

BENCHERS' DIGEST

January 2011

Volume 24, Issue Number 1

I N D E X

Profile of the President	1
Profile of the Vice-President.....	2
Highlights of the Meeting of Benchers	3
Saskatchewan Order of Merit.....	4
2010 Queen's Counsel Appointments	4
Cecilia I. Johnstone Award	5
New Online Resource: Queen's Bench Practice Manual Ready to Go.....	5
Members' Desktop Library 2011	5
Pro Bono Law Saskatchewan Benchers' Digest Report.....	6
Notices, Calls for Volunteers/Nominations	6
In Memory	7

www.lawsociety.sk.ca

Profile of the President

Paul Korpan, Q.C.



It is my honour to be the President for 2011. My term follows the very competent stewardship of our outgoing President, Eileen Libby, Q.C. My work in the year ahead will be well supported by the always capable work of our director, Tom Schonhoffer, Q.C. and the contribution of the hard working professional and administrative staff of the Law Society. Most of the Benchers elected in 2009 to serve this term are new to the role. They are an energetic and engaged group of individuals who will serve the Law Society well in the remainder of their term and the next.

Amendments to *The Legal Profession Act* were proclaimed in force on the 1st of July,

2010. This *Act* codifies the Law Society's paramount duty to regulate in the public interest. Complaints arising after the 1st of July, 2010 involve a new disciplinary process where smaller panels of three Benchers will adjudicate on all matters of discipline, including sentencing. The Discipline Executive will continue to work towards achieving predictability in sentencing outcomes under this new model and in terms consistent with our statutory mandate. The Executive will continue to work to expedite the complaints processes and to meet the national discipline standards being established by the Federation of Law Societies.

The final chapter of the National Mobility Agreement was concluded in 2010 with the accommodation of Quebec lawyers through the Canadian Legal Advisor Status. In 2011, the Admissions & Education Committee will be re-examining our admission criteria generally, and as it relates to transfer lawyers and foreign applicants. The mandatory Continuing Professional Development program rolled out in 2010 involved considerable uptake by the Saskatchewan bar and the approval of a diverse mix of more than 200 different education opportunities. A comprehensive review of that program is now underway and this may lead to changes in 2011. As part of this review, the Law Society will be examining new options for learning, including distance learning involving the use of technology to better support practitioners outside Regina and Saskatoon.

A revised national Code of Conduct by the Federation of Law Societies is nearly complete and has been generally approved in principle by its member Societies. But the Federation must still complete and seek consensus on the sections involving conflict of interest and the future harm exception to solicitor and client confidentiality. The Benchers will likely be asked to respond in 2011 to the recommendations of the Federation's work on these sections.

Continued on page 2...

Profile of the President

Continued...

The Law Society maintains an ongoing focus on the very real pressures and other dynamics that challenge members of the practicing bar. The Law Society provides oversight, direction and support to individual practitioners and supports continuing legal education to improve their competencies and practices. The Law Society also supports networks such as Lawyers Concerned for Lawyers to address the individual challenges impacting members personally. Contribution by lawyers to the larger community in remedying access to justice issues is encouraged by the Law Society through its sponsorship of Pro Bono Law Saskatchewan.

The Law Society also recognizes that our membership demographic will involve significant change in its makeup and in the delivery of legal services over the next decade. Our membership consists of slightly in excess of 1,600 lawyers. Almost 600 of those lawyers have been at the bar 25 years or more. Almost 800, or one-half of our members, have been practicing more than 20 years. Many of these members are likely to retire or leave practice in the next decade. The lawyer to population ratio in Saskatchewan is among the lowest among the western provinces. On a proportionate basis, the Alberta bar has more than twice as many lawyers in private practice serving its population. The future void in Saskatchewan will not be easily filled by new graduates. If historic trends hold, the out-migration of law school graduates from Saskatchewan and the profession's inability to retain women in private practice will create a more acute problem in a climate where there continues to be a strong demand for legal services and strong fundamentals underlying that demand.

