

BENCHERS' DIGEST



Volume 18, Issue Number 1

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Profile of the President



The Benchers of the Law Society elected Michael K. Fisher, Q.C. as President and Alma Wiebe, Q.C. as

Vice-President of the Law Society at their December Convocation held in Regina. They will hold these offices for 2005.

Michael K. Fisher, Q.C. was born and raised in Saskatoon, where he attended Bedford Road Collegiate Institute prior to attending the University of Saskatchewan where he received his Bachelor of Arts degree in 1969 and his Bachelor of Law degree in 1970.

Mr. Fisher articulated with the Kohaly Law Firm in Estevan, Saskatchewan and practiced in Estevan until 1974. In 1974 Mr. Fisher and his family moved to Melville, Saskatchewan where he has practiced continuously since that date. He currently practices in a firm

under the name Fisher Law Office in partnership with his two oldest sons.

Mr. Fisher has been president of the Melville Bar Association and is active in community organizations. He served three separate terms as a City Councillor for the City of Melville and he served 9 years as Mayor of the City of Melville.

He has been president of AFS International which is an International Youth Group. He is currently a Member of the Rotary Club for the City of Melville and is the secretary of that organization.

He is married to Sandra Fisher and they have three adult children. They also have four grandchildren living in Melville.

President's Report

by Michael K. Fisher, Q.C.

I have been privileged to be elected as President of the Law Society for 2005. I want to express my appreciation to the Benchers for allowing me this opportunity. It is my hope, that as a small town lawyer, I will bring a unique perspective to the President's Office.

Practice in a small center has limitations that you learn to deal with and adapt to. In my role as President, I hope that my experience as a lawyer will assist me in representing the profession well and keeping in the forefront the mandate of the Law Society to protect the public interest.

There are many challenges facing the Law Society in the upcoming year. Major defalcations over the past 4 years have caused us to increase the fees for our special fund. Continuing demands and changing trends have caused us to increase our fees for Library purposes. We strug-

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gled as a group of Benchers over the past year with the question of how to handle the request of the No Fault committee for further funding. The on-going issue of ISC has been reviewed and meetings continue to work out difficulties the profession has seen with the system.

There continue to be new challenges arising and it is our role as Benchers to provide leadership on these issues. We have noticed a significant increase in the matter of discipline complaints. One response of the Benchers has been to form a committee directed to look at the issue of sole practitioners and small rural practices. This is becoming a large issue throughout Canada. I have been invited to speak to the BC Benchers convocation on this issue, as it highlights their concern and desire to learn more about this issue and perhaps how to resolve it.

The *Finney* Decision of the Supreme Court and how it affects our ability to self regulate our profession is an issue that I am greatly interested in. We are attempting to interpret the effect of *Finney* on how we do our business. We are becoming more cognizant of its impact and need to improve the discipline procedure to be more in line with its direction.

I would like to thank Brent Gough, Q.C., who during the 2004 year, served the Law Society as President. Under very unusual circumstances Brent stepped into the breach and carried out his role as President with dedication and grace. I enjoyed very much working with him and watching him perform his duties. I congratulate him for all of his efforts.

I also want to congratulate Alma Wiebe, Q.C., on being elected as

Vice-President of the Law Society. She is Chair of the Ethics Committee for the upcoming year and will be a member of the Executive Committee. I am certain that she will perform her duties with great skill.

Despite the various issues that we face, I am looking forward to this year. I am working with a dedicated group of Benchers who work very hard for the people that elected them. They give freely of their time and they do it for no compensation other than the satisfaction of doing a good job. In my role as your new President, I hope to provide leadership that will enable our group of Benchers to continue to do this job effectively. I invite anyone who has matters they wish to discuss with me to contact me at any time. It is an honour for me to serve as your President.

Highlights of the Meeting of Benchers held December 8th, 9th, 10th, 2004

FORM AMENDMENTS

Form TA-3 has been amended to clarify some questions where financial institutions other than banks or credit unions are used for interest-bearing accounts. Questions clarifying a member's role, i.e. power of attorney or executor, have been added.

