommends that, upon withdrawal, members ensure compliance with the Rules referenced above. Members are reminded that failure to do so may result in disciplinary sanctions.



## Senior Counsel?

### Then Volunteer to be a Mentor

In the December *Benchers' Notes*, notice was given of a proposal to establish a Mentor Program. Mentors were to be recruited and made available to provide members less experienced in an area of practice with the assistance of more experienced counsel. More mentor volunteers are required and we solicit your participation. The guidelines of the proposed Mentor Program follow.

Prior to initial access to the program, the user must sign a disclaimer with respect to the user's reliance on the advice of the mentor. The form signed by the user would also acknowledge:

- (i) that the mentor program and mentors accept no liability arising from assistance given to users or any person claiming through or under them;
- (ii) that the user must independently verify statements of law, procedure or fact made by the mentor;
- (iii) that the mentor program must not be used as a substitute for the user's own thorough research and analysis or the user's own professional judgement.

We are seeking volunteers from members of the Law Society who have been practising for 10 years or more and are willing to participate in the Mentor Program. If you are one of these senior members and willing to volunteer as a mentor, please submit your name and preferred area of practice to Phyllis Weir by facsimile at 722-8902, or by telephone 722-4740, ext 203.

## Law Library Electronic Training

Throughout the winter the Law Society Library has offered a series of workshops on the use of electronic products including the new online product e-carswell. These workshops were limited to 2 people per librarian and were very well attended. The intention is to continue the workshops in the fall. During the summer, similar sessions will be offered to law students and clerks. Anyone who was not able to attend these sessions is invited to call Gail Hogan or Harriet Mercer at 753-7770 for individualized or small group training.

## Notice to Members

### Judgement Interest Order

The Government of Newfoundland and Labrador has notified the Law Society that, effective January 1, 2002, pre-judgment and post-judgment interest shall be 3%.

### Appointments

The Honourable Mr Justice Carl R Thompson, called to Bar February 7, 1974, Roll #359, was sworn in as a Justice of The Supreme Court of Newfoundland and Labrador on Friday, February 8, 2002. Mr Justice Thompson now sits in St John's. The President spoke at the swearing-in and extended the good wishes of Benchers and members. A reception hosted by the Law Society and the Supreme Court was well received following the Ceremony.

The Honourable Lynn Spracklin, called to the Bar December 15, 1970, Roll #310, was sworn in as a Judge of the Provincial Court at a Ceremony in St John's on Wednesday, May 1. The President spoke at the swearing-in and extended the good wishes of Benchers and members. Judge Spracklin will sit in St John's. A reception was hosted by the Law Society and the Provincial Court following the Ceremony.

The Honourable Timothy Chalker, called to the Bar December 14, 1971, Roll #320, was appointed a Judge of the Provincial Court on Monday, April 29, 2002. A time for his swearing-in has not yet been chosen but will be posted at the Law Society's website when available. Judge Chalker will sit in Happy Valley-Goose Bay.

### Queen's Counsel Appointments

On February 20, 2002, ten new Queen's Counsel were sworn in at the Supreme Court: David L G Andrews; Jeffrey P Benson, John D Brooks; David G L Buffett; William H N Goodridge; Joseph S Hutchings; John W McGrath; Lois J Skanes; Kenneth A Templeton; and James E Vavasour. Following the Ceremony, the Law Society hosted a reception in the Court Gardens at the Fairmont Newfoundland Hotel.



## Newfoundland Law Reports: 1947-1949

A number of copies of this volume are still available to members, historians, and those with an interest in Newfoundland's legal system during the early years after Confederation. Presumed by scholars to be lost, the original copy of the Reports for the years 1947-1949 was typeset in the early 1950's and one copy taken off the presses and bound for proofing before the plates were destroyed in a fire at the Queen's Printer. The surviving copy, complete with Sir Brian Dunfield's marginalia and noted corrections, was photographed to create new plates that faithfully reproduce the original. A limited edition was printed and a few copies are still available. The volume includes forewords by the Honourable James R Gushue, CJN, and the Honourable T Alex Hickman, CJTD, as they were at the time of reprinting. Further included are a preface and index by Christopher Curran, biographies of the Judges of the Court for the period by Bert Riggs, archivist at the Centre for Newfoundland Studies, and the text of the address to the jury by Major Peter Cashin in the controversial defamation case *Emerson et al v. Cashin*, which is also reported in the volume. Included as well is a commissioned drawing for the frontispiece by George Horan, QC.