This change in the supply and demand balance generally may impact the smaller and rural centres earlier than the larger centres. Rural depopulation and the centralization of professional services in major centres and the consolidation of specialized talent in larger firms will create pressure on the 300 or so sole practitioners or two member firms in Saskatchewan to still be all things to all clients in a complex professional environment where it is increasingly difficult to do so.

It is not too soon to turn our minds to the outcomes of these trends and their impact on the public within the scope of the Law Society's mandate as regulators, and our responsibility to protect the public. This expected shortage in legal talent will lead to issues involving access to legal services and to justice. Lawyers will be challenged to do more, with less time, thus raising issues in the quality of their work. This will be compounded by the reality that the profession will soon be losing much of the bar's experience and expertise. All of these conditions raise concerns about competency and the quality of legal services. A further concern involves the burn-out of lawyers and how this leads to problems impacting the public, again in relation to the competency of lawyers and ethical behaviour. There is already a worrisome trend of increased complaints about incompetency and dilatory practice, some of which have involved discipline.

These trends will undoubtedly impact the public and our responsibility as regulators. In 2011, we will begin the process of identifying strategies for attraction and retention of lawyers and how we adapt our professional standards mandate, particularly in providing support for rural and small firms. Over the long term, we will begin to examine how our library services and CPD programs may fit the changing demographic and its specific needs. Our professional standards program may seek to expand its proactive agenda in identifying problem areas and working with individual lawyers to remediate those problems that put lawyers, and their clients, at risk.

The Benchers will be seeking the input of the bar as these initiatives develop in 2011 and beyond. I invite any member to contact any Benchers or member of the Executive with any questions, concerns or suggestions. I look forward to the challenges of 2011.

Profile of the Vice-President

Gregory Walen, Q.C.



At December Convocation, the Benchers of the Law Society of Saskatchewan elected Gregory Walen, Q.C. as Vice President for 2011.

Greg has resided in Saskatoon since 1975, where he attended the University of Saskatchewan and obtained his Arts and Law degrees in 1980. He served his articles at the Saskatoon Legal Assistance Clinic and in 1981 he joined the firm of Silas Halyk and Gerry Allbright. In 1982, he joined Barry Singer and Sam Beckie, eventually merging with Hnatyshyn Singer Thorstad in 1990. In 2001, Greg joined Scharfstein Gibbings Walen Fisher LLP, where he is currently a partner.

Greg practices exclusively in the area of family law. He is a lecturer in Family Law at the College of Law, University of Saskatchewan. He is also a frequent presenter and co-ordinator of legal education programs and the author of many papers and publications.

Since becoming a Benchers, Greg has had the opportunity to chair the Ethics, Library, Professional Standards and Admissions & Education Committees. Additionally, he has served on the Discipline Executive and the Standing Investigation Committee.

Highlights of the Meeting of Benchers

held December 2nd and 3rd, 2010

Bencher Compensation

Benchers of the Law Society of Saskatchewan contribute substantial volunteer hours, including attendance at Convocation 5 – 6 times per year, investigations, hearings and committee work. There is a policy in place to compensate Benchers for hearing committee work, and although the origin is somewhat obscure, we know there have been no changes since 1990. This is a significant period of time, considering inflation and the increased role of Benchers.

With respect to appointed Benchers, the order in council rate has remained the same since 1992.

A Compensation Committee reviewed the issue and made its first report to Convocation in December. Essentially, the committee recommended any payment received by Benchers should be in the form of an honorarium, rather than as compensation for lost income, and at a minimum, consider inflating payments pursuant to the consumer price index. For Public Representatives, this would mean an increase from \$125/day to \$174/day. The Benchers raised numerous issues and the matter was tabled for further work by the committee.

Election

Paul Korpan, Q.C. was acclaimed as President of the Law Society for 2011. Gregory Walen, Q.C. was elected as Vice-President for 2011.

Appointments

Catherine Knox and Robert Gibbings, Q.C. were appointed to a further two year term with the Law Foundation. Pat Quaroni was appointed as Chair of the Law Foundation.

Graeme Mitchell, Q.C. was reappointed as the Saskatchewan delegate to the council of the Federation of Law Societies of Canada.

