

BENCHERS' DIGEST

Volume 12, Issue #1

January, 1999

Profile of the President

Maurice O. Laprairie, Q.C.
President, Law Society of Saskatchewan

Maurice O. Laprairie, Q.C., of Regina, Saskatchewan, was appointed by the Benchers at the December 1998 Convocation to complete the remainder of the 1998 term of Lynn B. MacDonald, Q.C. upon her appointment to the Court of Queen's Bench. Mr. Laprairie was also elected President of the Law Society for 1999.

Mr. Laprairie attended the University of Saskatchewan, obtaining an LL.B. degree in 1975. He articulated to W. M. Elliott, Q.C. of MacPherson, Leslie & Tyerman and was admitted to the Law Society of Saskatchewan in 1977. He has practiced with MacPherson Leslie & Tyerman continuously from 1977 and is currently a senior partner in the firm. Mr. Laprairie's practice is exclusively in the area of civil litigation.

Mr. Laprairie is a director of the Federation of Law Societies of Canada, member of the Regina Bar Association, the Canadian Bar Association and the Saskatchewan Association of Trial Lawyers. He has been chair of the Joint Committee on the Queen's Bench Rules of Court since its inception.

In November, 1994, Mr. Laprairie was elected a Bencher of the Law Society of Saskatchewan. He was re-elected in 1997. He has chaired a number of committees, including the Insurance Committee and Legislation and Policy Committee. He has served on the Complainants Review, Ethics, Executive and Finance Committees.

Mr. Laprairie has been involved in many continuing legal education courses and in 1994 he was the recipient of SKLESI's Outstanding Volunteer Award.

In 1995, Mr. Laprairie was awarded a Queen's Counsel designation.

In December 1998 the Benchers appointed Mr. Laprairie as the representative for Saskatchewan on the Federation of Law Societies of Canada. This is a joint position with the Law Society of Manitoba. Mr. Laprairie will serve as the joint Saskatchewan/Manitoba representative on the Federation for a period of six years.

Maurice is married to Carla Weder and they have five children.

President's Report

Financially the Law Society continues to enjoy a comfortable position. In spite of the fact that annual fees to members have remained constant for eight years and the allocation to Administration has actually decreased in order to fund special projects and upgrade and improve the library services, the Consolidated Fund shows an accumulated surplus of \$2.6 million. This kind of fiscal performance allows the Law Society a great deal more flexibility and freedom of movement to respond to the challenges that it faces in the future.

The Saskatchewan Lawyers Insurance Association also has begun to show a very positive financial status. All liabilities and potential claims are fully funded. Claims generally are down, both in number and in quantum. The services of in-house counsel and our in-house adjuster (part-time) have dramatically reduced costs. The result is a current surplus which, in the absence of unforeseen claims experienced in the next few months, means that the Insurance Committee can set the insurance assessment in a positive atmosphere.

Some of the other issues that will be faced by the Law Society in 1999 are as follows:

Legal Aid

The Law Society is committed to the concept that people in need of legal services should not be deprived of them by their poverty. In 1999, the Law Society will have a representative on a four person committee appointed to the government to investigate the funding needs of the Saskatchewan Legal Aid Commission. A sound legal aid scheme is in the public interest and we will do everything possible to see that our system is restored to that state.

No Fault Insurance

The government has promised to review the no-fault insurance scheme in 1999. The Law Society, through its joint committee with the Canadian Bar Association, will provide evidence that the present system is unfair to injured parties and needs major modifications. We will be calling on members of the profession to provide their time and financial support.

Land Project

The practice of real estate law will change very significantly in the near future. The registry system will be fully computerized and the lawyer's role therein will change dramatically. New rules, practices and procedures will have to be developed.

Title Insurance

Large American corporations have made some headway in persuading financial institutions in Saskatchewan that title insurance provides benefits which are not covered by the existing Land Titles system. The Law Society is working to explode this myth. Through the Federation of Law Societies we are preparing a Western Canadian solution to this issue which will provide our members with the ability to provide a type of certificate of insurance which will give the same level of "comfort" to these financial situations.

Multidisciplinary Practice

Should lawyers be allowed to practice in partnership with other professionals or are the dangers of the loss of protection to client confidentiality, ethical cohesiveness and liability issues too great? This will be a pressing issue to be considered.

