
Benchers' Notes



December 2006

Volume 12, Number 1

These Benchers' Notes cover the Summer Term Convocation of June 9, 2006, Fall Term Convocation of October 2, 2006, and Special Term Convocation of December 4, 2006. The Notes provide discussion of selected topics considered by Benchers at Convocation and other items of interest to the Bar. This and previous editions of Benchers' Notes, beginning December 1999, are available on-line at www.lawsociety.nf.ca

2007 Fees Reduced by \$700.00

At Special Term Convocation on December 4, Benchers approved a 2007 Budget that freezes many of the Law Society's operating expenses at levels established up to six years ago, and reduces Fees significantly. "This is a very cautious Budget, a conservative Budget", stated Paul McDonald, President of the Law Society. "From the outset, we wanted to control expenses and operating costs to the extent possible without diminishing services to the public interest or to members. The result of these efforts is a good news Budget, the second in the last two years."

Savings projected for 2007 result from constant efforts to economize on the daily routines of business," said the President. "For example, from this point *Benchers' Notes* will be published and distributed electronically at a saving of approximately \$4,000 a year in printing and distribution costs. That is one example of the cost-savings planned into this Budget."

There is the further benefit for 2007 that the Law Foundation returned to previous grant levels for the Law Library. Last year, and with declining interest earnings, the Foundation reduced its Law Library contribution by \$22,000, an amount added then to the 2006 Budget as a further cost. For 2007, funding is restored to previous levels. Additionally, the Custodian of William Parsons' law practice, Peter Ringrose, generated revenues during 2006 of approximately \$100,000 from the orderly close of the practice. There will be further

revenues from the Custodianship, although more modest, in 2007.

Some savings for members are more substantial than others. Insurance cost reductions under the Canadian Lawyers' Insurance Association (CLIA) programme provide in 2007 a \$400 per member reduction in premium. As well, the contingency fund assessment imposed on members two years ago (at \$1,100 in 2005 and \$300 in 2006) to recoup the cost of the Douglas Harvey and the William Parsons custodianships, has now been removed entirely. In all, savings on fees for 2007 amount to \$700 per member. Invoices will be mailed soon.

John Roil, QC, speaking to Benchers about the 2007 Insurance Programme, noted that improved claims experience in recent years now results in a reduced premium. "Still and all," said Roil, QC, "we have a very high number of missed limitation claims and these are entirely preventable. Members could cut their insurance premium in half or more if we removed missed limitation claims from the programme." Roil, QC, cited with approval the longstanding experience in Nova Scotia where missed limitations can be re-opened by Application to court; "...if we were granted similar opportunity", said Roil, QC, "I believe members would see their insurance premium dramatically reduced in two or three years." There is more information about insurance claims experience elsewhere in these *Benchers' Notes*.



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Addressing Benchers about the Transaction Levy's first year of operation, Roil QC, stated that the Levy generated \$1.34 million, a sum less than originally projected. "If we are to have a properly funded and sustainable insurance programme that protects the public interest, then we must maintain the Levy for the foreseeable future," said Roil, QC. "The lifespan of the Levy will not be a decision we take on our own; it will be a decision informed by insurance actuaries acting as independent advisors to the Programme." Nevertheless, observed Roil, QC, the shake-up and then the consolidation of international insurance markets after 9-11, then after devastating winter storm losses in Europe in 2004, and then more recently again from losses arising out of hurricane Katrina, make it virtually impossible to obtain from international markets the type of comprehensive insur-

ance coverage the Law Society requires. Under the CLIA programme, it is important the Law Society build a capital pool for insurance purposes that protects the public and does not rely upon the international markets.

William Goodridge, QC, Elected President of the Federation of Law Societies of Canada

The President noted with satisfaction that William Goodridge, QC, is now President of the Federation of Law Societies for 2006-2007.

Benchers extended their congratulations to Goodridge, QC.

Stephen May Appointed to CLIA Board of Directors

At the recommendation of the Insurance Committee, Benchers approved unanimously that Stephen May be appointed to represent the Law Society of Newfoundland and Labrador on the CLIA Board of Directors. Mr May has a long history with the insurance programme and sat for a number of years as a member of the Insurance Committee. Benchers anticipate, and at CLIA's request, that Mr May's term on the CLIA Board will last approximately 10 to 12 years.