Code of Professional Conduct

The Federation formed a committee to revise the *Code of Professional Conduct*. One of the last issues is the future harm exception that presently allows lawyers to breach privilege to prevent a crime and is mandatory when the anticipated crime involves violence against a person.

The proposed amendments, among other things, eliminated the necessity of a crime and made the reporting optional. The Benchers expressed concern with respect to the optional reporting of the risk of death or serious bodily harm and instructed our council member to convey that concern to the Federation.

Rule Amendments

There were minor Rule amendments passed at December Convocation. The first was Rule 1503, dealing with contingency arrangements. There appeared to be an error in the Rule, which required that contingency arrangements for remuneration were payable to the client instead of the member. The amendment was approved.

Rule 230(17)(h) allows for the assessment of costs at an Admissions & Education hearing. The Rule was amended to make it consistent with Discipline hearings, allowing for a Conduct Investigation Committee to impose “reasonable fees or costs of counsel.”

Sentencing

Tara Dionne Chornoby was found to have engaged in conduct unbecoming by failing to pay GST, PST and income tax. She was suspended for a period of two months and ordered to pay \$500 in costs.

BENCHERS' DIGEST

The *Benchers' Digest* is published by the Law Society of Saskatchewan to update Saskatchewan lawyers on policy and regulatory decisions made by the Benchers after each Convocation, to inform members about Society programs and activities, and to provide news and announcements of interest to the legal profession. Members are encouraged to send in articles and photos of interest, however, publication rests with the Editor. Articles and photos can be submitted to llynchuk@lawsociety.sk.ca.

Current and archived issues may be viewed on the Law Society Website – see www.lawsociety.sk.ca, “Publications/Benchers' Digest.”

EDITOR

Liz Lynchuk

Saskatchewan Order of Merit



Dr. Douglas Schmeiser, S.O.M., Q.C.
(photo provided by the Government of Saskatchewan)

Dr. Douglas Schmeiser, Q.C. was one of seven citizens to receive the Saskatchewan Order of Merit in 2010.

The Saskatchewan Order of Merit recognizes excellence, achievement and contributions to the social, cultural and economic well-being of the province and its residents. It is the province's highest honour and is recognized by the Government of Canada.

Dr. Schmeiser attended the University of Saskatchewan where he received a BA with distinction in 1954. He obtained his law degree in 1956 with great distinction, receiving the University's T.D. Brown Prize for most distinguished graduate. He received a Queen's Counsel designation in 1982. For other accomplishments, he received the Prime Life Achievement Award from the University of Saskatchewan Retirees Association in 1997, the Commemorative Medal for the Centennial of Saskatchewan in 2005, as well as the Distinguished Alumnus Award from St. Thomas More College in 2009.

Dr. Schmeiser has served as a professor and Dean of Law at the University of Saskatchewan. He has also been involved in advisory roles at federal and provincial conferences, including the negotiation and drafting of the Constitution Act, 1982 and the Meech Lake and Charlottetown Accord. He has also served as Chair of the Law Reform Commission of Saskatchewan, President of the Canadian Association of Law Teachers and President of the Saskatoon Bar Association.

Dr. Schmeiser's list of accomplishments goes further, even into international projects, however, he is best known as an accomplished legal educator and has lectured not only in Canada, but at universities around the world. Within his community, he has volunteered extensively with the Saskatoon United Way, First Nations People in Saskatchewan and nature organizations.

2010 Queen's Counsel Appointments

Sixteen Saskatchewan lawyers were honoured with Queen's Counsel appointments on December 22, 2010. **Congratulations** are extended to:

Dennis Cann, Regional Crown Prosecutor in the Battlefords Prosecutions office. He was admitted to the bar in 1978.

Douglas Curliss, a prosecutor with the Public Prosecutions Service, Saskatoon Regional Office. He was admitted to the bar in 1980.

Sheila Denysiuk, with A.S.K. Law in Saskatoon. She was admitted to the bar in 1982.

Perry Erhardt, with the Olive Waller Zinkhan & Waller law firm in Regina. He is also the President of the Canadian Bar Association, Saskatchewan Branch. He was admitted to the bar in 1990.