Form TA-5 and TA5S are amended to provide better information regarding separate, interest-bearing accounts and require the accountants to confirm that the corrective action recommended following the previous year's TA-3 – TA-5 review has been taken. On the TA-5, the sample size has been increased from 10 files to 20.

PRESENTATION BY THE LAW FOUNDATION OF SASKATCHEWAN

Representatives of the Law Foundation of Saskatchewan appeared before the Benchers to give a brief update on the activities of the Foundation. The Foundation has approved grants to both the University of Regina and to the University of Saskatchewan College of Law. The grant to the University of Regina is to provide funding for the Chair of Police Studies which is hoped will result in better-educated police and therefore benefit the public. The amount of the grant is \$750,000, to be paid over 7 years. The grant to the College of Law is to be allocated to the College's expansion fund. Of the \$2.5 million

granted, \$725,000 is coming from the College of Law Endowment Fund, with the remaining \$1,775,000 payable over time.

The Law Foundation created a reserve fund several years ago in order that funding for the Foundation's core grant recipients would receive continued funding for a couple of years should the Foundation cease to exist. The reserve fund has grown to \$5 million and the members of the Foundation believe the amount of the reserve should be reduced to \$3 million. The reserve fund will be the source of the grants to the University of Regina and the College of Law at the University of Saskatchewan.

The Law Society of Saskatchewan is appreciative of the ongoing support of the Law Foundation. The

Law Society Library received a grant for 2005 in the amount of \$700,000. SKLESI obtained a grant in the amount of almost \$150,000 for the Bar Admission Course. The Law Society provides SKLESI with a matching amount for the Course, plus an additional \$145/member for CLE. The members of the Foundation expressed their appreciation to the members of the Law Society of Saskatchewan for their compliance with Rule 911(4) which requires

that service charge fees be paid from lawyers' general, not trust accounts.

CANADIAN BAR ASSOCIATION INTERNATIONAL DEVELOPMENT SUB-COMMITTEE

Representatives from the CBA International Development Subcommittee appeared before the Benchers requesting their support for their project to collect legal text books for distribution in Ethiopia

and Bangladesh. The Benchers were extremely supportive of the project and agreed to include notices in upcoming mailouts and on the Website.

DEFALCATIONS

The Benchers approved payment of another defalcation claim involving Ken Wasylyshen, who was disbarred in June of 2003. This brings the total of paid defalcation claims regarding Mr. Wasylyshen to \$183,968.90.

What did we do in 1982?

by Ron Kruzeniski, Q.C.

1982 was the Law Society's 75th Anniversary. The Law Society was incorporated in 1907, so in 1982 the Benchers and members celebrated their 75 years. One thing they did was hold a joint Saskatchewan and Alberta Annual meeting in Jasper. In the Law Society of Saskatchewan Practice Journal (Vol. 2, no. 2 August, 1982) the following account of the joint meeting was given.

June 2nd to 5th, 1982, were the dates for the Joint Annual Meetings of the Law Societies of Alberta and Saskatchewan, the 75th Anniversary of the Law Societies of Alberta and Saskatchewan and the Joint Annual Meetings of the Alberta and Saskatchewan Branches of the Canadian Bar Association. The registration of members and guests was more than 525 including 170 from Saskatchewan.

The meetings were held at the Jasper Park Lodge, Jasper, Alberta, where the participants enjoyed convention business and social activities in the beautiful setting of the National Park.

The 43rd Annual Meeting of the Law Society of Saskatchewan was chaired by the President, Ger-

ald Allbright, Q.C., who presented his annual report to the membership. Mr. Iain Mentiplay delivered the Annual Secretary-Treasurer's Report and Financial Statements.