Insurance Costs and Missed Limitations

The Insurance Committee continues to review all aspects of the programme in an effort to reduce claims and premiums. Recently, Ray Walsh, Adjuster, and Janice Whitman, the Insurance Administrator, completed a review of claims experience in the programme during the last eight years. The survey indicates claims arising from missed limitations are escalating and the premium costs to members are significant as a result. Missed limitation claims have increased from 42% of all claims reported eight years ago to a current level of 74% of total claims reported. If these costs were eliminated, the per-member insurance premium would today be approximately \$1,200. Even a 50% reduction in these claims costs would result in substantial savings.

At current rates of exposure, missed limitation claims will this year account for a potential payout in excess of \$1,500,000. The payout has doubled in recent years. Virtually all these losses result from inadequate file management practices, with very few arising from ignorance of the law.

To reduce the exposure these claims represent, members should review immediately their management systems and practices to be certain the system in use is adequate, is followed closely, and all files with limitation periods are recorded properly in the system.

In the months ahead the Insurance Committee will consider what measures might be applied to encourage compliance with good management practices. Among the

options considered will be a significantly increased deductible on missed limitation claims. The experience of other jurisdictions in the CLIA programme suggests that increased deductibles do not always have predictable or desired results. For example, significant penalties provide incentive to delay reporting a claim; a delayed claim may have a reduced opportunity for repair. The Committee will need to reflect carefully about any direction it advises for Benchers' consideration.



**Merry Christmas
and a
Happy New Year**

National Mobility Agreement (NMA)

Practicing insured members are aware from previous Benchers' Notes that they are entitled to practice in most other parts of Canada for up to 100 days in a 12 month period without permission of the host law society. These mobility rights are restricted to members with no discipline history and no criminal record.

Where occasion warrants, the NMA also permits easier transfer of membership to another law society. Members can apply for full membership and must complete a reading requirement as a prerequisite to admission. Examinations are not required.

Members' CLIA insurance provides cover across Canada. In some instances, a member can hold practicing status in more than one jurisdiction and pay only the insurance premium in the home jurisdiction.

Recently, the law societies of New Brunswick and Prince Edward Island joined the NMA and will now host members from this jurisdiction and permit membership transfers. The Barreau du Quebec has approved the NMA but awaits provincial government approval before full implementation.

The Northwest Territories, Yukon, and Nunavut, recently approved a modified participation, through the Temporary Mobility Agreement (TMA) that permits full membership on the same terms as other jurisdictions but continues to require a fee for occasional appearances. The TMA will be reviewed in five years. Members with questions about the NMA or the TMA, or about their mobility status, can contact Frank O'Brien at the Law Society, 722-4740.

Model Rule on Client Identification

Members will recall that in 2005 Benchers approved a cash transaction Rule to assist the international fight against money laundering. The Rule stipulates that a lawyer must not receive or accept cash in excess of \$7,500 from clients or third parties. In addition, the Rule includes new record-keeping requirements with respect to receipt of cash. The Rule was developed by the Federation of Law Societies of Canada. The Federation, in turn, developed the Rule following consultation with the Department of Justice, Canada.

Early in 2007 Canada will be audited by international regulators to determine this country's further compliance with agreements concerning money laundering. The audit focus will include Canada's compliance with internationally agreed client identification rules. For this reason, during the winter Benchers are likely to approve a Client Identification Rule developed in draft by the Federation for adoption by law societies across

Canada. Members can obtain a copy of the Model Rule in draft by contacting Janice Whitman at Law Society offices, 758-0804, direct. All members will be provided a copy of the Rule once approved.

Limited Liability Partnerships (LLPs)

For approximately two years a subcommittee of the Law Corporations and Limited Liability Partnerships Committee, the Limited Liability Partnerships Subcommittee, chaired by Robert Stack, has been examining LLP legislation in Canada in order to propose similar legislation here. The Subcommittee is working cooperatively with the Institute of Chartered Accountants. At Special Term, Mr Stack presented Benchers with draft proposals setting out a legislative framework to permit LLPs. In tabling the proposals, Mr Stack informed Benchers that some policy issues remain for consideration. He intends to return at a forthcoming Convocation to lead a detailed discussion of the proposals and to resolve policy considerations.

