

Benchers' Bulletin

The Law Society
of British Columbia



Your information bulletin on Law Society of British Columbia activities

2001: No. 3 May-June



PLTC and articles: two solitudes?

A Law Society study has revealed inconsistencies in the mentoring and training that students receive in articles, and a lack of effective integration between what they learn in the law firm and in the PLTC classroom. This year a new task force, headed by First Vice-President Richard Gibbs, Q.C., will look into articling reforms: see President's View on page 3.

Bill C-22

Proceeds of Crime working group calls for changes to money laundering legislation

A Proceeds of Crime working group at the Law Society is calling on law societies across Canada — through the Federation of Law Societies — to tackle the broad reporting requirements that are to be imposed on lawyers this Fall under the *Proceeds of Crime (Money Laundering) Act* SC 2000, c. 17 (Bill C-22): see *Practice Watch* in the January-February *Benchers' Bulletin* for background.

Vancouver Bencher David Gibbons, Q.C. chairs the working group whose members are Michael Bolton, Q.C., Jack Giles, Q.C., Richard Peck, Q.C., Derek Brindle, Q.C. and Warren Wilson, Q.C., assisted by Practice Advisor Felicia Folk and Public Affairs Manager Brad Daisley.

The working group is advocating a national effort to convince the federal government to delay the enactment of those parts of the legislation and proposed regulations that affect counsel, pending a full consultation with the provincial law societies. The working group sees certain provisions as infringing on solicitor-client confidentiality and the professional independence of Canadian lawyers. If these discussions prove unfruitful, the working group urges the Federation of Law Societies to initiate or participate in a constitutional and legal challenge.

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The Law Society of British Columbia



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Benchers' Bulletin

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It's time to reform the admissions program



Richard S. Margetts, Q.C.

On March 30 and 31, the Benchers dedicated their annual retreat to the Law Society admissions program and launched an important study of reform and enhancement for the Professional Legal Training Course (PLTC) and articling.

A key component of the Law Society's statutory obligation to protect the public interest is to admit to practice only those lawyers who are equipped to provide to the public effective entry-level legal services. To ensure that only qualified lawyers practise law, the Law Society requires law school graduates to complete successfully the 10-week PLTC and nine months of articling.

Since its creation in 1984, PLTC has earned high regard throughout the Commonwealth as a pioneer and leader in bar admission education and training. In an effort to ensure continued excellence in the program, PLTC came under external review in 1986 and 1998. Articling, however, has not yet come under similar review.

A Law Society survey of principals and articled students indicates that all too often students do not receive adequate training in articles to prepare them to practise law competently. Respondents flagged problems of principals not taking their role as trainers and mentors seriously enough, instead relying on PLTC.

Articling differs significantly from student to student, and from firm to firm. Students and firms settle on the articling relationship without assistance or direction from the Law Society. Although the Society provides guidelines to students and articling principals about what should happen during articles, the Society does not monitor compliance or ensure that principals actually provide the necessary training or mentorship.

The Benchers recognize that this situation needs to change. What has also become clear is that the 10-week PLTC skills training program is carved out of the articling year in such a way that a student's experience in the law firm is often entirely distinct from PLTC skills training. For too many students, PLTC and articling are the two solitudes of professional legal education.

Enhancement of articling deserves a very high priority. The articling term is the only part of the legal education process — from the first day of law school to call to the bar — that is dedicated to assisting students acquire, in a real-life context, competence to practise law. As such,

it is analogous to the teaching hospital experience for medical students, but unfortunately falls far short. Articling is clearly the weak link in legal education. Osgoode Hall Law School's Professor Allan Hutchinson has this to say about articling:

You're either a lackey for the boss: getting the coffee; picking up dry cleaning; endlessly photocopying — or you're in over your head: drafting contracts; fighting motions; interviewing witnesses; and doing other complicated tasks on your own. Today, there's nothing to do, tomorrow, you're pulling an all-nighter.

Your colleagues are your best friends and your fiercest competitors. It's the excitement, insecurity, fear, loathing, and relief — the best and worst of times. As one student puts it, 'it beats indentured servitude; but only just.'

There is real potential to enhance both articling and PLTC through meaningful reform, including their possible integration. To date, that potential has been largely ignored. Cooperative programs at universities and colleges demonstrate how institutional education and workplace experience can be integrated to provide the best preparation for students to enter the profession.

Now an Admissions Program Task Force, chaired by First Vice-President Richard Gibbs, Q.C., will study the options for reform and enhancement of the admissions program, including articles and PLTC, and will bring forward proposals.

