

Squid pro quo

Newfoundland and Labrador Branch

Fall 2006

Canadian Bar Association



2006
Canadian
Legal Conference
Rocked the Rock !



Canadian Bar Association
Newfoundland and Labrador Branch

**Members of the
Executive Committee
2006 / 2007**

(see page 3)



Squid pro quo

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Squid pro quo is a publication of the Newfoundland and Labrador Branch of the Canadian Bar Association and is intended to provide a service to members by informing them of Branch activities and matters of general interest.

Members are encouraged to submit articles for publication, though articles submitted may, at the discretion of the Editorial Board, be edited for brevity and clarity, in which case the author will be consulted prior to publication. Articles must be submitted no later than October 31st, February 28th and June 30th.

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Squid Pro Quo can also be found on the CBA Newfoundland and Labrador Branch home page on the World Wide Web <http://www.cba.org>.

Letter from the Editor



Pamela Taylor
Editor

This will be my first edition as editor of the *Squid pro quo* Magazine. As I sit writing this letter, I am thinking of the big shoes I have to fill. Sheri Wicks leaves the editor's position after a successful four-year tenure, during which time she shaped the *Squid pro quo* "newsletter" into the magazine it is today. Sheri, on behalf of the *Squid pro quo* Committee, I say thank you and wish you all the best in the future and in your new role as Membership Chair on the 2006-2007 CBA-NL Branch Executive Committee.

This edition of our magazine is a little late. Not a great start for the new editor! As you all know, this summer St. John's hosted a hugely successful Canadian Legal Conference (CLC). Hats off to the incredible work of Lois Hoegg, Q.C., and Jamie Martin, co-chairs of the local CLC Organizing Committee. Congratulations to the Organizing Committee and to the over 120 volunteers who worked to make this CLC the most successful to date. We were fortunate to have a stellar line up of Newfoundland and Labrador talent during the conference. In this edition you will find many great pictures from the conference as well as an article from Jamie Martin and Lois Hoegg, Q.C. providing us with the highlights of the CLC.

Squid pro quo magazine has a great group of volunteers this year. Committee members who have kindly agreed to contribute again include Judy Manning, Chris Peddigrew, Nancy Furlong and Geoffrey Aylward. Our new members include Sheilagh M. Murphy (2006-2007 CBA-NL Branch President), Keri-Lynn Power, Tammy Pike-Farrell, and Ian Patey. Last, but not least, is our intrepid Executive Director, Roxane Dean, without whom the *Squid pro quo* Magazine Committee would be lost. Roxane has been instrumental in getting this issue to press despite the fact that she is recovering from emergency surgery.

In this edition, Judy Manning has provided us with in-depth look at Gary Peddle, recipient of the 2006 CBA Distinguished Public Service Award. Ian Patey wrote an In Personam on Mr. Barry Sparkes, Q.C., retired Registrar of the Supreme Court. The edition also contains an introduction to this year's Section Chairs who have provided their goals and objectives for the upcoming year. Our new President, Sheilagh M. Murphy, has provided us with her inaugural report. There is an interesting article on Practice Link, as well as all of our regular features.

The fall has flown by and we are now in the countdown to Christmas. While the holiday season is always busy, do not forget to make time for the Annual President's Reception at the Fairmont Newfoundland on December 7, 2006. In the New Year, do not forget to mark your calendars for the Mid-Winter Meeting which will be held in Corner Brook in February 2007. ■

President's Report

by Sheilagh M. Murphy



I am honoured to report to you as your Branch President for the 2006-2007 year. Let me first start by thanking our Past President, Jennifer Newbury, for her hard work and dedication to the Branch throughout the 2005-2006 term. Her particular work with the 2006 CLC Organizing Committee has been invaluable to our Branch. Jennifer, I hope that we can continue with the initiatives and relationships you initiated last year and build on them.

This year's Executive Committee sees Susan Gover return as our Secretary after an extended hiatus. For those who do not know her, Susan is a former Communications Chair and Editor of *Squid pro quo*. Welcome back, Susan! I am also pleased to welcome Mark Linehan to the Executive as our new Central Regional Representative and Pamela Taylor as our new Communications Chair. Of course, I also welcome the returning members of the Executive Committee, namely Jennifer Newbury, Past President; Christine Healy, Vice President; Chris Pike, Treasurer; Sheri Wicks, Membership Chair; Bernadette Cole Gendron, CLE Co-Chair; Janie Bussey, Young Lawyers Chair; Jamie Merrigan, Western Regional Representative; Jennifer Mercer, Labrador Representative and Roxane Dean, Executive Director. I look forward to a productive year with you all. A special farewell to Peter Shea, Past President, who is leaving our Executive Committee this year, but will continue to be active within the Branch in

his role as the Branch CBA Futures Champion.

My goals for the Branch this year are to promote and enhance CBA membership benefits to all lawyers in the province, not just those on this side of the overpass, and to strengthen and build upon our section activities.

Meetings of Council and Annual Meetings

We have planned a special meeting of council to follow-up on the final futures committee report at the CLC. It had been scheduled for November 9, 2006, but it has been postponed until the CBA Futures Committee meets again this autumn.

Our Mid-Winter Meeting is scheduled for February 2 - 3 at Marble Mountain, Steady Brook, NL and our Annual General Meeting of council has been scheduled for July 13 - 14 at the Wilds Golf Resort in Salmonier, NL. Mark your calendars!

Special Events

November 10, 2006 - The Branch made its annual presentation during the Bar Admission course. Our President, Young Lawyers Chair, Membership Chair and CBIA Representative contributed to the presentation in an effort to inform and engage the bar admission stu-

Cover photo - Executive Committee

Canadian Bar Association



Newfoundland & Labrador Branch

Executive Committee 2006-2007

Seated (l to r):	Susan Gover, Secretary; Sheilagh M. Murphy, President; Christopher Pike, Treasurer; Christine Healy, Vice President; and Roxane Dean, Executive Director.
Standing (l to r):	Bernadette Cole Gendron, Continuing Legal Education Co-Chair; Janie Bussey, Young Lawyers Chair; Pamela Taylor, Communications Chair; and Sheri Wicks, Membership Chair.
Missing from Photo:	Jennifer Newbury, Past President; Mark Linehan, Central Regional Chair; Jamie Merrigan, Western Regional Chair and Jennifer Mercer, Labrador Regional Chair.

dents. Hopefully, we helped them realise that membership in the CBA is an asset for any young lawyer.

November 17, 2006 - YLC Wine and Cheese Reception for the bar admission course students, their principals, instructors and all judges was held at the LSPU Hall. Thank you to all who attended. By all accounts, it was a successful event. Congratulations, Janie and Roxane on organizing it.

December 7, 2006 - The President's Reception is scheduled for the Fairmont Newfoundland. Ever popular, this social event is an excellent opportunity for all CBA members to meet and take a brief break before the Christmas rush. I look forward to hosting you all. Please RSVP.

CBA Members Luncheons

The Honourable Thomas Marshall, Q.C., Minister of Justice and Attorney General has graciously agreed to accept a speaking engagement at our Mid-Winter Meeting. Once the luncheon has been scheduled we will circulate a notice.

Section Activities - Lunch and Learn Sessions

Section activity in the Newfoundland and Labrador Branch appears to be well on its way to reaching record levels, if the participation in Lunch & Learn Sessions is any indication. It is our hope as a Branch to be able to organize more of these sessions outside the St. John's area and to engage practitioners from rural areas to participate in section activities by teleconference and/or web-based communication. I send particular thanks to our Section Chairs, who are instrumental in planning and organizing these Lunch and Learn events.

2006 CLC August 13-15 St. John's

The 2006 Canadian Legal Conference (CLC) was a resounding success. I would again like to acknowledge the hard work and dedication of the local CLC Organizing Committee, co-chaired by Lois Hoegg, Q.C. and Jamie Martin, and all those who volunteered with the committee. I also acknowledge the support provided by National Office staff throughout, from organizing to rendering assistance on site: your efforts helped this meeting run as smoothly as it did. Thank you. Particular thanks should go to Roxane Dean, to whom we owe more overtime than we will ever keep track of, and to Lia Daborn, Executive Director - NB and the New Brunswick Branch, for their volunteer efforts. Without them, this meeting would not have been the success that it was.

On October 25, 2006, we hosted a well-attended volunteer reception at the Robin's Nest on George Street as a

thank you to our volunteers. Again, many thanks to everyone who helped in any capacity to make the CLC the overwhelming success that it was. As John Hoyles, our National CEO, put it in his letter to the members of our Branch, "The level of commitment by the volunteers, from the local committee and all the different chairs, and the support by the law firms and lawyers was above and beyond the call. It was a pleasure to work with all of you, and you have indeed set the bar very high for subsequent Canadian Legal Conferences."

