

ONTARIO BAR ASSOCIATION

The Chair (Mr. Pat Hoy): I will now call on the Ontario Bar Association to come forward, please. Good afternoon, gentlemen. You have 10 minutes for your presentation; there could be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard. You can begin.

Mr. Greg Goulin: My name is Greg Goulin. I'm the president of the Ontario Bar Association. To my right is our president-elect, Mr. Jamie Trimble. I come from the southwest. He is from Toronto.

The Ontario Bar Association represents 17,000 lawyers, judges, law professors and law students across the province. As the voice of the legal profession, our voluntary membership-based association is the largest provincial branch of the Canadian Bar Association. Our role in advocacy 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.

I would like to address three specific items that we raised last week during the pre-budget consultations held by the Minister of Finance.

The first item is a follow-up to our letter last fall to the Minister of Training, Colleges and Universities asking that debt and interest repayment deferral be extended to law students doing their articles. They are still students, although they have graduated from law school. Most earn a very modest wage during this year, and repayment while they are at articles imposes significant hardship. We're not suggesting student debt should be forgiven, but we are asking for interest and repayment deferral until completion of the articling and bar admission process.

Secondly, I'd like to turn to our oft-repeated request to amend the Business Corporations Act. Under the act, lawyers cannot issue non-voting shares to immediate family members; doctors and dentists can. While it's clearly an issue of fairness, it's most decidedly an access-to-justice issue. In small towns and rural communities, this can be the difference between maintaining a viable law practice to serve the citizenry or packing up and moving to larger centres. The Ontario Bar Association submits that it is unfair and inappropriate to permit doctors and dentists to have this right under the act but not lawyers.

I would like to conclude this brief submission by speaking to you about the reality of Ontario's justice system. As an association dedicated to promoting the rule of law and the administration of justice, it was disheartening, to say the least, to see that no party in last year's provincial election included a consolidated justice plank in their platform. Each party mentioned a piece of the system, whether it was safer communities, ending violence against women or more crown attorneys. But nowhere was there a detailed proposal that showed an understanding of, or a commitment to, Ontario's justice system. That

highlights the very urgent need that we want to draw your attention to in these pre-budget hearings today.

The justice system, the rule of law, underpins Ontario's civilized society. We are as relevant and essential as health care and education. Ontario's justice system simply must become a greater priority at the budget table. People's rights and liberties are dealt with in the criminal, civil and family justice systems. Victims seek redress and closure through Ontario's courts and tribunals. The rule of law is the foundation, the cornerstone, of our society.

Decades of underfunding and band-aid solutions because of current media attention have brought us to where we are today: a system straining under its own weight and in danger of allowing access only by the very poor or the very rich. We are encouraged by the recent recommendations of Justice Coulter Osborne on the Civil Justice Reform Project. Much of the Ontario Bar Association's submission to Justice Osborne appeared in his final recommendations, and we believe that swift implementation may begin to address some of the immediate and pressing needs in the system.

We commend the government on the infusion of \$51 million in sustainable base funding for Legal Aid Ontario last year and for the coming two years. It is a significant investment. We are going out on a limb here, however, to suggest that consideration be given to funding envelopes in the legal aid system so that criminal, civil and family law have specific allocations to address the demand. The Ontario Bar Association's submission to Professor Trebilcock detailed a series of recommendations to improve legal aid which we would be happy to share with the committee if they would be of interest.

Central to our submission to Professor Trebilcock is our third specific agenda item, which is the need for continuing significant and sustainable investment in legal aid. This is dire, and there is no other way to phrase it. When over 35% of family law applicants are turned away, that's a lot of single moms and dads with kids in need. The ripple effect on the system is horrendous as they descend into poverty and onto social assistance. Such individuals have no choice but to access the courts, and too often must represent themselves. They are no match for experienced counsel on the other side, and judges must take up valuable court time to instruct them in how to proceed and ensure that the process is balanced. Unrepresented or self-represented litigants now account for more than 50% of family law matters in many counties in Ontario.

