

BENCHERS' DIGEST



Volume 19, Issue Number 3

June, 2006

Amendments to the Rules of The Law Society of Saskatchewan

by A. Kirsten Logan, Q.C.

As you are aware, amendments to *The Legal Profession Act, 1990* were passed last fall. We are hoping those amendments will be proclaimed as of July 1st, 2006. As a result of those amendments, it was necessary to amend a number of the Rules of the Law Society of Saskatchewan in order to bring the Rules in line with the Act. The following are descriptions of changes to the Act with the list of corresponding amendments to the Rules.

Shift the procedure surrounding Benchers elections to the Rules from the Act.

Rule 17(2) will be added to deem the Benchers serving as Vice-President in an election year to be elected as a Benchers as long as that Benchers is otherwise eligible. Rule 17(3) provides that Benchers may only be elected for two consecutive terms (this was previously in the Act).

The majority of the election procedure was already in the Rules as well as in the Act. Section 8 was removed from the Act. Therefore, Rule 95 was added, which provides that a Benchers who misses two consecutive regularly scheduled Convocations may, by resolution, be removed from office.

The Act currently has no limit as to when a lawyer may apply to the Law Society for re-admission after having been disbarred.

Rule 211(8) was added that a former member who was disbarred may only apply for reinstatement following the disqualification period imposed pursuant to section 55(2)(i).

The Act used to require that the Chair and Vice-Chairs of the Discipline and Professional Standards Committees be appointed by the Benchers as a whole.

This is no longer required and therefore Rules 127 and 128 were amended.

The Act now makes reference to the possibility of complaints being referred to the Ethics Committee, following the current practice.

This was codified by amending Rules 321, 325, 400 and 403.

The title of “complaints officer” will be changed to “complaints counsel”.

This necessitated amendments to Rules 299, 300, 301, 302, 321 and 400.

The Benchers also approved an amendment to Rule 154 to allow students-at-law to clerk at the Provincial Court of Saskatchewan.

The order of the Rules governing the National Mobility Agreement and the categories of membership were reversed. The Mobility Rules are now numbered 190 – 204 and the Categories of Membership are now Rules 205, 206 and 207.

The Benchers wish to thank the personnel at the Department of Justice, particularly Susan Amrud, Q.C., for their assistance and look forward to the streamlining of some processes effected by the changes to the Act and Rules.

Highlights of the Meeting of Benchers held April 27th and 28th, 2006

Insurance Assessment

Pursuant to Rule 605, the Benchers must set the amount of the Insurance Assessment on an annual basis. At the Convocation held April 27th and 28th, the Benchers did not as yet have an actuarial report, but based on a proposed budget, agreed that the assessment should be set at \$500, as long as that was within the range recommended by the actuary.

The actuarial report was received May 12th, 2006. It indicated that the amount to fund all of the claims that may arise during 2006 – 2007 would be \$1,100 and recommended that SLIA provide a substantial subsidy. The report suggested an assessment of \$300, i.e. a subsidy of at least \$800. The Benchers met by special conference call and set the insurance assessment at \$300 inclusive of GST. This assessment is the lowest among the CLIA jurisdictions, being Alberta, Manitoba, Saskatchewan, New Brunswick, Prince Edward Island,

Nova Scotia, Newfoundland, Nunavut, Northwest Territories and Yukon.

The Benchers appreciate the loss prevention efforts taken by the membership that have to a great extent resulted in reduced costs for the insurance program.

Defalcations

The Benchers approved payment of two claims against the Special Fund, being \$3,112.19 relating to Herbert M. L. Robertson and \$11,750.00 against Kenneth Wayne Wasylyshen.

Discipline Decisions on Law Society Website

The Benchers have decided that Law Society discipline decisions will be posted on the Law Society website within one week of the issuance of the decision, unless the Hearing Committee orders otherwise. This will include any Agreed Statement of Facts (with-

out exhibits) that may be submitted to a Hearing Committee. In addition, it was agreed that Notices of Hearing and Notices of Sentencing will also be posted.