New Projects

This year, the Branch will be hosting a President's Dinner. Details will be forthcoming. We intend to have a formal dinner at the Fairmont Newfoundland and invite all former Branch Presidents to participate. It is our hope that this will become a regular event on our calendar. We are planning the event for May 2007.

On a more substantive note, the Branch Executive Committee has been considering the findings and recommendations of the Lamer Inquiry. The report is a substantive one and makes a plethora of recommendations on how we, as a Province and a profession, can ensure that such injustices do not occur in the future. The CBA - NL Branch has struck a committee to plan a series of seminars to disseminate the information, to transmit the message to our membership and to help implement some of the report's recommendations. The committee is comprised of our Vice President, who oversees Sections, our Criminal Law Section Chair, a representative of our CLE Committee, and representatives of the criminal defence and prosecution bars. It is the Executive's hope that the first of these seminars will be ready to present at or near our annual meeting in July 2007, if not sooner.

Speaking Out

A number of people have recently asked me why the CBA speaks out on behalf of the judiciary. Part of our mandate at CBA is to educate the public and to promote and protect the independence of the judiciary. An independent judiciary is a fundamental principle upon which our entire justice system is founded. Over the past number of years, there have been various articles, news reports and interviews in which individual members of the Judiciary have been singled out or criticized. Often, these matters arise out of a misunderstanding, by the public or the media, of how our justice system works and the role of lawyers and judges in it. Recognizing the importance of an independent judiciary and knowing that the members or the judiciary are unable, by virtue of their positions, to speak out on their own behalf, the CBA has and will continue to speak out for them. In an

effort to provide public education and understanding of what lawyers and the judiciary do, what our role is in the overall justice system and how that system works, the CBA NL Branch will continue to make every effort to educate the public whilst fiercely protecting the independence of our judiciary.

Other items

In the middle of preparing for the CLC in August, we were faced with having to relocate our office. We have moved to:

CBA - NL Branch
Box 59
Suite 304, Atlantic Place
215 Water St, St. John's, NL A1C 6C9

The phone and fax numbers remain the same:

Telephone: (709) 579-5783
Fax: (709) 726-4166
Email: cba-nl@nl.rogers.com

Although the new premises are lovely, our rent cost is substantially higher than it had been. We have also had to make significant expenditures for furniture and moving costs. For this year, these will come out of our savings and we will be able to maintain a balanced budget.

Once again, I thank Roxane Dean, our tireless Executive Director, as well as the Executive Committee and Section Chairs, whose dedication, hard work and can-do attitude make them all invaluable assets to our Branch.

If there is any way in which the Branch may be able to assist you as a member, please do not hesitate to contact us. I look forward to working with you throughout this year. ■



Past President's Report

by Jennifer Newbury



I am very pleased to report that my term as President of the Branch ended on a high note, with a successful Canadian Legal Conference hosted in our very own St. John's. By all accounts, the conference was a tremendous success, thanks to the efforts of co-chairs Lois Hoegg, Q.C., and Jamie Martin, the local organizing committee, the unflappable national office staff, and many dedicated volunteers from our Branch (and their friends and family, too!).

Thanks to these efforts, we have received rave reviews about the content of CLE programs and the local entertainment, including Rick Mercer, Great Big Sea, Cathy Jones and General Rick Hillier, to name just a few. The law firm receptions were a big hit and who could complain about the fantastic weather? While we were always optimistic about delivering on the local entertainment and flavour, we were a little anxious about the weather and it was a huge relief that a sunny streak coincided with this year's conference.

To complete my role as President of the Branch, I also assisted with the organization of a Media Workshop hosted by the National Judicial Institute. Many representatives

of the media and the legal community as well as judges from each of the Supreme Court, Trial Division; Supreme Court, Court of Appeal; and Provincial Court were invited to participate. This workshop, held on Saturday, October 21, 2006, was well attended by representatives of the judiciary, media, and legal profession.

There were interesting discussions and exchanges of ideas about the relationship between the media and the judicial system. Topics canvassed included: publication bans; court access restrictions; contempt of court; the appropriateness of counsel speaking to the media during a trial; publication of an accused's name before conviction; cameras in the courtroom; and reporting of personal details in family cases.

There has been a commitment among the media and judiciary to continue to liaise on these various issues and the Branch will keep you posted as it becomes aware of any developments in this regard. ■

CBA PracticeLink:

Your One-Stop Source for Online Law Practice Information

— by Mark Kuiack, CBA National Web Editor

Available exclusively to CBA members, CBA PracticeLink is designed to help lawyers cope with the day-to-day issues of running a law practice: serving clients, marketing your practice, managing finances, using technology, balancing work and personal life, and more.

The site includes articles, tips, podcasts, RSS newsfeeds as well as ways to interact with other members and have your say on current practice trends.

This month on CBA PracticeLink, learn about some hidden costs that claw back on law firm profits that you may be unaware of. We unveil ten common ways law firms lose a lot of money, and offer solutions you can adopt to avoid them: www.cba.org/cba/PracticeLink/cs/losealot.aspx

Plus, be sure to check out CBA PracticeLink's latest podcast on work-life balance for lawyers, recorded right here in Newfoundland and Labrador! Recorded by a panel of experts at the 2006 CBA Canadian Legal Conference in St. John's, the New Ways to Practice Work/Life Balance podcast includes candid discussion, compelling statistics and concrete advice for managing partners: www.cba.org/cba/PracticeLink/podcasts/balance.aspx

Also new on CBA PracticeLink:

- Making Your Law Office Client-Friendly
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- Hiring and Working with Support Staff
www.cba.org/cba/PracticeLink/WWP/supportstaff.aspx
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www.cba.org/cba/PracticeLink/MF/billablehour.aspx
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Join the growing number of CBA members who are already taking advantage of this invaluable service-content is updated several times per week!

For all of this and much more, visit www.cba.org/practicelink. ■

Mark Your Calendars !

December 7, 2006

Presidents Reception

Fairmont Newfoundland
St. John's, NL

February 2-3, 2007

Branch Mid-Winter Meeting

Marble Mountain Ski Resort, Steady Brook

February 15-18, 2007

2007 Mid-Winter Meeting of Council

Mont Tremblant, PQ

April 1, 2007

CBA - NL Branch

Children's Easter Egg Hunt
Location TBC

April 2007

Law Day Events

The Supreme Court
of Newfoundland and Labrador
287 Duckworth Street
St. John's, NL

July 13-14, 2007

Branch Annual General Meeting

The Wilds, Salmonier Line

August 12-14, 2007

CBA Canadian Legal Conference

and Expo
Calgary, AB

Administrative Law

by Donna Strong, Chair



I attended the National Sections Council Meeting held during the CLC in St. John's in August, as the National Administrative Law Section representative was unable to attend. At that time there was a report presented by the Federal Court Bench and Bar Liaison Committee. The Committee's mandate includes providing a forum for members of the federal Bench and the Bar to discuss issues of mutual concern relating to the operations of the Federal Court and the Federal Court of Appeal that fall outside of the mandate of the Statutory Rules Committee. The present committee has a representative from the National Administrative Law Section. Any member who is interest-

ed in further information concerning this committee is encouraged to contact me.

Recent Developments in the Law

A very interesting case in the areas of Administrative and Labour Law is a recent unanimous decision of the Newfoundland and Labrador Court of Appeal in *Her Majesty in Right of Newfoundland and Labrador (represented by Treasury Board) and Newfoundland and Labrador Health Boards Association (on behalf of Eastern Regional Integrated Health Authority) v. Newfoundland and Labrador Nurses' Union*, [2006] N.J. No. 222.

This case involved judicial review of the interpretation of a collective agreement by an Arbitration Board. The Newfoundland and Labrador Court of Appeal followed the Supreme Court of Canada case *Voice Construction Ltd. v. Construction and General Workers' Union, Local 92*, [2004] 1 S.C.R. 609, where the Supreme Court concluded that on a review of the applicable law and collective agreement provisions, the standard of review of arbitral interpretation of a collective agreement was reasonableness. This case marks the first time that the Court of Appeal in this Province applied the "reasonableness" standard of review in a case involving arbitral interpretation of a collective agreement.

The Court of Appeal's adoption of the standard of reasonableness in this case is significant as it subjects the decision of an arbitrator when undertaking interpretation of a collective agreement to a more probing examination by a reviewing court than the previously accepted patently unreasonableness standard of review. ■

Squid pro quo *Letters to the Editor*

Squid pro quo welcomes letters to the editor from members of the Canadian Bar Association wishing to express observations, opinions, corrections, very brief reports, or comments on previously published articles.

