



THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

ANNUAL REPORT

for the Period from

1 January 1996 to 31 December 1996

Toronto, Ontario
January, 1997

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Persons wishing to comment on the procedures or selection criteria of the Judicial Appointments Advisory Committee are invited to write to:

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Previous publications of the Judicial Appointments Advisory Committee:

- ▶ *Interim Report* (September, 1990);
- ▶ *Final Report and Recommendations* (June, 1992)
- ▶ *Annual Report* for the Period from July 1 1992 to 31 December 1993 (January, 1994)
- ▶ *Annual Report* for the Period from 1 January 1994 to 28 February 1995 and for the Period from 1 March 1995 to 31 December 1995 (January, 1996).

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LETTER OF TRANSMITTAL

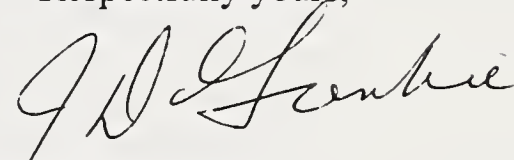
31 January 1997

The Honourable Charles Harnick
Attorney General for Ontario
720 Bay Street, 11th Floor
Toronto, Ontario
M5G 2K1

Dear Mr. Attorney General:

The Judicial Appointments Advisory Committee has the honour of presenting to you this report on its activity for the period from 1 January 1996 to 31 December 1996, pursuant to section 43(13) of the *Courts of Justice Act*. It covers all significant matters related to the recommendation to the Attorney General of suitable candidates for judicial appointment to the Ontario Court (Provincial Division).

Respectfully yours,



J. Douglas Grenkie, Q.C.
Chair

EXECUTIVE SUMMARY

1 January 1996 to 31 December 1996

The Judicial Appointments Advisory Committee was set up as a pilot project by the then Attorney General, The Honourable Ian Scott, in January 1989. Since then the present Attorney General, the Honourable Charles A. Harnick, and his predecessors, have appointed 117 judges based on Committee recommendations. Of these, 7 appointments were made between 1 January 1996 and 31 December 1996.

The highlights of Committee activity are as follows:

- **Appointments:** Each of the 7 appointments has been made from among candidates recommended by the Committee in accordance with the first criterion, being that of professional excellence, and then on the other criteria set out in this Report.
- **Legislation:-** Amendments to the *Courts of Justice Act* that came into force on 28 February 1995 established the Judicial Appointments Advisory Committee and clothed it with legislative authority. These amendments set out in detail the composition, procedures, criteria for selection, and independent function of the Committee.
- **Confidentiality:-** In 1993 a citizen who was not an applicant, sought access under the *Freedom of Information and Protection of Privacy Act*¹ to Judicial Appointments Advisory Committee records. These records contained the results of discreet inquiries made about a candidate who was later interviewed, recommended, and subsequently appointed as a judge, by the Attorney General.

A ruling by Irwin Glasberg, Assistant Information and Privacy Commissioner held that the Committee formed part of an “institution”, (in this case, the Ministry of the Attorney General) and as such is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. The Attorney General, and the then Chair of the Committee, Associate Chief Judge Robert Walmsley, applied for judicial review of the Commissioner’s ruling. In this application the Committee was represented by independent counsel. On 27 March 1996 the Divisional Court (White, McRae and MacFarland jjs) ruled as follows:

“We accept the finding of the Assistant Commissioner (1) that the Committee was part of the Ministry of the Attorney General and (2) the documents in the custody and control of the Committee were within the custody and control of the Ministry of the Attorney General.”²

¹ R.S.O. 1990, C.F-31

² Divisional Court Judgment, White, McRae and MacFarland jjs released March 27, 1996

The application for judicial review was therefore refused, without costs. This ruling has been appealed to the Ontario Court of Appeal and the Committee continues to have standing and to be represented by independent counsel. The appeal is scheduled to be heard on 2 June 1997.³

- **Procedure:-** The Committee *continually* reviews its procedures and policies which are set forth in detail in this report. No person who has an outstanding claim or complaint with a law society, or a criminal record will be recommended for appointment to the Attorney General.