Appointment of Representatives

The Benchers appointed Tyla Vodon, of Melfort, as the Law Society representative to the College of Law Endowment Fund.

The Benchers are in the process of updating the policy for appointing representatives to various outside organizations.

Law Society Administrative Office

The lease for the Law Society Administration office will expire early in 2007. We have been advised that the lease will not be renewed. Staff are viewing new space for the upcoming move.

Trusteeships

*by Ronald J. Kruzeniski, Q.C.,
Chair of the Finance Committee*

The Law Society has struggled with an issue i.e. the appointment of trustees to take over a practice when a member has died, defaulted or been suspended. To date the Law Society had been appointing individual lawyers in the province. The problem was that no one person or firm developed an expertise in managing trusteeships. A number of years ago, Manitoba decided to engage one firm at a fixed fee to handle all trusteeships in the province. All reports suggested that this step has been very successful. The Benchers decided to attempt to do the same in Saskatchewan. Many of you would have received a notice asking for proposals. A good number of proposals were received, a short list was developed and a final selection was made. The successful firm was Wallace Meschishnick Clackson Zawada (Gary Meschishnick and Lorne Jamieson).

In addition, Al Snell has amended and updated the trustee manual. This updated manual will be of assistance to Law Society Staff, the new trustee and others in knowing exactly what the trustee will do when appointed to act in a particular situation.

If you have any questions please call Al Snell at (306) 569-8242 or me at (306) 787-5427.

Notice to the Profession

Donald John Bird, of Prince Albert, has been appointed a judge of the Provincial Court.

Judge Bird's responsibilities will include the establishment of an Aboriginal Provincial Court Party in Meadow Lake, which will travel to a number of court points in northwestern Saskatchewan. Judge Bird is a member of the Montreal Lake Cree Nation and speaks Cree.

Judge Bird received his Bachelor of Laws from the University of Saskatchewan in 1996. While he attended law school, he was an investigator with the Saskatchewan Police Complaints Investigators office. He was the Co-ordinator of the Aboriginal Policing program at Saskatchewan Justice from 1996 until accepting a position with the Prosecutions Division in 2001. Since 2001, he has been a member of the Cree Court party. He is also a lecturer on Cultural Relations at the Saskatchewan Police College.

2007 Centennial Pin

by Ronald J. Kruzeniski, Q.C.,
Chair, Centennial Subcommittee

As you have all seen in a previous mailing of the Benchers' Digest, the Law Society has decided on the logo for our Centennial, which will be the symbol to mark all Centennial events and communication. The inspiration for the design of the logo was derived from the Centennial's theme of 100 years of integrity. This interesting and unique design was transformed into a lapel pin. The lapel pin is a brilliant gold with the design set in relief. The quality of the design and production will enhance any business suit.

The Centennial pin is attached to a card which provides information about the Law Society's Centennial theme of integrity. The text of the card reads as follows:

A Century of Integrity

Proudly celebrating our continuing role in the growth and development of Saskatchewan built on a record of competence, dedication and community spirit.



Alma Wiebe, Q.C., President and Ron Kruzeniski, Q.C., Chair, Centennial Subcommittee

The logo appears at the bottom of the card in the Centennial colours indicating the Law Society of Saskatchewan, our Centennial, 2007, and our motto *Justitia Virtutum Regina*.

As Chairman of the Centennial Subcommittee, I had the pleasure of presenting the first pin to be issued to any member. In a brief ceremony at the April Convocation, Alma Wiebe, President of the Law Society, was officially presented with the first Centennial pin. The second Centennial pin issued was presented to Victor Dietz, Vice-President of the Law Society, who will preside as President during the Centennial year.

Centennial pins will also be presented to every individual who volunteers for the Centennial. If you are interested in contributing to any of the Centennial events, please call Lori Boesch at 738-2045, Sue Baer at 569-8020 or me at 787-5427. It would be impressive to see each member of the Law Society proudly wearing the Centennial Pin in 2007. We are extremely proud of our membership and its many accomplishments over the past 100 years!