Please note the following:

1. Your letter must be single spaced, Times New Roman font, point size - 11, with one inch margins.
2. Letters must not exceed 250 words in length. Published letters will be edited for clarity and length without the prior approval of the author. Unpublished letters will not be returned.
3. Signatures of all authors are required (by fax will be acceptable, together with the author's full mailing address and daytime telephone number. Pen names and anonymous letters will not be published.
4. Letters referring to a recent *Squid pro quo* article must be received within one month of its publication.
5. *Squid pro quo* will not accept responsibility for statements made by contributors.

Check us out on the Web!

http://www

cba.org/newfoundland

Section Update

General Practice, Solo & Small Firm

by Gillian D. Butler, Q.C.



On September 29, 2006 I attended the National Meeting of the General Practice Solo and Small Firm Conference (GPSSC) in Moncton, New Brunswick where I had the opportunity to meet my counterparts from all provinces except Saskatchewan, Ontario and Prince Edward Island.

The meeting was preceded by a full day CLE Conference "Technology and Your Practice" presented in part by the GPSS Conference member from Quebec (Jean Beauchamp) whose interest, of course, was the unique challenges facing solo and small firm practitioners in their own offices and in meeting emerging requirements of judicial technology (i.e. e-filing). I did not attend this CLE but watch for a summary in GPSSC's next newsletter.

The GPSSC members have approved the following priorities for the 2006-2007 year:

- Commitment to a first newsletter for November 2006;
- Two conference calls, December 2006 and the Spring 2007;
- To prepare a PodCast on our site of a portion of the CLE seminar on "Technology and Your Practice"; and
- To co-sponsor with LPAC (Legal Professionals Assistance Conference) their session for the 2007 National Conference in Calgary and thereby improve our presence at the national meeting to encourage representation from every branch.

The other highlight of the 2006 National meeting was a presentation by Jean Beauchamp on Adobe Acrobat 8 Professional due to be launched soon at a cost of \$800.00 Jean predicts that this product will be essential to our practice. He also recommends 15 OMINIPAGE NUANCE Dragon Naturally Speaking, as the best OCR (word recognition) program. Interested members should make their own inquiries about these products.

The 2007 annual meeting for the GPSSC Conference will be held in Vancouver, BC in mid October (Delta Vancouver Suites) or, failing budget approval, Ottawa. We hope it will (like the Moncton meeting) be preceded by a national CLE. Alternatively, we are contemplating that our meeting will piggyback on the Pacific Legal Technology Conference in Vancouver. ■



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Back to the Future

by Peter Shea, CBA-NL Branch Futures Champion



Planning for the Future in our Branch

Do you remember the National magazine cover that featured Robert Stack holding a ball of pure light in his hand? Well, Robert does that regularly, and when he is not performing wizardly feats, he sits as a member of the CBA Futures Committee. This national committee was formed in March of 2003 with the following mandate:

to study the challenges facing lawyers and the legal profession and make recommendations about the kind of organization the CBA will need to be and what it will need to offer lawyers and the legal profession in order to be relevant and vibrant

The Futures Committee has done very well to meet the challenge presented by its ambitious mandate and the work of this important committee has progressed significantly since its inception. We have received two substantive reports from the committee, the initial report "Crystal Clear - New Perspectives for the Canadian Bar Association", which was presented to council at the Canadian Legal Conference in Vancouver in August 2005, and most recently "Crystal Clear - Strategic Directions for the CBA", which was presented to council at the recent Canadian Legal Conference in St. John's. These reports, which can be viewed along with other information from the Futures Committee at www.cba.org, provide a very

interesting analysis of the dynamics of our profession, the challenges that face us all, and how we can meet these challenges. In addition to these substantive reports, a Futures Summit was held in June of this year and committee members have traveled across the country to hold forums in all Branches to discuss priorities and goals.

As part of its consultation process, the committee posed the following question:

What can/must the CBA do in the future that individual lawyers, their firms or employers cannot easily do on their own that brings value and benefits to its membership and the legal profession?

Following the consultation process, the committee set out the following recommendations and action suggestions:

- 1) building CBA membership;
- 2) enhancing and segmenting core programs and services;
- 3) promoting equity and accommodating differences;
- 4) developing an integrated organizational structure;
- 5) assisting members with law practice economics;
- 6) creating a centre of expertise and information on the legal profession in Canada;
- 7) maximizing dialogue with members;
- 8) promoting the brand of our organization;
- 9) improving the image of lawyers;
- 10) entering into strategic partnerships and alliances; and
- 11) futures planning.

These recommendations and action suggestions are addressed in detail at www.cba.org. Futures planning and managing change are ongoing priorities of our organization and we welcome you to provide feedback on these issues in order to assist with providing a Branch perspective to this process. As well, CBA National is now in the process of obtaining feedback on our organization's Strategic Plan for 2007-2012, which will be presented to council for approval at the National Mid-Winter meeting set for next February in Mont Tremblant, Quebec. The Strategic Plan can also be viewed at www.cba.org. Please provide any comments you may have on the initiatives of the Futures Committee, or the Strategic Plan, to our Branch. ■

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Young Lawyers Conference

by Janie Bussey, Chair



On Monday, October 30, 2006, the Young Lawyers - CBA (YLC-CBA) hosted a Halloween Social. The event opened with a reception at the The Duke of Duckworth and was followed by a tour of the Harbour Haunt. We would like to thank everyone for coming out and say a special thank-you to Mr. Andrew Wadden who took quick action to retrieve several members of the tour group waylaid by chainsaw-wielding thugs. We encourage you all to attend future YLC-CBA social events.

On Friday, November 17, 2006, the YLC-CBA hosted the annual Wine and Cheese Reception for the Bar Admission Course students. The event was held at the LSPU Hall and all participants in the bar course, the students' principals, and all members of the Judiciary were invited to attend an evening of socializing and informal conversation.

The YLC-CBA will be holding its first Lunch and Learn Session of the year on Friday, December 13th at the Atlantic Place Conference Centre with guest speaker Michael Harrington, Q.C., Stewart McKelvey. Mike will speak on the topic of "Clients, Clients, Everywhere: Essential Tips for Aspiring Rainmakers". We would like to thank Mike for volunteering his time to speak at this luncheon.

The YLC-CBA strives to offer Lunch and Learn Sessions on topics that are of interest to young lawyers. If there are any topics that you would like to see addressed at a Lunch and Learn Session, please feel free to contact either me or Roxane Dean at the CBA Branch office. ■

Continuing Legal Education

by Bernadette Cole Gendron, CLE Co-Chair



The CLE Committee had a very busy fall so far, with three CLE offerings since September covering a variety of topics. These were:

- *The "Nuts and Bolts" of Motor Vehicle Accident Reconstruction: Using Engineering Technology in Settlement or Litigation.* This session took place on September 12, 2006 and was a big success. The speaker, Mr. Patrick Ryan, P. Eng., of Graham Ryan Consulting Ltd., provided an overview of motor vehicle accident reconstruction and the use of reconstructions in litigation.
- *Effective Cross-Examination*, which was held on October 23, 2006. This session was delivered by the Advocate's Society and was designed to help new litigators and experienced advocates develop their cross-examination skills.
- *New Developments in Family Law 2006.* This session took place on November 30, 2006 and covered a number of new developments within the area of support. Professor Rollie Thompson of Dalhousie Law School provided an update on the Spousal Support Advisory Guidelines and other developments in the areas of child and spousal support relating to retroactive support, shared custody and imputing income. The Honourable

Mr. Judge Richard D. Leblanc, the Honourable Judge Kymil Howe, Provincial Court in Corner Brook, and Ms. Jill Brown, Family Justice Services

Coordinator spoke about the new process in family matters involving Family Justice Services, as well as the expansion of the Unified Family Court, and the new court process, and the expansion of automatic recalculation of child support in the province. Ms. Gerrie Smith, Department of Justice, Government of Newfoundland and Labrador, spoke on the new *Support Orders Enforcement Act*, 2006 and the new enforcement tools available to the director.

The delivery of CLE outside of St. John's remains a challenge and we will continue to explore means to deliver CLE to members outside of St. John's.

We are always developing the CLE calendar for the remainder of the year and will continue to work hard to deliver the quality CLEs that you have come to expect from the CLE Committee.

I invite members to contact me at 778-1536 or by email: bernadette.cole@whscc.nl.ca at any time with ideas for CLE sessions. ■



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2006 CBA Canadian Legal Conference

by Jamie Martin and Lois Hoegg, Q.C., Co-Chairs

A Great Success!