The Task Force recognizes the importance of effective research and analysis, design and development, ongoing consultation and evaluation. Over the next few months, the Task Force will:

- research and investigate the effectiveness of articling in assisting students to become competent to begin the practice of law,
- identify and assess potential means for enhancing articling and PLTC,
- develop proposals for the integration and mutual strengthening of articling and PLTC,
- research and develop proposals for assisting articling principals to be more effective supervisors, teachers, mentors and evaluators,
- consider the desirability of articling education plans, to be completed by articling students and principals, and

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President's View ... continued from page 3

- develop and propose mechanisms for enhancing articling for Aboriginal law students.

Other jurisdictions provide their own examples of innovation. Some Australian states and New Zealand have eliminated articling in favour of a more extensive bar admission course. By way of contrast, the Law Society of England and Wales mandates a two-year training contract as a pre-condition to admission to practice. The Law Society of Hong Kong does not permit solo practice until two years after call to the bar. Closer to home, Quebec has only a six-month articling requirement, but has articling principals assess the performance of their individual students as one of the tests of competence students must pass before being eligible for call. Many American states, in lieu of a bar admission course and articling, have implemented mandatory bridge-the-gap continuing legal education requirements for newly called lawyers, and have gone even further by implementing career-long mandatory continuing legal education.

The Task Force expects to report to the Benchers by

year-end, after extensive consultation with the legal profession, the Bench, the law schools, the public and other professions. I would like to thank Richard Gibbs, Q.C. for the leadership he has shown on this issue and the Benchers for their commitment to excellence in our admissions program. And I extend an invitation to lawyers interested in the issues to reach the Task Force by contacting Alan Treleaven, Director, Professional Legal Training, by email at atreleaven@lsbc.org, by telephone at (604) 605-5354 or by mail to the Law Society office. Mr. Treleaven is assisting the Task Force in its consultations.

* * *

On a personal note

I would like to take this opportunity to introduce our newest Lay Bencher, **June Preston**, a social worker from Victoria, who replaces Wendy John at the Benchers' table. We welcome her.

On a sad note, I mark the recent passing of **Alfred Watts, Q.C.**, who was Law Society Secretary for 20 years from 1947-67, a Provincial Court judge and 1996 recipient of the Law Society Award. Our condolences go out to his family and friends. □

Call for changes to money laundering legislation ... continued from page 1

Both the Law Society Executive Committee and the Federation will discuss the recommendations of the working group in late May.

Under Bill C-22, lawyers — among others, such as accountants, insurance companies, casinos, securities dealers, realtors, banks and other institutions taking deposits — will be required to report any transactions that exceed \$10,000 in cash, international transfers that exceed \$10,000, as well as "suspicious" transactions to FINTRAC, the new Financial Transactions and Reports Analysis Centre of Canada.

Bill C-22 was given Royal Assent in June, 2000, but only part of the new legislation is in force. Proclamation of the balance, and new regulations, is currently scheduled for the Fall of 2001. Until then, the 1991 *Money Laundering Act* and its regulations continue in force.

If a transaction is subject to the reporting requirements of Bill C-22, a lawyer will be required to report a client's name, address and occupation and the source of the client's funds, and will be prohibited from disclosing to the client that such a report has been made, in the face of serious criminal penalties. There are also powers under Bill C-22 to search a lawyer's office without a warrant and to copy records.

While the Bill includes a provision that a lawyer is not required to disclose any communication that is subject to solicitor-client privilege, it does not recognize the

distinction between legal privilege and the lawyers' broader duty of client loyalty and confidentiality, which is critical to the solicitor-client relationship.

In the view of the working group, such a statutory requirement for disclosure will substantially and unreasonably infringe on the confidentiality of the solicitor-client relationship and the independence of legal counsel, will put the interests of lawyers in conflict with those of their clients and will place them in breach of long-established legal, professional and ethical duties owed to the client. The potential benefit of disclosure is substantially outweighed by the benefits of fully protecting solicitor-client confidentiality.

What should lawyers do at this point?

Law societies in Canada may seek a postponement of, or a legal challenge to Bill C-22 and its proposed regulations, and B.C. lawyers will wish to monitor these initiatives closely.

With the time for implementation only months away, however, lawyers also need to understand the impact that Bill C-22 reporting requirements will have on their practice and to prepare their firms accordingly, in the event that the legislation and regulations come into effect in their current form. To assist, the Law Society Practice Advisor, Felicia Folk, in conjunction with the Law Society of Upper Canada, is analysing compliance issues of which lawyers need to be aware. She anticipates a special bulletin to the profession in early June, followed by a more extensive guide and a draft compliance manual published on the Law Society website. □

New Lay Bencher from Victoria

The Provincial Cabinet has appointed **June Preston** of Victoria as a Lay Bencher to fill the vacancy left by the recent resignation of Wendy John.

