President’s Report to the Law Societies
November 2013

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Federation of Law Societies of Canada

To: All Law Societies

Date: November 6, 2013

INTRODUCTION

1. On October 17, 2013, I presided over my last Council meeting as President of the Federation. This is my report of that meeting.

2. On November 15, 2013, my duties will formally come to an end when I pass the proverbial “baton” to my very able successor, Bâtonnier Marie-Claude Bélanger-Richard, Q.C. of New Brunswick. It has been a privilege to serve the Federation, its members, and indeed all of Canada’s legal profession in this capacity over the last year. I am immensely proud of what we have accomplished together. Looking forward, I have no doubt that the Federation will move from strength to strength as it plays its crucial leadership role among national stakeholders in Canada’s justice system.

3. The Federation proves its worth every day. Whether as facilitator of national standards in the areas of legal ethics, admissions and discipline, as advocate for the preservation and advancement of core values such as the independence of the bar, or as the driving force behind national initiatives such as CanLII and top-drawer CLE programs in criminal and family law, the Federation is sustained by the support of all of its member law societies for whom the public interest is paramount.

4. In St. John’s, Newfoundland and Labrador, just two weeks ago, the best of law society leadership was on display. The law societies came together in two very important ways.

5. First, they participated in a stimulating two-day conference that reflected on whether it is time to re-examine the foundations of how legal regulation is carried out in Canada. I believe there was a great deal of open-minded discussion that will provoke even more reflection about how we can discharge our duties in ways that increase public confidence in what law societies do. If nothing else, it has become apparent that legal regulation needs to adapt to our times and evolve by taking into account the great changes that are afoot in society generally and in our profession in particular. And no reflection of this sort can usefully occur without attention to improving access to justice. Separate Federation reports will provide additional detail about this work.

6. On October 17th, the provincial law societies formally signed a new national mobility agreement that bridges both of Canada’s two legal traditions, the common law and the civil law. I count the signing of this agreement among my proudest moments as President.
7. On that day we formally declared what has been known for so long by so many in the profession - that there are more similarities in legal training and in daily practice in these two legal traditions than there are differences. That in acknowledging this fact we agree that crossing borders, even the ones that separate Quebec from its neighbours, ought to be as easy and as seamless as moving between Alberta and Saskatchewan, or Nova Scotia and New Brunswick. That in creating this type of mobility regime, lawyers can more easily choose where to best serve their clients, with the clients they serve being just as well protected as they would be if their lawyer remained licensed in his or her original jurisdiction. All of the eleven provincial law societies have agreed to this new mobility regime, and over the next few months, this arrangement is expected to be agreed by all law societies to apply to the three northern territories as well.

COUNCIL MEETING

8. The Council of the Federation meets no less than four times each year – twice in conjunction with major national conferences that bring together the top leadership of the law societies including Presidents, Vice Presidents and senior staff. If necessary, it also meets by teleconference.

Strategic Planning and Priorities

9. The Federation Council, in consultation with member law societies, sets the strategic direction and priorities for the Federation. In 2012, the Council approved a Strategic Plan for 2012-2015. It is reviewed annually as part of a priority setting exercise. At this meeting, the Council agreed that the Federation should continue to focus its energies on the national standards initiatives that are underway, as well as to review how best for the law societies and the Federation to address the challenge of improving access to legal services.

National Standards Initiatives – Core Projects

10. **National Admission Standards Project.** The first phase of the project, the adoption of a National Competency Profile for admission to the legal profession, was completed last year and adopted by all law societies. We are now in the process of examining how a consistent approach to implementation might be achieved. Elected leaders and staff at all law societies are engaged in this process with the objective of arriving at a consensus over the next year. At the same time, consultations are underway with respect to a good character standard.

11. **National Discipline Standards Project.** A pilot project involving thirteen of Canada’s law societies began in April 2012 to test standards in the areas of timeliness, fairness, transparency, public participation and accessibility in matters dealing with complaints about and discipline for members of the legal profession. This coming spring, the pilot project will be complete and law societies will be engaged in a process of arriving at a consensus on what the standards should be going forward, as well as how to make sure they are working to meet those standards.

12. **Model Code of Professional Conduct.** The Standing Committee on the Model Code of Professional Conduct continues to work through a number of issues it has identified as priorities. A central feature of how it accomplishes its task is through a thorough consultative process with the law societies, key stakeholders and legal academics. Current consultations include matters relating to aspects of the rule on conflicts of interest, as well as draft rules addressing official language rights.
Access to Legal Services

13. The Federation has identified improving access to legal services as a continuing priority for this year. The Federation plays a coordinating role among law societies and serves as a vehicle for exchanging information. It is also a key stakeholder in the Action Committee on Access to Justice in Civil and Family Matters, led by Justice Thomas Cromwell of the Supreme Court. The Action Committee has issued its final report. At this meeting, the Federation Council amended the terms of reference of the Standing Committee on Access to Legal Services to specifically consider, in consultation with Canada’s law societies, any reports issued by the Action Committee and other justice system stakeholders that deal with access to legal services for the purpose of determining whether and in what manner the Federation and the law societies should address specific recommendations arising from such reports.