Copyright

The publishers of law reports have asserted that they have a copyright over cases published in their volumes. The Law Society's position is that the law as pronounced by the Judges must be freely available to anyone.

Limitation of Actions Manual

In 1997 the Law Society provided to every member the Saskatchewan Practice Checklists. These checklists have been very well received and will be kept up to date. In 1999 the Society will make available to every member a comprehensive manual covering all the limitation and notice provisions found in Saskatchewan Legislation. As with the checklists, we think this manual will be an important loss prevention tool for our members.

The year ahead will not all be work. At our annual meeting this year to be held in Yorkton June 10-12 we will be honoring Iain Mentiplay, Q.C. who will be retiring from the Society this year. Be sure to mark your calendars for the annual meeting and start looking for a kilt to wear to Iain's retirement dinner.

I would like to encourage all members to contact me at any time to discuss issues involving the Law Society or other matters affecting the profession. Finally, I would like to take this opportunity to wish all of you success and happiness in 1999.

Vice-President, Law Society of Saskatchewan

Congratulations are extended to Randall J. Baker, Q.C., of Regina, a partner in the firm Kanuka Thuringer, on his election as Vice-President of The Law Society of Saskatchewan for the year ending December, 1999

Dates for 1999 Bencher Meetings:

February 11 & 12, 1999 Saskatoon	April 22 & 23, 1999 North Battleford	June 9 & 10, 1999 Yorkton
September 9 & 10, 1999 Waskesiu	October 28 & 29, 1999 Regina	December 9 & 10, 1999 Saskatoon

1999 COMMITTEE CHAIRS

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Brent Klause, Vice-Chair

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Maurice Laprairie
Randy Baker
John Stamatinos

Legislation and Policy

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Complainants Review

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**Highlights of the Meeting of the Benchers held December 10 & 11, 1998
(A. Kirsten Logan, Q.C.)**

New Bencher – Northwest District

As a result of the appointment of Dennis Maher, Q.C. to the Bench, the Northwest District seat became vacant. Members of the Northwest Electoral Division were canvassed regarding their interest in serving as a Bencher and for a measure of support of those persons who put their names forward. George Thurlow, Miguel Martinez and Richard Gibbons indicated that they would be prepared to serve the remainder of Mr. Maher's term. The Benchers were advised that the majority of the members of the Northwest Electoral Division were in favour of the appointment of Mr. Thurlow. The Benchers therefore passed a motion appointing George Thurlow, of Meadow Lake, to serve as the Bencher for the Northwest Electoral District effective immediately. His term of office will expire December 31, 2000.

The Benchers are awaiting similar input from the Southeast Bar Association in order that a Bencher may be appointed to replace Madam Justice MacDonald as a result of her appointment to the Bench in November.

Legal Aid

An Ad Hoc Committee had been formed at the October Convocation consisting of Benchers who are concerned by the issue of Legal Aid funding. At a meeting with the Minister, Mr. Nilson advised that the level of funding provided by the province has had to increase significantly over the years due to decreased funding provided by the federal government. Following that meeting, the Deputy Minister of Justice, John Whyte, Q.C., invited the Law Society to appoint a representative to a committee created by the Department to conduct an internal review of Legal Aid operations to assist the Department in budgeting and identifying issues. At Convocation, the Benchers agreed to appoint a representative to the Department's committee. John McIntosh, of Swift Current, will be the Law Society representative to the committee.

The Ad Hoc Committee on Legal Aid would like to continue its study of funding issues and would like to have a dialogue with both federal and provincial representatives.

Public Statements

The Benchers discussed how public statements by the Law Society should be issued, eg. whether the Benchers' committees should make their own statements or whether statements should be made by the President or administration office. Except in routine matters, press releases will not be issued without the approval of the President or Vice-President. On occasion, chairs of committees will be called upon, however the approval of all Benchers or the President should be obtained.

Meeting with the Deputy Minister

The Benchers were advised of a meeting held December 3, 1998 members of the Legislation and Policy Committee had with the Deputy Minister of Justice, John Whyte, Q.C., the Associate Deputy Minister, Ron Hewitt, Q.C. and the Executive Director of the Public Law Division, Doug Moen, Q.C. Topics discussed included Title Insurance, Residential Schools, and the Future of the Legal Profession Conference. The Committee which organized the conference was given a refreshed mandate to proceed with measures to bring forward the ideas presented at the conference. Regarding Title Insurance, the government is concerned about consumer protection issues and is grateful that the Law Society is taking part in steps to protect those interests. With regard to incorporation of law practices, our position was recognized, however, the government representatives did not seem hopeful that legislation allowing incorporation would be passed. With regard to the recent publicity regarding Residential School civil actions, it was suggested that if lawyers' fees in such actions are taxed that there be a limited number of taxing officers appointed in order that consistency can be reached.