Ms. Preston is a social worker, having graduated with an MSW from the University of Calgary in 1972. Since 1978, she has been Co-ordinator of Family Education Services at Queen Alexandra Centre for Children's Health in Victoria.

Her experience with professional associations includes service as President of the Victoria Branch of the B.C.

Association of Social Workers. She has also served on other boards, including the B.C. Council for Families, the Adoption Council of Canada, B.C. Adoption Network and the national SIDS Foundation.

Under the Law Society Rules, Ms. Preston's term of office expires at year-end when she will be eligible for reappointment. □



June Preston

A "simple conveyance" now includes a broader range of residential, non-commercial mortgages, including "revolving" mortgages, mortgages to secure a line of credit and mortgages advanced in stages

Expansion of "simple conveyance" reflects residential mortgage practice

Appendix 3 of the *Professional Conduct Handbook* on "Real Property Transactions" has been amended to broaden the range of residential mortgage transactions that fall within the scope of the "simple conveyance" and in which a lawyer may act for both the mortgagee and the mortgagor.

The Benchers amended the Appendix on recommendation of the Ethics Committee that the previous provisions were unnecessarily restrictive and did not reflect current mortgage options offered by institutional lenders.

Under Rule 4 of the Appendix, a "simple conveyance" includes a mortgage that does not contain any commercial element, given by a mortgagor to an institutional lender to be registered against the mortgagor's residence. Examples of such a mortgage now include 1) a revolving mortgage that can be advanced and re-advanced, 2) a mortgage to be advanced in stages not dependent on the progress of construction and 3) a mortgage to secure a line of credit.

Appendix 3 was extensively revised in 1999, relieving

lawyers who act for more than one party in a simple conveyance of the duty to recommend independent legal advice. The appendix provides direction on what is, and what is not, a "simple conveyance."

While Rule 4 now broadens the type of residential mortgages considered a "simple conveyance," Rule 5 specifies what is *not* a simple conveyance, including any transactions having a commercial element.

Rule 5(f), as amended, prohibits a lawyer from acting for both parties in a conveyance of residential property with substantial improvements under construction at the time the agreement for purchase and sale was signed, but an exception is now provided if the lawyer's clients are a purchaser and a mortgagee and if construction is completed before funds are advanced under the mortgage.

Lawyers will wish to review the revised Appendix 3, set out in the *May Member's Manual* amendment package, and posted on the Law Society website. □

PLTC academic support instructor gives Aboriginal students priority

The Benchers have clarified through a new Rule 2-44.1 that the PLTC tutorial program, provided through a part-time academic support instructor, must give first priority to students of Aboriginal heritage and second priority to all other students. This program was established specifically to address barriers facing Aboriginal law

students and will be submitted to the Human Rights Commission for certification.

The rule change is included in the *May Members' Manual* amendment package and posted on the Law Society website. □

Aboriginal law initiatives underway

Under a grant from the Law Foundation of B.C., the CLE Society of B.C. is conducting legal research on Aboriginal issues in a range of areas — including family law, wills and estates and taxation — that can be incorporated into

PLTC instruction and materials, as well as into CLE courses, publications and website.

The Law Society is planning to add Aboriginal law issues as a future update to the *Practice Checklists Manual*. □

Professional development to accompany AGM by videoconference: September 21

Lawyers should mark their calendars now for a full day of special videoconference educational sessions on loss and complaints prevention, as well as recent developments in law and practice. The sessions will be sponsored by the Law Society, with the participation of CLE and the CBA (B.C. Branch), and held in conjunction with the Law Society and CBA Annual General Meetings.

The events will take place on **Friday, September 21, 2001** in Vancouver, with videoconference locations planned for Victoria, Dawson Creek, Prince George, Kelowna, Prince Rupert and Kamloops.

Watch for details. □



Law Society takes more unauthorized practice action

The Law Society recently obtained undertakings and covenants from the following people and businesses not to engage in unauthorized practice:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Fred Yehia, of Vancouver, a former lawyer, consented to a B.C. Supreme Court order that he be prohibited from representing himself as a lawyer and further from appearing as counsel or advocate, drawing wills, estate documents, corporate documents or other legal documents, negotiating in any way for the settlement of a claim, giving legal advice, offering any of these services or representing himself as qualified to do so, in expectation of a fee, gain or reward: March 22, 2001. □

Practice Tips

♪ *Let me tell you how it will be
There's one for you, nineteen for me
Cause I'm the taxman, yeah, I'm the taxman
Should five per cent appear too small
Be thankful I don't take it all
'Cause I'm the taxman, yeah, I'm the taxman?*♪

Words and music by George Harrison, recorded by The Beatles.

