

BENCHERS' DIGEST



Volume 20, Issue Number 2

March, 2007

Centennial Year Well Under Way!!

by Ron Krutzeniski, Q.C.



Our anniversary year celebrations began with the Regina Bar Association Centennial Series dinner on January 12. Over 170 members were in attendance. Justice Laing addressed the crowd with his recollections of systems and changes over the years. Vic Dietz recapped the history of the Law Society of Saskatchewan and challenged the attendees with some 'trivia' questions. Nothing too difficult, we managed to distribute the prizes to an enthusiastic crowd. We would like to thank Nicholas Cann and the Regina Bar Association for hosting the event. The Series continues with the next three events

scheduled; Northeast (Melfort February 26), Saskatoon (March 15) and the Southeast (Carlyle April 26).

The Queen's Counsel Ceremony on January 13 allowed us an opportunity to announce our centennial achievement and to recognize the 2006 honourees. The Law Society of Saskatchewan also acknowledges the recipients who have been recognized with a Q.C. designation throughout our 100 year history.

The Centennial schedule now includes a commemorative plaque being placed at each Queen's Bench and Provincial court house in the province. This project was undertaken in partnership with the Department of Justice to recognize our 100-year milestone. The plaques are cast bronze and will be placed in all the court houses sometime this spring.

We have approached the 13 cities in Saskatchewan to proclaim a special week to recognize our anniversary. The week of September 10th to 16th will be selected for the proclamation as the actual anniversary date is September 16, 2007. Proclamations will be declared at council meetings held that week.

Thinking about visiting a school on Law Day April 17? We have Centennial logo magnets and tattoos for give-a-ways (just contact Lori Boesch Iboesch@imagewireless.ca or

(306) 738-2045 if you would like a quantity). A PowerPoint presentation will be available on the website around the 1st of April which can be presented by teachers or members.

In the March mail out, all members of the Law Society of Saskatchewan are receiving a Centennial logo lapel pin. The symbolism of the open book supported by the sturdy court house column conveys strength, competence, integrity, and an open justice system. Wear it proudly to celebrate our "100 years of integrity".

The Centennial website at www.lawsociety.sk.ca/centennial continues to provide up-to-date information regarding all of the Centennial events. Please log on and get involved in the activities in your area; the Centennial Series event scheduled in your Local Bar Association, on Law Day, attend the plaque unveiling or the proclamation ceremony. Download the screensavers and computer desktops. Also on the website, new items are being added to the Merchandise section. Stay tuned for book bags, fleece vests and stainless steel travel mugs. Information will be updated as products arrive. The second and final opportunity to order Centennial logo golf shirts is this month (form in the mail out).

Have fun celebrating our Century of Integrity.



www.lawsociety.sk.ca

Highlights of the Meeting of Benchers held January 11th and 12th, 2007

The first Convocation of 2007 just happened to be scheduled to start the day the worst blizzard in 50 years hit Saskatchewan. As a result, several Benchers were unable to attend all of Convocation and therefore several Committee meetings could not proceed.

Departure of Allan Snell, Q.C.

The January Convocation was the last one for Allan T. Snell, Q.C. as counsel and Co-Executive Director of the Law Society of Saskatchewan. Mr. Snell was presented with a plaque in appreciation of his years of service. His departure brings an end to the Co-Executive Director experiment which began in 1992. The Benchers have struck a Committee with the Vice-President, Rick Danyliuk, Q.C., as Chair, to review and make recommendations for the structure of the Law Society.

Good luck Al, as you take on new challenges as CEO of the Saskatchewan Legal Aid Commission.

Rule 149A

The National Mobility Agreement provides that lawyers facing criminal or discipline charges are not eligible for temporary mobility. Obviously, Law Societies are aware if lawyers are facing discipline charges. It is less obvious if they are facing criminal charges. Rule 149A already required lawyers to advise the Law Society if they had been convicted of a criminal offence. That remains the case. The Rule was amended to add a requirement for lawyers to notify the Law Society if they are charged with a criminal offence or are facing discipline proceedings in another Law Society.

