

# NEWFOUNDLAND NEWSLETTER

The Newfoundland Branch of the Canadian Bar Association

Fall 1991

## FROM THE PRESIDENT

*William H. Goodridge*

At the close of the National Council meeting in Calgary on August 20th, Robert Pittman officially concluded his duties as President of our local branch. I am honoured to be your President for 1991/92, and am looking forward to working with Kevin Stamp, as the Vice President, and with the other Executive members.

At this stage I am full of ideas, and hope that at least a few of these ideas see fruition before my term ends. This newsletter is our first effort to continue the momentum that the Branch has enjoyed in recent years, and we think it will bring the Branch closer together. The Newsletter idea was proposed by Denis Barry during his term as President in 1986/87; however, the task proved quite difficult without the assistance of our own Executive Assistant.

Among the plans and ideas for the coming year that have already been discussed by our local Executive, are the following:

(a) The Branch will concentrate much of its activity during the Fall toward a high profile substantive Mid-Winter Meeting. A Committee has been struck under the Joint Chairs, Ellen Turpin and Gary Peddle. Plans are well under way for a two-day meeting involving two



substantive law seminars, promotional booths for sponsors and two social evenings. It is hoped that many of our members from outside the Avalon Region will find the program sufficiently attractive to warrant their attendance.

(b) The "Luncheon Speaker" program is planned for the Fall, with contacts having been made for Winter. Topics selected are current, and in most cases address legal issues that are under active debate (reform of the jury system, liberalized advertising for lawyers, legal changes in Eastern Europe, etc.).

(c) Improve liaison between the Bar and the Bench. In our Council meeting in October last year a committee was established under the tag "Bar/Bench Committee". In March the Chief Justice of Newfoundland accepted a request from the Bar/Bench Committee to meet on a regular basis and the first meeting has been scheduled for October. The meeting will include the Chief Justice of Newfoundland, the Chief Justice of the Trial Division and the Chief Judge of the Provincial Court. The Committee will discuss matters of mutual concern between the Bench and the Bar, with the aim of generally improving the administration of justice. Similar committees have been very successful in other parts of Canada.



Wayne Chapman, CBA National President (L), was on hand for the election of officers at the Newfoundland Branch Annual Meeting in St. John's this past June. Also pictured are Bill Goodridge (Nfld. CBA President, 1991-92), Bob Pittman, (Outgoing President), and Kevin Stamp (Vice-President).

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## NEWFOUNDLAND NEWSLETTER

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*Opinions expressed herein are not necessarily those held by the Newfoundland Branch of the Canadian Bar Association.*

*The Newsletter is a quarterly publication of the Newfoundland 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 not less than three weeks prior to October 15, January 15, April 15 and July 15.*

*The Newsletter will accept advertising, though space for this purpose is limited. Advertisers or CBA Members wishing to purchase advertising space should contact the Branch Office (Telephone # 579-5783) for information regarding advertising rates and policies.*

### FROM THE PRESIDENT *(continued)*

(d) Increase in environmental consciousness among members of the legal profession is necessary if we are to maintain the profile of a respected profession. John Pratt, the Chairperson of our Environmental Law Sub-Section, will be promoting various mechanisms by which law firms may act in a more environmentally responsible fashion.

(e) Robert Pittman and Kevin Stamp will be completing our Annual Brief to Government for presentation to the Minister of Justice in November.

(f) Lois Skanes will be a one person committee, and make a submission to the CBA National Gender Equality Task Force on the issue of parental leave for lawyers.

(g) Robert Stack and Paul McDonald will be our local contact persons for the CBA National Task Force on the Constitution, which Task Force will be active most of this year.

