

Minutes for the Meeting of the Benchers December 3rd and 4th, 2009 Saskatoon, Saskatchewan

Present:

Karl Bazin, Q.C., Thomas Campbell, Brent Cotter, Q.C., Richard Danyliuk, Q.C., Victor Dietz, Q.C., William Holliday, Peter Hryhorchuk, Robert Kennedy, Q.C., Paul Korpan, Q.C., Ronald Kruzeniski, Q.C., Eileen Libby, George Patterson, Peggy Schmeiser, James Taylor, Karen Topolinski, Evert Van Olst, Gregory Walen, Q.C., Alma Wiebe, Q.C. and John Will

New Benchers: Loreley Berra, Thomas Healey, Robert Heinrichs, Heather Laing, Miguel Martinez, Michael Megaw, Stephen Orłowski, Darcia Schirr, Q.C., Lorraine St. Cyr and Reginald Watson, Q.C.

In attendance:

Tom Schonhoffer, Q.C., Donna Sigmeth, Tim Huber, Melanie Hodges Neufeld, Andrea Johnston, Toby Willis-Camp and Pam Kovacs

1. CALL TO ORDER

The meeting commenced at 8:40 a.m. on December 3rd, 2009.

Karl Bazin, Q.C. welcomed the new Benchers.

2. APOLOGIES FOR ABSENCE

An apology for absence was received from Deb Schmidt and Janice Wall. Of the new Benchers, Joel Hesje, Q.C. sends his regrets. James Taylor attended Thursday at noon.

3. ACCEPTANCE OF AGENDA

A motion to accept the Agenda as circulated was presented by Greg Walen, Q.C. and seconded by Karen Topolinski. The motion was carried unanimously.

4. AGENDA ITEMS WHICH ARE NOT OPEN TO THE PUBLIC

There were no Agenda items which are not open to the public.

5. ADOPTION OF MINUTES

A motion to adopt the Minutes of the Meeting held September 16, 17 and 18, 2009 was presented by Greg Walen, Q.C., and seconded by Alma Wiebe, Q.C. The motion was carried unanimously.

The following amendments were suggested for the Minutes of the Meeting held October 9, 2009:

- A discussion was held with respect to the Department of Justice's request for a separate meeting with the Public Benchers.
- Eileen Libby was not present for the meeting.

A motion to adopt the Minutes of the Meeting held October 9, 2009 to discuss *The Legal Profession Act, 1990* as amended above was presented by Ronald Kruzeniski, Q.C. and seconded by Sue Barber, Q.C. The motion was carried unanimously.

The following amendment was suggested for the Minutes of the Meeting held October 27, 2009:

- Evert Van Olst seconded the motion that subject to an amendment for line item 4555 increasing the public relations budget to \$30,000, the budget would be moved as presented.

A motion to adopt the Minutes of the Meeting held October 27, 2009 to discuss the 2010 budget as amended above was presented by Tom Campbell and seconded by George Patterson. The motion was carried unanimously.

6. MATTERS ARISING FROM THE MINUTES

There were no matters arising from the Minutes.

7. REPORTS

i. President's Report

Karl Bazin, Q.C., presented his report. The following was added to the report:

- The Model Code has been passed by the Federation of Law Societies and the Federation is now asking for the provinces to adopt. The Model Code will be dealt with next year and is currently being reviewed by the Ethics Committee.
- The Federation has released its report on the Common Law Degree. This issue will also be dealt with next year by the Benchers.

ii. Executive Director's Report

Tom Schonhoffer, Q.C., presented his report. The following was added to the report:

- The first membership renewal on the new database went very well. Approximately 1,900 members renewed online and approximately 1/3 of the members used a credit card.
- The financial report for October 31, 2009 was reviewed.

8. AGENDA ITEMS FOR DECISION

1. Appointments

a. Sask. Legal Aid Commission

Ronald Kruzeniski, Q.C. left the meeting for this item.

A motion to appoint Ron Kruzeniski, Q.C. and Jay Watson was presented by Paul Korpan, Q.C, and seconded by Alma Wiebe, Q.C. The motion was carried unanimously.

b. College of Law Endowment Fund

A motion to reappoint Tyla Olenchuk was presented by Evert Van Olst and seconded by Karen Topolinski. The motion was carried unanimously.

c. CANLII

A motion to reappoint Craig Zawada was presented by Greg Walen, Q.C, and seconded by Peter Hryhorchuk. The motion was carried unanimously.

d. C. Willy Hodgson Award

This item was tabled until next Convocation.