The 2006 CBA Canadian Legal Conference (CLC) was an overwhelming success. There were in excess of 1,200 registrants, making it one of the best attended conferences in recent CBA history. The participants were treated to an Opening Night at the Johnson Geo Centre sponsored by *Stewart McKelvey* featuring entertainment by Jim Payne, Fergus O'Byrne and the Signal Hill Tattoo, with Great Big Sea performing an awesome concert later in the evening at the Delta Hotel. The event was exceptional and will certainly set a high bar for future CBA conferences.

Before the CLC began, over 100 local lawyers opened their homes to feed over 450 conference registrants. There were many interesting dinners with good company and entertainment, and feedback was universally positive. Again, we demonstrated our ability to show our mainland colleagues excellent hospitality.

A number of law firms sponsored receptions at several interesting and historic venues around the city of St. John's. We would like to thank the following firms for these undertakings which were thoroughly enjoyed by all:

Benson Myles

Curtis Dawe

McInnes Cooper

Martin Whalen Hennebury Stamp
in conjunction with Barry Spalding

Patterson Palmer

Cox Hanson O'Reilly Matheson

Stewart McKelvey

White Ottenheimer & Baker

and O'Dea Earle

We would also like to thank *Roebathan McKay Marshall* for sponsoring the children's program and *McInnes Cooper* for sponsoring the Volunteer T-Shirt program. *Ches Crosbie Barristers* sponsored Shallaway, the Newfoundland and Labrador youth choir, as part of the Opening Plenary in which Special Counsel, U.S. Department of Justice, Patrick Fitzgerald was the guest speaker.

Our local bar made a substantial contribution to the conference in other ways. There were over 100 Newfoundland and Labrador registrants and some 120 individuals volunteered their time at the various activities to make the conference a tremendous success.

The CLC concluded with the Young Lawyers luncheon at which Rick Mercer was the guest speaker. His one-hour hilarious presentation was well received by all. There was a formal Closing Gala at which Kathy Jones provided comedy and New Found Sound provided the dinner and dance music. Thank you to *Cox Hanson O'Reilly Matheson* for sponsoring this event.

The CLC provided an excellent opportunity to showcase Newfoundland and Labrador talent and an impressive array of conference facilities available in St. John's. We were able to demonstrate to our colleagues abroad what we have always known - that we have a unique ability to host an excellent conference and to do so in a manner that is hard to beat.

The accomplishment is due in no small part to the large Local Organizing Committee:

Co-Chairs:

Jamie Martin and Lois Hoegg, Q.C.

Ex-Officio:

Christopher Pike, Treasurer

Roxane Dean, Executive Director

Finance/Sponsorship:

Robert Stack and Norm Whalen, Q.C.

Social Events:

Janis Byrne and Sheilagh M. Murphy

International Guests:

Anne Fagan

Volunteers:

Janie Bussey, Pamela Taylor and Carey Majid

Promotions:

William Goodridge, Q.C. and Pamela Taylor

Justice/Government Liaison:

Ruth Wakeham, Q.C.

CCCA Liaison:

Raymond Whalen

At Home Dinners:

Christine Healy and Rod Zdebiak

Central/Western NL Liaison:

Jamie Merrigan

CLE Liaison:

Christopher Pike



Children's Program:
Sandy Chaytor and Anne Fagan

Closing Night Festivities:
Sheilagh M. Murphy and William Goodridge, Q.C.

Law Firm Receptions:
Donald Anthony and Stephanie Hickman

Late Night Parties:
Kenneth Jerrett

Opening Night Festivities:
Jennifer Newbury and Douglas Moores, Q.C.

Pre-Post Visits/Accommodations:
Peter Shea

Tours - Sightseeing:
Tammy Drover

Transportation:
Bernadette Cole Gendron and Sheri Wicks

Established in December, 2003, we met regularly for almost two and a half years to plan the conference. We received excellent cooperation from the CBA national office. In this regard, we thank John Hoyles and his tireless team. We can indeed be proud that our Branch has set such a high standard for future CBA conferences.

To everyone involved in the CBA Canadian Legal Conference, we sincerely thank you for your support and assistance. ■



Business Law

Beth Whalen, Chair



The National Business Law Section met in Toronto on Saturday, October 28, 2006 and it was well attended with representatives from most provinces and the National Executive.

The new Executive, chaired by Jennifer Babe, of Miller Thompson LLP in Toronto, officially welcomed all the attendees. Each Section Chair reported on their Section's progress since the last meeting and we also had a report from the National Chair. Most of the discussion focused on reaching out to remote communities in each province and offering webcasts for members to attend educational seminars and section meetings.

Ms. Babe also discussed the Uniform Law Conference of Canada (ULCC) which she sits on the Commercial Law Section as a CBA representative. The ULCC Commercial Law Section has recently been working on the issue of Income Trusts. The ULCC is constantly looking for input from legal practitioners on what laws may be "broken" or outdated, either provincially or federally. I intend to seek input from our Business Law Section members in order to assist the ULCC's efforts in improving commercial laws.

The topic which received the most attention at our annual meeting was the National Securities Regulator. This has been a hot topic for the past 5 years and has received mixed support. The consensus at our meeting was that currently most of the provinces support the National Securities Regulator. A few main themes developed in our discussion were as follows:

- The expertise and specialized knowledge of the provinces must be preserved within the new Regulator and the Regulator must be built on existing provincial strengths;
- A National Regulator must respect jurisdictional constitutional rights;
- The difference between a "National" vs. "Federal" Regulator needs to be addressed;
- There must be safeguards in place in order to protect against domination by one jurisdiction (i.e. Ontario); and,
- A National Regulator will assist investors' confidence in the Canadian Markets as Canada is the only major country in the world without a single securities regulator.

Our Section agreed that we need to support the National Securities Regulator on a legal basis and not just because it makes sense economically. It is a highly political topic and

we intend to prepare submissions to both the federal and provincial governments in 2007.

A major focus for the upcoming year is updating and improving the National Business Law Section website. We discussed at the meeting the need to have a website that is a service to our members and will assist them in their day to day practice. Each Section Chair was tasked with collecting information relating to the corporate, banking, and securities practice areas in their provinces to include on the website. Another project discussed at the meeting was the creation of a National Business Law newsletter. The plan is to produce at least two newsletters in the upcoming year with the first installment coming out at the beginning of February 2007. This has been a previous goal of the National Section and we really want to see it get off the ground in 2007. I am currently accepting potential articles to be included in our newsletter and would encourage members to submit articles for review.

Last year the National Section created committees in the major business law practice areas which include: corporate, banking and securities. These committees are now active and I am currently part of the Corporate Committee. The purpose of these committees is to keep on top of legislation and law reform issues in our particular practice areas. The committees will research, prepare reports and lobby to bring the CBA voice to the table and in particular bring our comments before Government and law makers.

The National Business Law Section also conducts meetings by teleconference. Our first call was on Tuesday, October 3, 2006 and focused on preparing for our National meeting. There will be another call in February 2007 and the focus will be on the newsletter and preparing submissions to CBA National for the upcoming CBA Annual General Meeting in Calgary and/or the 2008 CBA Annual General Meeting in Quebec City.

For further information on the National Business Law Section please see: www.cba.org/CBA/Sections/Bus/

If you have any questions or suggestions, please do not hesitate to contact me at (709) 722-7584 or by email at bwhalen@wob.nf.ca. I will be contacting you in early 2007 regarding Lunch and Learn Sessions and the Business Law Boot Camp. ■

In Personam

by Judy Manning



Gary Peddle

As professional publications and continuing education initiatives attempt to respond to the plight of law practitioners to find that elusive "balance" in their lives, it appears that one of the esteemed members of our local Bar has managed to do just that...and then some! This year's recipient of the Canadian Bar Association's Distinguished Public Service Award, Gary Peddle, has successfully managed to harmonize work obligations, family responsibilities, and voluntary commitments galore...not a feat for the faint of heart!

Gary's remarkable record of public service makes him a most deserving recipient of this year's award. As a partner at the law firm of Benson Myles in St. John's, NL, Gary is emphatic that he would not be able to maintain his current level of volunteer work were it not for the supportive firm culture that he enjoys at Benson Myles. A firm that shares Gary's commitment to giving back to the community, Benson Myles has been extensively involved with the SPCA and has earned the Board of Trade Award of Excellence for Community Service. While he recognizes that the legal profession is an exceedingly demanding one, Gary is quite content with the career path that he has chosen and, in fact, does not ever recall waking up in the morning with any misgivings about heading into the office.