The registrants extend their gratitude to Gordon Kuski and Kevin Baker (of Alberta) for their outstanding efforts as Co-Chairmen of the Convention Committee. The fine weather allowed maximum enjoyment of the outdoor activities including the tennis tournament, men's golf tournament, women's golf tournament, white water rafting, and the Great Olympic Scavenger Hunt.

The convention opened with the Law Society reception featuring "song and Verse – or Worse – from the Benchers of Alberta and Saskatchewan." Our Benchers were certain that their performance could be described as the former rather than the latter. Sterling vocal solos by Gerald Allbright, Q.C., Elton Gritzfeld, Q.C., Gerald Gerrand, Q.C., Iain Mentiplay and Karla Gritzfeld were well received by audience members who could appreciate quality performances. The second

night included a dinner and dance with the theme of "The Bar Goes to Hollywood." This semi-dignified affair featured many elaborate costumes.

The Friday noon luncheon for lawyers and guests was honoured by the presence of the guest speaker, Mr. Justice Martland, recently retired from the Supreme Court of Canada.

I am pleased to see that Saskatchewan has such great entertainers as Allbright, Gritzfeld and Gerrand. It is hoped in our Centennial year, 2007, these plus many other entertainers will come forward to help us celebrate 100 years. We are discussing another joint event with Alberta. One suggestion is a joint conference on the future of the practice of law. The Centennial committee would like to know what members think of such an idea. Would you consider going?

We continue to receive calls regarding volunteering to help with the Centennial and we know we will need more volunteers as our project becomes more finalized and detailed planning begins.

** Please call Ron Kruzeniski at 787-5427 or Sue Baer at 569-8020.

Rulings - October and December 2004

October 2004 Rulings:

Chapter V –“Impartiality and Conflict of Interest Between Clients,” Donor of Power of Attorney is Client, October 2004

Facts:

Lawyer A acted for an elderly adult, whose niece from out of province contacted Lawyer A with respect to a Power of Attorney for her aunt. Lawyer A indicated to the Law Society that she believed that she attended only with the elderly adult, however, the niece indicated to the Law Society that she believed that Lawyer A was acting on her behalf. A year after the Power of Attorney was executed, two seniors who indicated they were church friends of the elderly adult from the same community hired Lawyer A to revoke the existing Power of Attorney in favour of the niece and to obtain another Power of Attorney in their favour. The elderly adult seemed to be caught in the middle between the niece and her family and these two friends from her community. Lawyer A drafted a new Power of Attorney in favour of the two friends and had the elderly woman sign the Revocation of Power of Attorney to the niece and the new Power of Attorney. Lawyer A involved the Public Trustee's Office indicating that she acted for the two friends from the community. Eventually, the niece was successful in obtaining a Guardianship Order for the elderly woman which the two friends did not oppose.

Ruling:

The Ethics Committee was of the opinion that the grantor of the Power of Attorney, the elderly adult, was Lawyer A's client and therefore it was inappropriate in the circumstances to act for the elderly adult's friends. The elderly adult was the

client. Lawyer A required her instructions and if the elderly client was incompetent, Lawyer A should have sent the challengers of the existing Power of Attorney to another law office for advice. The Committee also wished to remind Lawyer A to be sure to take detailed notes when attending with elderly clients for wills or Powers of Attorney as competence may be questioned and it should be clearly indicated on the file who was present at the attendance.

Chapter V –“Impartiality and Conflict of Interest Between Clients” – Acting for Both Sides of Real Estate Deal and Preferring Interest of One, October 2004

Facts:

Lawyer X acted for the vendor and the purchaser with respect to the sale of land and, as well, in preparing a lease option agreement between the two parties. The lease option agreement was drafted by Lawyer X and signed by the purchaser. The vendor was contacted by Lawyer X but did not sign the agreement. The purchaser proceeded to work the land that was the subject of the lease option agreement despite the agreement not having been signed. Lawyer X registered a caveat against the land to protect the purchaser's interest, unbeknownst to the vendor. In the caveat documentation, Lawyer X stated that his client, the purchaser, was claiming “an interest as purchaser in the agreement to purchase dated __, 2003 with the vendors.” The vendor discovered a caveat had been registered against his land and went to see another lawyer to deal with the removal of the caveat. The parties were eventually able to negotiate a lease agreement that was acceptable to both. Lawyer X indicated to the Law Society that he

understood that if the parties were not able to negotiate a lease agreement that he would have had to withdraw as counsel for both parties. Lawyer X also indicated that he believed that it was prudent to protect the purchaser's interest by registering a caveat on the land, as the purchaser had paid some rent payment in consideration of the lease option agreement.

Ruling:

The Ethics Committee was of the view that Lawyer X was in a conflict of interest and needed to withdraw as soon as he believed the purchaser's interests were not being protected and he should not have acted to file the caveat against his other client, the vendor. The Ethics Committee was of the opinion that this was a classic case of joint representation where a lawyer must withdraw when a dispute arises between the clients. In addition, the Ethics Committee wished to advise Lawyer X that they were of the opinion that his caveat was misleading as it referenced an unsigned agreement as the basis of the caveated interest which implied that a written agreement existed.

Chapter V –“Impartiality and Conflict of Interest Between Clients” – Saskatchewan Farm Security Act Waiver Certificates, October 2004

Lawyer D asked the Ethics Committee for a ruling on the following facts.

A lender makes a loan to a small corporation, taking a PPSA on farm machinery as security. An independent legal advice certificate regarding waiver of Part IV of *The Saskatchewan Farm Security Act* (SFSFA) is required by the lender. The corporation has only two shareholders and the lender required personal guarantees from each shareholder for the specific amount of the loan to the corporation. The

SFSA requires a Certificate of independent legal advice for personal guarantee of farm debt. The lender prepares the security documents and has them executed at their office except for the Certificates of independent legal advice. Lawyer D asked if it would be a conflict for the same solicitor to do the Certificates of independent legal advice for both the corporation and both individuals.

Ruling:

The Ethics Committee was of the view that, from an ethical standpoint, the solicitor would be able to provide Certificates of independent legal advice for both. The independent legal advice protects the lender. The borrowers' interest in these circumstances would be the same at this stage and the solicitor could act for both. The solicitor would have a duty to tell both the corporation and the shareholders exactly what they were signing. However, the Ethics Committee wished to provide a disclaimer that it has no jurisdiction to provide a legal opinion, for example, with respect to the validity of the security. The solicitor requesting the ruling should be aware that the Court may disagree with the Ethics Committee viewpoint.

December 2004 Rulings:

Chapter XI - "Fees" – Estate Fees Charged Over and Above Tariff, December 2004

Facts:

The Law Society received a complaint about Lawyer G charging fees over and above tariff on an estate matter.

Lawyer G took the following position:

"The Executors were initially advised that in small estates we do not follow tariff and that given the potential problems and various issues on this estate that we would be billing on a fee for service basis. Given the smallness of the estate, probate was not originally intended either, as the

financial institutions did not require probate. The clients agreed to the fee for service billing and asked only that they be provided with a detailed breakdown of time spent, which was done...it should be noted that those problems we anticipated included the involvement of the clients and a clause in the will which was null and void and created an intestacy as to the residue."

In this case, the beneficiaries and executors were the same individuals so it was easy to obtain consent, however, Lawyer G indicated that it was his view that the final Statement of Accounting eventually provided to beneficiaries for approval, including the legal fees as an expense, and an "Approval of Accounts and Consent to Dispense with Passing of Accounts" would be satisfactory. He indicated that it was his office policy not to follow the tariff in relation to small estates and that he would simply advise the personal representatives on the first attendance that as the tariff does not cover costs in administering a small estate, he would be billing on a "fee for service" basis.

Queen's Bench Rule 745(3) states:

"if a lawyer and personal representative should agree that the lawyer shall be paid a fee greater than the fee provided for in the tariff this is acceptable, if the beneficiaries, after being provided with a copy of this Rule and Tariff approve the agreement."