How should an independent contractor bill a firm?*

Question: *I am an associate in a law firm. My compensation is a fixed percentage of my paid billings. The firm takes my WIP and includes it when a bill is rendered to the client. I was recently told that I should be billing my law firm for my services and charging GST and PST on my accounts. Is this the case?*

Answer: For the purposes of this question, I assume that you would be classified as an independent contractor and not an employee — meaning that the firm makes no deductions for CPP, EI or income tax/Revenue Canada remittances from the amount they pay you — and that you look after these remittances yourself. As an independent contractor, you are running your own business and you are required to register and collect GST on your services (assuming that you are billing over \$30,000 a year), as well as PST.

When it is time for a bill to be rendered by the law firm to a client, you would bill the law firm for your services and any disbursements that you have incurred. Like any other business, you will then be required to make the PST and GST remittances to the government within the requisite time periods (whether or not the bill has been paid by the client, so you may have a timing problem here).

The law firm then has two alternatives:

1. The firm can treat your invoice as a non-taxable disbursement (as far as PST is concerned) and show it as a disbursement on its invoice to the client. In this way, your account (which already includes PST since you billed it as such) is billed to the client and the client remits the amount due to the law firm. In time, the firm then pays you. This way, there is no double-billing to the client for PST. As far as GST is concerned, the law firm will treat the GST that you billed to the law firm as an input-tax credit. Under this method, the client pays no more in PST or in GST than if you were an employee of the firm.
2. Alternatively, the firm takes your fees and disbursements and “rolls” them into the firm’s bill to the client, rather than treating them as a disbursement. In this situation, the law firm still can claim an input-tax credit for the GST billed by you and the client is no worse off regarding GST. However,

The Practice Management Advisor



David J. (Dave) Bilinsky is the Society’s Practice Management Advisor. His focus is to develop educational programs and materials to increase lawyers’ efficiency, effectiveness and personal satisfaction in the practice of law with a special emphasis on technology.

His preferred way to be reached is by email to: dbilinsky@lsbc.org (no telephone tag). Alternatively, you can call him at the Law Society office at (604) 605-5331 or toll-free in B.C. 1-800-903-5300, or address mail to:

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FAX: (604) 646-5902.

since the PST scheme is not an input-tax system, the firm then has to charge PST on the full amount of the professional services claimed, which now includes your time. This means the client is being taxed twice for PST on the portion of your services (once on your account to the firm and again on the account to the client).

Furthermore, there is an additional complication. If, as an independent contractor, you incorporate a law corporation and your compensation method is still a fixed percentage of paid billings, you run the further risk that the income of your law corporation could be deemed to be personal service business income — and this income is taxed at top rates, with no deductions. Any tax advantages that you gain by splitting income via a law corporation will be quickly wiped out by the taxation of income in the hands of the law corporation at top rates.

Accordingly, any contractor who is on a fixed percentage recovery compensation scheme is well advised to seek good accounting advice before finalizing a deal with his or her law firm, particularly when practising through a law corporation.

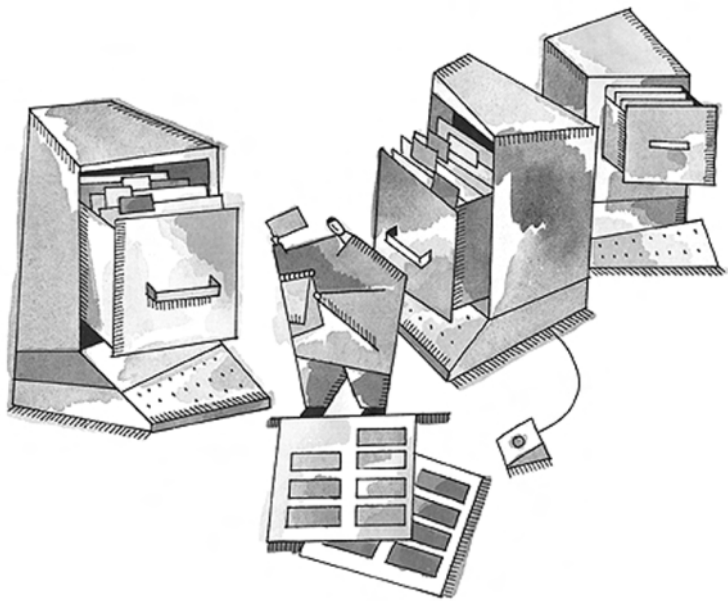
**I wish to gratefully acknowledge the assistance of David G. Thompson of Thorsteinssons Tax Lawyers and Donald J. Sheane, C.A. of Godding Sheane in the preparation of this item.*

* * *

How can a firm preserve accounting data when upgrading from an old computer?