In Memoriam

Benchers record with regret the deaths of the following members or former members and convey their condolences to family and friends.

Roland Brewer
Roll #273
Called to Bar July 14, 1967

The Hon Nathaniel Noel
Roll #216
Called to Bar Oct. 8, 1949

The Hon Frederick Woolridge
Roll #253
Called to Bar April 12, 1961

The Hon John Mahoney
Roll #223
Called to Bar Feb. 3, 1951

William P Gillies, QC
Roll #258
Called to Bar Dec. 11, 1963

Practice Reviews

The Executive Director, Peter Ringrose, mentioned at Special Term that lawyers remain the only professional group in Canada not regularly audited by their governing body for practice management and competence. Currently, only the Barreau du Quebec has in place a programme to conduct practice

reviews, and has done so with considerable success for a number of years. Recently, the Law Society of Upper Canada determined it too will commence practice reviews in the near future.

In order to begin consideration of a practice review programme for

Newfoundland and Labrador, the Executive Director mentioned to Benchers that William Dufort, Director of Professional Inspection for the Barreau, will visit Convocation at Winter Term and present information about the Barreau's practice inspection programme.

Practice Note: Propane Tanks

As one of the considerations when acting on the purchase or sale of a house, members should be aware that propane tanks are normally leased. Disposition of the tank contents, and the tank itself, needs to be a closing consideration. The vendor should notify the propane supplier whether the tank will remain on the property with pro-rated rental costs, or be removed by a closing date. Most retailers have an installation charge and a removal charge; by having the new owner take over an existing tank lease, both clients can save money. When appropriate for a closing, the supplier can provide a reading and cost of the tank contents.

Alternative Dispute Resolution

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Gregory Pittman, Mills, Husey and Pittman Law Firm, Clarenville

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Jacqui Walsh, Jacqueline Walsh Law, Conception Bay South



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Professional Responsibility Notices

Discipline Committee

The role of the Discipline Committee is separate entirely from that of the Complaints Authorization Committee (CAC). This Committee's Chair is responsible to ensure that Complaints referred from the CAC are heard before panels comprised as required under the *Law Society Act, 1999*. An Adjudication Panel must include three members of the Discipline Committee, that is, two Law Society members and one lay member. The *Act* prescribes that the panel may make findings and impose sanctions.

Keith F Rose

On November 6, 2006 an Adjudication Panel of the Discipline Committee of the Law Society found Keith F Rose of St John's, NL, guilty of conduct deserving of sanction pursuant to section 46(3) of the *Law Society Act, 1999*.

The Complaint alleged that Mr Rose failed in his responsibility to lawyers individually, failed to act in a manner encouraging public respect for the administration of justice and failed in his responsibility to the profession generally.

The matter proceeded by way of an Agreed Statement of Facts and Mr Rose entered a guilty plea.

The Adjudication Panel found:

- (i) Mr Rose was in breach of the Code of Professional Conduct, chapter XVI, commentary 8 by communicating with, and compromising a matter directly with a party who is represented by another lawyer, without having

first communicated with and obtained the consent of that lawyer.

- (ii) Mr Rose failed to comply with a Notice of Examination under Rule 30 of the Rules of Court, 1986. Further, he was in breach of the Code, chapter XIII, commentary 3, as his failure to comply with the Notice would tend to lessen the respect and confidence of the public in the legal system of which Mr Rose is a part.
- (iii) Mr Rose did not respond in a timely way to the Law Society and he was in contravention of the Law Society Discipline Rules, in particular, (i) section 9.04(3) in failing to reply to written requests for a response to the letter from the Law Society, and (ii) section 9.07(1) in failing to co-operate fully with the Law Society's investigation of the Complaint.