Ruling:

The Law Society of Saskatchewan Ethics Committee was of the opinion that the beneficiaries would have to agree to a fee other than that provided for in the tariff upfront rather than after the fact when their distributive share could be held back until such accounts were approved. The Ethics Committee was of the opinion that this kind of "office policy" to get around

the tariff is not appropriate. If items performed by counsel are outside the tariff items listed, it is fine to charge over and above, however, for items listed in the tariff, counsel is obligated to obtain the consent of the beneficiaries of the estate, as well as the personal representatives prior to charging over tariff.

Chapter I – "Integrity" – Lawyer not to Sign Jurat Where Client Not Present to Swear or if Document not True or Accurate, December 2004

Facts:

A representative from ISC complained that a lawyer had attempted to file an Application for Transmission affidavit which made reference to other documents; Letters Probate and the Local Registrar's Certificate that No Infants Interested; prior to such documents having been obtained. ISC rejected this packet because the above referenced exhibits to the affidavit were only issued two months after the Affidavit had been sworn and did not exist at the time the affidavit was signed and sworn.

Ruling:

The Ethics Committee was of the view that the lawyer must have a client sign a document before him or her and that the lawyer must commission it at the same time. The lawyer cannot sign the jurat indicating that the person was in front of him/her unless the person is indeed in front of him/her and all of the items in the affidavit are true and accurate. In this situation, to have a client swear and to commission such a document before Letters Probate is issued is not accurate and should not be done. The Ethics Committee is of the view that even though it may be inconvenient for a client, particularly those residing out of province, the client must swear to only items which exist at the time of swearing before a solicitor.

Production Orders: New Investigative Powers

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On September 15, 2004, new *Criminal Code* provisions came into force, which create new investigative powers that may affect solicitor-client privilege. It appears that neither the Federation of Law Societies, the provincial law societies, nor the Canadian Bar Association were consulted prior to these amendments to the Code.

Section 487.012 of the *Criminal Code* creates a "production order." This is an order that a judge can make compelling a person who is not under investigation to produce documents or data relevant to the commission of a crime. Failing to comply with a production order is an offence, punishable by a fine not exceeding \$250,000 or imprisonment of not more than six months, or both.

A lawyer could be the subject of a "production order" if a client were being investigated for the commission of an offence. In such cases, the lawyer would, pursuant to Chapter 5, R. 14 of the *Professional*

Conduct Handbook, be required to claim privilege over any documents that are or may be privileged, unless the client consented to their release. If the client could not be found, the lawyer would prudently claim privilege over any documents or data that the lawyer reasonably believed *might* be privileged. The privilege is that of the client and not the lawyer.

Section 487.012(4) provides that a production order may contain terms and conditions to protect a privileged communication between a lawyer and a client. Also, a person named in a production order may apply for an exemption from the requirement to produce the information referred to in the order. One of the grounds for making such an exemption order is that the documents, data or information would disclose information that is privileged. Notice of intention to apply for such an exemption order must be made within thirty days of the production order being made.

Section 487.015 places the onus on any lawyer named in a production order to make the exemption application. If a lawyer fails to obtain such an order, either through inadvertence or negligence, the client's right to protect privileged communications with a lawyer is lost. This result seems to contradict the judgment of the Supreme Court of Canada in *Lavallee, Rackel & Heintz v. Canada (Attorney General)* [2002] 3 S.C.R. 209.

If you are named in a production order, your first step should be to determine whether the order requires you to produce documents that are subject to solicitor-client privilege. If a client's privilege may be at risk, you should, subject to your client's instructions, apply for an exemption from the requirement to produce that information. If you have questions about production orders, please contact Allan Snell, Q.C. at the Law Society of Saskatchewan.