In spite of all the hours that Gary spends practicing law, his most productive hours are actually directed toward a more laudable target...that of helping those in need, particularly the youth of Newfoundland and Labrador. In fact, youth across our country have benefited from Gary's dedication to Big Brothers/Big Sisters of Canada. Gary has served that organization with the same enthusiasm for which he is known in all facets of his life. Starting out as an in-school mentor with Big Brothers/Big Sisters, Gary quickly rose through the ranks, and within four months, was running the local office, serving as President of the Atlantic Region and sitting on the national board. His work with that organization has spanned eleven years, including a recent two-year term as national President.

Having found his niche in the area of corporate and commercial law, Gary is also keenly aware of the "dollars and

cents" side of charitable organizations, and has helped to establish the Rotary Club of St. John's East Foundation Inc., a money-raising arm of the Rotary Club, and also served as Charter President of the Rotary Club of St. John's East.

Gary also maintains a strong connection with Memorial University of Newfoundland. Gary received a Bachelor of Commerce (Honours) and a Masters of Business Administration from that institution. Since then, Gary has seen fit to give back to the university in various capacities. He taught at the Business School on a part-time basis for a 12 year period and has served on the Board of Regents of Memorial University. Gary is currently in his second term as President of the Memorial University of Newfoundland's Alumni Association.

Gary has been a Director of the Victorian Order of Nurses, President of the St. John's Oilfield Technical Society, member of the Newfoundland Ocean Industries Association, Director of the St. John's Board of Trade, member of the Advisory Board for the Salvation Army, and President of United Way of Avalon. He is also an official with the St. John's Legends Swim Club, and credits one of his daughters, a competitive swimmer, for getting him involved with that organization.

What inspires this level of involvement in public service? Gary says "It's always been a part of me, and it's quite fulfilling." Gary also credits his twin daughters, Jessica and Jillian, for inspiring much of his involvement with initiatives aimed at benefiting young people. Gary attempts to involve his family in his volunteer work whenever possible, allowing him to spend quality time with his loved ones while simultaneously enriching the overall contribution to the project. Gary's daughters appear to share some of their dad's fundamental values...one of his seventeen-year old daughters recently spent two weeks in the Dominican Republic volunteering her time and energy to a home-building initiative for the needy. Gary modestly maintains "it doesn't take anything special" to be involved in public

(continued on page 18)



Gary Peddle

In Personam

by Ian Patey



Barry Ralph Sparkes, Q.C.

Barry Ralph Sparkes had many excellent teachers, many of whom he remembers quite well. Sixteen years old and walking the corridor of Prince of Wales College on LeMarchant Road, one asked of him what he was going to do after he finished Grade 11. He responded quickly that he was going to Law School. Ted 'Uncle Mose' Russell replied, "Yes, that's a real good second choice. I thought you would have made a good teacher."

He does not know what drew him to the law. Unlike students today, he was not exposed to law as grist for the pop culture mill. He does know that he shared his aspirations with one of his best friends and classmates, Jim Wells. He also knows his aunt had given him some hard cover Erle Stanley Gardner Perry Mason books and that he had enjoyed them.

Born in St. John's on November 15, 1942 to Herbert R. Sparkes and Florence Sparkes (nee Parsons) Mr. Sparkes grew up in St. John's before the advent of event scheduling and structured programming for children, which he thinks was a good thing. After graduating from Prince of Wales in 1960, he attended the Parade Street campus of Memorial University working towards a degree in History. He discovered a course in Commercial Law offered by the Commerce Department, which brought him to another of his remembered teachers, Peter J. Gardiner. Mr. Gardiner convinced Mr. Sparkes to switch to Commerce and he eventually received the Faculty's first Honours degree.

If Mr. Sparkes couldn't be a lawyer, he might have been an accountant, and to that end wrote the intermediate Chartered Accounting examinations, obtaining the designations of Certified General Accountant in 1970 and Certified Management Accountant in 1972, and then completed the program of the Institute of Chartered Secretaries and Administrators. He was awarded Fellowship in the Canadian Certified General Accountants Association in 1981, and Life Membership in the Certified General Accountants Association of Newfoundland and Labrador in 1995 for outstanding service. Not one to leave something unfinished, in 1973 Mr. Sparkes finished his Arts Degree.



Barry Sparkes, Q.C.

Mr. Sparkes studied law at the University of New Brunswick (UNB). At UNB other teachers joined the company of Russell and Gardiner, including Gerard V. LaForest and Dean William F. Ryan. After efforts to engage Dean Ryan in discussions beyond mere pleasantries, Mr. Sparkes discovered a shared passion for baseball, which became their exclusive topic of conversation. He finished law school in 1968 and believes he was of the last or second last class to receive the BCL designation. Mr. Sparkes articulated with Lewis Aylward and Crosbie and was admitted to the Bar on April 5, 1968. After 10 years he left the partnership of Lewis Day Sparkes Cook and Sheppard and practiced as a sole practitioner for 11 ½ years, almost exclusively as a solicitor. He was appointed a Master and Taxing Officer of the Supreme Court, January 17, 1989.

The office of the Registrar was not something to which Mr. Sparkes aspired. Rather, it was an unexpected turn arising from a call from the Deputy Minister of Justice. As Registrar, Mr. Sparkes had administrative responsibility for the entirety of the Supreme Court of Newfoundland and Labrador. The following people reported to him: the Director of Supreme Court Services; the Deputy Registrar of the Court of Appeal; the Senior Deputy Registrar; the Administrator of Unified Family Court; the Manager of Judicial Services and the Estates/Trust Administrator. Mr. Sparkes did indicate that the position was a substantial change from private practice. In private practice, at the end of the day he could clear his desk except for the one file he planned to work on the next morning. Usually he was in fact able to work on that file. That, however, was not possible as Registrar. The day started by putting out whatever fire flamed highest. A very significant portion of his time was spent dealing with Estate matters.

When Mr. Sparkes began as Registrar, computers were just coming into use and he found it a struggle to get people to accept and rely on them. Budgetary realities prevented the Court from moving ahead quickly from a technology point of view and he advised that only now is the Court able to adopt technologies which he was promoting ten years ago.

(continued on page 18)

Gary Peddle

(continued from page 16)

service. He firmly believes that, "We all have something that we can offer and there's always somebody who needs it".

In addition to the Distinguished Public Service Award, Gary's extraordinary community involvement has given rise to other accolades. Gary has received the Paul Harris Fellow, the highest honour awarded to a Rotarian for outstanding contribution to the Rotary. He also received the Queen's Jubilee Medal for Outstanding Contribution to the Community.

On behalf of the *Squid pro quo* committee, I would like to thank Gary for his tremendous work in the community and for exemplifying the Rotary Club motto of "service above self". It has been my pleasure to profile an individual who has achieved the sought-after balance between professional, personal and voluntary initiatives and therefore been able to accomplish many worthwhile goals for the benefit of others. ■

Barry Sparkes, Q.C.

(continued from page 17)

Budgetary decisions often affected staffing changes as well, which decisions were sometimes made following unexpected work periods. The Senior Deputy Registrar, Henry J. Thorne, and Mr. Sparkes regularly completed administrative circuits across the island and Mr. Sparkes recalled one instance when they were in Grand Falls and got an urgent call for a major budgetary presentation. He remembers dictating the presentation into the wee hours and rushing the tape to the Gander Airport. By the time he and Thorne had driven from Gander the submissions were ready to be signed and submitted to Government.

Sixteen years and seven months was the length of Mr. Sparkes term as Registrar, which ended March 31, 2006. During the term he was appointed Queen's Counsel on December 24, 2002, and on March 7, 2003 was awarded the Queen's Golden Jubilee Medal for exemplary service to the people of Newfoundland and Labrador. Mr. Sparkes is enjoying retirement with his wife Carol, traveling and walking in daylight as opposed to the evening. He notes he recently went to lunch at Fong's in Carbonear with friends at 11:30 and returned at 5:30. Six-hour lunches were not possible before now, and like his structure-free childhood they too are good things.

Mr. Sparkes was equally committed to both pursuing the law and his passion for sports. His unbridled enthusiasm for the latter sent him to Montreal for the 1972 Summit Series, and then to Moscow for all four games where he watched first hand Paul Henderson's history making goal.

Mr. Sparkes did so much reading at work that he did not enjoy reading for leisure. The last book he bought was by

Elizabeth Miller about her father and his high school teacher, Ted Russell, and that one he did enjoy. He remains involved in sports, and while he has not returned to Moscow for international hockey tournaments, he is a Past Chairman and Honourary Member of the Guards Athletic Association. Mr. Sparkes son, Neil Barry, attends Memorial and is finishing his degree in Philosophy and English.