By Order of the Adjudication Panel dated November 6, 2006, Mr Rose was reprimanded and ordered to pay a fine of \$2,500 and the expenses incurred by the Law Society in the investigation and hearing of the Complaint. The Adjudication Panel also ordered that the decision and order be subject to publication in accordance with the Law Society Rules.

Eric R Hutton

On September 12, 2006 an Adjudication Panel of the Discipline Committee of the Law Society found Eric R Hutton of St John's, NL, guilty of conduct deserving of sanction pursuant to section 48(3) of the *Law Society Act, 1999*.

The matter proceeded by way of an Agreed Statement of Facts wherein Mr Hutton admitted that he had:

- (i) provided a purported Judgment of the Supreme Court of Newfoundland and Labrador to a client, however, the application for divorce had not been heard and the Judgment had not been issued by the Court;
- (ii) provided a purported Court Order to the Maintenance Enforcement Program Office, however, the application for variation had not been heard and the Order had not been issued by the Court;
- (iii) released funds directly to a client without satisfying the escrow condition;
- (iv) failed to file an application for Variation for a 10 month period;
- (v) acted contrary to the instructions of a client;
- (vi) failed to appear at Court hearings on behalf of a client;
- (vii) failed to respond to requests for information from a client and another solicitor;
- (viii) failed to inform a client that he had withdrawn as solicitor;
- (ix) failed to maintain sufficient documentation by way of correspondence or notes and record keeping of the standard expected of a reasonable, prudent solicitor; and
- (x) failed to respond to the Law Society of Newfoundland and Labrador concerning three client files.

The Complaint alleged that Mr Hutton failed to comply with the Law Society Rules respecting trust accounts and discipline, failed to act with integrity, failed to act with competence and to provide a proper quality of service, failed in his duty when advising clients, failed in his duty respecting withdrawal of services, failed in his duty respecting the administration of justice, failed in his responsibility to the profession generally, failed in his responsibility to lawyers individually; and failed to avoid questionable conduct.

By Order of the Adjudication Panel dated September 12, 2006, Mr Hutton was permitted to resign from the Law Society on the condition that he file a written Undertaking with the Law Society that he will not apply to the Law Society of Newfoundland and Labrador for readmission or reinstatement; and such letter of resignation and Undertaking shall be filed within thirty (30) days from service of the Decision and Order. In the event Mr Hutton fails to file a letter of resignation and an Undertaking within the prescribed time, the Panel ordered that Mr Hutton shall be disbarred effective immediately.

Mr Hutton was also ordered to pay the expenses incurred by the Law Society in the investigation and hearing of the Complaint. The Adjudication Panel also ordered that the decision and order be subject to publication in accordance with the Law Society Rules.

Mr Hutton's letter of resignation and his Undertaking were filed with the Law Society on October 13, 2006 pursuant to the Adjudication Panel's Order.

Jody L Saunders

On July 12, 2006, an Adjudication Panel of the Discipline Committee of the Law Society found Jody L Saunders of Mount Pearl, NL guilty of conduct deserving of sanction pursuant to section 48(3) of the *Law Society Act, 1999*.

The Adjudication Panel found that Ms Saunders:

- (i) failed to comply with the Rule respecting quality of service contained in chapter II of the Code of Professional Conduct, in that she failed to: provide conscientious, diligent and efficient service, to respond to client enquiries and to keep client A and client B reasonably informed;
- (ii) failed, upon being discharged, to comply with the Rule contained in chapter XII of the Code of Professional Conduct, in that she failed to return the files and all related documents to both client A and client B in an orderly and expeditious manner;
- (iii) failed to comply with the Law Society Rules respecting discipline and in particular Rules 9.01, 9.04 and 9.07 and to comply with the Rule respecting responsibility to the profession generally, and in particular chapter XV of the Code of Professional Conduct, in that she failed to respond promptly to the Law Society.

By Order of the Adjudication Panel dated July 12, 2006 Ms Saunders was reprimanded and ordered to pay the total amount of the expenses incurred by the Law Society in the investigation and hearing of the Complaint. The Adjudication Panel also ordered that the decision and order be subject to publication in accordance with the Law Society Rules.