Chief Justice Bayda Retirement

A retirement dinner will be held in Chief Justice Bayda's honour on September 9th, 2006 in Regina.
More information will be forthcoming shortly.

Centennial Coordinator Appointed

*by Ronald J. Kruzeniski, Q.C.,
Chair, Centennial Subcommittee*

I am pleased to announce that **Lori Boesch** has been appointed as our Centennial Coordinator.

Lori has worked extensively with organizations such as Hockey Canada, the World Cup of Hockey and the National Hockey League. She has served as a team leader and liaison respectively at the XVI and XVIII Olympic Winter Games and managed prestigious NHL events such as the All-Star Weekend and the Entry Draft. Her contract with the Law

Society will be to review, revise and update the plan we now have in place. She will also facilitate the implementation of the plan by coordinating, communicating and organizing events throughout the year.

One key function that Lori will perform is contacting our members and those of you who have volunteered or have yet to volunteer to help make our Centennial a success. Over 2006 and 2007, I expect many of you will have the opportunity to meet

her and we hope you will be able to provide her with some assistance.

Please feel free to contact Lori directly regarding our Centennial. She can be reached via email at lboesch@imagewireless.ca or by phone at 738-2045. Alternatively, you can leave a message for her at the Law Society administration office or with the library. Lori will welcome your comments and ideas.

Temporary Closure at Regina Library

by Susan Baer, Director of Libraries

Construction continues in the Regina courthouse where the Law Society Library will be affected, most significantly, in the upcoming weeks. The renovation to the courthouse has the effect of reducing the library space on the second floor, however, additional space is being acquired in the basement. This will mean that the library will be splitting the collection so that all law reports and statutes will reside in the basement. A small historical reading room will be established in the basement also. All library staff, secondary sources and computer resources will reside on the second floor in the newly renovated space. The basement collection will require members to use their keys, as this collection will be locked to the public since library staff will not be located on a full-time basis in the basement collection.

The construction of the library space is occurring in phases. The first phase is the construction and preparation of the basement area. Once that

area is complete, the law reports and statutes will be relocated to the basement. The textbook and reference collections, journals, Saskatchewan reports and legislation will be temporarily relocated to Court Room number 5 while construction on the second floor occurs. Splitting and moving the collection to the basement is the most complicated and difficult phase of the construction project. The shelving will be moving as well as the materials. The configuration of the shelving also changes substantially, adding to the complexity of the work. As a result, the library will be closed for use during the times that the library is physically moving the collection. As of this writing, the date of the move of the materials is scheduled to begin on June 8th and be completed on June 21st (the renovation schedule is always under review.) Exact dates, when known, will be posted on the website. It will not be possible to conduct a reference service from the Regina library during that

two week period while we are under a state of re-organization. When the Regina library is busy moving materials, we are asking our members to contact the Saskatoon library for assistance. Calls received at the Regina library for reference will be re-directed to the Saskatoon library. Staff in Regina will take messages on calls of a different nature.

The second phase involves destruction and construction on the second floor, preparing the library's new area. Once completed, the library and staff areas will move into the new area. The move into the new area is presently scheduled for mid to late August.

As you can appreciate, the complexity of this move necessitates several of the staff members being deployed in certain areas to direct movers to ensure that the move goes as smoothly and as quickly as possible. Your patience and understanding during this time are greatly appreciated.

Prairie Lawyer, Country Judge

Justice David Beaubier will be on hand for a book signing prior to the Law Society's Annual General Meeting

Date: Thursday, June 22, 2006
Location: Hawood Inn, Kingsmere Hall Room, Waskesiu
Time: 6:30 p.m. – 7:00 p.m.



... pick up your copy and have it signed by Justice Beaubier!

If you are unable to attend the meeting, you may order a copy of his book from:
The Law Society Library in Regina at (306) 569-8020 or Saskatoon (306) 933-5141

Practice in Rural Saskatchewan – The Melfort Experience

by Bill Selnes

Since 1911, when **Olin D. Hill** became the first lawyer to practice law in Melfort, our community's lawyers have had diverse experiences in their legal careers. Numerous Melfort lawyers illustrate the opportunities available to lawyers in rural Saskatchewan.