Senior Life Membership

The Benchers agreed to award a Senior Life Membership in the Law Society of Saskatchewan to Roger Colenso Carter, Q.C. on the occasion of his fiftieth anniversary as a member of the Law Society of Saskatchewan.

Born in Moose Jaw, Saskatchewan, Doctor Carter graduated with a Bachelor of Law degree from the University of Saskatchewan and was enrolled in the Law Society of Saskatchewan in 1948. Following articles to Peter Makaroff, K.C., he engaged in private practice in Saskatoon with the firm Makaroff, Carter, Surtees, Sherstobitoff and Hrabinsky until 1963. From 1963 until his retirement, he was associated with the College of Law, University of Saskatchewan.

Throughout his career he has served on and as counsel for Royal Commissions, Ministerial Committees and Boards including the Labour Relations Board, Saskatchewan Community Legal Services Commission and Reparations for Motor Vehicle Accidents. He was President of the Saskatoon Bar Association from 1957 – 58, Dean of Law, from 1969 – 1974, Director of the Native Law Program from 1973 – 1981 and Director of the Native Law Centre from 1975 – 1981.

Dr. Carter obtained his LL.D. from Queen's University in 1981, was named a companion of the Order of Gabriel Dumont and an Honorary Member of the Indigenous Bar Association of Canada in 1981, received the Minister of Immigration and Citizenship Award for Excellence in Race Relations in 1992 and in 1998, was awarded the Saskatchewan Order of Merit for his vision and dedication to Aboriginal Law.

Bar Admission Course

The Admissions and Education Committee reviewed several issues regarding the evaluation process at the Bar Admission Course.

1. Should there be a rule that students are required to discontinue articles if they don't pass the Bar Admission Course?

The Committee is not of the view that this is necessary and has recommended that amendments be made to Rule 160(8) in order to clarify that students are not required to cease articling if they fail a segment of the Bar Admission Course.

2. The number of appeals and supplementals allowed.

The Bar Admission Course policy is that students may have an assignment or examination re-read if a passing mark is not achieved. Students are also given an opportunity to write a supplemental. If a passing grade is not achieved on the supplemental examinations, the student must make application to the Admissions and Education Committee for permission to take a further supplemental. The Committee was not prepared to recommend a change to that policy.

3. Re-read process.

The Committee was satisfied that the current re-read process was satisfactory in that an independent person is retained by SKLESI to conduct the re-read and on occasion, material has been given to a third independent party for a re-read.

4. How to deal with disadvantaged students.

The Committee was not prepared to recommend that the evaluation process be changed, however some accommodation may be made in the method of delivery of the evaluations for some students.

5. Cultural bias in examinations or assignments.

Willy Hodgson, one of the Committee members, agreed to assist Mr. Koshgarian in reviewing examinations and assignments for cultural bias.

6. Requirement to take the Bar Admission Course in order.

This issue remains under review.

7. Involvement of Benchers in education policy development.

The Committee has recommended that the Benchers remain involved in developing policy for evaluation processes but was not

prepared to recommend that the Benchers take part in the evaluations themselves.

Mediation Training

The Admissions and Education Committee has approved the mediation course offered by SIAST Palliser Campus in Moose Jaw. This is a thirty-nine hour course, however, there are two prerequisite courses required by SIAST prior to taking the mediation course. Pursuant to Rule 570, a member may act as a mediator if he or she successfully completes the mediation course offered by SIAST Palliser Campus. The following mediation courses have previously received approval from the Admissions and Education Committee pursuant to Rule 570: The CLE Society of B.C.; Fifth Avenue Counselling & Mediation; Canadian Dispute Resolution Corporation; CDR Associates; Mediation Services, Saskatchewan Justice; Common Ground Mediation Trainers; and Walter & Walter Mediators.

Electronic Transfers

Discussions are underway with the Law Society of British Columbia to develop a method and rule for members to transfer trust funds electronically. It is hoped that at least a western Canada proposal can be made, if not a nation-wide proposal.