Robert R Regular

On June 14, 2004 an Adjudication Panel of the Discipline Committee of the Law Society found Robert R Regular of Conception Bay South, NL, guilty of conduct deserving of sanction pursuant to section 48(3) of the *Law Society Act, 1999*.

The Adjudication Panel found that Mr. Regular:

- (i) failed to act with integrity, contrary to the Rule contained in chapter I of the Code of Professional Conduct;
- (ii) failed to fulfill his responsibility to an individual lawyer, contrary to the Rule contained in chapter XVI of the Code of Professional Conduct;
- (iii) failed to avoid questionable conduct, contrary to the Rule contained in chapter XIX of the Code of Professional Conduct.

On appeal, the finding of guilt was upheld by the Benchers of the Law Society and then by the Supreme Court of Newfoundland and Labrador, Court of Appeal. The matter was remitted by the Court of Appeal to the Adjudication Panel for imposition of penalty.

By Order of the Adjudication Panel dated March 10, 2006 Mr Regular was reprimanded, ordered to pay a fine of \$10,000 and to write a full apology, expressing regret for his actions, to the complainant member and to the member's client. Further, Mr Regular was ordered to pay the expenses incurred by the Law Society in the investigation and hearing of the Complaint. The Adjudication Panel also ordered that the decision and order be subject to publication in accordance with the Law Society Rules.

Adjudication Panel Decision - Dismissal

By an Order dated January 23, 2006 an Adjudication Panel of the Discipline Committee of the Law Society found Jerome P Kennedy not guilty of conduct deserving of sanction pursuant to section 48(2) of the *Law Society Act, 1999*. The Complaint arose from certain comments allegedly made by Mr Kennedy during a speech to the North American Wildlife Enforcement Officers Association on or about July 26, 2003. On December 9, 2005 a written joint submission was filed with the Adjudication Panel. The Panel accepted Mr Kennedy's explanation that it was not his intention to undermine the Judiciary as an institution. The Panel noted that, by his evidence, Mr Kennedy has re-affirmed his respect for the Court and his confidence in the ability of the Supreme Court of Newfoundland and

Labrador to provide justice to all citizens of the Province. The Adjudication Panel also ordered that the decision and order be subject to publication in accordance with the Law Society Rules.

Adjudication Panel Decision - Guilty

On January 26, 2006 an Adjudication Panel of the Discipline Committee of the Law Society found a member guilty of conduct deserving of sanction pursuant to section 48(3) of the *Law Society Act, 1999*. The Panel found that the member's representation of three clients fell below the standard set by the Code of Professional Conduct. The Adjudication Panel identified quality of service issues regarding the timeliness and sufficiency of communication with the clients.

By Order of the Adjudication Panel dated August 23, 2006 the member was reprimanded and ordered to pay the sum of \$5,000, being part of the expense incurred by the Law Society in the investigation and hearing of the Complaint. The Adjudication Panel further ordered that the name of the member not be published. The Adjudication Panel's rationale for the deviation from the Law Society's publication policy follows: In the present instance the Panel has determined that the imposition of a reprimand and the order to pay the costs as indicated below is sufficient punishment. To impose upon the member the sanction of having the member's name published would be excess punishment and is not warranted having regard to the findings of the Panel as set forth in the Decision and the findings herein.

Gordon M Stirling Distinguished Service Award



Presentation of the
Gordon M Stirling
Distinguished Service Award
to Thomas J O'Reilly, QC
by Brian Furey, QC.

Award was presented during the
Law Society Annual Dinner and
Dance held on June 9th, 2006

Educational Notes

Bar Admission Course

The 2006 Bar Admission Course for Newfoundland and Labrador was offered from October 3, 2006 until November 17, 2006.

This year's Bar Admission Course covered the following topics:

Week 1 - Civil Procedure.

Topics included limitations of actions, commencing proceedings, service, defences, counterclaims and 3rd party proceedings, summary trial, expedited trial, discovery and disclosure of evidence, setting down for trial, the Judgment Enforcement Act, civil appeals, costs and alternative dispute resolution.

Week 2 - Family Law.