³ The appeal was heard on June 2nd and 3rd, 1997, and the decision was released June 19, 1997, Goudge J.A. speaking for the Court (Osborne, Doherty and Goudge JJA) allowed the appeal and quashed the order of the Assistant Information and Privacy Commissioner.

INTRODUCTION

On 15 December 1988, the then Attorney General, The Honourable Ian Scott, announced in the Ontario Legislature the establishment of the Judiciary Appointments Advisory Committee as a pilot project, and set out its mandate:

First, to develop and recommend comprehensive, sound and useful criteria for selection of appointments to the judiciary, ensuring that the best candidates are considered; and second, to interview applicants selected by it or referred to it by the Attorney General and make recommendation.

On February 28, 1995 the *Courts of Justice Act* established the Committee by legislation. All appointments to the Ontario Court (Provincial Division) must be made by the Attorney General from amongst a list of applicants recommended to him by the Committee, and chosen in accordance with its own process of criteria, policies and procedures.

In 1996 the Committee met over 20 times to select candidates, carry out interviews, and to determine Committee policies and procedures. This includes 6 selection days and 12 interview days. Over 100 applicants have been interviewed and 31 have been recommended, from which the Attorney General has selected and appointed 7 judges. The total number of applicants to date is 1,528 of whom approximately 445 are women.

PART I

ANALYSIS OF JUDICIAL APPOINTMENTS MADE

1.0 Judges Appointed: 1 January 1996 - 31 December 1996

During this period there have been seven judges appointed as a result of recommendations made by the Committee. Added to the 110 appointments previously made, this number makes a total of 117 judges appointed since the Committee began its work in 1989. The complement of the Ontario Court (Provincial Division) is 250 judges. Thus, 47% of all the present provincial judges have been selected through the Committee process.

Of these seven new appointments, three came from private practice and four were formerly Crown counsel. In addition, one was of First Nations origin and one was a woman. A list of these judges will be found in Appendix 1 to this report.

The age of appointees ranges from 35 to 55 years, and the average age is about 43 years.

2.0 Overview of Appointments: 1 January 1989 - 31 December 1996

The reader will find a list of all judges appointed under the Committee process in Appendix 2 to this report; the Appendix lists the names in alphabetical order together with location and date of appointment.

The demographics of these appointments are set out in the following tables which show the timing of the various appointments, the legal background of the appointees, and the numbers selected for appointment from under-represented groups.

TIMING OF THE APPOINTMENTS								
Reporting Period	1 Jan 89 - 31 Oct 90	1 Nov 90 - 30 June 92	1 July 92 - 31 Dec 93	1 Jan 94 - 28 Feb 95	1 Mar 95 - 31 Dec 95	1 Jan 96 - 31 Dec 96	Overall Total of Appointments	
Total Appointments	28	39	23	15	5	7	117	
LEGAL BACKGROUND								
	1 Jan 89 - 31 Oct 90	1 Nov 90 - 30 June 92	1 July 92 - 31 Dec 93	1 Jan 94 - 28 Feb 95	1 Mar 95 - 31 Dec 95	1 Jan 96 - 31 Dec 96	Total No.	Percent (N=111)
Private Practice	16	32	14	9	4	3	78	68%
Provincial Crown	5	3	5	6	0	4	23	18%
Federal Prosecutor	3	1	2	0	0	0	6	6%
Government	4	3	2	0	1	0	10	8%
APPOINTMENTS FROM REPRESENTATIVE GROUPS								
	1 Jan 89 - 31 Oct 90	1 Nov 90 - 30 June 92	1 July 92 - 31 Dec 93	1 Jan 94 - 28 Feb 95	1 Mar 95 - 31 Dec 95	1 Jan 96 - 31 Dec 96	Total No.	Percent (N=111)
Women	9	18	12	3	1	1	44	40%
Francophone	2	2	1	2	1	0	8	7%
First Nations	0	2	0	1	0	1	4	3%
Visible Minority	2	4	4	0	0	0	10	9%
Persons with Disabilities	0	0	0	0	0	0	0	0%

The Committee continues to encourage applications from members of under-represented groups within the legal profession. Each advertisement for a judicial vacancy states that:

The provincial judiciary should reasonably reflect the diversity of the population it serves. Applications from members of minority groups are encouraged.