3. Admissions & Education Committee

The following applications were considered and reviewed by the Admissions & Education Committee.

a. Application for a Waiver – Kylee Fawcett, Student-at-law

Ms. Fawcett applied to waive Rule 150 which requires her to have a certificate from the National Committee on Accreditation prior to the commencement of articles. Ronald Kruzeniski, Q.C. moved that this matter be tabled to await further information.

b. Application for Reinstatement - Joni MacKay

The A & E Committee recommended the following conditions for reinstatement:

1. That Ms. MacKay spend a minimum of one year under the supervision of a member of the Law Society of Saskatchewan who meets the criteria for qualification as a principal under Rule 152.

The member should make an immediate application to the Law Society for approval.

2. The supervising lawyer will provide quarterly reports to the Law Society, using the Competency Profile as a guideline.
3. Following the completion of the one year supervision, the member who acts as principal will submit an affidavit verifying Ms. MacKay's time of service and that she is a fit and proper person to practice law. The affidavit will be substantially in the form required by Rule 171 (1) (d) (ii).
4. That Ms. MacKay will upgrade her knowledge of constitutional and administrative law within one year by either undertaking to complete reading requirements prescribed by the Executive Director, enrolling in both constitutional law or administrative law classes at a Canadian College of Law, or completing a challenge exam approved by the Executive Director. All options are to be at her cost.

A motion to approve the reinstatement of Joni MacKay under the above conditions was presented by Ronald Kruzeniski, Q.C. and seconded by Evert Van Olst. The motion was carried unanimously. Eileen Libby abstained.

c. Application for Waiver – Kim Lee

Ms. Lee, a resident of Kuwait, applied for reinstatement. A motion to decline the application for waiver for Kim Lee was presented by Sue Barber, Q.C. and seconded by Richard Danyliuk, Q.C. The motion was carried unanimously.

d. Application for Waiver – Gordon Balon

Ms. Koroll served under articles of clerkship to the late Mr. Krishan. Mr. Balon currently serves as principal to an articling student but has agreed to take on Ms. Koroll for the remainder of her term. He has requested a waiver of Rule 152(6) so that he may take a second articling student. A motion to approve the waiver subject to a review by the practice advisor and to have the application reviewed at the next Benchers meeting to be held on February 10th, 11th and 12th, 2010 was presented by Greg Walen, Q.C. and seconded by George Patterson. The motion was carried unanimously.

e. National Mobility and the Barreau du Quebec

The *draft* agreement proposed by the Federation of Law Societies of Canada was put before the Benchers for consideration. The A & E

Committee reviewed the proposal and recommended that the agreement be signed.

A motion to authorize execution of the agreement proposed by the Federation of Law Societies was presented by Ronald Kruzeniski, Q.C. and seconded by John Will. The motion was carried unanimously.

9. AGENDA ITEMS FOR DISCUSSION

1. Election of President and Vice-President

The nomination of Eileen Libby as President was presented by Alma Wiebe, Q.C and seconded by Vic Dietz, Q.C. The nomination was carried unanimously and Eileen Libby was declared President.

Paul Korpan, Q.C. was the only declared candidate for Vice-President and was acclaimed.

2. Report from the Chair of SLIA

Bill Holliday, the Chair of SLIA, presented the audited financial statements and made a report.

3. Library Committee

Ronald Kruzeniski, Q.C. reviewed the final report of the Future of the Library Committee and indicated that the library is moving quickly on the recommendations to introduce online resources.

Toby Willis-Camp reviewed her report on the proposed desktop library program. In addition, she updated the report by adding that the online catalogue searches will be available next week.

4. Future of Legal Education

Greg Walen, Q.C. reviewed his memo and a policy statement prepared by Andrea Johnston. It was intended that Convocation provide some guidance for programming expectations for the Legal Education Department.

A motion to accept the report and policy was presented by Ronald Kruzeniski, Q.C. and seconded by Paul Korpan, Q.C.

The motion was amended by Ronald Kruzeniski, Q.C. to include a review of the policy by the Benchers in three years. Paul Korpan, Q.C. agreed to the amendment.

Brent Cotter, Q.C. proposed a friendly amendment to the motion as follows:

- The terms “oversight” and “cost recovery” be removed from the policy.

- After item c. in the policy, a new item d. will state “To undertake a review of the overall delivery of continuing professional development in Saskatchewan after one year of operation and periodically thereafter.”

The motion, including the friendly amendment above, was carried unanimously.