(As an aside, O.D. Hill's son was the actor, Arthur Hill, who starred in the television series, *Owen Marshall – Counsellor at Law* in the early 1970's. Arthur left Melfort to attend law school at UBC but changed his major to drama after a year in law school.)

Mel Annand pursued academic studies and taught law while living and working in Melfort. I was advised:

While acting as a Bencher, Mel became acquainted with Peter MacKinnon, Dean of the College of Law. In 1996, a discussion with Dean MacKinnon led Mel to enroll in a Masters of Law program at the College of Law. Mel had become very concerned about the impact of international trade agreements on his farm clients. The international trade wars, including large farm subsidies, had a significant impact

on the incomes of farm clients. Mel's curiosity about the law surrounding these issues led him to pursue further legal studies at the College of Law.

Mel pursued a Masters Degree in International Trade Law while continuing with his practice of law at Melfort. He commuted to Saskatoon on a weekly basis to attend classes and eventually wrote a thesis on "The WTO Regulation of State Trading Exporters." Mel received his Masters of Law Degree in 1998.

After graduation, Mel continued with his practice of law in Melfort but continued to commute to Saskatoon to teach agricultural law at the College of Law. He also developed an agricultural law course for students in the College of Agriculture and taught the class to agriculture students for several years. It was at this time that Mel became the part-time Law Director at the Centre for Studies in Agriculture, Law and the Environment. He held this position for two years

before returning to the full time practice of law at Melfort in 2003.

Ross Green, prior to becoming a Provincial Court Judge, practiced law in the Melfort Legal Aid Office. While working for Legal Aid, he conducted research into our criminal justice system and wrote a pair of books. His first book *Justice in Aboriginal Communities: Sentencing Alternatives* was released in 1998. The book examined such alternatives as sentencing circles, elder and community sentencing panels, sentence advisory committees and community mediation projects. His second book *Tough on Kids: Rethinking Approaches to Youth Justice* was co-authored with Kearney F. Healy and released in 2003. The book provided perspectives on youth justice. It examined restorative justice as it could be applied to youth justice and examined progressive approaches to youth crime and justice. The book was a Saskatchewan Book Award winner.

In recent years, Mel and the late **Stuart Eisner** had the opportunity to participate in the administration of

the Law Society by serving as the Benchers elected from our area.

Ajit Kapoor started practicing criminal law in Melfort in 1964. For the next 42 years he focused his practice on criminal defence both at trial and in appeals. Through four decades his practice expanded from the Melfort area to throughout Saskatchewan and then to Manitoba, Alberta and British Columbia. He argued cases at every level of the courts of Saskatchewan and took several cases to the Supreme Court of Canada.

Grant Carson has appeared in a succession of cases involving tax law and patent law. Some of these cases have taken him into the Federal Court, both trial and appellate divisions.

Fifteen years ago, I had the opportunity to represent a group of hemophiliacs infected with AIDS who wanted to take action against the Government of Saskatchewan. After

their claims were resolved through a multi-provincial and territorial settlement, the Krever Commission into the Blood System commenced. At the Commission and in the subsequent judicial challenge, I represented a group of hemophiliacs from across Canada who did not want to be represented by the Canadian Hemophilia Society.

Following the issuance of the Commission Report, I joined a counsel group of lawyers from across Canada which commenced a national class action on behalf of individuals infected with Hepatitis C through the blood system between 1986 – 1990. The action was settled for \$2 billion.

Subsequently, I joined several of the lawyers from the Hepatitis C Class Action in forming a counsel team that undertook a national class action on behalf of gay men and lesbian women who had been excluded from survivor benefits in the Canada Pension Plan

because they were members of same sex relationships. The plaintiffs have been successful at trial in the Ontario Court of Appeal. The Supreme Court of Canada heard the appeal in May 2006.

More recently, I have represented a trio of Indian Bands from the Fort à la Corne area before the Indian Claims Commission in a set of land claims the Commission has described as the most complex in its history.

