

## **Report to November 2018 Plenary of Federation of Ontario Law Association**

**From : Alfred Schorr  
Chair of the Paralegal Committee**

Despite many attempts to expand their scope of practice there has been no change since paralegals were first licensed more than ten years ago.

On March 17 2017 former Senior Justice Bonkalo rendered her report in connection with paralegals and others providing legal services in Family Law.

In January of 2018 the Law Society voted to develop a special license for paralegals and others who provide legal services in Family Law in accordance with the Bonkalo report. This process is ongoing and the Law Society predicts that the first license will be issued in approximately 2020. Having said this it does not appear that the Law Society has made this a top priority and not much has been done to date to advance this initiative.

More noteworthy from the perspective of protecting our monopoly and the public Bill 75 has now received second reading and has been referred to a Committee of the House of Commons. There are a number of aspects of the Bill which are of concern to FOLA which no doubt will be referred to in other Committee reports. Insofar as paralegals are concerned this may be a blessing in disguise.

Section 319 of Bill 75 increases the default imprisonment sentence for summary conviction offences to two years less a day from the present six months. At present paralegal licensees are not permitted to provide legal services in criminal or quasi criminal matters where the maximum penalty is more

than six months. No doubt they will be asking the Law Society to expand their jurisdiction if the relevant provisions of Bill 75 become law. This is obviously an area where FOLA may want to take a position. There are a number of sophisticated legal points to be addressed including whether or not the Law Society in its mandate to regulate legal services can over-rule the decision in Regina v. Lawrie (Pointts Ltd.) the landmark decision in the Court of Appeal in 1987 which provides in substance that where federal or provincial statute permit accused persons to appear by “agent” and where by statute parties may be represented by agents before administrative tribunals paid agents may appear with impunity.

Bill 75 in addition to increasing the default maximum penalty of imprisonment for summary conviction offences creates a considerable number of additional offences that may proceed by summary conviction.

It will be interesting to see how this impacts on paralegals and the increased challenges for this Committee.

Other areas where paralegals have declared that they wish to have expanded roles include Small Claims Court appeals and Administrative Tribunal appeals. In both of these areas they do not appear to be receiving any favourable response.

During the last several months it appears that the Law Society is taking seriously our complaints concerning improper advertising by paralegals and there are a number of outstanding prosecutions. Presidents are encouraged to request that their members report improper advertising by paralegals to the Law Society.

Lastly, and in the view of this Committee the most important area of concern, is the false impression held by many and in the media that paralegals are an inexpensive alternative to lawyers. All the evidence which we

have is to the contrary. Generally paralegals charge as much as lawyers for the same but inferior services. We need to get concrete proof and it may be that future Committees will be requesting funding for private investigators and the like.

It has been a pleasure to serve as Paralegal Chair and I thank the many lawyers and my FOLA Board members for their assistance and the confidence they have shown in this Committee.

Alfred Schorr