Topics included divorce proceedings, custody and access, child and spousal support, matrimonial property, provincial family legislation, pensions, Unified Family Court procedure, child protection and support enforcement.

Week 3 - Corporate/Commercial Law.

Topics included incorporation and organizing a business, corporate procedures, corporate finance, the Personal Property Security Act, security opinions, purchase and sale of a business/shares and commercial insolvency.

Week 4 - Criminal Law & Procedure.

Topics included the court structure, presumptions and burdens, classification of offences, pre-arrest, arrest, charge, first appearances, judicial interim release, disclosure, elections and re-elections, solicitor/client matters, preliminary inquiries, pre-trial matters, Charter applications, trials by judge alone, jury trials, the sentencing process, types of sentences, criminal appeals, young offenders, evidentiary matters, *voir dire*, search and seizure and defences.

As well, in this section, students received instruction on advocacy skills, there was a panel discussion among judges with respect to advocacy and students prepared for and participated in a mock trial.

Week 5 - Skills Training.

The Course presented "lawyering-skills" workshops where students received instruction in direct examination, cross-examination, negotiating settlements, interviewing clients, examination for discovery, risk management and how to avoid professional negligence claims. As well there was a session on maintaining a balance between professional and personal responsibilities and a separate section on ethics and the Code of Professional Conduct, for which students completed a written assignment.

Week 6 - Administrative Law.

Topics included the Labour Relations Board, Labour and Commercial Arbitration, Municipal Law, the Human Rights Commission, the Workplace Health, Safety and Compensation Commission, administrative law in the Federal Court, the Law Society discipline process, statutory appeals, judicial review of arbitration and prerogative orders.

Week 7 - Real Estate and Wills.

Topics included the registry system and land tenure, the real estate transaction, the mortgage, disabilities and

title insurance, survey/location certificates, taxation issues, crown lands, quieting of titles, possessory title, landlord/tenant and title searches, a real estate transaction workshop and a separate section on wills, estates and probate.

To pass the Bar Admission Course, students must pass examinations in Family Law, Commercial Law, Civil Procedure, Criminal Law, Administrative Law and Real Estate/Wills. Each exam is 3½ hours long and focuses on the lecture presentations, the Bar Admission Course materials and the approximately 80 provincial and federal statutes and regulations covered in the Course. The Bar Admission Course materials consist of 11 separate volumes.

The Law Society is grateful to the generous contributions made by members of the profession, whose contributions as Bar Course Instructors ensure the Course remains vibrant and beneficial to our new lawyers.

Any member interested in learning more about the Bar Admission Course, auditing any portion of the Bar Course or reviewing Bar Course materials should contact Francis P. O'Brien, Director of Legal Education, Law Society of Newfoundland and Labrador, for further information.



Continuing Legal Education

As we approach the end of 2006 we would like to sincerely thank our seminar presenters and acknowledge their contributions to the ongoing education of lawyers in this province. We also thank members who support our programmes through their loyal attendance at seminars.

What follows is a listing of seminar presenters. Thank you all for sharing your expertise, time and enthusiasm for legal education.

Issues in

Personal Injury Practice: Trends, Tips and Traps

Thank you to Daniel Boone, Stewart McKelvey Stirling Scales; Reginald Brown, QC, Cox Hanson O'Reilly Matheson; Peter Browne, Curtis Dawe; Gillian Butler, QC, Gillian D. Butler Litigation & Mediation; John Clarke, QC, Clarke & Fry; Chesley Crosbie, QC, Ches Crosbie Barristers; Jamie Martin, Roebathan McKay & Marshall; Glen Noel, Patterson Palmer; Lois Skanes, QC, Roebathan McKay & Marshall.

Update on The Law of Competitive Bidding and Procurement

Thank you to Robert Worthington, LLB and Peter Fitzgerald, Department of Justice, Government of Newfoundland and Labrador.

Effective Legal Research Techniques: A Demonstration of the CanLII Legal Research Website

Thank you to Janine Miller, CanLII Project Manager; Ivan Mokanov, CanLII Editor.