As a side issue, I already realize how difficult it will be for me, and how difficult it has been for past CBA Presidents to devote the time necessary to this office as President. I am certain that I could devote 100% of my energies toward legal initiatives beneficial to the profession. Under certain circumstances, I would gladly shed my law practice for a year. However, this will not occur. The best I can offer is a promise to balance my work load with my CBA activity and devote at least some percentage of my week to the CBA. ■

## C.B.A.

NEWFOUNDLAND BRANCH

### UPCOMING EVENTS - FALL 1991

#### NOVEMBER 15

Luncheon with Guest Speaker  
The Right Honourable Chief Justice Antonio Lamer,  
Chief Justice of Canada

#### NOVEMBER 23

1991 Curling Funspiel  
sponsored by Young Lawyers Conference

#### DECEMBER 17

President's Christmas Reception

#### DECEMBER 22

Children's Christmas Party  
with entertainment by Terry Rielly



# SUB-SECTION ACTIVITIES

*Our Branch sub-sections have been doing a great job in the last year or two arranging activities and programs of topical interest for members, and this year will be no exception. Here is a view of what some of your sub-sections are up to:*

## CRIMINAL LAW SUB-SECTION

*Robert E. Simmonds, Chair*

The Criminal Law Sub-Section extends an invitation to all lawyers interested in practising Criminal Law, on a full or part-time basis, to attend their meetings for the up-coming year. The sub-section meets approximately once every four weeks and discusses subject matters of relevance to criminal law practitioners. In past, the sub-section has sponsored luncheons and seminars with such presenters as Mr. Al Wells, Director of the R.C.M.P. Forensic Laboratory, Halifax, Mr. Clay Powell, Counsel, Hughes Inquiry and Mr. Justice David Watt of the Ontario Supreme Court.

The sub-section also attempts to keep its members current in relation to all recent developments in criminal law as well as any issues which directly affect criminal lawyers practising in the Province of Newfoundland.

The meetings are informal, commencing at approximately 8:00 p.m., running to 10:00 p.m., and have been held at Hotel Newfoundland. All practitioners are welcome. The only requirement is that you be a member in good standing with the CBA. ■

## ENVIRONMENTAL LAW SUB-SECTION

*W. John Pratt, Chair*

The Environmental Law Sub-Section threatens to become one of the most active in the entire Newfoundland Branch system. The interest expressed by members of the CBA in environmental issues has been extraordinary over the past few months. Following our very successful half-day seminar conducted last winter, we found that lawyers with environmental concerns were literally coming out of the woodwork. The sub-section will be very active this year, and is planning, among other things, to conduct seminars, sponsor a luncheon speaker, participate as much as possible in public awareness activities, and encourage the spread of the "green office" concept throughout the legal community. We will also be assisting National Office in the organisation of environmental law activities for the upcoming National Meeting in Halifax. If you are interested in becoming involved, contact John Pratt at 570-7336 or 722-7584. ■

## IMMIGRATION LAW SUB-SECTION

*John C. Ottenheimer, Chair*

The Immigration Law Sub-Section has been meeting on a monthly basis for the past six months. This sub-section, chaired by John Ottenheimer, is a forum by which lawyers share information, organize educational sessions and confer with other groups involved in the implementation of fair and just immigration procedures.

In April of 1991, the sub-section co-sponsored a training session with the Newfoundland Legal Aid Commission. Well-known immigration lawyer Lorne Waldman provided a great deal of information relevant to the Refugee Determination Procedure.

The sub-section is open to all interested CBA members. For further information contact John Ottenheimer at 579-8890 or Jeannette Blackwood at 753-7860. ■

## MEDIA & COMMUNICATIONS LAW SUB-SECTION

*Thomas E. Williams, Chair*

The CBA's Media & Communications Law Sub-Section has commenced yet another busy year. In addition to monitoring and addressing matters on the national scene, the committee has been keeping a close eye on developments on the local level.

Of interest to members would be the new advertising regulations which the Law Society of Newfoundland drafted and passed in June of this year and which came into effect on October 7, 1991.

The effect of the new regulations will be to relax some of the more stringent rules previously in operation, and allow lawyers more freedom to advertise their services.

