



OBA Submission
to the
Pre-Budget Consultations
of the
Standing Committee on Finance and Economic Affairs

Date: Tuesday, February 2, 2010

Submitted to: Pat Hoy
Chair
Standing Committee on Finance and Economic Affairs

Submitted by: Carole J. Brown
President
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Good Afternoon Mr. Chairman and Members of the Standing Committee:

Thank you for providing the Ontario Bar Association with the opportunity to participate in your pre-budget consultation process. My name is Carole Brown and I am the current President of the OBA.

As you may be aware, our Association represents 18,000 lawyers, judges, law professors and law students across the province. We are a voluntary membership-based association and the largest provincial branch of the Canadian Bar Association. Our role as the voice of the legal profession in Ontario is to advance reasoned positions to the public, to all levels of government, and to our regulator, the Law Society of Upper Canada for the benefit of our members, and to improve the law and the administration of justice in this province.

On behalf of our members, and as we have done in the past, we would, once again, urge you to consider an amendment to the Business Corporations Act. Under the Act, lawyers cannot currently issue non-voting shares to immediate family members; doctors and dentists can. While this is clearly an issue of fairness and equity, it is also, most decidedly, an issue of access to justice. In smaller centres, towns and rural communities throughout this province, sole practitioners and small firms provide the legal services for the majority of Ontarians. The ability to access those same rights available to other professionals could mean the difference between maintaining a viable law practice to serve that local community or having to pack up and move one's practice to a larger, potentially more viable centre. The Ontario Bar Association submits that it is unfair, inequitable and inappropriate to afford doctors and dentists this benefit under the Act, but not lawyers.

Lawyers whose practices consist primarily of legal aid certificates, whether family, civil or criminal, which is indeed the case in many areas of this province, already struggle financially. They serve, in many cases, the most vulnerable in our society. The recent increase to legal aid, which I will address more fully in a moment, will be helpful, but it is by no means a panacea. Why should certificate lawyers not be allowed to find the same measure of financial security as other professionals when they are at the front lines of the justice system?

The justice system and the rule of law underpin Ontario's civilized society. Without them, we really have no viable society. Those who serve in the justice system are as relevant and essential to society's well being as those who serve in the health care and education fields. Individuals' rights and liberties are the subject matters dealt with on a

daily basis in Ontario's criminal, civil and family justice systems. The rule of law and an effective judicial system represent the foundation, the cornerstone, of our society.

As our province fights its way out of economic hard times, the strain on Ontario's justice system will not be lessened. Tough times, unfortunately, are often accompanied by increased crime rates, domestic violence, and family breakdown.

In a recent interview with the OBA for our magazine, Briefly Speaking, the Attorney General talked about how bigger budgets weren't necessarily better. How funding "the system" can result in more of "the system" when what we really need is a commitment to modernization of Ontario's justice system. I commend the article to you, knowing that you each receive Briefly Speaking bi-monthly at your Queen's Park offices.

The OBA, through a number of our stakeholder outreach initiatives, has recommended efficiencies and modernization of the system and, in that regard, we are in full agreement with the Attorney General. We have supported those initiatives of the government that we believe are in the best interests of ensuring access to justice....such as Justice on Target, Justice Ontario, Family and Civil Law reform. Indeed, the members of the legal profession have been consulted widely and have offered opinions and recommendations on all of those initiatives.

The OBA was fortunate, along with several other legal organizations, to participate in the recent Advisory Review Panels with Legal Aid Ontario. These 5 panels provided a substantial list of recommendations for the expenditure of the announced \$150 million over four years for Legal Aid. We acknowledge that this funding allocation during these times was, in a word, exceptional. The work on Legal Aid is far from over. We must be creative in finding the ways to fund additional tariff increases to ensure that the means of those being served does not determine the quality of their representation.

We recognize that the government will be looking for efficiencies and we, in the justice sector, will continue to give voice to our belief that we have been underfunded by a succession of governments. The issues in Ontario's justice system left unchecked will have serious and severe consequences to society. Justice is the cornerstone of a civilized society, and it must be afforded the same priorities as are health care and education.

In my remaining time, I would like to propose something other than simply asking for more money; although we are most assuredly, doing that.

We recommend, while searching for efficiencies, that modernization, accountability and efficiency initiatives be specifically rewarded. As the social transfer payments from the federal government continue to see moderate annual increases, we propose that an equal amount of the increase that flows into the justice sector be earmarked for those projects that are dedicated to modernization.

The need is real. We will stand shoulder to shoulder with those who aspire to reform and modernize our justice system. Such efforts serve the public, they serve the profession that we represent and they ensure that Ontario's justice system remains the envy of the world. The citizens of this province need and deserve a justice system in which they have confidence, a justice system that is accessible in a timely manner, and a justice system that ensures access to its most vulnerable.

Thank you.