Equity/Diversity Committee

The Benchers approved an amendment to Rule 110(l) to change the name of the Gender Equity Committee to the Equity/Diversity Committee. That Committee is developing a new mandate for its work.

The Committee is reviewing a proposed policy developed for the Department of Justice dealing with farming out of Department of Justice legal work. The Federal Department of Justice adopted such a policy two years ago. In order to recommend Law Society endorsement of the policy, the Committee would like to propose methods for members to comply with the policy. Work on this issue is continuing.

Certification of Legal Specialists

The Professional Standards Committee has been reviewing work currently underway in Alberta which would provide a method for lawyers to be certified as specialists. An ad hoc committee will be established to further this work in Saskatchewan, including a possible pilot project in the areas of tax and labour law; qualifications; differential insurance assessments; and setting standards of care.

Limitations Manual

It is hoped that the revisions, corrections and updates to the first draft of the Limitations Manual will be completed in February. The manual was originally prepared by the former Director of Libraries with generous funding from the Law Foundation of Saskatchewan. However, the project was delayed by Mr. McGuire's departure. The Insurance Committee believes that the revisions and updates will be beneficial and this manual will be of great assistance to the membership.

Professional Conduct Rulings (Iain A. Mentiplay, Q.C.)

The mandate of the Ethics Committee is to make rulings on questions of professional ethics for the guidance of the profession. The rulings given by the Ethics Committee relate to the ethics of particular situations and are not determinations of the legal issues which arise from those situations.

Lawyers Conduct Towards Other Lawyers – Chapter XVI, Commentary 6

Facts:

Lawyer B was acting as counsel for the Petitioner and Lawyer O, acting as counsel for the Respondent in a matrimonial action. Lawyer O wrote to Lawyer B in January, 1998 about the possibility of having an Examination for Discovery of the Petitioner sometime in February or some date thereafter. The Petitioner gave instructions to her solicitor to bring an application pursuant to Rule 7, s. 44 of The Queen's Bench Act to enforce, by summary proceedings, the terms of an agreement settling an action. The application was heard on March 18, 1998. By letter dated March 18, 1998, Lawyer O forwarded to Lawyer B an Appointment for Examination for Discovery, along with a Statement as to Documents and an office cheque in the amount of \$50.00 to cover conduct fees. Lawyer O requested that Lawyer B accept service as soon as possible and return the documents with his notations. Lawyer O then made two telephone calls to Lawyer B's office asking for the documents to be returned with acceptance of service. Neither of the phone calls were returned by Lawyer B.

On March 25, 1998, a decision was rendered granting Judgment to the Petitioner in accordance with the agreement reached

between the parties as evidenced by the Interspousal Agreement. On March 30, 1998, the process server attended at Lawyer B's office to serve the documents on behalf of his client. By letter dated April 1, 1998, Lawyer B informed Lawyer O that his client was not prepared to attend Examinations for Discovery at this time since it was his position that the Judgment resolved all issues. He returned the trust cheque and Appointment since his client had instructed him not to accept either. Lawyer B says that he met with Lawyer O in early March, 1998 and indicated that there should be no Examination of the Petitioner until after the Chambers application had been heard and a decision handed down.

Lawyer O requested a ruling of the Ethics Committee on the following:

1. What is the responsibility of counsel on record to return documents with acceptance of service admitted?
2. Can a client instruct a lawyer not to accept/admit service?
3. Is there is a difference if conduct money is involved?
4. Must the documents and money be returned within a reasonable period of time, if not being accepted?
5. What is a reasonable period of time?
6. Is it ethical to hold the documents for strategic reasons?

Ruling:

Rule 30(2) of The Queen's Bench Rules of Court, provides that service is valid if a document came to the notice of the person to be served. There are cases pursuant to this rule to the effect that even if documents are not actually in the possession or given to the person to be served, as long as that person had sufficient notice, service was effected. Rule 228 provides that conduct money shall be provided to the solicitor as an additional requirement of service. In the present case, conduct money was in fact provided and therefore there would not be a problem with the validity of service.

The Committee was therefore of the view that service was effected immediately upon the documents being delivered to Lawyer B and in effect coming to his office. It was not possible for him to reject service and failure to endorse his acceptance of service and return the documents immediately would therefore not have specific legal effect and would be strictly within the realm of courtesy of fellow solicitors.