Paul Favel, with the McKercher law firm in Saskatoon. He was admitted to the bar in 1996.

Neil Fisher, with the McDougall Gauley law firm in Saskatoon. He was admitted to the bar in 1979.

Allan Haubrich, with the Robertson Stromberg Pedersen law firm in Saskatoon. He was admitted to the bar in 1971.

Richard Hischebett, Executive Director of the Civil Law Division, Saskatchewan Ministry of Justice and Attorney General in Regina. He was admitted to the bar in 1988.

Mitchell Holash, with the Holash Logue McCullagh law firm in Prince Albert. He was admitted to the bar in 1985.

Randy Kachur, with the Rusnak Balacko Kachur & Rusnak law firm in Yorkton. He was admitted to the bar in 1979.

Jerry Katz, with the MacDermid Lamarsh law firm in Saskatoon. He was admitted to the bar in 1985.

Kevin Lang, with the McDougall Gauley law firm in Regina. He was admitted to the bar in 1990.

R. Neil MacKay, with the MacPherson Leslie & Tyerman law firm in Saskatoon. He was admitted to the bar in 1979.

Michael Megaw, with the Gerrand Rath Johnson law firm in Regina. He is also a Bencher of the Law Society. He was admitted to the bar in 1985.

Maria Pappas, with Saskatchewan Legal Aid, Regina City Office. She was admitted to the bar in 1981.

Patricia Warsaba, with the McKercher law firm in Regina. She was admitted to the bar in 1983.

Cecilia I. Johnstone Award



Beth Bilson, Q.C.

Beth Bilson, Q.C. received the third annual Cecilia I. Johnstone Award in August at the Women Lawyers Forum Reception, which was held at the CBA Canadian Legal Conference.

The award was established to honour a past CBA President, lawyer and judge who passed away in 2006. The award recognizes the leadership of women who assist other women to advance within the legal profession. Beth Bilson has been an advocate for women lawyers on such issues as pay and gender equity.

From 1986 – 1988, Professor Bilson was Assistant Vice-President (Administration)

at the University of Saskatchewan, and then from 1999 – 2002, she was Dean of the College of Law at the University of Saskatchewan. She was Chair of the Saskatchewan Labour Relations Board from 1992 – 1997 and then in 2000 she was appointed Chair of the federal Pay Equity Task Force, which reported in 2004. Besides teaching at the University, Professor Bilson has published papers in the areas of labour and administrative law. She has also served as Chair of the CBA Standing Committee on Equity, as well as Chair of the Equity Committee, CBA Saskatchewan Branch. She continues to serve as Editor of the Canadian Bar review.

New Online Resource: Queen's Bench Practice Manual Ready to Go

by: Toby Willis-Camp, Director of Libraries

The Queen's Bench Practice Manual Wiki will be available to all members starting February 2011. Jam packed with commentary and precedents, the QBPM is an online tool that can be browsed or searched by keyword, and it links to case law, legislation and other online resources. Topics covered at this time include Motions, Affidavits, Orders, Documents and Examinations for Discovery, Pre-Trials,

Trials and Experts, Creditor Debtor, Wills and Estates, Judicial Review and Criminal Law. Members can contribute to the QBPM content, commenting on changes in case law, legislation or practice. At this time, access will be limited to members only, through a link on the Members Page.

The QBPM is the result of countless volunteer hours over the span of 10 years and has been financially supported by the

Law Foundation of Saskatchewan since the project began in 2001. During the past year, Donna Revet has led the charge in getting the QBPM launched, working closely with team members on completing content and formatting it for uploading. We are pleased the manual will finally be available to members on their desktop. A CPD webinar introducing the wiki and how to use it will be held in mid-February.

Members' Desktop Library 2011

by: Toby Willis-Camp, Director of Libraries

The Library is pleased to offer the following electronic subscriptions to all members' desktop via the Members Section:

Irwin Law E-Library
O'Briens Internet

Criminal Spectrum
DART: Western Decisions
CCH Canadian Family Law Guide
CCH Estates Administration and Planning
CCH Electronic Discovery in Canada
Hein Online

Contact your librarians in Regina (569-8020, 1-877-989-4999) or Saskatoon (933-5141 or 1-888-989-7499) for assistance and training. We can create a quick training session for subscriptions that best meet your practice needs.