Forms A-1, A-8, A-11, A-15, P-2 and P-2A

The Admissions & Education Committee had concerns that the information provided by candidates in applications for admission as a student-at-law, as lawyer, for transfer or for reinstatement, was not focused on the purpose of the questions, i.e. good character. The questions have therefore been amended to have candidates state more clearly the types of offences of which they may have been convicted or are currently facing as charges.

Administration Office Move

By the time this edition is circulated, the physical move of the administration office will be completed, although the unpacking, emotional adjustments and getting used to the phone system may not be. After 15 years in the space in the Canadian Oils Building, our lease was terminated. After a search of office space in Regina, a lease was signed for space in the Avord Tower in Regina also on Victoria Avenue.

We took the opportunity to have some additional space for spare offices, a room for signing the Roll and additional support staff – possibly down the road.

Many thanks to our staff for the organizing and the commitment to multi-tasking required to keep things running during the tumultuous weeks up to, during and after the move.

Complaints Counsel Designate

Donna Sigmeth is Complaints Counsel for the Law Society and manages the complaints process for virtually all of the hundreds of complaints the Law Society receives in a year. On occa-

sion, the Law Society receives complaints against Benchers, lawyers in Benchers' firms and against Law Society staff. In those instances, it is believed that it is not appropriate for Ms. Sigmeth to handle the files. Alternate Complaints Counsel are therefore appointed. It had been the opinion of the Benchers that the alternatives should be former Benchers who would have some knowledge of the complaint process. For 2007, the Benchers agreed to the re-appointment of John McIntosh, Q.C. of Swift Current and Larry Zatlyn, Q.C. of Prince Albert.

Equity/Diversity Appointees

Since the creation of the Gender Equity Committee (now the Equity/Diversity Committee), it has had non-Bencher Committee members. In 2006, the Committee felt that it should embark upon a new direction and recommended that there be a new means of appointing the non-Bencher volunteers. As a result, a notice was posted on the Law Society website asking for volunteers. The field of volunteers was excellent, making the choice a difficult one. Ultimately, the Benchers decided upon two candidates – Anne Parker and Dana Brulé. The Benchers and the Equity/Diversity Committee look forward to working with Ms. Parker and Mr. Brulé.

Supreme Court of Canada

The members of the Supreme Court of Canada will be holding their retreat in Saskatoon in May. Plans are underway for a reception with members of the Court and members of the Law Society, hosted by the College of Law, the Law Society and the CBA.

Congratulations!

Murray Hinds has been appointed a Judge of the Provincial Court for Regina.

“Judge Hinds’ extensive knowledge of criminal, insurance, employment and Aboriginal law will serve him well in his new role as Provincial Court Judge” Justice Minister Frank Quennell said.

Judge Hinds grew up in Regina and received his Bachelor of Laws from the University of Saskatchewan in 1986. After graduation, he articulated at Mitchell, Taylor, Romanow & Ching (now Woloshyn & Company) where he became partner in 1992. Judge Hinds practiced at Woloshyn & Company until 2006 when he became partner in Bainbridge Jodouin Hinds.

Judge Hinds has been very active in the Saskatoon community as a trustee of the Board of Trustees for the Mendel Art Gallery and a Rotarian. He was also a past member of the Saskatoon United Way Cabinet, Chiropractors’ Association of Saskatchewan, Saskatoon Downtown Business Improvement District Marketing Committee, and Past President and Vice President of the Saskatoon Chamber of Commerce Breakfast Club.

Judge Hinds has also acted as a hearing officer under *The Police Act, 1990*, a Board of Inquiry for matters under *The Saskatchewan Human Rights Code*, and as a labour arbitrator.

Auditor Comments

by John Allen, C.A.

Trust Bank Accounts - Control Features

Members are responsible for the financial operations of the firm even though many of the day-to-day functions may be delegated to staff. A number of internal control features can be put in place to provide some assurance that these functions are being performed properly and on a timely basis and to safeguard assets (particularly trust assets). Control features which may/should be implemented depend on a number of factors, the most important of which is the size of the firm and the number of different persons that may be involved in the firm’s financial processes.

The following is a listing of control features that firms should consider in their financial operations and particularly in operating their trust accounts. Please note that the procedures outlined are not intended to be all inclusive and all are not required by

the rules. It may also be necessary to implement further controls and processes depending on the circumstances.