Question: *We have our accounting data on a Windows 3.11 machine and need to transfer it to a newer Pentium III machine running Windows 2000. The data files are*

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much too large to put on a floppy. The older computer is not networked and it does not have Internet capability. We have tried LapLink and other direct transfer programs — but they all require Windows 95 at a minimum. Any ideas on how to preserve our data?

Answer: This question highlights a growing problem with legacy computer systems. While older machines will keep running the programs designed for them, eventually you will be faced with the problem of data migration to a newer system. While a network or Internet access would at least allow you to email or transfer the data files to a newer machine, older machines most probably do not have this capability. You may attempt to do a back-up on the original tape back-up drive for the older machine — but you probably will have difficulty obtaining drivers allowing this tape drive unit to work under Windows 2000. You could instead attempt to install the hard drive in the newer machine and then copy the files.

Alternatively, you could try installing a parallel port zip drive and transferring the data onto the zip media. One last alternative — Microsoft has Interlink — a DOS command line utility that may work by establishing direct serial or parallel port cable connection between the older and newer machines. This utility is under Windows 2000 — you will have to install it on the older machine, connect the two machines via a proper parallel or serial cable and then go through Networking and Make New Connection to build the bridge. The good news is that Windows 2000 should allow you to make a new network connection to the older computer even though the older machine does not have a networking card. Once the two computers are linked via Interlink, the data transfer can occur.

Most people recognize the downward amortization of capital costs over time. But often with computer

technology, there is a later upswing in costs if technology becomes sufficiently dated, due to problems like the one just mentioned. It is not a bad policy to periodically review your existing systems and to address legacy systems and data migration, storage and updating issues to avoid problems like this. The firm in this case was fortunate that Murphy's Law didn't apply (i.e., in the worst case situation, the hard drive in the older machine crashes and the law firm is then facing the problem of trying to restore their data from the outdated tape back-up).

New management books

Multidisciplinary Practice: Staying Competitive and Adapting to Change by Gary L. Munneke and Ann L. MacNaughton, Editors. (American Bar Association, Law Practice Management Section, 2001)

This book explores the issues involved in providing services through multi-professional offices involving lawyers and other professionals. It delves into ethics, ownership of the business entity, interference with lawyer's independent judgement and other issues. It is meant to allow firms to prepare for and adapt to the changes involved in MDP practice if the rules are amended to allow for the legal existence of these businesses.

Managing Partner 101: A Guide to Successful Law Firm Leadership by Lawrence G. Green. (ABA, 2001)

This is an updated and expanded second edition of an ABA bestseller. It is intended to help managing partners, lawyers and others understand the role and responsibilities of a law firm's managing partner. It contains guidelines, tips and examples designed to shorten the learning curve for mastering successful management techniques.

How to Build and Manage an Entertainment Law Practice by Gary Greenberg (ABA, 2001)

This book is aimed at those looking for a resource for lawyers looking to "build and maintain" an entertainment practice, coming from a lawyer with 15 years of experience in that field. It discusses the basic differences between entertainment law and other types of law practice and provides guidance for avoiding common pitfalls.

Compensation Plans for Law Firms, 3d Edition, by James D. Cotterman of Altman Weil, Inc, Editor. (ABA, 2001)

Finally, an up-to-date book that explores workable plans for compensating partners and associates, as well as other employed lawyers, legal assistants and professional and clerical staff. This book discusses value billing, tiered ownership and deferred compensation plans. Written by the global consulting firm of Altman Weil, it reflects their 20+ years of experience with law firms.

All these books are available on-line at www.abanet.org/lpm/catalog or call (312) 988-5522. All are recommended for their potential to increase your bottom line (and thereby increase the money in your jeans) ... that is, after the taxman has taken his due. □

Practice Watch

Enduring powers of attorney extended another year

The Attorney General has announced that enduring powers of attorney will continue until September 1, 2002.

Also, amendments to the *Representation Agreement Act* were passed in the Legislature on March 29, 2001. The amendments:

- provide for standardized forms for agreements with general powers,
- reduce the number of witnesses required for agreements,
- clarify the duties of representatives and monitors through application of the standard of reasonable care,
- provide authority for a representative to delegate investment decision-making and
- increase flexibility for those making agreements to determine whether certain statutory provisions will apply to an agreement.