Resources which continue to be allocated on population figures 20 years out of date mean significant delays. Unacceptable wait times aren't just for health care anymore. It takes 13 months in Ottawa to get in front of a Family Court judge after the settlement conference. To put that in clearly understandable terms, it means you can get a hip replacement, a knee replacement, cataract surgery, an MRI and a CT scan in Ottawa before you can see a Family Court judge. Across Ontario, we hear routinely of daily dockets of 100 cases, sometimes more. At best, a judge can clear perhaps 20 or 25 cases in a day. So if you do that rudimentary math, you'll grasp the enormity of this crisis. When the Ontario Bar

Association went out and did town hall meetings across Ontario last year, we heard these same stories from citizens and legal stakeholders alike. At our Justice Stakeholder Summit in June of last year, we heard it for two solid days.

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By way of example, putting 1,000 new police officers on the street was necessary and an appropriate response by the government. One must be cognizant of the impact that such an initiative has throughout the system, however. One thousand additional police officers results in tens of thousands more charges, and the system can't keep up with the charges working their way through it now. That's just one reason for plea bargains and early release. The system and those working in it and using it are desperate for your attention. More judges, more courtrooms, more crown attorneys, more referral services and a commitment to alternatives to the courts aren't just nice-to-have items on a shopping list; they're necessary. They are essential and we need them now.

Ontario's justice system must, after decades of second-class status, become a priority of all parties in Ontario. The rule of law and the administration of justice can no longer take a back seat. We sincerely hope that you and your colleagues will reassess the placement of the justice system on the province's priority list. If health care and education are viewed as sacrosanct, then justice must be afforded that same status. Ontarians deserve no less. Thank you.

The Chair (Mr. Pat Hoy): Thank you. This round of questioning goes to the NDP.

Mr. Michael Prue: Thank you very much. I have three separate questions. The first one has to do with students. There have been several deputations before the committee to date asking that students not begin to pay their loans back until one year after graduation; currently it's six months. If that same standard was applied to articling law students, would one year be sufficient?

Mr. Greg Goulin: It would come close to being sufficient. The articling and the qualification process, as you know, has changed dramatically from our days, even. The point is that normally the articling process can last up to a year, and then there's the exam process, which can take up to six months, or longer in some cases, depending on how the students arrange it. Our concern is that our young lawyers or potential young lawyers can focus on learning and on qualification before they have to focus on the reality of debt repayment when, during the learning process, there are still not funds available.

Mr. Michael Prue: The second question had to do with people being turned away in family law. This is something I see a lot in my constituency office, particularly in poorer parts of the constituency, or in the city or the province: people coming forward who have no representation. You have said that they represent themselves, which I've seen. They also get social service agencies and other unqualified people to assist. Is there a higher failure rate or conviction rate or those kinds of things when people go without a lawyer?

Mr. Greg Goulin: Generally speaking, that's the case. How should I say it? When one chooses to represent oneself in any endeavour, sometimes there is a loss of objectivity. The loss of objectivity might not only hurt one's cause, but certainly, shall we say, diverts the focus of the issues that are being discussed. This, in turn, results in a greater need for a judicial system that is better staffed, with more judges, more staff, more facilities.

Mr. Michael Prue: The last case you made was about the system being overloaded, and I don't think there's any doubt in anyone's mind, when you see that a case takes a year to get to trial, or two years, in the criminal court; the family justice, you've talked about it being a year before you can even get in front of one. Everything, down to parking tickets, can take a year.

The problem, which you've not dealt with, that I have witnessed in the courts is that oftentimes counsel appears to be dilatory. Is there anything we need to do about that, as well -- lawyers asking for adjournment after adjournment after adjournment, I think to the exasperation of the crown and judges universally.

Mr. Greg Goulin: It depends on which system you're talking about. Family, if I may use that term, is a separate entity to civil to criminal. I would suggest to you, sometimes in criminal court a judge might take great relief that at least one case has been removed from a docket they're never going to accomplish anyway. That said, that does not serve the ends of justice, when cases are delayed to the point where they're stayed.

In family and civil matters, you'll find, as well as what is starting in criminal matters, a system that's being imposed that requires movement, which requires progress. I'm a criminal law specialist from Windsor, Ontario, across from Detroit. There, matters go to trial in 90 days, even homicide. That said, the system requires staffing, requires facilities, requires the ability to handle the load. I would suggest to you that if everything was pushed the way it should be, the system would grind to a halt. It's much like a funnel, where the small end has remained the same diameter but the large end, the intake end, has expanded immensely. It is going to clog. The inability to deliver justice does not enhance respect for the law.

The Chair (Mr. Pat Hoy): Thank you for your presentation