On reviewing his career Mr. Sparkes noted that he had a great opportunity to help a lot of people, much like his teachers helped him, whether they were clients, staff of the court or other people within the legal system. "You know, whenever you run into someone whom you haven't seen in a long time and they remind you of something that was accomplished some years ago, and how it worked well and how it helped them along, it's very rewarding to hear that."

To young lawyers he offered sage advice. "It's interesting to think back thirty-eight years when I started, but I think things are quite different because there are so many opportunities now. You have an opportunity to practice only in areas that you most enjoy, and young lawyers should try to work in those areas so that over time they will enjoy their work. They should also temper that with things beyond the practice of law." Perhaps things like hockey trips and maybe the occasional six-hour lunch.

On behalf of the *Squid pro quo* Magazine, I wish to thank Mr. Sparkes, Q.C. for taking the time to speak with me. It was certainly a pleasure. ■



Section Chairs - 2006 / 2007

ABORIGINAL LAW SECTION

Judy White

Section Chair

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Goals: (Submission not received prior to publication deadline)

ADMINISTRATIVE LAW SECTION



Donna Strong

Section Chair

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My plans for the section this year include:

- To keep members informed of any relevant issues on a national level following my attendance at the National Administrative Law section meeting in Ottawa in November; and
- To hold at least one Lunch and Learn Session involving a guest speaker from an administrative tribunal to speak to members about the practical aspects of appearing before them. This session will be similar to the Lunch and Learn Session held in May involving the CEO of the Labour Relations Board. I welcome any suggestions from members in this regard.

ALTERNATIVE DISPUTE RESOLUTION SECTION



John Clarke

Section Chair

Tel: (709) 753-7000

Fax: (709) 753-9955

Email: jclarke@nfld.com

My plans for the section this year include:

- To make other CBA sections more aware of the Alternative Dispute Resolution processes and how their section members may increase the value of their services to clients while ensuring client goals are met.

BANKRUPTCY & INSOLVENCY SECTION

Griffith Roberts

Section Chair

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Goals: (Submission not received prior to publication deadline)

BUSINESS LAW SECTION



Beth Whalen

Section Chair

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My plans for the section this year include:

- To keep section members up to date on recent legal developments in Business Law, both provincially and federally;
- To work with other sections with similar interests;
- To continue our Branch's national presence and keep members informed on the CBA National Business Law initiatives and developments;
- To hold two Lunch and Learn Sessions, one as a joint session with another section; and
- To attend the National Business Law Meeting and represent our province.

I encourage all CBA members to contact me with any issues or ideas for our Business Law Section this year.



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CIVIL LITIGATION SECTION



Sheri Wicks
Section Chair
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My plans for the section this year include:

- To continue to promote the mutually beneficial relationship which exists with the Insurance Law Section in order to raise awareness of issues which are of interest to both sections;
- To conduct at least two Lunch and Learn sessions of interest to section members;
- To develop, as a reference tool for members, a catalogue of Practice Notes issued by the Supreme Court and Court of Appeal of Newfoundland and Labrador for publication on the CBA-NL web site;
- To participate in national section chair meetings and conference calls and provide regular feedback to the section membership on discussions during same.

I encourage all members to contact me with any questions, concerns or suggestions for Lunch and Learn topics. In an effort to develop a comprehensive catalogue of Practice Notes, I would welcome receipt of any Practice Notes in members possession.

Branch Days Gone Bye. . .

Can you identify the members in this photo taken in August 1996?

Answer on page 30



CONSTITUTIONAL & HUMAN RIGHTS SECTION



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Goals: (Submission not received prior to publication deadline)

CONSTRUCTION LAW SECTION



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Goals: (Submission not received prior to publication deadline)

CORPORATE COUNSEL SECTION



Sandra Tilley
Section Chair
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My plans for the section this year include:

- To encourage a more active CCCA section that meets on a regular basis;
- To hold a social event for corporate/in-house counsels in winter 2007; and
- To organize one or two Lunch and Learn Sessions that would include: a CLE or address topical issues for corporate/in-house counsel.

CRIMINAL LAW SECTION



Mark Pike
Section Chair
Tel: (709) 570-7244
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My plans for the section this year include:

- Arrange Lunch and Learn Sessions on topics of interest to section members;
- Increase membership participation in section activities; and
- Keep members informed of National developments.

Ideas and suggestions from section members are most welcome. Please contact me at your convenience.



ELDER LAW SECTION



Paul McDonald
Section Chair
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Goals: (Submission not received prior to publication deadline)

ENVIRONMENTAL LAW SECTION



Tracey Pennell
Section Chair
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My plans for the section this year include:

- To arrange a Lunch and Learn Session on a topic of interest to section members;
- To keep members informed of national developments; and
- To arrange a joint Lunch and Learn Session with Natural Resources.

FAMILY LAW SECTION



Tammy Drover
Section Chair
Tel: (709) 729-5689
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Email: tammydrover@gov.nl.ca

My plans for the section this year include:

- To hold an initial meeting of section members to explore topics of interest for the upcoming year;
- I hope to host two Lunch and Learn Sessions on topics relevant and of more significance to our members. Possible topic ideas:
 - Case management and settlement conference- tips and techniques
 - Effective drafting of pleadings; and
 - Financial statements and disclosure.
- I plan to work collaboratively with the National Section to ensure that our members are informed of national initiatives.

I welcome the input and suggestions of all section members and look forward to an active year for the Family Law Section.

GENERAL PRACTICE SOLO & SMALL FIRM CONFERENCE



Gillian D. Butler, Q.C.
Section Chair
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Email: info@gillianbutler.com

This is my second term as Chair of the General Practice, Solo and Small Firm Practice Section of the Canadian Bar Association. During my attendance at the national Section meeting in Moncton in September I had an opportunity to discuss the activities of the other provincial sections represented and to learn of issues of interest to our extra-provincial counterparts. These included how to attract interest from members and technology for small firms.

I was pleased to report, however, that in this Province, interest in our section is keen. Statistics presented at the national meeting confirm that there are 75 CBA members in this Province employed in firms of four lawyers or less, and we have 28 active members in our section. No other province or territory has such participation.

For the interest of members, I refer you to the four websites which answer common questions on working with support staff in a small firm setting highlighted by Mark Kuiack on page 6 of this publication.

My goal for the upcoming year is to continue to garner support for and participation in this very worthwhile section.

GOVERNMENT AND PUBLIC SECTOR SECTION



G. Todd Stanley
Section Chair
Tel: (709) 729-2597
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Email: toddstanley@gov.nl.ca

My plans for the section this year include:

- To raise the profile of the CBA and the benefits of CBA membership with Public Sector Lawyers Section in an effort to increase membership within the public sector;
- To discuss with the provincial government means to increase public sector lawyer membership within the CBA;
- To hold one general section meeting during the year to canvas issues of concern to public sector lawyers; and
- To hold a Lunch and Learn Session relating to practitioner issues arising from Access to Information legislation.



HEALTH LAW SECTION

Richard Rogers

Section Chair

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Goals: (Submission not received prior to publication deadline)

INSURANCE LAW SECTION



Jamie Martin

Section Chair

Tel: (709) 570-8128

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My plans for the section this year include:

- To inform members of current legislative initiatives in the insurance field;
- To conduct Lunch and Learn Sessions with other sections; and
- To report back to members on section developments on the national level.

INTELLECTUAL PROPERTY SECTION



Chris Hickey

Section Chair

Tel: (709) 570-5564

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My plans for the section this year include:

- Host at least one Lunch & Learn Session on changes and challenges to Intellectual Property law, such as Intellectual Property in the P2P Age and Protecting Intellectual Property Online;

- Host a joint Lunch & Learn Session with the Business Law Section on an area of mutual interest;
- Provide regular updates on developments in IP law, both in Canada and internationally; and
- Work with the local section and national partners to make recommendations for changes and updates to copyright legislation.

LABOUR LAW SECTION



Ralene Lee

Section Chair

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Email: rlee@wob.nf.ca

My plans for the section this year include:

- To work with other sections with similar interests to share information and develop relevant Lunch and Learn Sessions and CLE Seminars, in particular dealing with the issue of employees on leave for long term disability; and
- To keep members informed of developments nationally.

I encourage all members to make their interest known so we can develop this practice area for the benefit of all section members.

CBA MEMBERSHIP BENEFIT

In this and subsequent editions of *Squid pro quo*, the following benefit is available to CBA members in good standing.

Members can place classified ads in *Squid pro quo* for items of interest to the profession. The cost per ad is \$25.00 including HST, with a maximum word count of 25 words.