The advertisement appears in the *Ontario Reports*, which has a wide circulation among lawyers in the province.

In addition, advance notice of a judicial vacancy is provided to approximately 160 legal and non-legal associations, such as the Canadian Bar Association - Ontario and the Advocacy Research Centre for the Handicapped (ARCH), with a request that the material be brought to the attention of their members. Committee members are prepared to attend any association meetings to discuss the appointment process and answer all questions concerning Committee procedures and criteria. Our desire is to make sure that the profession and public are fully informed about the process of judicial appointment.

PART II

LEGISLATION

1.0 The Courts of Justice Statute Law Amendment Act

The amendments to *The Courts of Justice Act* were given Royal Assent in June 1994 and proclaimed on 28 February 1995. Section 43 deals with the Judicial Appointments Advisory Committee and it is included here in full, for ease of reference:

"Judicial Appointments Advisory Committee

43. (1) A committee known as the Judicial Appointments Advisory Committee in English and as Comité consultatif sur les nominations à la magistrature in French is established.

Composition

- (2) The Committee is composed of,
- (a) two provincial judges, appointed by the Chief Judge of the Provincial Division;
 - (b) three lawyers, one appointed by The Law Society of Upper Canada, one by the Canadian Bar Association-Ontario and one by the County and District Law Presidents' Association;
 - (c) seven persons who are neither judges nor lawyers, appointed by the Attorney General;
 - (d) a member of the Judicial Council, appointed by it.

Criteria

- (3) In the appointment of members under clauses (2) (b) and (c), the importance of reflecting, in the composition of the Committee as a whole, Ontario's linguistic duality and the diversity of its population and ensuring overall gender balance shall be recognized.

Terms of Office

- (4) The members hold office for three-year terms and may be reappointed.

Staggered terms

- (5) Despite subsection (4), the following applies to the first appointments made under subsection (2):
- 1. One of the provincial judges holds office for a two-year term.
 - 2. The lawyer appointed by the Canadian Bar Association-Ontario holds office for a two-year term and the lawyer appointed by the County and District Law Presidents' Association holds office for a one-year term.
 - 3. Two of the persons who are neither judges nor lawyers hold office for two-year terms and two hold office for one-year terms.

Chair

- (6) The Attorney General shall designate one of the members to chair the Committee for a three-year term.

Term of Office

- (7) The same person may serve as chair for two or more terms.

Function

- (8) The function of the Committee is to make recommendations to the Attorney General for the appointment of provincial judges.

Manner of Operating

- (9) The Committee shall perform its function in the following manner:
1. When a judicial vacancy occurs and the Attorney General asks the Committee to make a recommendation, it shall advertise the vacancy and review all applications.
 2. For every judicial vacancy with respect to which a recommendation is requested, the Committee shall give the Attorney General a ranked list of at least two candidates whom it recommends, with brief supporting reasons.
 3. The Committee shall conduct the advertising and review process in accordance with criteria established by the Committee, including assessment of the professional excellence, community awareness and personal characteristics of candidates and recognition of the desirability of reflecting the diversity of Ontario society in judicial appointments.
 4. The Committee may make recommendations from among candidates interviewed within the preceding year, if there is not enough time for a fresh advertising and review process.

Qualification

- (10) A candidate shall not be considered by the Committee unless he or she has been a member of the bar of one of the provinces or territories of Canada for at least ten years or, for an aggregate of at least ten years, has been a member of such a bar or served as a judge anywhere in Canada after being a member of such a bar.

Recommendation by Attorney General

- (11) The Attorney General shall recommend to the Lieutenant Governor in Council for appointment to fill a judicial vacancy only a candidate who has been recommended for that vacancy by the Committee under this section.

Rejection of List

- (12) The Attorney General may reject the Committee's recommendations and require it to provide a fresh list.

Annual Report

- (13) The Committee shall submit to the Attorney General an annual report of its activities.

Tabling

- (14) The Attorney General shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the assembly."