Pro Bono Law
Saskatchewan

Benchers' Digest Report

Kara-Dawn Jordan, Executive Director

www.pblsask.ca

As Pro Bono Law Saskatchewan approaches its fourth year of operations, we would like to take this opportunity to thank the Saskatchewan Bar and our many contributors and supporters who have come together to provide legal assistance to persons of limited means in this province over the past year. As Executive Director of PBLs, I am fortunate to hear first hand from many of the clients who have received the assistance of volunteer lawyers. It is not uncommon for PBLs to receive letters, cards and phone calls of appreciation from people who have had the opportunity to meet with a lawyer at one of the free legal clinics or who have received assistance through a panel program. For many of these people, just having had the opportunity to sit down with a lawyer who can demystify their legal situation has made a large impact on their lives.

As a result of the hard work and generosity of volunteer lawyers,

community volunteers and organizations, PBLs has been able to assist thousands of clients over the past few years. Each year we have seen a significant growth in the number of clients we are able to serve and 2010 has been no exception.

Many thanks are extended to the following people and organizations:

All lawyers who volunteered with PBLs programs in 2010 (a recognition list is included as an insert to the Benchers' Digest).

Program Partners:

The **Salvation Army** partners with PBLs to provide Free Legal Clinics in Regina and Swift Current.

The **Prince Albert Indian Metis Friendship Centre** partners with PBLs to provide a Free Legal Clinic in Prince Albert.

The **Children's Advocate Office** partners with PBLs to provide the Child & Youth Pro Bono Panel Program.

Pro Bono Students Canada partners with PBLs on the Lawyer Student Partnership.

Supporters:

Special thanks are extended to the **Canadian Bar Association (Saskatchewan Branch)** for the generous donation of funds for the CBA Disbursement Fund, **Virtus Group LLP** for their in-kind audit services, and **Divorce Mate Soft Ware** and **Maxxam Analytics** for their donated services.

Funders:

PBLs acknowledges generous annual funding from the **Law Foundation of Saskatchewan** and thanks the Law Foundation for its commitment to access to justice initiatives.

Finally, PBLs is a registered Canadian charity and a special thank you is extended to the individual donors who contributed during 2010.

2011 Convocation Dates of the Benchers of the Law Society of Saskatchewan

February 9th, 10th and 11th – Regina

April 13th, 14th and 15th – Saskatoon

June 22nd, 23rd and 24th – Regina
(annual meeting set for evening of Thursday, June 23rd)

September 7th, 8th and 9th – Waskesiu

October 19th, 20th and 21st – Regina

December 7th, 8th and 9th – Saskatoon

E.M. Culliton Scholarship Endowment

As a tribute to the former Chief Justice E. M. Culliton, an endowment was established by the Law Society of Saskatchewan to provide that in perpetuity a special scholarship is to be awarded for the pursuit of post-graduate studies in criminal law.

The value of the scholarship to be awarded in 2011 has not yet been finally determined, but the maximum amount available is expected to be \$10,000. Up to two scholarships may be awarded in any one year. **The deadline date for receipt of applications is May 6th, 2011.**

Application forms are available on our website at www.lawsociety.sk.ca.

In Memory

John (Bob) Dunnet passed away on October 31, 2010 at 87 years of age. He was predeceased by his wife Lutie in 2004. He leaves behind his daughter Tara and his son Bruce.

Mr. Dunnet was born in Saskatoon and attended the University of Saskatchewan where he obtained degrees in arts, accounting and law. He practiced law in both Saskatchewan and Alberta. In Calgary, he worked for many years in the oil industry with British American, Gulf and Petro Canada. In 1999, he became a senior life member with the Law Society of Saskatchewan.

William Nykyforuk, O.C., passed away October 24, 2009 in Kelowna. He leaves behind his wife Jean and 4 children, Ellen, Tom, Ann and Philip.