Ads must be received by the Branch Office, via email, no later than October 31 for the fall edition, February 28 for the spring edition, and June 30 for the summer edition, and payment must be received contemporaneously with receipt of the ad.

To book your classified advertisement in *Squid pro quo*, please contact the Branch Office at 579-5783 or email: cba-nl@nl.rogers.com.



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LAW PRACTICE MANAGEMENT & TECHNOLOGY SECTION



Chris Pike
Section Chair
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My plans for the section this year include:

- During the year I am planning to hold Lunch and Learn sessions focused on marketing and technology tips this year. Suggestions on specific topics are always welcome;
- We will also be offering to work with the Joint CLE Committee to deliver CLE within the Section's mandate; and
- During the spring we will convene a planning session to discuss activities for the 2007-08 year and to seek expressions of interest from members to assume the Chair of the Section next September.

MARITIME/ADMIRALTY LAW SECTION



Kimberley Walsh
Section Chair
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My plans for the section this year include:

- To hold two informal Lunch and Learn Sessions on topics of interest to section members;
- To hold an event in conjunction with the Energy and Natural Resources and/or Environmental Law sections;
- To increase interest in maritime and admiralty law among younger members of the bar; and
- To create an email list for the distribution of maritime law updates and discussions.

I look forward to meeting the members of this section and I encourage all members to participate to make this year an active one for this section.

NATURAL RESOURCES & ENERGY SECTION



Greg Moores
Section Chair
Phone: (709) 570-5797
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Email: gmoores@smss.com

My plans for the section this year include:

- hold an initial business meeting of section members; and
- one or more sessions with a guest speaker, whether undertaken in the form of a Lunch & Learn or in combination with a more social setting or context.

I am most interested in hearing from any section member who is inclined to offer suggestions. Please do not hesitate to give me a call or send me an email at your convenience.

PRIVACY LAW SECTION



John Cook
Section Chair
Phone: (709) 722-4270
Fax: (709) 722-4565
Email: jcook@smss.com

My plans for the section this year include:

- To work with other sections with similar interests to share information and develop relevant Lunch and Learn Sessions and CLE Seminars;
- To raise awareness of issues which are of concern to practitioners of Privacy Law and to keep members informed of developments nationally; and
- To increase the size of the section and enhance communication among its members.

I look forward to meeting and working with section members and welcome suggestions on how we might develop and improve this practice area for the benefit of all members.

REAL PROPERTY LAW



Susan LeDrew
Section Chair
Tel: (709) 754-4845
Fax: (709) 754-5662
Email: smledrew@swd-law.nf.net

Goals: (Submission not received prior to publication deadline)

WILLS & ESTATES SECTION



Kerry Hatfield
Section Chair
Tel: (709) 570-7303
Fax: (709) 722-9210
Email: khatfield@wob.nf.ca

My plans for the section this year include:

- To arrange a Lunch and Learn Session to create a better understanding, particularly for young lawyers, of the probate practice and procedure at the Registry;
- To arrange a Lunch and Learn Session aimed at developing knowledge concerning trust laws, trust taxation and emerging changes with inter vivos trusts; and
- To assist the National section in completing the Table of Concordance for wills, estates and trust legislation for this province. ■



2006 Canadian Legal Conference





St. John's, NL - August 13-15, 2006





2006 Canadian Legal Conference



Photo credits: (Pages 1, 24, 25 & 26)

Jared Adams, Hon. Judge Sean Dunnigan, Sheri Wicks,
Randy Dawe Photography, Roxane Dean

Fluctuations in currency affect your investments

by Hughie Shea



One of the challenges with an article concerning investing is that any reference made to market activity is stale by the time it is read. The objective of such an article therefore, is to add value for the reader, to try and explain any trends and hopefully reduce some downside risk.

Reported in the Globe and Mail under "breaking news" for November 16, 2006 was the article, *Foreigners sell Canadian equities*, that reported foreign investors sold \$3.1 billion worth of Canadian securities in September, 2006. Does this not fall under the category of historical fact rather than breaking news? The report concerns conditions that happened six weeks ago. However, what can we take from the article?

The report contained a very good quote from an economist with RBC; "...significant capital outflow from Canada will likely prove negative for the Canadian dollar." When we add to this that Canadian investors are buying foreign investments at record levels (recorded in 2000 at \$63.9 billion), this also puts downward pressure on the Canadian dollar. For Canadians who have invested in Canadian investments, the currency fluctuation does not add risk or volatility. For Canadians invested in foreign investments, this means that a decrease in the Canadian dollar will result in an increase in the value of your investment based on currency changes alone. So without market activity the downward change in the dollar means more money for you.

Value of original US investment in Canadian dollars	Cost to buy a US dollar 1USD =	Change in the Canadian dollar	New value of the US investment in Canadian dollars
\$1000	\$1.11 CND	No change	\$1,000
\$1000	\$1.16 CND	Depreciating	\$1,045
\$1000	\$1.05 CND	Appreciating	\$946

The chart above reflects the value of a US investment if there is a change in currency values. If the Canadian dollar appreciates (i.e. gains value) against the US dollar then the value of the investment declines. If the Canadian dollar depreciates then the value of the investment increases. It is very important to note that this totally ignores any market activity or market value. This illustration is only intended to show how the investment will change in value as the dollar changes in value. Based on investment information from the Canadian Bar Association Financial (CBAF), the best 3-month return came from the Legg Mason US Value fund at 11.6%. The reason for this return was strongly due to market growth and a depreciating Canadian dollar. How this

fits into a portfolio requires planning, but it further illustrates the need for good international diversification.

The RRSP season is approaching. This year the deadline is March 1, 2007. The RRSP limit for the 2006 tax year is \$18,000 and the RRSP limit for 2007 is \$19,000. For staff and some recent calls to the bar, a RRSP plan can be started with as little as \$25 per month. For our more seasoned professionals, there is an RRSP loan plan available from Manulife Financial. Please do not hesitate to contact with me with any questions regarding any CBIA or CBAF products. I may be reached at 726-6570, ext 226 or by email: hughieshea@financialanswers.ca.

This will be the last *Squid pro quo* article prior to the holiday season. We at the CBIA and CBAF wish you and yours continuing good health and prosperity. Thank you for allowing us to be of service. ■

Canadian Bar Association Newfoundland & Labrador Branch

Distinguished Public Service Award

The public is invited to nominate lawyers in the province for the Canadian Bar Association

2007 Distinguished Public Service Award

to recognize a lawyer's contribution to community service.

The award will be presented during the Newfoundland & Labrador Branch's Annual Meeting.

Please contact Roxane Dean, Executive Director by **April 30, 2007** to obtain a nomination form.



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Newfoundland & Labrador Branch**
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St. John's, NL A1C 6C9
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Age 35	\$241	\$431	\$761
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	\$ 250,000	\$500,000	\$1,000,000
Age 35	\$132	\$236	\$417
Age 40	\$136	\$243	\$429
Age 45	\$163	\$317	\$616
Age 50	\$211	\$410	\$797

Female, smoker, regular health*

	\$ 250,000	\$500,000	\$1,000,000
Age 35	\$176	\$315	\$556
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*Cost of ownership for the first year, rounded to the nearest dollar. Rates are for illustration purposes only, actual policy provisions will apply, E&OE.

Case Digest

by F. Geoffrey Aylward



Happy Adventure Sea Products (1991) Ltd. v. Min. Fisheries and Aquaculture (NL) 20061106; 2006 NLCA 61; 05/101; 12 pp.

Cameron, Welsh, Mercer, JJ.A.

Administrative: fettering of discretionary power by contract

Justice Welsh stated the main issue as "whether a minister of the Crown can, by entering into agreements, fetter the future exercise of ministerial discretion in the issuance of fish processing licences."

In 2000, Happy Adventure Sea Products Ltd. (HASPL) and another fish processor, Terra Vista, had previously commenced separate actions against the Minister relating to a restriction on their respective licences to purchase and process of snow crab. The main issues in both proceedings were the same. The Minister entered separate minutes of settlement which provided that the Minister was to issue licences on terms set out in the minutes.

Both processors subsequently sued the Minister for a breach of the agreement. There were two issues - the interpretation of the agreement and whether the Minister was bound by the agreement. The Trial Division judge held in favour of the Minister on the first point and did not decide the second. The companies appealed. The Court of Appeal held the agreement was not enforceable and that it was therefore not necessary to decide the proper interpretation of the agreement.

The Court considered the discretionary powers of the Minister under the *Fish Inspection Act*:

The effect of a continuing agreement requiring the Minister to issue a processing licence must be considered in light of the above cited provisions of the Act and regulations. Subsection 32(6) of the regulations specifies that a licence shall expire on December 31 of the calendar year in which it is issued. This is not discretionary. Accordingly, a new licence must be issued for each calendar year. Ministerial discretion to issue or deny a licence is, therefore, engaged each year.