In light of the fact that the need for marketing and advertising is becoming an ever-increasing concern for lawyers, the sub-section sponsored a luncheon meeting on October 23rd with Professor Beverly Smith, Professor of Law, University of New Brunswick in attendance as guest speaker. Professor Smith addressed the Bar on the topic "Good Taste in Advertising - What is Permitted *vs* What is Practised." ■



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## WEST OF THE OVERPASS

Reports from CBA members around the province

### CLARENVILLE

*Katrina A. Brannan*

Members of the Clarendville Bar are eagerly awaiting the commencement of a regular monthly circuit of the Supreme Court, Trial Division at Clarendville.

Commencing in January of 1992, the Trial Division will be sitting at Clarendville for one week each month. Although no specific announcement has been made, it is expected that equal time will be allotted to criminal and civil matters.

Currently, the Trial Division sits on circuit in Clarendville three to four times per year. With a large number of criminal matters to be heard, and with many accused electing jury trials, little or no time has been available for civil matters of any length. Furthermore, if criminal matters were resolved through a change of plea, it was often at the last minute and there was no time to arrange witnesses, et cetera, for civil matters to proceed.

The creation of the monthly circuit should mean that criminal matters can be set for trial without the three to four month delays between arraignment and trial, and civil matters, including corollary relief proceedings under *The Divorce Act 1985*, can be heard on circuit more quickly. The circuit should also reduce the need for members of the Clarendville Bar to travel to the Judicial Centres of Gander, Brigus and St. John's for trials and applications.

The Supreme Court will be sitting in the Provincial Court building in Clarendville. The Provincial Court has indicated that it will now be instituting a monthly week long circuit of its own to the Provincial Court at Bonavista to replace the present biweekly three day circuit. This could lead to some scheduling conflicts, especially for the Crown Attorney's Office.

As an aside, and in conclusion, one of the members of the Clarendville Bar, Harold Porter, is relocating to Labrador. Mr. Porter has served as the Crown Attorney for the area since the Spring of 1990. On behalf of the other members of the Clarendville Bar, I wish Mr. Porter well in his forthcoming new position. ■

### IN THE MAIL....

Your CBA Membership Renewal has now been mailed from our National Office. Please complete and return as soon as possible.



## GANDER

Carson L. Lawrence

Gander and area residents and the Gander Bar will soon be able to avail of a new Court facility. The Provincial Government has announced that a contract has been awarded to John Jacobs & Sons Limited of Botwood to construct a new Courthouse. The contract is valued at \$2.7 million and construction is scheduled to start immediately. It is anticipated that the new facility will be ready for use in about eighteen months.

The architect for the project is William MacCallum of St. John's. The plans for the 19,000 square foot facility include four Courtrooms, two each for the Supreme Court and Provincial Courts, as well as separate Registries for each Court. There will also be a Library which will have its own entrance permitting convenient access by members of the Bar. ■

## WEST COAST

Derrick G.M. Walton

Recently we saw the retirement of our Sub-Sheriff, Anthony Downey, and the appointment of Ms. Patsy Davis as our Sub-Sheriff for the Corner Brook area. I stand to be corrected, but I believe Ms. Davis may be the first woman to assume this position in the Province of Newfoundland.

Our Provincial Court has recently reorganized and we welcome the Honourable Judge Richard LeBlanc to the West Coast-Corner Brook area.

In relation to the reorganization, it has become a common practice that several proceedings have been set down for the same time period. This has resulted in a number of counsel having been left waiting, wondering whether their matter will be heard or set over to a future date. Hopefully, this is a temporary measure and one which will not become a recurrent practice for the Court.

At the Supreme Court level, the backlog of matters on the General List was well known. We are informed by the Supreme Court that the main reason for the delays for both

civil and criminal matters on the West Coast was due to an extraordinary criminal docket. However, over the past year the General List has shortened considerably and the main complaint now seems to be the short notice given by the monthly lists. The monthly lists are posted on the 15th of each preceding month, leaving two weeks to prepare for trial in some cases.