PART III

CONFIDENTIALITY

1.0 Concerns Over Confidentiality

Since 1 January 1989 the Committee has observed two major policies about making information available. These are:

1. All matters having to do with Committee procedures for selecting, interviewing and recommending persons for appointment, including criteria, should be fully available to any member of the public without reservation.
2. All information received by the Committee about a particular applicant should be completely confidential.

This last point refers to information such as the application form, records of the Canadian Police Information Centre (C.P.I.C.), Law Society claims and complaints, discreet inquiries, reference checks, the interview, and the discussions in committee.

In the Instruction Sheet that is attached to the *Judicial Candidate Information Form*, the Committee assures each applicant as follows:

All information collected will be kept in confidence by the Committee. The Committee may wish to obtain information from other sources. In making these inquiries, every effort will be made to maintain confidentiality.

Similarly, persons offered as references or contacted for discreet inquiry are assured that their information will be treated on a strictly confidential basis. In Committee discussions, where practicable, members do not refer to informants by name.

The Committee recognized the confidentiality issue and its potential problems in June 1989. It sought, and obtained, a legal opinion at that time that the records of the Judicial Appointments Advisory Committee were not subject to the *Freedom of Information and Protection of Privacy Act*. Again in 1992 the Committee repeated its concerns and the Committee was again advised that the *Freedom of Information and Protection of Privacy Act* had no application. In 1994 the Committee learned that the Ontario Judicial Council would specifically be made exempt from the

*Freedom of Information and Protection of Privacy Act*⁴ and requested the government to grant the same protection to the Committee.

On 16 June 1994 Mr. Irwin Glasberg, Assistant Privacy Commissioner issued a ruling finding that the Judicial Appointments Advisory Committee was part of the Ministry of the Attorney General and thus subject to the *Freedom of Information and Protection of Privacy Act*. That ruling was reviewed judicially by the Divisional Court on 27 March 1996. The Divisional Court (White, McRae, and McFarland, JJS) concurred in the findings of the Assistant Commissioner and refused the application for judicial review. That Ruling is presently under review and is scheduled to be heard by the Court of Appeal on 2 June 1997.⁵ It remains to be seen whether the result will be the same now that the Judicial Appointments Advisory Committee has been established by legislation. Because of its concerns on this critical issue, the Committee will continue to work for greater safeguards for confidential material, including a legislative amendment.

4 See subsection 49(24) of the amended *Courts of Justice Act*.

5 See Supra Page VI and Goudge JA stated at page 15 (23): "Individual Committee members were neither employees nor officers of the Ministry. They constituted a committee that was set up to provide recommendations that were arrived at independently and at arm's length from the Ministry. The Ministry had no statutory or contractual right to dictate to the Committee or its individual members what documents they should create, use or maintain or what use to make of the documents they do possess."

and at page 16: "Hence, it cannot be said that the documents in the possession of individual Committee members were under the control of the Ministry. In my opinion, the Assistant Commissioner was wrong in so doing."

"I would therefore allow the appeals and quash the decision of the Assistant Commissioner with costs here and in the Divisional Court."

PART IV

CRITERIA FOR APPOINTMENT

It is important that eligible members of the bar and the public be aware of the criteria used by the Committee in the selection of candidates for recommendation. Accordingly, for convenience those criteria are reiterated again in this Annual Report.

The current Summary Statement of the criteria is as follows:

1.0 Criteria for Evaluating Candidates

Professional Excellence

- ☐ A high level of professional achievement in the area(s) of legal work in which the candidate has been engaged. Experience in the field of law relevant to the division of the Provincial Court on which the applicant wishes to serve is desirable but not essential.
- ☐ Involvement in professional activities that keep one up to date with changes in the law and in the administration of justice.
- ☐ An interest in or some aptitude for the administrative aspects of a judge's role.
- ☐ Good writing and communications skills.

Community Awareness

- ☐ A commitment to public service.
- ☐ Awareness of and an interest in knowing more about the social problems that give rise to cases coming before the courts.
- ☐ Sensitivity to changes in social values relating to criminal and family matters.
- ☐ Interest in methods of dispute resolution, alternatives to formal adjudication and in community resources available for participating to the disposition of cases.