Chapter XVI, Commentary 6 of The Code of Professional Conduct requires that lawyers answer with reasonable promptness all professional letters and communications that require an answer and be punctual in fulfilling commitments. Lawyer B had strategic reasons for failing to return the documents immediately and the length of time that he held the documents was relatively short in the circumstances. As far as Lawyer O was concerned, the delay was of some significance. If it appears that Lawyer B does not have the legal option to refuse service, then his withholding his acceptance and acknowledgement of acceptance would appear to come close to violating Commentary 6. He was in fact taking advantage of the practice of courtesy which has evolved. Lawyer O and his client were therefore put to a disadvantage in that they relied upon the observance of this courtesy. It was the view of the Committee that Lawyer B should, at the very least, have advised Lawyer O that he was not prepared to endorse his acceptance of service on the documents immediately in accordance with Commentary 6 and advise that an Affidavit of Service would be required.

The Committee also raised the question of the obligation of a solicitor on record on an old closed-out matter. If the Court file is in fact closed, then the proceedings in effect will be at an end and therefore the solicitor on record is no longer a meaningful concept. If the file remains open, a solicitor of record is required by virtue of Rule 12 to accept service.

Conflict of Interest – Chapter V, Commentary 5, 6 and 13

Facts:

Lawyer R acted for W, V, and G, in incorporating a company and acquiring a business. W, V, and G were all equal shareholders and elected directors of the company. Lawyer R says that she gave advice to W and G respecting a situation involving V, leading to V's removal as an employee and director. W denies this. Lawyer R was contacted by G respecting the actions of W as an employee but gave no advice. Lawyer R was aware of the actions of W which were contrary to the interests of the corporation and advised her to obtain independent legal advice. Lawyer R acted for G in two unrelated property transactions. Lawyer R also acted for G in preparing an offer to buy W's shares.

W complained that Lawyer R's law firm was in a position of legal conflict in representing G and the company against her personally and while she was a director of the corporation.

Ruling:

1. It is improper to advise one director against another as a director.

2. It is improper to advise one director against another as an employee.
3. In a dispute, the parties should be told to obtain independent legal advice.
A lawyer cannot pick sides.
4. If retained as corporate solicitor, the member must continue to represent the corporation, not the directors.

Disclosure of Information to Prevent a Crime - Chapter IV, Commentary 11

Facts:

Lawyer G acts for an Executor of an estate. The Statement of Assets and Debts was based on information which was provided by the Executor. After Letters Probate had issued, the Executor advised him of another account in the name of the deceased. Lawyer G told the Executor to disclose it by filing a Supplementary Statement of Assets. The Executor refused, saying the account was to have been his because it was the deceased's intention to give it to him before his death and was to do so under the Power of Attorney he held. He did not feel it was proper to do so and waited until after the death to make the transfer.

Lawyer G requested directions of the Ethics Committee. It was his intention to write the Executor informing him what he had advised him verbally that he should file an Supplementary Statement of Assets, that his actions were fraudulent and that he has an obligation to the beneficiaries of the estate. The question to the Ethics Committee was whether he ought to disclose the facts of the bank account to the beneficiaries if the client decides not to.

Ruling:

The question to the Ethics Committee was whether he ought to disclose the facts of the bank account to the beneficiaries if the client decides not to. A solicitor/client relationship exists between Lawyer G and the Executor. The disclosure by the client of the bank account is something that the client would consider to be confidential and therefore would be covered by privilege.

The Committee considered the paramount importance of solicitor/client privilege and confidentiality versus the understandable desire of Lawyer G to prevent a fraud on innocent beneficiaries. If the fraud is a continuing one, disclosure to prevent a crime is justified, although not mandatory. There is strong argument for the exception to privilege and confidentiality rule in this case. Although the Court may not have any other function other than to simply review the Executor's account, the matter is still before the Court to that extent. The Court must, by necessity, have reference to the probate and list of assets in passing accounts. The Committee was therefore of the opinion that Lawyer G was justified and probably was required to advise the Court of the materials before it are false and cannot be relied upon. The Committee was also of the opinion that Lawyer G is entitled to withdraw if the Executor does not follow his advice.