Law Society Libraries

by Susan Baer, Director of Libraries

Annual Password Change to Members' Section

User ID and password changes to the members' section were sent to members with the annual practice certificates. The Law Society's ISP (Internet Service Provider) is making changes to security on the website and as a result, members may have experienced intermittent difficulties with the passwords. We normally deactivate the user ID and password for the previous year

around the middle of January each year. Due to the problems with the passwords at this time, we may extend the effective date of the 2004 password. Library staff will continue to monitor the situation with our ISP. Your feedback is extremely important in helping to resolve the problems.

If you experience difficulty:

- try the user ID and passwords for 2004 and 2005
- contact the library in Regina, even if you were successful at gaining entry.

You can reach us at 1-877-989-4999 or 569-8020.

HeinOnline available for all members

All Law Society of Saskatchewan members now have access to the most comprehensive online legal periodical collection from the inception of the journals included in its collection. HeinOnline provides access to over 700 legal journals from the United States and Canada in an easy to use format. You will find over four centuries of research

covering history, law, political science, business, public policy, government and criminal justice.

HeinOnline has digitized in PDF format the full contents of law journals from the first volume onwards. Due to licensing agreements, the current volume available is usually one year out of date. HeinOnline has now expanded beyond the U.S. law school journals and includes Canadian, Australian, U.K. as well as international law journals. Furthermore, HeinOnline has U.S. Supreme Court reports from 1790 onwards including recent slip opinions, a substantial U.S. Treaties library from 1776 onwards, the Federal Register from 1936-1988, and U.S. Attorney General Opinions from 1791-1996. By the end of the year, HeinOnline will be launching a Legal Classics Library including more than 200 classic American legal textbooks.

One of the most advantageous features of HeinOnline is that, being image-based, it provides exact page images, enabling the researcher to view all 15 million pages currently available as they originally appeared in hardcopy. Tables, charts, graphs and pictures not normally included in online databases are preserved in the PDF format.

The strengths of HeinOnline are its depth and format. Using HeinOnline is similar to walking to the shelf for a specific volume of a journal when you know the citation. Locating articles using only partial citations is also possible. While

keyword searching is possible, it is rudimentary across collections. Using HeinOnline in conjunction with other online services will maximize the availability of fulltext online information at your desktop. For example, a search on LegalTrac for the issue of patents and the Harvard Mouse case retrieves 13 references that are almost all bibliographic (author, title, citation). By using the citation information from the search, you can read "Coming out of the maze: Canada grants the Harvard mouse patent" in volume 35 of the *George Washington International Law Review* on page 761.

Access to HeinOnline is available through the members' section. The link is located under the **Case Law and Databases** section. Members are able to print and email articles using this service with very few restrictions. Temporary downloading to a file on your computer prior to printing is permitted. Sender and recipient must delete the email attachment of an article after printing. Members should note that downloading or printing a complete issue of a journal at one time is a violation of the license agreement. Users should get into the habit of selecting the HeinOnline **Logout** feature when research is concluded.

The Law Society of Saskatchewan continues its cutting-edge delivery of legal information to its members with the addition of the HeinOnline collection. Saskatchewan is most likely the first jurisdiction in Canada to provide this product to

all of its members directly to the desktop. You can contact the library reference staff in Regina or Saskatoon for help in using this resource.

Rural Libraries

While we strive to place as much information at your desktop as possible, there are not many current legal textbooks available online. Textbooks are still an extremely valuable component to your legal research and should not be forgotten. Case law searching is only matching fact patterns. The analysis contained in a textbook provides the information needed to review topics and provide opinions.

We have been making gradual improvements to the textbook collections in the library system. The next step in our development is to weed out-dated and superseded materials from the rural collections in order to reorganize the textbook collections and make room for new titles. Classic textbooks will remain in the local collections. Our goal is to provide a core of relevant, practice-based textbooks in the rural libraries, using the research collections in Saskatoon and Regina to supplement. Reference staff will photocopy, fax or lend materials from the textbook collections to our members located outside of Saskatoon and Regina.