The meeting adjourned at 11:53 p.m.



The meeting reconvened at 1:00 p.m.

2. Rule Amendments

The Professional Standards Committee recommended Rule amendments to allow more options for law office management review.

A motion to accept the Rule amendments as submitted was presented by Greg Walen, Q.C. and seconded by George Patterson on first reading. The motion was carried unanimously.

A motion to hold the second reading on the same day was presented by Vic Dietz, Q.C. and seconded by Karen Topolinski. The motion was carried unanimously.

A motion to accept the Rule amendments as submitted on second reading was presented by John Will and seconded by Alma Wiebe, Q.C. The motion was carried unanimously.

4. Bencher Policy Manual

The revised Policy Manual was presented to the Benchers for review and approval.

i. Discipline and Complainants Review

Paul Korpan, Q.C. addressed the Discipline chapter and the Complainant’s Review chapter.

The Discipline Executive Committee recommended approval of both the Discipline and Complainants Review chapters. A motion to approve the Discipline and Complainants Review chapters was presented by Paul Korpan, Q.C. and seconded by Karen Topolinski. The motion was carried unanimously.

ii. Insurance

Bill Holiday, Chair of the Insurance Committee, recommended approval of the chapter.

A motion to approve the Insurance chapter was presented by Bill Holliday and seconded by Brent Cotter, Q.C. The motion was carried unanimously.

iii. Libraries and Admissions & Education

Ronald Kruzeniski, Q.C. recommended approval of the Libraries chapter and the Admissions & Education Committee chapter.

A motion to approve the Libraries chapter and the Admissions & Education chapter was presented by Ronald Kruzeniski, Q.C. and seconded by Greg Walen, Q.C. The motion was carried unanimously.

iv. Professional Standards

Greg Walen, Q.C., Chair of Professional Standards, recommended approval of the Professional Standards chapter.

A motion to approve the Professional Standards chapter was presented by Greg Walen, Q.C. and seconded by Bob Kennedy, Q.C. The motion was carried unanimously.

vii. General Chapter and Equity

Karl Bazin, Q.C., Rick Danyliuk, Q.C. and Eileen Libby recommended approval of the General chapter.

Karl Bazin, Q.C., Rick Danyliuk, Q.C. and Eileen Libby recommended approval of the Equity chapter.

A motion to approve the General and Equity chapters was presented by Eileen Libby and seconded by Vic Dietz, Q.C. The motion was carried unanimously.

ix. Ethics

Brent Cotter, Q.C. recommended approval subject to the following amendment:

- In the third line of page 2, the word “will” should be changed to “may” to allow more flexibility.

A motion to approve the Ethics chapter with the above amendment was presented by Brent Cotter, Q.C. and seconded by Evert Van Olst. The motion was carried unanimously.

Tom Schonhoffer, Q.C. addressed the other chapters that were not reviewed by the committees. The chapters on Committees, Annual Meeting, Legislation, Public Relations and the Annual Report were deleted because they were largely irrelevant

following the reorganization. Some content from these chapters was moved to the General chapter. Other chapters have been edited for cosmetic reasons and/or to update.

Motion to approve the chapters not reviewed by the committees was presented by Peter Hryhorchuk and seconded by Tom Campbell. The motion was carried unanimously.

9. Legal Professions Act

Bill no. 124. was distributed to the Benchers for information. The amendments were highlighted by Donna Sigmeth. The Rules will also need to be amended before the new legislation comes into force.

8. Code of Professional Conduct

The Federation has asked for approval of the Code as it currently stands, that is, without the Conflicts and Future Crimes sections. This item will need to be considered at either the February or April meeting once the new Benchers have had an opportunity to review the Code.

10. State of the Law College

Brent Cotter, Q.C. presented a report on the State of the Law College. His report included the following:

- The faculty has increased from 20 to 25.
- The intake of 1st year students has increased to 126.
- There has been an expansion of seminar offerings. There will likely be a curriculum review and further changes.
- The College has been nationally recognized for its excellence in educating students on non-litigation alternatives to resolve disputes. *The Louise Otis Award for Excellence in Mediation Education* was awarded to the law school for demonstrating the greatest commitment to mediation education by the Canadian National Mediation Advocacy Competition.
- Dean Cotter is resigning effective July 1, 2010.

6. Retreat Review and Planning

Karl Bazin, Q.C. reviewed the notes from the retreat and the memo prepared by Tom Schonhoffer, Q.C.

The Benchers discussed priorities for future guidance. It was suggested that this type of exercise take place yearly.