The amendments to the *Representation Agreement Act*, which will come into force on September 1, 2001, are found in the *Adult Guardianship Statutes Amendment Act, 2001*.

When acting for your family — are you insured?

No. Your insurance policy excludes coverage for a claim arising out of an error, the payment of which would benefit, in whole or in part, directly or indirectly, you or your family. Coverage is also excluded for any claim by, against, arising out of, or in connection with any organization in which you or your family has effective management or control of the organization or beneficial ownership of the organization in an amount greater than 10%.

The definition of “family” is spouse (including common-law spouse), children, parents or siblings.

Please consult the insurance policy — which you will find in your *Member’s Manual* and on the Law Society website — for the exact wording of this exclusion. If you have any questions about the application of the policy to your circumstances, please contact Kerry Sheppard, Claims Counsel, at the Lawyers Insurance Fund: Tel (604) 443-5743 or email to ksheppard@lsbc.org.

When a lawyer leaves the firm

When a lawyer leaves your firm, do you have a system to ensure that every file for which that lawyer was responsible has been transferred? Is the firm clear on which files the lawyer will transfer to his or her new firm and which files will stay with your firm? Does each file that stays with your firm have a home with another lawyer?

Your Practice Advisor



Felicia S. Folk, the Law Society’s Practice Advisor, is available to discuss your practice concerns. All communications between Ms. Folk and lawyers are strictly confidential, except in cases of trust fund shortages.

You are invited to call her at (604) 669-2533 or toll-free in B.C. 1-800-903-5300 at any time, or

write to her at:

The Law Society of B.C.
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Fax: (604) 646-5902. □

A list should be prepared of all files for which the departing lawyer was responsible, stating which will be taken by the departing lawyer and which will stay with the firm. This information should be available to answer any enquiries about the location and ongoing responsibilities for the files.

It is important that the newly responsible lawyer review each file immediately upon the transfer. There may be limitation dates approaching.

Have any undertakings been given on a file? Undertakings given on any files that are affected by a lawyer’s departure must be reviewed. A departing lawyer who has given an undertaking, but ceases to act on the matter, continues to have personal responsibility for the fulfilment of the undertaking, even where another lawyer has assumed conduct of the matter on which the undertaking was given. Such an undertaking must be renegotiated with the recipient of the undertaking to ensure that it conforms to a changed situation. Alternatively, the departing lawyer may deal with the obligations of the undertaking by placing another undertaking on the lawyer who assumes conduct of the matter to fulfil the original undertaking.

Also, if another lawyer in the firm gave an undertaking on a file that is transferred to the departing lawyer, that undertaking must also be dealt with promptly if the firm will be unable to comply with the undertaking on the lawyer’s departure.

What will happen to old files in storage? Often no one wants to keep inactive files. However, the departing lawyer may assume that old files will be available at the former firm if he or she wants them in the future, while the firm might intend to destroy the files according to its own schedule, without consultation with the lawyer. The keeping of old files is a matter that needs to be worked out at, or before, the time of a lawyer’s departure. □

Services for B.C. Lawyers

The Law Society funds several confidential, independent programs to assist B.C. lawyers and articulated students. These services are provided at no cost, so if you could benefit from them, take advantage. Help is at hand.

Interlock

www.interlock-eap.com

Interlock offers personal counselling and referral services that are independent, confidential and available at no cost to individual B.C. lawyers and articulated students and their immediate families. Interlock counsellors can help with personal, relationship and family problems, stress management, substance abuse or work-related concerns.

For assistance, call the regional office nearest you:

Lower Mainland / Fraser Valley:
(604) 431-8200 or 1-800-663-9099

Okanagan:
(250) 763-2033 or 1-800-663-7411

Prince George / Northern B.C.:
(250) 564-9101 or 1-800-661-4884

Victoria / Vancouver Island:
(250) 727-2861 or 1-888-227-7897

Nanaimo:
(250) 754-2512



Interlock counsellors are available in locations throughout B.C.

Kamloops:
(250) 374-3988

East / West Kootenays:
1-800-663-7411

* * *

Lawyers Assistance Program (LAP)

LAP provides confidential support, counselling, referrals and peer interventions for lawyers, their families, support staff and articulated students suffering from alcohol or chemical dependencies, stress, depression or other personal problems.

Based on the concept of "lawyers helping lawyers," LAP relies on a network of volunteers who help colleagues across B.C.

