

 **Banack's Bencher News**

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PARALEGALS: Mr. Justice Cory has begun his Government funded "mediation/consultation" regarding paralegals. The Law Society commissioned and delivered for his consideration a comprehensive, independent research report detailing awareness and attitudes regarding the regulation of paralegals in Ontario. (A copy of the Report can be obtained from Ms. Sheena Weir at 947-3300/1-800-668-7380). Based on the information in the report and extensive consultations, Convocation's Paralegal Task Force proposed limited regulation of paralegals. While concluding that no regulation is required in the areas of criminal pardons, mediation (excluding the giving of legal advice), process serving, title searching, name change applications and credit counseling, it proposed that there be an amendment to the Law Society Act defining the "practice of law" that would prohibit paralegal activity in relation to wills and estates, power of attorney, real estate, family law, incorporation, personal injury/accident benefits and the giving of legal advice. Convocation accepted the Task Force suggestion that appearances in Small Claims and Highway Traffic Courts and at tribunals such as the Rental Housing Tribunal should be controlled by the tribunals' own regulations for accrediting agents which could specify the training and other credentials required before a non-lawyer can represent another person. Finally, amendments to federal legislation were proposed to eliminate paid agents under the Criminal Code and to restrict paralegal attendances for certain matters under the Immigration Act. The next step is up to Justice Cory, the Province and the Federal Government. The threat to lawyers, our independent bar and an unsuspecting public looms ever larger.

LAW FOUNDATION GRANT: The Law Foundation allowed this year's Law Society request for \$2.3 million from the interest earned on our trust accounts. These monies will pay for a number of initiatives, such as technology improvements, that could not have been funded by our annual dues alone. As well, a commitment has been made to provide a grant of at least \$2 million a year for the next two years.

OSGOODE SPACED OUT: Despite staff cut-backs and program changes, the Law Society finally ran out of space at Osgoode Hall. Accordingly, a floor has been leased at 393 University Avenue to house the Lawyer Referral Service, the Spot and Focused Audit and the Compensation Fund.

CALL TO THE BAR: In February, we were joined by 1071 new

colleagues called to the Bar in London, Ottawa and Toronto. Of the total, 536 were women and 535 were men.

ONTARIO SECURITIES COMMISSION PROSECUTION OF

LAWYERS: The Divisional Court has recently concluded that the OSC has authority to proceed with a hearing against a lawyer, solely on the basis of allegations that statements contained in a letter written on behalf of a client were misleading or untrue. In other words, the Court concluded that the OSC can proceed to remedy a breach of its own Act that may violate the public interest, and to control its own process. This is said to be consistent with the Law Society's role of disciplining lawyers for professional misconduct. The decision means that lawyers may, in appropriate cases, be subject to sanctions by the OSC, the Law Society, and potentially by other similar regulatory bodies. An appeal by the lawyer is anticipated.

CEO REPORT: For 1999, the CEO reported increased use and access of Law Society services. There has been a steady demand for library products, particularly in respect of instruction available and the 24 hour research capability available through the Library's web site. Unfortunately, the number of claims to the client compensation fund have grown and the average claim paid out has increased. The 1999 Fund Balance is \$2.6 Million less than 1998, however, there has been a reduction in the value of new claims received. The number of complaint files open at year end was less than in the preceding year, with most of the active investigations being open under 6 months.

COPYRIGHT LAW SUIT: The Federal Court rejected the request of 3 law book publishers for an injunction restraining the Law Society from operating its custom photocopy service. Notices of Appeal and a Cross Appeal have been filed in the Federal Court of Appeal.

VIRTUAL LIBRARY: The Federation of Law Societies is trying to coordinate an effort throughout all jurisdictions in Canada, to create a free, on-line national law library resource, beginning with legislation and jurisprudence with an internal search engine. Convocation did not approve a contribution of \$50,000.00, equivalent to the pro rata contribution that is to be made by other Law Societies. Rather, efforts are to be made to determine if existing funds held by the Federation can be used to fund the pilot project that would permit an evaluation and business plan to be prepared for future consideration. Should you wish to see what the final product might look like, visit the Australian virtual library site at www.austlii.edu.au or the British site at www.bailii.org.