I. Division of Duties among Individuals.

The key here is not to give any one person complete control over a transaction from beginning to end. For instance, in regard to **disbursements**, the following duties should be performed by separate people if possible:

1. Cheque preparation and recording in accounting records. Blank cheques should be kept under lock and key and access limited only to those responsible for preparing cheques.
2. Cheque signing (at least one member must sign each trust cheque).
3. Bank reconciliation.
4. Receiving cancelled cheques and bank statements from the bank firstly and unopened.

In regard to **receipts**, the following duties should be separated:

1. Receipt and receipting of monies and recording of monies received in the accounting records.
2. Preparation of the bank deposit and deposit of funds.
3. Bank reconciliation.
4. Receipt of bank statements and cancelled cheques firstly and unopened from the bank.

If the firm does not have enough staff to divide the duties as outlined above, then points #1 and #3 for disbursements can be combined and points #1 and #2 (or even #1, #2 and #3) for receipts could be combined if required and be performed by the same person.

In the case of a two person office (one member and one staff), the staff member could perform #1, #2 and #3 (except for cheque signing which must be done by a member). In all cases, the member should obtain the

Auditor Comments continued

bank statements and cancelled cheques directly from the bank (point #4) and examine them very carefully before giving them to the staff member to perform the bank reconciliation (refer to Item IV below). In a two person office, it is extremely important for the member to review bank reconciliations in detail (refer to Item II below).

It is also advisable to separate the receipts function from the disbursements function if possible.

II. Review of Bank Reconciliations

Bank reconciliations and particularly trust bank reconciliations should be reviewed, signed and dated by a member each month. This is currently not a Law Society Rule but is considered good office practice especially as it relates to trust accounts.

When reviewing a trust bank reconciliation, the member should at a minimum:

1. Check that the bank balance according to the firm's accounting records (from the trial balance if available) equals the bank balance according to the bank records.

These balances will generally not be the same but after allowing for reconciling items (i.e. outstanding deposits and cheques), they must be. Outstanding deposits and cheques are simply those amounts that have been recorded in the books but have not yet been recorded as a deposit or a withdrawal by the bank (i.e. time lag).

2. Ensure that the bank balance used on the bank reconciliation is the same as the bank balance shown on the bank statement at the end of the accounting period.
3. Ensure that all Separate Interest Bearing Accounts (SIBA's) are included as part of the bank reconciliation process. These accounts must be recorded by the bank in

the name of the law firm "in trust for client name".

4. Scan or add the bank reconciliation to provide some assurance that it has been added correctly.
5. Agree the total of the client trust listing to the reconciled bank balance and scan or add the listing to ensure it has been added correctly. Ensure all SIBA's are included as part of the client trust listing.
6. Review outstanding deposits to ensure the amount outstanding was received on the last day or two of the month. If not, investigate.
7. Review the outstanding cheque listing to ensure there are no stale-dated cheques (over six months old) on the listing. Pay particular attention to larger outstanding cheques particularly those that have remained uncashed for over a month. Are they legitimate?
8. Scrutinize any reconciling items shown on the bank reconciliation other than outstanding deposits or cheques. This may include things like bank errors, deposits to wrong accounts, etc. These items must be explained on the reconciliation, corrected each month and not be carried forward from the previous month.
9. Once the above steps are complete and any necessary corrective action taken, the member should sign and date the reconciliation. This process should be completed on or before the 20th of the month following.

III. Monthly Bank Reconciliation File

A separate bank reconciliation file should be set up for each month and for each bank account. Each file should include copies of the following where applicable:

1. Bank Reconciliation.
2. Outstanding Cheque Listing.
3. Outstanding Deposit Listing.
4. Client Trust Listing.
5. Bank Statement.

IV. Subsequent Review

The member should receive all bank statements and cancelled cheques directly and unopened from the bank each month. When this package is received, the member should:

- (a) examine the bank statement and each cheque very carefully with a view to ensuring all monies received have been deposited (check sample to receipts) and all withdrawals are legitimate;
- (b) ensure that all/any outstanding deposits shown on the bank reconciliation for the previous month are deposited early in the month according to the bank statement (first day or two days);
- (c) ensure that each cheque dated in the previous month and cashed and returned by the bank (cancelled cheques) is included in the outstanding cheque list on the bank reconciliation for the previous month.