Alma Wiebe, Q.C. commended Eileen Libby for organizing the retreat.

11. Common Law Degree

Sue Barber, Q.C. and Brent Cotter, Q.C. reported on this item.

The Benchers have been asked to approve the report recommendations by the end of March. It is suggested that the A & E Committee consider the report and report to the Benchers in the new year.

The Federation report and letters will be distributed to the Benchers for review.

7. Role of the Executive Committee

The Executive proposes that the Benchers instruct administration to prepare a Policy Review Paper reviewing the effectiveness/deficiencies of the current model, an analysis of those models employed by other Law Societies, Bencher input from the Swift Current Retreat and any other areas identified by the Benchers.

The current and past Presidents discussed how the Executive currently works.

The discussion adjourned at 1:49 p.m. for the Law Foundation guests.

The discussion resumed at 3:00 p.m.

The following items will be included in the review:

- The role of Public Benchers on the Executive in other jurisdictions.
- The role of past Presidents on the Executive.

5. Attendance by the Law Foundation

Katherine Knox and Pat Quaroni attended.

Katherine Knox gave a general overview of the Law Foundation.

Pat Quaroni and Katherine Knox reported on the financial overview of the Law Foundation, in particular:

The interest paid on trust accounts has been significantly reduced this year because of the economic downturn.

- The Law Foundation has been negotiating with the banks.
- The Law Foundation is expecting a significant deficit this year.
- The Law Foundation is managed well financially, and despite the deficit, still has a strong balance sheet because of its grant stabilization reserve.

The funding of core grantees is secure in the short term.

Meeting adjourned at 3:20 p.m. on December 3, 2009.



Meeting reconvened at 9:00 a.m. on December 4, 2009.

Present:

Karl Bazin, Q.C., Thomas Campbell, Brent Cotter, Q.C., Victor Dietz, Q.C., Peter Hryhorchuk, Robert Kennedy, Q.C., Paul Korpan, Q.C., Ronald Kruzeniski, Q.C., Eileen Libby, George Patterson, Peggy Schmeiser, James Taylor, Karen Topolinski, Alma Wiebe, Q.C. and John Will

New Benchers: Loreley Berra, Thomas Healey, Robert Heinrichs, Miguel Martinez, Stephen Orłowski, Darcia Schirr, Q.C. and Reginald Watson, Q.C.

In attendance:

Tom Schonhoffer, Q.C., Donna Sigmeth, Tim Huber, Melanie Hodges Neufeld and Andrea Johnston

12. Interest Rates on Trust Accounts

The Benchers discussed the very low interest rates paid by some financial institutions on some trust accounts. The Law Society wants further discussion with the Foundation and is prepared to offer assistance, where possible.

Eileen Libby thanked Karl Bazin, Q.C. for his work throughout the year.

A motion to adjourn the meeting was presented by Vic Dietz, Q.C. and seconded by Evert Van Olst. The meeting adjourned at 9:30 a.m. on December 4, 2009.

5. Sentencing of Albert Angus

Paul Korpan, Q.C. acted as Chair and invited Tim Huber to make submissions for the Law Society. Albert Angus did not have legal representation and was invited to make his own submissions.

A transcript of the proceedings was prepared by Royal Reporting, Saskatoon.

10. ITEMS FOR INFORMATION

These items were submitted for information:

- i. 2010 Convocation Dates**
- ii. Public Representatives - Final Report**

- iii. **Public Representatives – Survey from Winnipeg**
- iv. **National Accreditation Report**
- v. **Minutes of the Executive Committee meeting held via conference call on August 27, 2009.**
- vi. **Minutes of the Admissions & Education Committee on September 4th, 2009.**
- vii. **University of Saskatchewan – College of Law – Recipient of the Law Society's Entrance Scholarship for 2009 - 2010 was Amanda Baron.**
- viii. **The Federation of Law Societies of Canada**
Report from Graeme Mitchell, Q.C.
- ix. **Report on the Provincial Judicial Council**
Report from Rick Danyliuk Q.C.
- x. **Email from Bob Linney at the Federation regarding the Legal Services Board.**

11. IN CAMERA SESSION – MEETING OF THE BENCHERS

12. DATE AND PLACE OF THE NEXT MEETING

The next Convocation is scheduled for February 10th, 11th and 12th, 2010 in Regina. Justice advised that the Queen's Counsel ceremony will take place on Sunday, February 7th in Saskatoon.

Thomas J. Schonhoffer, Q.C.
Executive Director

TJS/el