The list of lawyers from Melfort and their experiences included in this article is not comprehensive. I regret not having more room to discuss the practices and experiences of other Melfort lawyers.

The practice of law in rural Saskatchewan is not limited by the location of the lawyer. Our Melfort lawyers have broad and accomplished experiences and we welcome the opportunity to celebrate our achievements during the Centennial year.

Law Society Libraries

by Sarah Sutherland, Saskatoon Librarian

Legal WebCites

The *Free Access to Law Movement* continues to grow rapidly, steadily increasing the free legal information available online. CommonLII (Commonwealth Legal Information Institute) is one of its most recent projects and has new material added almost weekly.

CommonLII (Commonwealth Legal Information Institute)
www.commonlii.org

CommonLII's goal is to provide a single platform to search legal materials from all Commonwealth countries at once, and at present CommonLII includes databases from fifty-two countries. The stakeholders in CommonLII are AustLII; the Australian

Attorney-General's Department; the Australian Research Council (ARC); the Commonwealth Law Ministers Meeting; Legal and Constitutional Affairs Division, Commonwealth Secretariat; the Commonwealth Lawyers' Association; the Commonwealth Magistrates' and Judges' Association; and the Institute of Advanced Legal Studies. AustLII is leading CommonLII's development, and the technical infrastructure and functionality are the same as that available on AustLII.

CommonLII's homepage includes links to information from all the countries in the Commonwealth; several external territories and dependencies including Bermuda, the

Cook Islands, Niue, Norfolk Island, the Pitcairn Islands and Tokelau; and other common law jurisdictions that used to be part of the Commonwealth including Hong Kong and Ireland. CommonLII provides some information and links for every country in the Commonwealth but does not include databases for all of them. At the date of writing, the Commonwealth countries without databases on the service are Botswana, Gambia, Guyana, the Maldives, Mozambique, and Sierra Leone; however, all of these have links to national government websites and other free online sources.

Each country has different coverage: the coverage for Australia, the

United Kingdom, and New Zealand is especially strong, while the materials from developing countries such as Lesotho, Uganda, Swaziland, and Seychelles is more sparse.

The major categories of documents included in CommonLII are legislation, case law, law reform materials, and journals. It is possible to search all the available databases within any of these categories by following the **Advanced Search** link under the search field on the homepage. This page allows limiting the search by type of document, which has great potential as a way to find obscure case law from other common law jurisdictions. Another function is the ability to search by region: the homepage has links to search materials from Africa, Asia, and the Caribbean. These pages allow individual country databases to be selected or to search all available materials from that particular region.

CommonLII also includes materials from the Commonwealth as a whole, including an extensive database on Commonwealth human rights law

called Interights Commonwealth Human Rights Law. To access this, scroll down and follow the **Commonwealth** link from the left of the homepage, then click on the **Interights Commonwealth Human Rights Law** link on the right. CommonLII has databases of Commonwealth declarations and agreements, linked from the homepage as **Commonwealth declarations and agreements**, and law reform materials from around the Commonwealth, linked from the home page under **Law Reform**, which can be searched collectively or by creating entity, such as the British Law Reform Commission.

CommonLII has great aims. The stakeholders in CommonLII believe that making this body of law available will encourage the development of truly international common law. They also believe that providing free access to national bodies of law will encourage greater transparency in countries' domestic systems.

Much of the content on CommonLII is hosted in the originating country; however, AustLII, through CommonLII, provides server space and technological infrastructure for countries' information when domestic resources are unavailable.

Though there is a link from the homepage for Canada, Canadian material is not retrieved in a search on the CommonLII advanced search page. Presumably, this is due to the differing software used by CanLII and CommonLII. If both Commonwealth materials and Canadian materials are needed, it is necessary to enter searches in both services, but CommonLII does link to CanLII through the **Canada** link on the homepage.

CommonLII is still in the early stages of development, but new materials are being added very quickly, and the fact that these materials are freely available online at all is a great aid to research in common law and a marked increase in availability.

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, Judy Anderson, 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.

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Regina 352-0680 or Saskatoon 956-5738 or 956-5735

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