National Mobility

14. The signature of the new National Mobility Agreement is referenced above. In order for the new regime to be extended to the northern territories, a revision to the Territorial Mobility Agreement is required in order to import the new provisions of the NMA that deal with permanent mobility between members of the Barreau du Québec and those in common law jurisdictions. The Federation Council approved a draft revision of the TMA for this purpose and referred it to the law societies for consideration and eventual approval.

Core Operations

15. National Committee on Accreditation. The NCA assesses the international legal credentials of a growing number of applicants who wish to practice law in Canada. There were 1,316 applications this year, an increase of 5% over last year’s total. The NCA administered over 5,000 challenge examinations, and 730 Certificates of Qualification were issued to applicants wishing to apply to Canadian law society bar admission programs.

16. Law School Common Law Program Approvals. The Federation’s Common Law Program Approval Committee has the mandate to monitor compliance by Canada’s law schools with the national requirement for law school programs which was adopted by Canada’s law societies in 2011. The national requirement will need to be met for individuals who graduate from Canadian law schools in 2015. The Committee is making excellent progress in its dealings with the law schools in this regard. The Committee also verifies whether any proposed law school program offered by a Canadian university meets the national requirement. Trinity Western University has applied and the Committee is reviewing the application. In April, the Federation Council struck a Special Advisory Committee on TWU to look at issues that fall outside the Approval Committee’s mandate. The Federation Council has asked that the reports of both of these committees be released publicly at the same time, once the work has been completed.

Other Projects and Initiatives

17. CanLII. The Council heard from the President and CEO of CanLII, Colin Lachance. CanLII is one of the Federation’s and the law societies’ great success stories. This year the free, online search engine for legal information unveiled a new user interface and embarked on a number of projects to grow its database of case law.

18. Continuing Legal Education Programs. Support continues to be provided by the Federation for two top-end CLE programs in criminal law and in family law. The National Criminal Law Program reached a milestone with its 40th edition this past summer in Ottawa with a record 691 attendees. By all accounts, the program was a great success. Next year, it will be held in Halifax. The National Family Law Program is presented every two years. In 2014 it will be held in Whistler, B.C.
19. Outreach. An important part of my responsibilities has been to be the Federation’s ambassador, both within Canada and beyond its borders, to explain the work of our organization and its focus on the public interest. I reported to Council about my many visits to law societies throughout the year, whether for meetings with Benchers or other events such as openings of the legal year. I have visited and spoken with the leadership of eleven of the Federation’s member law societies at least once.

20. I have also worked to maintain strong relationships with key partners and stakeholders in Canada’s justice system through meetings with the Canadian Bar Association, the Department of Justice, the Public Prosecution Service of Canada, as well as the Chief Justice of the Supreme Court of Canada.

21. Internationally, I participated in two meetings of the International Bar Association, attended the annual meeting of the American Bar Association and led a panel on the future of the legal profession for the Union internationale des avocats. The Federation was also well-represented at a meeting of International Legal Regulators in the summer. The Federation is very highly regarded internationally as a defender of core values including the independence of the bar and solicitor-client privilege, as a result of its leadership in how it and the law societies have dealt with anti-money laundering legislation before the Courts.

22. Administration. The Federation operated within the approved budget for 2012-2013 and finished the year with an unqualified audit. Council approved the Federation’s budget for 2014-2015 which is based on an annual law society levy of $25 per FTE, unchanged for the third consecutive year.

23. Leadership. The Council elected new executive officers who begin their one-year terms on November 15, 2013. Our new President will be Marie-Claude Bélanger-Richard, Q.C. Marie-Claude is currently Vice President of the Federation and is a former Bâtonnier of the Law Society of New Brunswick. Thomas Conway, the current Treasurer of the Law Society of Upper Canada, continues for another year as Vice President and President-elect. In accordance with our regional rotation policy, the next Vice President to join the Executive ladder was selected from among the Council members who represent the Western law societies. For 2013-2014, the new Vice President will be Jeff Hirsch, the representative of the Law Society of Manitoba. Jeff has been deeply involved in the work of the Federation for several years and is a Past-President of the Law Society of Manitoba.

CONCLUSION

24. I wish to thank the Council of the Federation and indeed all of Canada’s law societies for the trust they have placed in me this past year. It is been an honour to serve the interests of the Canadian public in this way and I look forward to the coming year as I assume my new role as Federation Past-President.