Work on weeding the collections will begin in early 2005. The library staff will be contacting the rural library chairpersons before work begins in their local libraries.

Judicial Appointment

Patrick Robert Koskie has been appointed to the Provincial Court of Saskatchewan effective December 22, 2004.

2004 Queen's Counsel Appointments

Twelve Saskatchewan lawyers were honoured with Queen's Counsel (QC) appointments on December 28, 2004. *Congratulations* are extended to:

Rick Engel is a lawyer with the firm of Gerrand Rath Johnson in Regina. He was admitted to the bar in 1984.

Michael Fisher is a lawyer with the firm of Fisher Law Office in Melville. He was admitted to the bar in 1971. He is the President of the Law Society of Saskatchewan.

Brenda Hildebrandt is a lawyer with the Brenda R. Hildebrandt Law Office in Moosomin. She was admitted to the bar in 1984.

Mark Kindrachuk is a lawyer with the Department of Justice (Canada) Regional Office in Saskatoon. He was admitted to the Bar in 1981.

Anil Pandila is a lawyer with Pandila & Company in Prince Albert. He was admitted to the bar in 1985.

Daryl Rayner is a Director of Prosecutors with the Saskatchewan Department of Justice in Regina. He was admitted to the bar in 1984.

Wayne Rusnak is a lawyer with the firm of Rusnak Balacko Kachur & Rusnak in Yorkton. He was admitted to the bar in 1973.

Jane Sather is a Legislative Crown Counsel with the Saskatchewan Department of Justice in Regina. She was admitted to the bar in 1981.

Grant Scharfstein is a lawyer with the firm of Scharfstein Gibbings Walen & Fisher in Saskatoon. He was admitted to the bar in 1979.

Darcia Schirr is a lawyer with the firm of Robertson Stromberg Pedersen in Regina. She was admitted to the bar in 1984.

George Thurlow is a Staff Solicitor with the Meadow Lake Area Office of the Saskatchewan Legal Aid Commission. He was admitted to the bar in 1976.

Michael Tochor is a lawyer with the firm of MacPherson Leslie & Tyerman in Regina, and Chairperson of the Saskatchewan Police Commission. He was admitted to the bar in 1984.

Registrar Appointment

New Registrar for Queen's Bench and Provincial Court December 23, 2004

The Honourable W. F. Gerein, Chief Justice of the Court of Queen's Bench and the Honourable G.T. Seniuk, Chief Judge of the Provincial Court for Saskatchewan are pleased to announce the appointment of **Sharon H. Pratchler** as Registrar of the Court of Queen's Bench and Provincial Court. This appointment is effective November 15, 2004.

Ms. Pratchler has practiced extensively in the trial courts, particularly in the criminal law area. After a number of years in private practice, Ms. Pratchler joined Public Prosecutions, working out of the Moose Jaw and Regina offices. In September of 2002, she was seconded to the Civil Law Division of the Department of Justice where she advised a number of government departments including the Department of Community Resources and Employment.

Ms. Pratchler can be contacted at 787-4077 or by email at spratchler@justice.gov.sk.ca.

QUICKLAW

We have received PST Update information from the Department of Finance.

Promotional Items

Businesses that acquire items intended for promotional use (ie. golf balls, pens, shirts, etc.) are required to self-assess PST on their purchase cost of these items, unless the vendor has already applied PST. Even though businesses give these promotional items away, they are considered to have consumed them in the course of promoting their goods or services to potential clients. (See clauses 3(1)©, (c.1), (e.1) and (m) of *The Provincial Sales Tax Act.*)