Personal Characteristics

- ☐ An ability to listen.
- ☐ Respect for the essential dignity of all persons regardless of their circumstances.
- ☐ Politeness and consideration for others.
- ☐ Moral courage and high ethics.
- ☐ An ability to make decisions on a timely basis.
- ☐ Patience.
- ☐ Punctuality and good regular work habits.
- ☐ A reputation for integrity and fairness.
- ☐ Compassion and empathy.
- ☐ An absence of pomposity and authoritarian tendencies.

Demographics

- ☐ The provincial judiciary should be reasonably representative of the population it serves. This requires overcoming the serious under-representation in the judicial complement of women, visible, cultural, and racial minorities and persons with a disability.

PART V

JUDICIAL APPOINTMENT PROCESS AND POLICIES

1.0 The Judicial Candidate Information Form:

1. All candidates must complete a typed Judicial Candidate Information Form which has been designed to elicit information that is not usually included in a standard *curriculum vitae*, such as the nature of the legal work and experience gained in various positions the candidates have held, including pre-law experience. Also, applicants are required to express their reasons for wanting to become a judge and provide an appraisal of their own qualifications for being a judge.

Candidates who send in their standard *curriculum vitae* and refuse to complete the Committee's form are not considered.

2. Candidates are required to provide 14 copies of the Judicial Candidate information form together with an authorized Security Release Form and an executed Release of Information Form in the first instance, and for subsequent applications, 14 copies of any letter requesting consideration.
3. A candidate must apply by application or letter for each and every advertised vacancy that is of interest. The Committee does not automatically consider applications on file.
4. A Judicial Candidate Information Form is kept on file for one year. At the end of one year a candidate is advised that his or her form is out of date and in order to maintain a current application, 14 copies of a new form should be submitted.
5. All responses to an advertisement to be considered for a judicial vacancy are acknowledged. Also candidates are advised if they are not selected for an interview. Candidates who are interviewed **are not** advised as to whether they have been included in the list submitted to the Attorney General.

However, candidates who have been interviewed within the previous twelve month period may not necessarily be re-interviewed but will still be equally considered by the Committee in determining its list of recommendations, provided that he or she has applied to be considered for the vacancy advertised.

References:

1. The Committee does not require the candidate to send in letters of support.
2. The Committee requires a candidate to provide the names, addresses, **home** telephone and business telephone numbers of his or her named referees. Care should be taken to provide the correct information before submitting the form. Since the members who check the references do so during evening and weekends it is essential that **home telephone** numbers be provided.
3. All named references receive a letter from the Committee advising them that a candidate has provided their name for reference purposes and that they may be contacted by a member of the Committee. They are advised that they do not have to write to the Committee. Attached to the letter is a list of Committee members.
4. The Committee maintains strict confidentiality with respect to the information provided by named references and obtained by discreet inquiries.

2.0 Law Society Claims — Outstanding Complaints and Claims

1. Complaints as to Practice: Candidates will not be considered for discreet inquiries or an interview if they have any complaints registered with the Law Society. It is up to the candidate to ensure that any complaint on file is dealt with immediately and the Law Society file closed.
2. Errors and Omissions Claims: Candidates will not be considered for discreet inquiries or for an interview if they have any outstanding Errors and Omissions claims registered with the Law Society. It is the candidate's responsibility to ensure that any outstanding claim is settled.
3. Civil Claims or Judgements: Members of the Committee would be prepared to consider the application of a candidate who is involved in a civil claim or proceeding if, after receiving details of the proceeding, the members are of the opinion that the nature of the claim is such that it should not prevent the candidate from being considered for a judicial appointment.

3.0 Criminal Record

Members of the Committee will not consider a candidate who has a criminal record. It is the responsibility of the candidate to obtain a pardon.

4.0 Conflict of Interest Guidelines:

1. Members of the Committee cannot apply to be considered for a judicial appointment for a period of two years from the date they cease to serve as a member of the Committee.
2. No active member of the Committee can act as a referee for a candidate seeking a provincial judicial appointment.
3. Members of the Committee who have a conflict or a perceived conflict in the nature of a potential bias or prejudice in regard to a candidate must declare such conflict and refrain from taking part in the entire process for that vacancy.