Advising Clients – Chapter III, Commentary 4

Facts:

Lawyer C represented a client on a complex litigation file. At the end of the trial, which lasted three weeks but before judgment was rendered, she wrote to the client purporting to anticipate with some certainty what the judgment would say. She stated that her assessment was that the presiding Judge would award the client \$102,000.00. The Judgment of the Court of Queen's Bench did not find the client to be a credible witness and dismissed the client's claim in its entirety. He received nothing. The client complained about the manner in which Lawyer C had handled his case. The complaint was referred to the Professional Standards Committee.

Ruling:

Although a lawyer may have an obligation to give an opinion as to the likely outcome of a trial, the client should not be given an unrealistic expectation nor should the lawyer be over bold in presenting the opinion.

Interviewing Expert Witnesses (Allan T. Snell, Q.C.)

The Code of Professional Conduct in Chapter IX, Commentary 6, provides:

"The lawyer may properly seek information from any potential witness (whether under subpoena or not) but should disclose the lawyer's interest and take care not to subvert or suppress any evidence or procure the witness to stay out of the way. The lawyer shall not approach or deal with an opposite party who is professionally represented save through or with the consent of that party's lawyer."

(Emphasis added)

The rationale behind this rule is obvious and has been referred to in the cases noted in the footnote to the commentary. It is intended to ensure that potential witnesses cannot be hidden or excluded from the party opposite by asserting some kind of proprietary interest in them.

The Benchers have recently been asked to rule on whether this commentary is modified where an expert is consulted and paid a fee for an opinion prior to trial. In other words, can counsel instruct an expert witness whom he or she has hired to provide an expert opinion, not to talk to the other side?

The Benchers have concluded that such an instruction is not appropriate. It is acceptable for counsel to express their preference to the witness that the witness not speak to counsel for the other side, but it must be made clear that the decision whether or not to do so remains with the witness. Counsel should also advise the witness of the concept of litigation privilege and advise what facts or disclosures that have been presented to that witness by counsel or the client may be covered by that privilege. Apart from litigation privilege, if the witness is willing to speak with counsel for the other side, it is perfectly proper for him or her to do so.

Queen's Counsel

The Law Society wishes to extend its congratulations to the following members who were appointed Queen's Counsel on December 30, 1998:

Randall Baker is a lawyer with the firm of Kanuka, Thuringer in Regina. He was admitted to the Saskatchewan bar in 1973.

Ian Brown is the Chief Legislative Crown Counsel for the Department of Justice. He was admitted to the Saskatchewan bar in 1978.

Jack Cooper is a lawyer with the firm of Grayson & Company in Moose Jaw. Originally from Prince Albert, he was admitted to the Saskatchewan bar in 1965.

Christine Glazer is a lawyer with the firm of McKercher, McKercher & Whitmore in Saskatoon and President of the Saskatchewan Branch of the Canadian Bar Association. Originally from Esterhazy, she was admitted to the Saskatchewan bar in 1981.

Terence Graf is a lawyer with the firm of McDougall Ready in Regina. He was admitted to the Saskatchewan bar in 1970.

Alistair Johnston is a Senior Crown Prosecutor with the Regina Prosecutions District, Saskatchewan Justice. Originally from Southey, he was admitted to the Saskatchewan bar in 1975.

Janice Lawrence is a lawyer with the Battlefords Area Office of the Saskatchewan Legal Aid Commission. She was admitted to the Saskatchewan bar in 1980.

Graeme Mitchell is the Director of the Constitutional Law Branch of Saskatchewan Justice. Originally from Fort Qu'Appelle, he was admitted to the bar in Ontario in 1982, in Saskatchewan in 1985, and in Manitoba in 1987.

Robert Richards is a lawyer with the firm of MacPherson, Leslie & Tyerman in Regina. Originally from Assiniboia, he was admitted to the bar in Ontario in 1983 and in Saskatchewan in 1985.

James Scharfstein is a lawyer with the firm of Goldstein, Jackson, Scharfstein, Gibbings in Saskatoon. Originally from Naicam, he was admitted to the Saskatchewan bar in 1977.

Alma Wiebe of Saskatoon, is a lawyer with the firm of Walker, Plaxton and Company. She was admitted to the Saskatchewan bar in 1979.

Donald Wilson is a lawyer with the firm of MacPherson, Leslie & Tyerman in Regina. He was admitted to the Saskatchewan bar in 1978.