Read as a whole, the *Act* and regulations lead inexorably to the conclusion that the legislative intention underlying the Minister's broad discretionary authority to issue or refuse fish processing licences, and to attach terms and conditions that the Minister consid-

ers appropriate, or necessary and advisable, was to ensure that the Minister would be in a position to exercise the licensing power in accordance with the public good.

To permit the Minister to enter into an agreement that would preclude the exercise of that discretion would be inconsistent with the delegation of authority under the *Act* and regulations.

The conclusion follows in the case before this Court that the Agreement is unenforceable to the extent that it fetters the discretion of the Minister to issue or refuse a fish processing licence, or to attach terms and conditions that the Minister considers appropriate (subsection 5(2) of the *Act*), and advisable and necessary (subsection 32(2) of the regulations).

In the result, the companies' applications for a declaration that the Minister is prevented from reducing their crab quota, and damages related to the requested declaration, must fail.

Sun Life Assurance Co. v. City of St. John's and Patrick Street Holdings Ltd 20071107; 2006 NLCA 62; 05/119; 42 pp.

Roberts, Mercer, Rowe, JJ.A.

Municipal: standard of review; discretionary powers on building development. Rule against collateral attack

Patrick Street Holdings Ltd. (PSHL) applied to the City for permission to develop a four storey residential condominium. The development was in a commercial central mixed use zone. The permitted uses in the Zone were governed by the *St. John's Development Regulations*, enacted under the *Urban and Rural Planning Act (URPA)*. The applicable permitted residential use (under s. 10.23.1(a)) was a "dwelling unit located in the second or higher storeys of a commercial building."

The City granted permission to the developer. Council generally considered that the development was compliant subject to the City having a discretion relating to the use of the main floor for residential purposes. Sun Life is the owner of the Fairmont Hotel. The development would have blocked a scenic view from the hotel. Sun Life applied for certiorari and mandamus. The chambers judge dismissed the application. The Court allowed the appeal of Sun Life.

New issue on appeal: Prior to the hearing of the appeal, Sun Life raised a new issue, ie. whether the development complied with the regulations. The Court decided to consider this new issue. Fresh evidence was not required on this point. The respondent did not object.

Alternate review process: *URPA* provides for a statutory appeal from decisions of Council. This appeal process did not bar the judicial review application by Sun Life. The application was not a collateral attack on the decision of Council.

In this case Fairmont initiated proceedings whose specific object was the quashing of certain decisions of Council. The validity of those decisions is being directly, not collaterally, challenged.

The court has a discretion not to issue a prerogative order if there is an alternative remedy. There are a number of factors which affect the exercise of that discretion:

In my view a relevant factor in this case is that both parties proceeded throughout, with respect to a fundamental matter, on a certain basis which, if unsustainable, would frustrate the clear provisions of *URPA*. Moreover the City did not contend that judicial review should be refused on the basis that there had been an adequate alternative remedy

Standard of review: The standard of review on the question of whether the City had a discretionary power to refuse applications that comply with the Regulations is correctness. On the question of whether the proposed development complied with s. 10.23.1, the standard of review is reasonableness. The relevant factors: a) there was a statutory right of appeal (lower

level of deference); b) expertise of the City on development compliance (higher level of deference); c) purpose of *URPA* and regulations: public consultation and ministerial approval required; plan binding on City; decisions subject to appeal process (lower level of deference); d) nature of question: reasonable persons can differ on what is meant by "commercial building" (higher degree of deference). The standard of patent unreasonableness did not apply. That standard is "reserved for a specialized statutory delegate "empowered by a policy-laden statute" and protected by a full privative clause."

Whether s. 354 and 390, City of St. John's Act conflict with *URPA*: The Court upheld the decision of the chambers judge on this point. These provisions did conflict with *URPA*. Under s. 111(2), *URPA* and the regulations made under it governed in the event of conflict. The development plan under *URPA* therefore overrode the discretionary powers conferred under sections 354 and 390.

The Court stated "broad and purposive approach directed for the interpretation of municipal legislation is the same approach the Supreme Court of Canada has repeatedly affirmed for statutory interpretation generally." The City itself had initiated the process that led to the adoption of the plan under *URPA*. The previous discretionary powers of the City provided little certainty to developers. Not even regulations enacted by the City itself were sufficient to curb the exercise of these discretionary powers.

The purpose of the *URPA*, considered in the light of accepted interpretative principles, is to provide the statutory basis for development control throughout the Province. . . . Section 12 of the *URPA* clearly states that a municipal plan and development regulations adopted pursuant to the *URPA* are binding upon the municipality and its council. . . . The subsistence of a discretion in Council to refuse an application that was for a permitted use in the affected zone (and was otherwise compliant) would effectively negate the concept of permitted uses.

Compliance with Development Regulations: Section 10.23.1(a) permits residential units only in the second and higher storeys of a Commercial Building. There must be a significant and perhaps dominant commercial aspect to the building. The decision of the City on this point was unreasonable.

Remedy: The Court decided that the appropriate remedy was to issue orders in the nature of *certiorari* and *mandamus*. (The City had contended that, if the appeal were to succeed, a declaratory order, would be the proper remedy.) The decision was quashed and Council was ordered to reconsider the application. ■

Branch Days Gone Bye . . .

(Photo on page 20)

Shown in the photograph are:

Seated: Gordon Proudfoot, Q.C., (1996 CBA National President); Chief Justice Noel Goodridge, Mrs. Isabelle Goodridge, Robert Stack

Standing: Christopher Pike, Gerlinde van Driel, Q.C., William Goodridge, Q.C., Paul Burgess, Christopher Curran

Photo was taken on the occasion of Chief Justice Noel Goodridge receiving the Raymond Hynatshyn Award in August 1996.

People and Places

by Keri-Lynn Power

Don Burrage, Q.C., formerly Director of Litigation with the Department of Justice, is now Associate Deputy Minister of Justice and General Counsel for the Government of Newfoundland and Labrador.

Lauren Chafe is now with the Newfoundland and Labrador Legal Aid Commission in St. John's.

Chris Curran, formerly Assistant Deputy Minister of the Department of Justice, is now Deputy Minister of the Department of Justice.

Peter Durant has taken non-practising status.

Jason Edwards, formerly with Benson Myles, is now with the Newfoundland and Labrador Legal Aid Commission.

Pamela Goulding* has been appointed Director of Public Prosecutions (Acting) for the Government of Newfoundland and Labrador.

Brian Gosse* has taken non-practising status.

Kim Horwood*, formerly of Roebathan, McKay and Marshall, is now with Rogers Bussey Lawyers.

Heather Jacobs, formerly Manager with the Department of Justice - Civil Division, has been appointed Assistant Deputy Minister - Legal Policy, Courts & Related Services (Acting) for the Government of Newfoundland and Labrador.

David Jones, Q.C., formerly High Sheriff with the Sheriff's Office for the Province of Newfoundland and Labrador, is now Registrar of the Supreme Court of Newfoundland and Labrador (Acting).

Marie Marche-White, formerly a sole practitioner at Marie Marche - White Law, has taken non-practising status and is enjoying the fruits of retirement.

John McDonald, formerly a solicitor with the Department of Justice - Civil Division, is now High Sheriff with the Sheriff's Office for the Province of Newfoundland and Labrador (Acting).

Edmund Montague, formerly with the Labrador Inuit Association (LIA), is now a sole practitioner with H. Edmund Montague Law Office in Labrador City.

Regan O'Dea*, formerly with Curtis Dawe, is now with Johnson Insurance.

Debbie Paquette, Q.C., formerly a Manager with the Department of Justice - Civil Division, is now Director of the Department of Justice - Civil Division.

Roxanne Pike, formerly practising in Quebec, has taken over the practice of Marie Marche-White, under Roxanne Pike Law Office in Stephenville.

Tammy Pike Farrell*, formerly with Stewart McKelvey, is now with Ernst and Young.

*denotes CBA member

New CBA Members

Joined since August 2006



Meredith Baker	Daniel Glover
Jessica Bartlett	Pamela Goulding
Laura Brocklehurst	Regan O'Dea
Heather Dawe	Ronotta Thomas
Daniel Furey	

Call to Bar October 6, 2006

Four lawyers were Called to Bar in St. John's on October 6, 2006. They are (in the order of call):

Roll Number	Name
1345	Keri-Lynn Power*
1346	Helen M Conway
1347	Christopher J Forbes
1348	Sandra J MacKinnon

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