After making several inquiries, there seems to be no interesting or noteworthy matters coming before the local Courts in the near future, at least none anyone wishes to acknowledge at this time. ■



## Newfoundland Continuing Legal Education



### UPCOMING EVENTS FALL 1991

#### NOVEMBER

15

Silk Robes and Sou'Westers -  
The Supreme Court of  
Newfoundland  
1791 - 1991

25

Edward Greenspan, Q.C.  
on  
Ethics

#### DECEMBER

3

Construction  
Claims - When,  
Why, and How to  
deal with them  
(St. John's)

12

Construction Law  
- Video Repeat -  
(Corner Brook)

18

Construction Law  
- Video Repeat -  
(Gander)

*The Committee welcomes from you, your suggestions as to topics and speakers, and looks forward to working with you throughout this season in presenting ongoing quality CLE Seminars.*

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# SPLINTERS

## Matters Arising from the Bench

*Splinters is a column devoted to the recounting of profound or humorous anecdotes, collected by members of the Newfoundland Judiciary through their years of experience on the Bench. All Newfoundland Judges are invited to delve into their files for those moments of mirth, and share them with us.*

The Supreme Court of Newfoundland from its inception had only three judges. This situation continued until 1963. Although two judges could preside on appeals, it was customary, for three judges to sit. The result was that, on appeals from a Supreme Court trial decision, the trial judge would sit! This extraordinary situation ended as a consequence of 1957 legislation, not proclaimed until 1963, which provided for four Supreme Court judges. The Court, in 1963, consisted of Chief Justice Furlong and Justices Winter and Puddester. James D. Higgins, Q.C. whose father, the Hon. William Higgins, had been a judge before him, was appointed when the 1957 legislation was proclaimed in 1963 and became the fourth judge.

The Supreme Court did not divide into a Court of Appeal and Trial Division until July 25, 1975. At that time, the Court consisted of Chief Justice Furlong and Justices Mifflin, Noel and Morgan. Upon division, Chief Justice Furlong and Justice Morgan were appointed to the Court of Appeal and Justice Mifflin, who subsequently became Chief Justice of Newfoundland, was appointed Chief Justice of the Trial Division. Justice Mahoney who was appointed a judge at that time joined Chief Justice Mifflin and Justice Noel in the Trial Division.

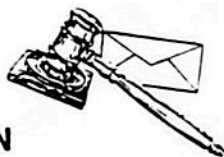
The Court of Appeal continued with only two judges until February 20, 1976 when Justice Gushue was appointed. The Trial Division continued with only three judges until November 14, 1975 when I was appointed. Since then, of course, the Trial Division, partly as a result of merger with the District Court, has expanded to 19 judges and the Court of Appeal has expanded to six judges. ■

*The Honourable Chief Justice Noel Goodridge*

## 1991-92 SUB-SECTION CHAIRS

Administration Law	Judge Gary Handrigan
Banking Law	John A. Baker
Bankruptcy Law	Shawn Kavanaugh
Business Law	Donald Sword
Civil Litigation	Donald Burrage
Constitutional Law	Robert Stack
Construction Law	Thomas Kendell
Corporate Counsel	Donald Sword
Criminal Justice	Robert Simmonds
Employment Law	Paul McDonald
Environmental Law	John Pratt
Family Law	Beverley Barter
Health Law	Paul McDonald
Immigration Law	John Ottenheimer
Income Tax Law	David Orsborn
Insolvency Law	Shawn Kavanaugh
Insurance Law	Kent Morris
Labour Law	Randell Earle (Co-Chair)
Labour Law	Augustus Lilly (Co-Chair)
Law Office Econ & Mgmt	Ronald Penney
Legal Education	Ellen Turpin
Maritime Law	John Joy
Media & Communications	Thomas Williams
Municipal Law	Lois Skanes
Natural Resources & Energy	Angus Taylor
Personal Injury Law	David Buffett
Real Property Law	William Parsons
Security Law	John Baker
Taxation Law	David Orsborn
Wills & Trusts	Derek Green
Young Offenders	Pamela Goulding

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Thursday: 9:15 a.m. - 4:45 p.m.  
Friday: 1:00 p.m. - 4:00 p.m.