5.0 General

Re-Interviewing Candidates

The Committee does not maintain a pool of candidates who have previously been recommended but not appointed, or interviewed but not recommended. Because of the difficulties of trying to compare and rank a candidate who has just been interviewed with candidates who have previously been interviewed and recommended but not appointed, the Committee has developed an evaluation guideline by which it is able to objectively compare these individuals.

Thus, it is no longer essential to re-interview a candidate who has been interviewed in the previous twelve months. That candidate will be objectively compared and ranked along with all other persons interviewed for that vacancy so long as the candidate has requested in writing to be considered for that advertised vacancy. Nevertheless, the Committee may in its discretion re-interview a previously interviewed candidate, and in fact does so on a fairly frequent basis.

Outreach

It is our belief that the provincial judiciary should be reflective of the population that it serves and we continue to encourage applications from qualified members of all communities.

Approximately 160 organizations were advised that the Committee would be pleased to attend any meetings of the group to explain its mandate, criteria and procedures. This invitation has been extended to both legal and non-legal organizations.

Notice of Vacancies

When a vacancy in the complement of Provincial Court Judges occurs the Chief Judge of the Ontario Court (Provincial Division) after considering the judicial resources required throughout Ontario determines the location of the vacancy to be filled and advises the Attorney General accordingly. The Attorney General then requests the Committee to commence its process to identify candidates suitable for judicial appointment in order to make recommendations to him.

Set out below is a step-by-step account of how the Committee arrives at its recommendations.

Advertising The Vacancy

All vacancies are advertised in the *Ontario Reports*. The copy must be provided three weeks prior to publication date. Three weeks is allowed for applications to be received. In addition to advertising, the Committee contacts approximately 160 legal and non-legal associations with advance notice of the vacancy with a request that they bring the copy of the advertisement to the attention of their members.

Review of Applications by Members

Each member is provided with a list of all candidates who respond to an advertisement plus copies of all new and up-dated Judicial Candidate Information Forms. Members carefully review and assess the application forms and list candidates whom they feel should proceed to the second stage of reference checks and discreet inquiries. This list is submitted to the administrator who compiles a master list of candidates who have been selected by three or more members for the purpose of making reference checks and discreet inquiries.

References and Discreet Inquiries

Each member is provided with a list of candidates who have been selected by three or more committee members for the purposes of reference checks and discreet inquiries. These inquiries are made of the judiciary, lawyers, law associations, community and social services organizations, plus the named references provided by the candidate. Once the reference checks and discreet inquiries are completed, the Committee meets to discuss the information obtained and to select candidates to be interviewed.

This selection meeting takes place three to four weeks after the members received the list of candidates to be considered.

Interviews and Recommendations to The Attorney General

The number of candidates to be interviewed for a judicial vacancy will normally be 16 over a two day period. Each interview will last approximately 30 minutes. Following the last interview the Committee discusses the merits of the candidates interviewed plus the merits of candidates interviewed on a prior occasion who have applied to be considered for the current vacancy. A ranked list is then submitted to the Attorney General. Interviews take place approximately two weeks after the selection meeting.

The letter of recommendation to the Attorney General is delivered to him when the requested Law Society and CPIC checks have been received and clearances obtained. These clearances are usually received approximately two weeks after the interviews have taken place.

It is at this point that the Committee's work is completed.

It should also be noted that the Committee has established a procedure to avoid delays in filling vacancies that occur unexpectedly, such as from sudden resignation, illness or death. In such cases, when so requested by the Attorney General, it may recommend candidates who have previously applied for the area of the judicial vacancy and who have been interviewed, without advertising the vacancy. This procedure will only apply to areas where there has been an advertised competition within a twelve month period. However, the policy of advertising is the procedure of preference and will only be departed from in limited circumstances.