For more information or assistance, please contact Derek LaCroix, Executive Director of LAP, at:

415 – 1080 Mainland Street
Vancouver, B.C.
V6B 2T4
Telephone (604) 685-2171 or 1-888-685-2171
Fax: (604) 685-2179 ☐

Discrimination Ombudsperson

www.lawsociety.bc.ca (*Services for Lawyers*)



The Discrimination Ombudsperson, Anne Bhanu Chopra, confidentially assists anyone in a B.C. law firm (lawyer, articulated student or staff) or any law school student who asks for help in resolving a discrimination or harassment complaint against a lawyer, including mediation options, and also assists law firms in preventing discrimination.

If you would like information or assistance from Ms. Chopra, please leave a confidential voicemail message for her at (604) 687-2344. Ms. Chopra is the only person with access to her messages and will return calls promptly. ☐

Television proceedings

(Press Release – Chief Justice Brenner: April 18, 2001)

“The Court has agreed as a matter of court policy that there shall be no broadcasting, televising, recording or taking of photographs in the courtroom or areas immediately adjacent thereto during sessions of court or recesses between sessions, unless the parties to the proceeding consent and unless prior permission has been expressly granted by the presiding judge, following application upon timely notice to the parties, and subject to such conditions as the presiding judge may prescribe to protect the interests of justice and to maintain the dignity of the proceedings.

The Court will also be preparing guidelines for the broadcast or televising of the court proceedings. To ensure general acceptance, these will be prepared by the judiciary in consultation with the bar, the media and others with a demonstrable interest.”

Changes to chambers practice

(Notice to the Profession – Chief Justice Brenner: April 19, 2001)

“Rules regarding changes to chambers practice will come into effect throughout the Province on July 1, 2001. The changes contain many of the positive features of Rule 65, the pilot project introduced in Vancouver February 3, 1997, including the requirements for exchange of material before a date for the hearing is set and communciation

between parties or their counsel as to available dates and time estimates.

Rule 65 has greatly improved chambers practice in Vancouver by reducing the number of matters that are adjourned and by providing the Court with organized, responsive material. The new rules were drafted to include the benefits of Rule 65 and to recognize the concerns expressed by counsel, particularly those practising outside Vancouver, that the requirements of Rule 65 are too onerous for short applications. Chambers records and outlines will not be required for applications with time estimates of 30 minutes or less.

The practice direction issued [April 19] addresses those aspects of the scheduling of chambers applications not fully addressed by the Rules of Court. Accordingly, it should be read in conjunction with the amendments to the Rules.”

[Note: The Practice Direction “Changes to Chambers Practice” can be accessed on the Superior Courts website at www.courts.gov.bc.ca/Sc/sc-pdir.htm]

Changes to Supreme Court Rules

Judge Macaulay, Chair, Rules Revision Committee, reminds the profession of a number of changes to the Rules of Court that come into effect on July 1, 2001.

[Note: Changes to the Supreme Court Rules, can be accessed on the Superior Courts website at www.courts.gov.bc.ca/Sc/sc-main.htm]□

From the Law Foundation

TD Canada Trust improves rate to Law Foundation

TD Canada Trust has increased the interest rate it pays on lawyers’ pooled trust accounts in B.C.

Joe Morabito, Senior Vice President of TD Canada Trust Pacific Region, has advised the Law Foundation of B.C. that, as of April 1, 2001, TD Canada Trust will match the very competitive rate provided to the Ontario Law Foundation of prime less 3% and will also continue to waive service charges on these accounts.

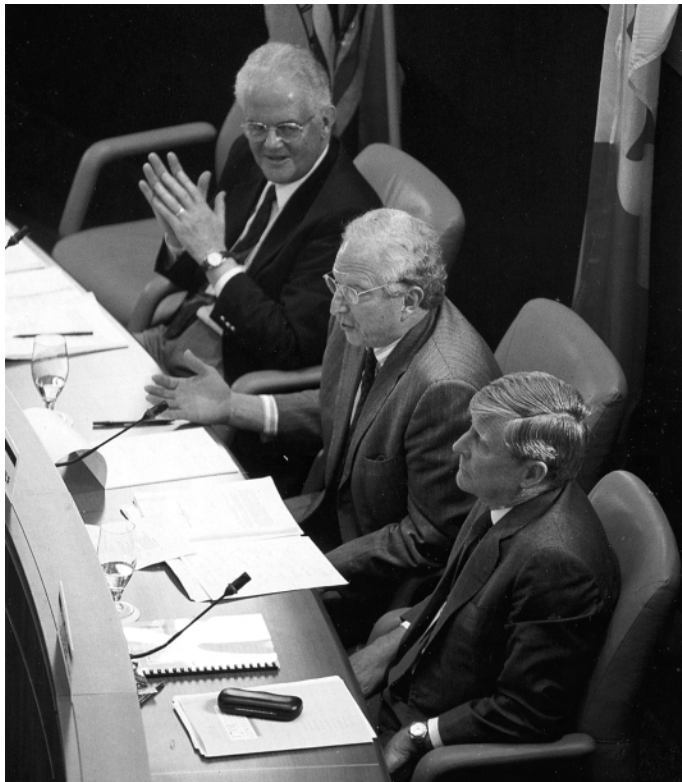
As TD Bank and Canada Trust are in the midst of integrating the two businesses into one bank, this new agreement