# MEMBER SERVICES / MEMBER NEWS

## THE LEGAL PROFESSION/JURISTS ASSISTANCE CONFERENCE

*Gloria Harding, Secretary*

The Annual meeting of the Legal Profession Assistance Conference of the Canadian Bar Association was held last month in Prince Edward Island at which Gloria Harding was elected Secretary for the 1991-92 year. The aim of the Conference is to support and be a continuing resource to bar associations and law societies in the areas of substance abuse, burnout and stress. This support includes the assistance listed below, as well as materials for prevention programs. The Conference felt that because the effectiveness of the provincial programs in place was varied, a more centralized effort might be valuable. The Legal Profession Assistance Conference will be supporting the following initiatives:

1. In co-operation with local programs, provide a "model local program" guide and establish standards for these programs.
2. Provide assistance in implementing local programs, including resource materials.
3. Provide a national educational program for law students and bar admission students, including printed material and video.
4. Provide information and educational material, articles, etc. for the profession in general. The objective is prevention, and information will be disseminated through local programs, the Federation of Law Societies, the media and elsewhere.
5. The toll free number now in place, (1-800-257-4879) is a service available across the nation in both official languages. It will provide confidential personal referral contacts in every area.
6. A special Conference committee has been struck to attempt to lessen the stigma women lawyers feel in seeking help for substance abuse, burnout and stress. The committee consists of three female lawyers, who will coordinate their efforts with local contacts from the legal professions.

If you have any further questions regarding the programs that have been mentioned please feel free to contact Gloria Harding at the Newfoundland Legal Aid Commission. ■

## SILK ROBES AND SOU'WESTERS The Supreme Court of Newfoundland

This year marks the 200th anniversary of the establishment of the Supreme Court of Civil Jurisdiction in Newfoundland in 1791. To celebrate this historical milestone, a committee has been struck, chaired by Chief Justice Noel Goodridge. The Committee has taken as its theme the slogan "Silk Robes and Sou'Westers", intending thereby to conjure up images of the Court's maritime heritage. A number of celebratory activities have been planned, the principal of which is a gala dinner on November 15 at Hotel Newfoundland. The Silk Robes and Sou'Wester Committee invites all Newfoundland Branch members to purchase tickets for the dinner on November 15 and join in the festivities marking the Court's bicentenary. ■

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## YOUNG LAWYERS CONFERENCE

The Newfoundland Branch of the Young Lawyers Conference encourages all lawyers less than 36 years of age or practicing for less than six (6) years (including all articling students) to become active members of the Conference.

This year we plan to hold regular, informal lunchtime meetings which will feature speakers who will discuss topics of interest to our group. We have planned our Curling Funspiel for November 23, 1991.

In the new year, we hope to participate in a national advocacy competition. In addition, the conference will address such issues as repayment of student loans, the articling interview, the environmentally friendly office, parental leave standards, pro-bono services and negotiating a partnership.

For more information, contact Anne M. Fagan, Young Lawyers Representative, at 726-8844. ■

## UNIFORM LAW CONFERENCE OF CANADA

Newfoundland will host the 1992 meetings of the Uniform Law Conference of Canada. The Conference meets annually for one week during the month of August. The Provinces and Territories host the meetings on a rotational basis. Corner Brook will serve as host city for next year's meeting from August 9-15.

The Conference was formed in 1918, at the suggestion of the CBA, for the purpose of promoting uniformity and harmonization of legislation in Canada. The Conference meeting has two principal sections: a criminal law section and a civil law section. At the meetings of these sections, legislative initiatives and public policy issues of national concern are discussed.

The meetings attract 100-120 private practitioners, academic lawyers and senior government lawyers from across Canada and the United States. The substantive meetings are balanced with a companion program for delegates, spouses and children. CBA National has been an active participant in recent meetings.

The Province would like to appoint two Newfoundland Branch delegates to next year's meetings: one to attend the criminal law meeting, the other to attend the civil law meeting. Interested parties should submit their names to:

Christopher P. Curran, Executive Director  
Newfoundland Law Reform Commission  
345-347 Duckworth Street  
St. John's, NF A1C 1H6



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for the



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