Advocacy in the Court of Appeal

Thank you to Justice Margaret Cameron, Court of Appeal; Justice Keith Mercer, Court of Appeal; Justice Denis Roberts, Court of Appeal; Justice Gale Welsh, Court of Appeal; Michael Harrington, QC, Stewart McKelvey Stirling Scales; Michael Madden, Department of Justice, Government of Canada.

Real Estate and Commercial Law: Accessing Information Online - A Presentation for Legal Support Staff and Lawyers

Thank you to Dean Doyle, Commercial Registrations Division; Lorraine Vokey, Commercial Registrations Division; Douglas Laing, Commercial Registrations Division; Ann Martin, Workplace Health, Safety & Compensation Commission; Lena Walsh, Workplace Health, Safety & Compensation Commission.

The "Nuts and Bolts" of Motor Vehicle Accident Reconstruction: Using Engineering Technology in Settlement or Litigation

Thank you to Patrick Ryan, P.Eng.

Effective Cross-Examination

Thank you to John Buhlman, Ronald Caza and Jessica Grant of the Advocates' Society, Toronto, ON.

New Developments in Family Law 2006

Thank you to Justice Richard LeBlanc, Supreme Court of Newfoundland and Labrador, Trial Division; Judge Kymil Howe, Provincial Court of Newfoundland and Labrador; Jill Brown, Family Justice Services; Gerrie Smith, Department of Justice; Professor Rollie Thompson, Dalhousie Law School.

We look forward to offering further practical and informative seminars in 2007. Law Society members with thoughts on Continuing Legal Education or suggestions for future seminars should contact Francis P O'Brien, Director of Legal Education, Law Society of Newfoundland and Labrador. We look forward to seeing you at a future seminar!

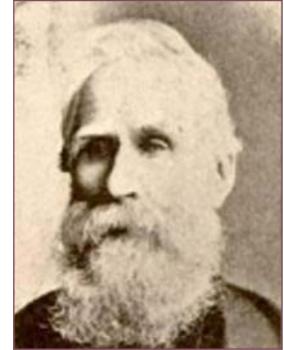


Mr Justice Richard LeBlanc presents at the seminar
New Developments in Family Law 2006 - November 30, 2006

The Archives Committee

The Archives Committee has a stated goal of gathering historic and bibliographic information about every practitioner not currently a member. The Committee Chair, Bert Riggs, a lay Bencher, will from time-to-time review the materials gathered and author an article about a former member. "The greatest difficulty," observed Mr Riggs, "is encountered when researching mem-

bers prior to 1920. Each one of these earlier members presents a genuine challenge." The Committee now has records available for virtually all members to and including the 20th century. The Committee has obtained a funding grant to begin work in January, 2007, on a database that will contain all the information collected.



Philip F Little

Philip F Little

Lawyer, First Prime Minister of Newfoundland, Justice of the Supreme Court

After many years of political agitation, responsible government was finally granted to Newfoundland in 1855. With it came the right of the leader of the party or faction with the most supporters in the House of Assembly to be asked by the governor to become prime minister. The Prime Minister then appointed a cabinet (called the executive council) from among his supporters.

The first person to become Prime Minister of Newfoundland was Philip Francis Little. He was an enigma in Newfoundland politics, having only lived here for eleven years when he became Prime Minister. Who was he and what accounts for his rapid rise through the ranks of the Liberal party, the party of reform in mid-nineteenth century Newfoundland?

Philip Little was born in 1824 in Charlottetown, Prince Edward Island, the son of Irish immigrants Cornelius Little and Brigid Costin. The elder Little was a prosperous businessman and was involved in island politics as a reformer. Philip read for the law with Charlottetown attorney Charles Young, before relocating to St. John's, where he was called to the bar in 1844. His signature is number 25 on the Law Society of Newfoundland's Barristers' Roll.

Representative government and an elected assembly had been granted to Newfoundland in 1832, but real power still remained in the hands of the appointed governor and his advisory council. The Newfoundland reformers, led by men such as John Kent, Ambrose Shea and Robert John Parsons, with the backing of Roman Catholic Bishop Michael Anthony Fleming, had been advocating Newfoundland's need, desire for and right to

responsible government for over a decade, but British officials both in Newfoundland and in Britain remained opposed.