Printing and binding of the volume are to archival standards, including goatskins and calf binding, gold-leaf embossed spine and acid free papers. Cost of the volume is \$140 + HST = \$161. All proceeds from the sale of these report are intended to fund initiatives of the Project Daisy Committee which include the collection and transcription of oral histories of the legal profession in the province. Please contact Janice Whitman at the Law Society, 722-4740, to place your order.

## *Honi Soit qui mal y pense*

*Honi Soit qui mal y pense* is an intaglio print using the techniques of etching, drypoint and engraving on a polished copper plate and measures 7½" x 12" (image size) on an Arches acid free rag paper background.

The edition size is limited to 50 edition proofs and six artist's proofs. Each proof is an original and not a reproduction. The edition was printed at St Michael's Printshop in St John's by master printer Jerry Evans from the plate drawn by George Horan, QC. The image projects the Judges of the Supreme Court sitting *en banc* in Court Room #1 sometime during the period 1947-1949. Cost of each proof is \$200 + HST = \$230. Please contact Janice Whitman at the Law Society, 722-4740, to place your order.

## Doctor of Laws, *honoris causa*

The President had the unique honour to preside over two ceremonies at the Court House on April 12, a Call to Bar for 13 new members, and the ceremony to confer the Degree of Doctor of Laws, *honoris causa*, upon the Honourable Mr Justice Robert Wells of the Supreme Court of Newfoundland and Labrador. The Law Society Orator, Past President Robert M Sinclair, QC, used as a theme the experience of a marathon runner because of Justice Wells' own experience as a marathoner. Sinclair, QC, recounted Justice Wells' education years, the time at Oxford, early work as economist for the province and his impact upon resettlement, then a career in law and public service, distinguished by his election to the House of Assembly in 1972 for St John's South, and in 1975 for Kilbride, and then by his appointment as Treasurer of the Law Society from 1977-1981, the last Treasurer to be appointed for more than a one-year term. In 1985, he was elected national President of the Canadian Bar Association, the first Newfoundlander to hold the office. He was appointed to the bench in 1986 and this year elected supernumerary status.

After the President conferred the Degree, Dr Wells addressed Convocation and spoke of key influences upon his life, and in particular the influences that shaped his career. The full text of his address will be available at the Society's web site the week of May 6.

Following Convocation, a reception was held at the Fairmont Newfoundland Hotel Court Garden for Dr Wells' and guests, and new members and their guests.

## Call To Bar

### April 12, 2002

Thirteen lawyers were Called to Bar on April 12th. They are pictured on page 12 and are indentified as follows:

#### *1<sup>st</sup> Row (l-r):*

Christopher Fox, Shelley Byrant, Annette Stringer, Robyn Montague, Kimberly Keeping.

#### *2<sup>nd</sup> Row (l-r):*

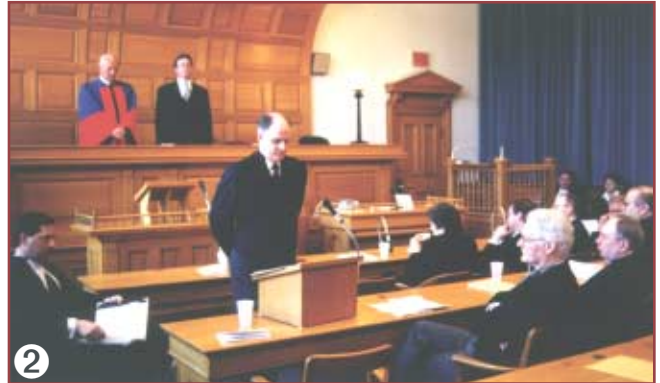
Nadine Hodder, Kerry Hatfield; Philip Osborne, John Cook, Rory Barnable, Michael McCarthy, Andrea Channing, Cheryl Mullett.



## Law Society Ceremonies - April 12, 2002



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1. The President, Jeffrey Benson, QC, addresses the Convocation.
2. Law Society Orator, Robert Sinclair, QC, recounts the highlights of Dr Wells' career.
3. Dr Wells, Vice President William Goodridge, QC, and President Jeffrey Benson, QC, pose with the degree certificate.
4. Dr Wells addresses Convocation.
5. Reception at Fairmont Newfoundland Hotel.
6. Dr Wells speaks with John O'Dea at the reception.
7. The new lawyers gather for a formal photograph after the Call to Bar Ceremony. (*see names on page 11*)