He was born and raised in Wakaw, Saskatchewan. After serving in the Air Force during World War II, he attended the University of Saskatchewan, where he obtained a B.A., with a major in history, and a law degree in 1950. For almost 40 years he practiced law in Saskatoon. He received a Queen's Counsel designation in 1968.

Mr. Nykyforuk taught business law at the University of Saskatchewan, was Chair of the Board of Referees for the Unemployment Insurance Commission and also served as a part-time judge in the Provincial Court. He was active in his church, the Nutana Rotary and the Riverside Tennis Club. In 1997, he moved to Kelowna with his wife and daughter. He remained active in his church, Probus, Amnesty International and the Society for Learning in Retirement. He played tennis up until his 85th birthday and remained a loyal fan of the Saskatchewan Roughriders.

* Excerpts rendered from obituaries printed in local newspapers.

EQUITY OMBUDSPERSON

The Office of the Equity Ombudsperson is committed to eliminating both discrimination and harassment in the legal profession.

If you are a support staff, articling student or lawyer within a law firm, you can contact the Equity Ombudsperson, Kathryn Ford, O.C., for advice, information and assistance. All information is confidential.

This office is not a lawyer referral service and cannot provide legal advice. Call **toll free: 1-866-444-4885**.

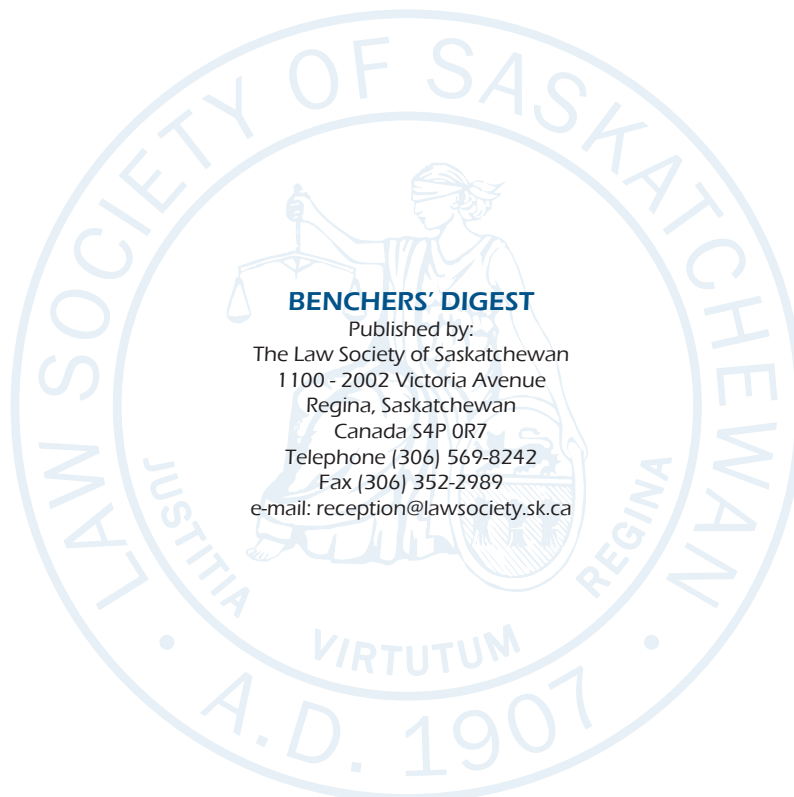
This office is funded by The Law Society of Saskatchewan.

LAWYERS CONCERNED FOR LAWYERS

Provides to Saskatchewan lawyers and their family members:

- CONFIDENTIAL assistance in effectively dealing with problems;
- the services of an INDEPENDENT professional consultant;
- services provided without charge

For confidential information and assistance call 1-800-780-5256.



BENCHERS' DIGEST

Published by:

The Law Society of Saskatchewan

1100 - 2002 Victoria Avenue

Regina, Saskatchewan

Canada S4P 0R7

Telephone (306) 569-8242

Fax (306) 352-2989

e-mail: reception@lawsociety.sk.ca