6.0 Changes in Committee Membership

During 1996 Robert J. Carter passed away and Jean Mongenais was appointed to replace the late David McCord. As a result of Mr. Carter's death, Paul Copeland was designated by the Law Society of Upper Canada to act as its representative on the Committee. It is noted that the terms of Bernice Dubec and Nancy Hansen will terminate on 28 February 1997. The Committee also noted that Professor Emily Carasco completed her term of membership on the Committee on 28 February 1996. The Committee will miss the benefit of her experience and insight in its future work.

In anticipation we expect that the appointments of Cynthia Wesley-Esquimaux, Nancy Toran-Harbin and Alan Day will be confirmed early in 1997. At that point the Committee will have a full complement of thirteen members.

7.0 Support Staff

Ann Kelly has been the Committee's Secretary and Administrative Officer since 1991. Her experience has proved invaluable in maintaining a high level of proficiency in all areas of the Committee's work. Ms. Kelly's personal dedication has provided the Committee with a priceless resource upon which to draw. Her insight and positive attitude enable the Committee to proceed with its work in a pleasant environment.

The Committee also wishes to acknowledge the professionalism and commitment of Ms. Carol Chan. Her organizational skills coupled with a congenial manner have provided exemplary secretarial and clerical service to the Committee.

Finally the Committee would like to extend our thanks to the Attorney General, The Honourable Charles H. Harnick, for taking the time to meet with us to discuss various issues and other concerns of the Committee. In addition, the Committee wish to acknowledge the co-operation that it has received from David Gordon, Judy Dobbs, and Jennifer Daly.

PART VI

LOOKING TO THE FUTURE

1. Selection of Candidates

Professional excellence remains of paramount importance to the Committee. It has been most gratifying to reflect that the Committee has been told without exception that **no** under-represented group would wish to be chosen on that basis alone. Such selection would serve only to invite a charge of “tokenism.”

The Attorney General has indicated both publicly and in his meetings with the Committee that trial experience is of utmost importance in his selection from our recommended list of names. However, although the Committee agrees that this criteria is important it also believes that all its criteria must be applied in assessing the merits of each applicant. Accordingly, the Committee from time-to-time has recommended and will continue to recommend individuals who are not trial lawyers but who have achieved a professional excellence in other areas of law.

Also in our meetings, the Attorney General has requested the Committee to provide a larger list of recommended candidates from diverse backgrounds in order that he may have a wider discretion in making a particular appointment. The Committee has increased the number of interviews, which has resulted in a larger number of qualified candidates being recommended to the Attorney General.

2.0 Outreach

The Committee has firmly accepted outreach as one of its roles, and will continue to invite candidates from the various under-represented sections of the legal community to seek appointment. Its earlier initiative encouraging women to apply resulted in the recommendation of many well-qualified women.

Although there has been a steady increase in the number of students from traditionally under-represented communities entering the legal profession, the Committee recognizes that there are a number of barriers, both physical and societal to be overcome before there will be a large enough pool to enable Ontario to reach its goal of a truly representative judiciary.

The Committee is now receiving fewer applicants from women and other under represented groups. For example, the following table shows the percentage decline of women applicants.

Year	Total of Applications Received	Female Applicants	Percent of Female Applicants
1989	338	42	12%
1990	318	137	43%
1991	116	44	37%
1992	186	58	31%
1993	113	39	34%
1994	137	51	37%
1995	85	22	26%
1996	235	52	22%
TOTAL	1528	445	28%

The Committee believes that the profession, community groups and the public in general have a duty to encourage appropriate lawyers to submit applications.

In order to learn more of communities to be served by a particular vacancy and to make it more convenient for applicants, the Committee held its interviews in Kitchener on an occasion when an appointment was to be made in that area. The Committee proposes to continue to conduct interviews for vacancies outside Toronto whenever possible.

3.0 A Representative Committee

It is important to have representation on the Committee that is as diverse as possible. Subsection 43(3) of the amended Act establishes criteria for Committee members as follows:

“In the appointment of members ..., the importance of reflecting, in the composition of the Committee as a whole, Ontario’s linguistic duality and the diversity of its population and ensuring overall gender balance shall be recognized.”

The new Committee in 1997 will have representation from all regions in the province and will consist of eight men and five women. Although it may not be possible for the Committee to reflect all groups at all times, a good balance has certainly enriched its deliberations. It is important that this continue, so that the special needs of various communities can be fully appreciated.