By the time the twenty-year-old Little arrived in St. John's in 1844, the stalemate between supporters of responsible government and the advocates of the status quo had become entrenched. After establishing his law practice and getting his name known around town, Little soon became a leading member of the reform movement. His father and Charles Young, his mentor, had both been staunch supporters of responsible government in Prince Edward Island and Little had probably been influenced by their ideas long before he migrated to Newfoundland.

Little quickly became friends with John Kent and other reformers and gained the all-important backing of Bishop Fleming, and after 1850 the friendship and support of Fleming's successor as bishop, John Thomas Mullock. In 1850, after just six years residence, and only 26 years of age, Little was elected to the House of Assembly. This provided him a very public forum for his views. In a very short time he demonstrated his ability to get things done. His boundless energy and commitment to the cause increased his support and within a few years he was the acknowledged leader of the Liberal (reform) party both inside and outside the House of Assembly.

From 1850 to 1855 Little devoted much of his time to promoting the responsible government cause. He drafted petitions to Britain and guided them through the assembly. He spearheaded a campaign in the assembly to prevent the passage of legislation,

virtually tying the hands of the government. He led several delegations to Britain, arguing forcefully on Newfoundland's behalf. Finally, the British government agreed and responsible government became a reality in Newfoundland in 1855.

In the first election held after the granting of responsible government, Little led the Liberal party to victory, winning 18 out of 30 seats in the new House of Assembly. He was invited by the governor to become the first prime minister; he was 31 years old. His cabinet included John Kent as Colonial Secretary, while Ambrose Shea occupied the speaker's chair.

Little spent only three years as prime minister. During that time Newfoundland enjoyed relative prosperity. He resigned for reasons of ill health, but it was quite probable that he was uninterested in the routine of governing. What he really enjoyed was the fight!

Shortly after leaving that office, Little, at age 34, was appointed a judge of the Newfoundland Supreme Court. He held that position for 10 years before he resigned from the Bench and left Newfoundland for the green fields of Ireland, a move precipitated by his marriage in 1864 to Mary Jane Holdright, whose family had extensive holdings there. They had eight sons and two daughters. Little lived there for almost 30 years, practising law and dabbling in Irish politics. He died at Monkstown, Ireland, on October 21, 1897.

Despite making significant contributions to the political and judicial life of his adopted land, Philip Little remains virtually unknown in present-day Newfoundland and Labrador. A tiny street in a St John's subdivision is the lone beacon to the man whose dogged determination and deft manipulation of political forces on both sides of the Atlantic played a central role exposing Newfoundland to the vicissitudes of self-government.

Benchers of the Law Society of Newfoundland and Labrador



Photograph was taken following the June 9 election. Benchers of the Law Society are:

(Seated, l-r): Glen Noel, Linda Harnett, *Lay Bencher*, Edward Hearn, *QC*, Paul McDonald, *President*, Marina Whitten, *Vice-President*, Sheila Greene, Irene Muzychka, Jackie Jenkins

(Standing, l-r): John Brooks, *QC*, Augustine Bruce, George Murphy, Dr Don Downer, *Lay Bencher*, Terry Rowe, Bert Riggs, *Lay Bencher*, Kenneth Baggs, *QC*, Beverley Marks, *QC*, Brian Furey, *QC*

Missing from photo are William Cadigan, Morgan Cooper, Phyllis Harris, Karl Inder



Call to Bar

1. Call To Bar - April 7, 2006

Front (l-r): Kelly Hopkins, Tracey Pennell, Nancy Warford, Stacey Grant

Back (l-r) Erin Drover, Jonathan Dale, Stephen Winter, Suzanne Orsborn

2. Call To Bar - June 23, 2006

Front (l-r): Bridget Daley, Dianne Rideout, Andrea Murphy, Natalie O'Donnell

Back (l-r) Robin Cook, Mark Gillette, Edward Ring, Alexander Schwartz, Jennifer Berlin

3. Call To Bar - October 6, 2006

Front (l-r): Helen Conway, Christopher Forbes

Back (l-r) Sandra MacKinnon, Keri-Lynn Power