Individuals receiving the Queen's Counsel (Q.C.) designation have been recommended as deserving of appointment by a selection committee comprised of the Saskatchewan Minister of Justice, the Chief Justice of the Court of Queen's Bench for Saskatchewan or the Chief Justice of the Court of Appeal (on an alternating basis), and the past presidents of the Saskatchewan branch of the Canadian Bar Association and the Law Society of Saskatchewan.

Queen's Counsel appointees must be residents of Saskatchewan and have a minimum of 10 years entitlement to practice law in the superior courts of any province or territory of Canada or the United Kingdom and Ireland.

CANCOPY

Members may have seen advertisements by CANCOPY offering licenses to firms to provide for "lawful photocopying". Members should be aware that there have been ongoing discussions between the Federation of Law Societies and CANCOPY in an attempt to come up with more realistic license fees. Members considering entering into such license agreements should contact Diane Bourque, Executive Director, Federation of Law Societies of Saskatchewan @ 480 – 445 boul Saint-Laurent, Montreal, Quebec, H2Y 2Y7, telephone (514)875-6351, fax (514)875-6350, E-mail: dbourque@flsc.ca.

In Memoriam

Alexander George Robertson was born at Abernethy, Saskatchewan on July 23, 1938. He and his family lived in the Balcarres area until 1948, when they moved to Lloydminster. Alex received his Bachelor of Commerce degree from the University of Saskatchewan on May 13, 1960, and his Bachelor of Laws degree from the University of British Columbia on May 13, 1963. In May of 1963 Alex commenced his articles of clerkship with the law firm of Miner & Gulak and was called to the Alberta Bar July 10, 1964 and to the Saskatchewan Bar November 8, 1965. Alex continued to practice law with the Miner & Gulak firm which has undergone many changes over the years. More recently, Alex practiced with Wally Moskal and Peter Slotting as Robertson Moskal.

Alex was involved in the legal profession, being an active member in the local Bar Association in affiliation with the Battleford's Bar Association and the North East Alberta Bar Association. As well, Alex was involved in many local groups and organizations, which included the Lloydminster Kinsmen Club, K-40 Club, and the local Rotary Club. He was also a member of the Lloydminster Downtown Business Improvement District. Alex did provide assistance, leadership and support to various charities over the years, including the United Way.

Alex was an avid sports enthusiast, and took special interest in hockey and downhill skiing. He was a founding member of the local "Mount Joy Ski Club" and as well participated on many local hockey teams while living in Lloydminster. While golf and hockey were the sports that Alex was most actively involved in, he also was involved in ball and football in his earlier years and he was a staunch supporter of minor hockey and ball by way of various coaching duties and organizational groups, coaching and providing transportation as time permitted.

Alex first became ill in 1997; however, because of his dedication to his clients, he continued practicing law until May of 1998. Alex passed away December 7, 1998 at the age of 60 years, and leaves him surviving his wife, Beverley, three children, Rick (Maxine), Kelly (Scott Chapman) and Stacey (Leon Lajat), as well as three grandchildren, Curtis, Chloee and Riley. He is also survived by his loving Mother, Annie, his sister, Ruth Kondro, and his brother Scott Robertson.

Notes from the Library (Susan Baer, Director of Libraries)

e-Carswell products ... Changing the face of legal research

Carswell's new web-based online products are sending legal research into a new dimension. Web-based searching is certainly the trend and Carswell has been converting all of their work from the Canada Reporter CD-ROM service, the Canadian Abridgment, the Canadian Case Citator, and the Statute Citator to their online product.

As of this writing, the 60-day free trial of Carswell's e-products is almost over. We have used law.pro and family.pro more than insolvency.pro. Securities.pro just came on the scene with a 60-day free trial of its own. The "partner products" of the e-Carswell family contain case law, legislation and articles or commentary related to that topic, plus the case and statute citators. Full details of their case law coverage can be found in the database description or product content description. In a nutshell, they contain reported and unreported decisions from varying time-periods across the country. Full text of legislation from across the country is a nice feature in the "partner products" and the concordances featured do not exist anywhere in print to the extent that they are online.

I am interested in content and functionality. For this review, my comments are directed to functionality, with very limited comments on content. I am featuring the family.pro product to illustrate some of the features of this new service.