Once this has been done, the member should give the bank statement and cancelled cheques to the staff member who will be preparing the formal reconciliation. If a person totally independent from other financial tasks listed performs the bank reconciliation, the member may feel confident in allowing that person to obtain the cancelled and bank statements directly from the bank.

After a couple of months of practice, the procedures described above will take less than five minutes for most bank accounts but will provide significant assurance that trust reconciliations are accurate and up to date.

In Memory of

JOHN GREEN, C.M., S.O.M., Q.C. of Regina passed away on January 2nd, 2007, at the age of 91 years. Mr. Green obtained his Master of Laws from the University of California (Berkeley) and was admitted to the Law Society of Saskatchewan in 1945. He began a career as Legal Advisor with Saskatchewan Government Insurance in Regina. He served as General Counsel in the 1960's and in 1973 became General Manager (President), where he remained until retirement in 1981.

Mr. Green is survived by his wife of 59 years, Jessie (Kinnon), his daughter Alison and his two grandchildren, Michael and Christina Macdonald.

OREST ROSOWSKY, Q.C. of Kamsack, Saskatchewan, passed away on February 13th, 2007 at the age of 60 years after a courageous battle with cancer. Mr. Rosowsky was born in Germany in 1946 and soon thereafter came to Canada with his parents. Orest attended the University of Saskatchewan obtaining both his Bachelor of Arts and Bachelor of Law Degrees in 1970. He articulated in Calgary, Alberta and was admitted to the Alberta Bar in 1971. He then articulated with William Purdy in Saskatoon and was admitted to the Saskatchewan Bar in January, 1973. He practiced law in Kamsack until his retirement for health reasons on March 1, 2006. Orest was a Bridge Master. He was also an avid golfer and fisherman.

Mr. Rosowsky is survived by his wife, Connie (Birch), children James (Karley) of Calgary, Alberta, Stephen of Saskatoon, Saskatchewan, Christina (Nathan) of Kamsack, Saskatchewan, Daniel of Moose Jaw, Saskatchewan and a granddaughter, Kassia.

Legal WebCites

By Peta Bates

On January 8, 2007, the Federal Department of Justice brought out a new version of the Consolidated Statutes and Regulations website. This column explores the new “point-in-time” feature.

The Laws Site - Department of Justice Canada

<http://laws.justice.gc.ca/en/index.html>

The Justice Laws website has added a new search feature called “point-in-time”. By adding a specific date to your search you can see the text of any statute on that date. Federal statutes are backdated to January 1, 2003.

As an example, let’s view the text of section 382 of the Criminal Code, R.S.C. 1985, c. C-46. The *Advanced - Point in Time* search box has the cur-

rent date as the default so a search for the term “382” in either Title=*criminal code* or Chapter=*c-46* will retrieve the current version of the section. But I want to see the text of that section prior to the most recent amendment which was S.C. 2004, c.3, s.4.

You may know the exact date that you require, such as the date of an offence, but knowing the exact date might be more complicated. Many statutes are assented to in one year but not proclaimed until several months or even years later. If you have the citation for the amending statute you can check the coming into force (CIF) date in the *Table of Public Statutes and Responsible Ministers*, also available on the Justice Laws website. This *Table* shows the amendments to statute sections that have been enacted since the statute revision in 1985 (R.S.C. 1985). The CIF dates are

located at the end of the amendment list for each statute.

In the example above, I found that the S.C. 2004, c.3, s.4 amendment came into force on September 15, 2004, so I entered *September 14, 2004* to see the text of s. 382 prior to that amendment.

Point-in-time is also available for federal regulations. These are backdated to March 22, 2006. Search for a federal regulation by entering the name of the regulation in the Title field and selecting “search in regulations”.

Unlike the Saskatchewan Queen’s Printer website, the federal Justice website has never saved the text of repealed statutes. As soon as a statute was repealed it was removed from the website. The new point-in-time feature solves this problem and offers an enhanced search capability.



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1100 - 2002 Victoria Avenue
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Fax (306) 352-2989
e-mail: reception@lawsociety.sk.ca