Quicklaw

In March 2000, computer services became subject to PST. Included in the definition of taxable computer services is “ ... any licence fee,

access fee or other charge for the right to use or access a computer program.” This includes charges for accessing an on-line database, such as Quicklaw. In many cases, the companies providing these kinds of services have become licensed with Saskatchewan Finance and are collecting PST on taxable computer services supplied to Saskatchewan customers. However, in some cases, the service provider is located outside of Saskatchewan and has refused to become licensed or to collect PST on taxable computer services supplied to their Saskatchewan customers. In these cases, the Saskatchewan businesses that receive these services are required to self-assess PST on their purchase cost of these services in the same manner that they are required to report and pay tax on imported goods. (Please see ss.3(1)(a.1), 5(3)

and 5(10) of *The Provincial Sales Tax Act.*)

PST Questions/Audits

The Revenue Division of Saskatchewan Finance offers a toll-free Tax Inquiry phone service at 1-800-667-6102. Email inquiries may be directed to sask.tax.info@finance.gov.sk.ca.

General Tax information and Information Bulletins are available at the Saskatchewan Finance website: www.gov.sk.ca/finance.

Audit issues that cannot be resolved with the Saskatchewan Finance auditor will be reviewed by senior Audit Branch and PST staff upon request. If the issue remains unresolved, there is a formal appeal procedure available (see s. 61 of *The Revenue and Financial Services Act.*)

In Memory Of

ERIC CAMPBELL PARTRIDGE of Saskatoon, Saskatchewan passed away on October 19, 2004 at the age of 62 years.

He is survived by his wife of 35 years, Georgina, and his two children, James and Jill.

Many Thanks . . . *by Donna Sigmeth, Complaints Officer*

The Benchers and professional staff of the Law Society of Saskatchewan wish to express their sincere thanks to members of the profession who volunteered their time to investigate complaints for the Professional Standards Committee, the Discipline Committee and the Hearing Committee and for preparing the necessary reports for the Committees' consideration. As well, our thanks to those who act as "alternate" Complaints Officers when staff and benchers are in a conflict.

We would also like to extend thanks to Law Society members and members of the judiciary who have contributed their time as members of various Law Society Committees and as Law Society representatives to other organizations. The Benchers recognize that the vocation of law is demanding and greatly appreciate the invaluable contribution of the time of Law Society members and members of the judiciary.

Chapter XV of *The Code of Professional Conduct* states that:

"The lawyer should assist in maintaining the integrity of the profession and should participate in its activities."

... the Committees' volunteers have done just that!!

Many thanks to the following:

NON-BENCHER VOLUNTEERS FOR 2004

Investigations/Hearings

Kevin Bell	Grant Currie	Russ Hart
Dan Ish, Q.C.	Alan Logue, Q.C.	Rod MacDonald
Barry Morgan, Q.C.	Merv Nidesh, Q.C.	Rod Rath
Brian Scherman, Q.C.	Darcia Schirr, Q.C.	Marilyn Scott, Q.C.
Cornelius Toews	James Turner	

Complaints Officer Designates

Randall Baker, Q.C.	Larry Zatlyn, Q.C.
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Law Society Committee Members

Randy Baker, Q.C.	Gordon Balon	Richard Carlson
Lyle Jones	Randy Katzman	David Leland
Lee Mountain	Robert Munkler	George Patterson
Randy Rooke, Q.C.	Randy Sandbeck	Daryl Shirkey
John Stamatinos, Q.C.	Murray Walter, Q.C.	Greg Willows
Patrick Zawislak	Hon. Justice Bekolay	Hon. Madam Justice Jackson
Hon. Madam Justice Wright	Anil Pandila, Q.C.	Jane Lancaster, Q.C.
Betty Ann Pottruff, Q.C.	Lee Anne Schienbein	Doug Surtees
David Kowalishen	Dwayne Anderson	Charlene Richmond
Rachelle Verret Morphy	Pat Kelly, Q.C.	Don Phillips, Q.C.
Mike Milani, Q.C.	Neil Gabrielson, Q.C.	

Law Society Representatives to Other Organizations

John Stamatinos, Q.C.

Neil Gabrielson, Q.C.

Norma Sim, Q.C.

Michael Milani, Q.C.

Barry Morgan, Q.C.

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