Full text of the statutes relating to family law from across the country exist in family.pro. Each section is a separate "page", so printing the entire statute from this product would be quite tedious. The feature is set up nicely for the table of concordance, which groups all legislation on various topics together and includes hypertext links to the relevant sections. However, I worry about the legislation included as unproclaimed acts are also listed and you must know to check the coming into force provisions in each statute to find out if that act or the sections you were just reading are actually in force. (Remember each section is a separate page.) Nothing on the screen tells you that you may be looking at legislation that is not in force. It is one of the hazards of using an electronic product for legislation if the vendor is not clear in indicating sections not in force. James McLeod writes the commentaries or articles. They are monthly or so it appears; yet the link suggests a weekly service. The commentaries are searchable and contain links to the cases mentioned.

One of the reasons I featured a "partner product" is it has interesting features but also because lawyers may be misled by one screen when searching. When you subscribe to family.pro, you are subscribing to being able to view the contents that have been indexed under the term "family law". When you conduct a search, Carswell's products are designed to search the entire database, including all cases, legislation and products. Carswell reasons that you will want to know if there is something outside of your subscription area using those terms, in case it is relevant to your search in some way. Or, you may need to search outside of your subscription area and they give you that option, but viewing outside of your subscription will cost you extra. Any cases that you see in your search results that are outside of your subscription have a yellow yield sign to indicate that you must pay extra for that product. The screen below infers that you can limit your search to one partner product. In fact, selecting the "Family law" option on this screen has no effect on the results of the search if you had selected "All subjects".

INSERT GRAPHIC HERE

This point is significant for searching because you must remember to add qualifiers to your search if you are searching for common terms. The example I used was "undue hardship". I searched without qualifying this term from the child support guidelines and received more false drops than expected outside of the subscription area. Once I qualified the search so I could find cases that used the terms "undue hardship" in the context of the Federal Child Support guidelines, the search results stayed within the subscription parameters.

Carswell's concept of delivering legal information in this way will change the face of legal research. At the outset, I find the searching tedious, as there are several screens or layers of clicking back and forth because of the pay-per-view organization to their products. I am experiencing vague memories of the "peek" function from the CAN/LAW service which existed very briefly in the online scene in the mid-1980's (by Canada Law Book). I have been searching for many years and enjoy searching using commands and the keyboard, not the mouse. Lawyers who are used to web-based searching will probably be able to navigate with fewer instructions and be able to retrieve documents from their searches. However retrieving some documents and performing a good search to make sure you covered the topic properly are two different things. Training is a must in any electronic product.

There are some interesting features such as e-mailing the results to someone, saving your results to disk, or to their document folders. I thought I was successful at the e-mailing feature but when I went to find it, it wasn't in my mailbox. I also could never save my results, either to disk or to the document folders. Others may have had different experiences. The response time for many of my searches was extremely slow, especially at the beginning of the free trial period. Granted Carswell has been improving the response time. They claim to be improving their stability also, however, I received many processing error messages

in trying to research this article. The appearance of the main screens has changed and it shows that Carswell is listening to the comments from users and the Canadian Abridgment Editorial Advisory Board.

There are different pricing structures for law firms, universities, and courthouse/law society libraries, all of which have not yet been set. It is something we did not build into our budget for this year and I am sure many of you have not as well. Carswell continues to use the "Knowledge worker" pricing scheme instead of using concurrent usage. In the Law Society library setting, it is impossible for us to identify "knowledge workers". I continue to ask for concurrent pricing from Carswell, as I know other librarians do across the country. Each firm will have to decide for themselves what they can afford and carefully evaluate whether the product they are interested in is reliable enough to invest money into access to the information in an Internet environment. Will the CD-ROM products still be produced by Carswell? One product has already been discontinued: the Canada Reporter. As the popularity or subscriber base of the e-Carswell products increases, economies of scale will force out the CD-ROM products with few subscribers.

I would be happy to discuss the products further with any members who have questions or concerns.

Improvements to Invoicing from the Library

The Library will be changing the method of billing for the computer searches and faxing services. Currently, the cover page contains the billing invoice for these service. These invoices will be included with the monthly photocopying invoice as of March 1, 1999 and will first appear on the March 15th invoice. The cover sheet will only be a notice of the charges for the search and/or faxing service. Please do not pay from the notice. Wait for your monthly bill. This change will simplify accounting procedures for accounting departments and reduce the amount of paperwork for both lawyers and the Library.