will be reviewed in January, 2002. The Law Foundation and the Law Society are pleased with the new rate and look forward to competitive rates with TD Canada Trust in future agreements as well. When mergers of the major banks were first contemplated in 1998, representatives of law foundations across Canada appeared before the Senate Committee on Banking, Trade and Commerce and met with representatives of the major banks to gain assurances that mergers would not negatively impact foundation revenues. The TD Canada Trust rate increase is in keeping with those assurances.□

Pro bono survey

The Law Society / CBA Pro Bono Committee is conducting a survey to ascertain and publicly acknowledge the *pro bono* work carried by lawyers in B.C., to identify barriers to the effective delivery of *pro bono* legal services and to consider how *pro bono* can best be delivered in B.C.

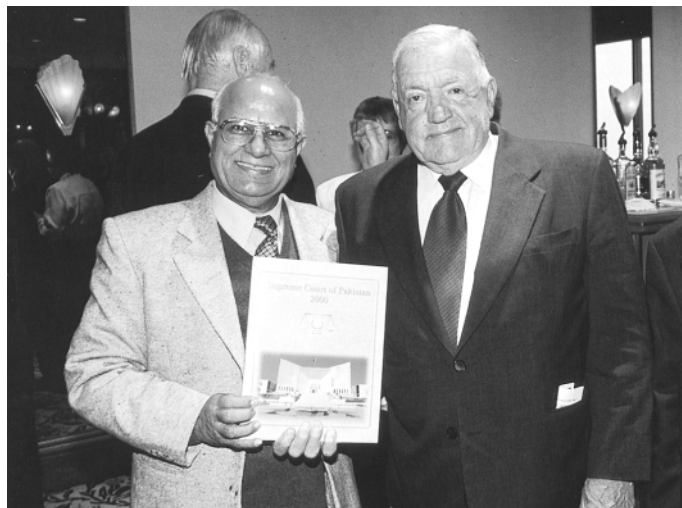
The Committee urges B.C. lawyers and articulated students to complete the survey enclosed in this mailing, and to return it as instructed by mail or fax. The survey data is confidential and results will be reported in aggregate form only.□



A momentous week

(Top left) Lord Chief Justice of England and Wales, Lord Woolf, and Chief Justice Gleeson of Australia discuss current issues in judicial independence during a session at “1701— The 300th Anniversary of the Act of Settlement,” a conference initiated by Chief Justice Allan McEachern. The conference, held at the Wosk Centre for Dialogue in Vancouver (below), drew judges and academics from around the world.

(Below left) The Chief Justice receives a judicial history from the Chief Justice of Pakistan during a reception for the Supreme Court of Canada, hosted by the Law Society.



Paying tribute

Law Society President Richard Margetts, Q.C. paid tribute to B.C. Chief Justice Allan McEachern on the eve of his retirement. “Chief Justice McEachern will be remembered around the world as one of Canada’s greatest jurists,” Mr. Margetts said.

He noted Chief Justice McEachern was a world leader in using modern technology to open the courts to the public. “He pushed the courts to develop a website so the public could have instant, cost-effective access to judgments. Then he went a step further by hosting his own website and inviting the public to e-mail their questions about the legal system. He was certainly the first judge in Canada — if not the world — to make himself accessible to everyone through the internet.”

“During his 21 years as a judge — 10 as Chief Justice of the B.C. Supreme Court and 11 as Chief Justice of B.C. — Mr. Justice McEachern earned a reputation as an intelligent and insightful judge keenly committed to the justice system,” Mr. Margetts said. “Chief Justice McEachern was in charge of B.C.’s courts during the period of their greatest change. He was appointed to the Bench at a time when fax machines were a novelty and he retires at a time when his own judgments are distributed worldwide through the internet. He leaves behind a tremendous body of jurisprudence and I hope he continues to serve the justice system in his retirement.” □