Although the Attorney General makes the majority of appointments to the Committee it is equally important that the remaining members appointed by the Law Society of Upper Canada, the Chief Judge, The Canadian Bar Association - Ontario, the County and District Law President's Association and the Ontario Judicial Council also continue to be reflective of the population of the Province of Ontario.

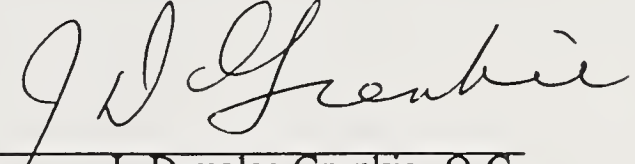
CONCLUSION

The Committee has established criteria and procedures that have established a fair and impartial process for the appointment of judges to the Ontario Court (Provincial Division), one that it hopes has assisted in removing any perception of unwarranted political bias or patronage in appointments to the judiciary. Also the Committee has tried to ensure that the candidates recommended to the Attorney General possess all the required qualities set out in our criteria and are well regarded by their peers and community.

The Committee will continue its pursuit of excellence in recommending candidates for appointment as judges to the Ontario Court (Provincial Division). The quality of the applicants whom we see is impressive. The choice of those to be recommended to the Attorney General is often difficult.

Despite a heavy work-load, Committee members maintain a high level of interest in the process and derive a great deal of personal satisfaction in being part of this rewarding work.

All of which is respectfully submitted:



J. Douglas Grenkie, Q.C.
Chair

IN MEMORIAM

— ROBERT CARTER, Q.C. —

The members of the Committee were saddened to learn that, following a lengthy illness Robert Carter died on 27 April 1996.

Robert Carter was appointed to the Committee on July 10, 1992 as the representative of the Law Society of Upper Canada. As a well known defence counsel, an elected Bencher for 20 years who ultimately was appointed a Bencher for life, a co-author of a book on evidence and a teacher of criminal procedure to bar admission students, Robert Carter brought a wealth of knowledge and experience to the Committee.

Robert Carter was a man of integrity who believed in the justice system and served it well. He will be missed.

JUDICIAL APPOINTMENTS ADVISORY COMMITTEE MEMBERS

CURRENT MEMBERS:

J. Douglas Grenkie, Q.C. Morrisburg, Chair

Called to the Ontario Bar in 1970, Mr. Grenkie is a general practitioner in Morrisburg and a partner in the firm of Gorrell, Grenkie, Leroy & Remillard with offices in Morrisburg, Cardinal and Ingleside. He is also a partner in the firm of Cass, Grenkie in Chesterville. Mr. Grenkie is an active member of the Morrisburg & District Lions Club and the S.D.&G Cornwall Shrine Club (Karnak Temple Montreal). He is a former President of the East District of the Cancer Society, Ontario Division, the founding President of the Upper Canada Playhouse and Past President of the Canadian Bar Association - Ontario. Also, Mr. Grenkie is the Conference Director of the CBAO Foreign Conference Committee, and is the representative of the CBAO on the Committee.

Associate Chief Judge Robert Walmsley, Toronto (Past Chair)

Judge Walmsley was called to the Bar in 1955 and started his legal career as a partner in a law firm in Picton, Ontario. He also acted as a part-time judge in the Eastern Region and was appointed to the Provincial Court Bench, Family Division on a full-time basis in August, 1968. He was then appointed as Senior Judge for the Eastern Region and the Associate Chief Judge of the Provincial Court (Family Division). In 1995 he was appointed as one of the alternate chairs of the Ontario Criminal Code Review Board (now the Ontario Review Board). Judge Walmsley was re-appointed to the Committee as the representative of the Chief Judge of the Provincial Court, The Honourable Sidney B. Linden, to serve a two-year term.

Nancy Mossip, Mississauga: (Lawyer)

Nancy Mossip has practised family law in Mississauga since her call to the Bar in 1979. Ms. Mossip has been actively involved in delivering courses in family law for the both the Law Society of Upper Canada and the Canadian Bar Association - Ontario. Ms. Mossip currently chairs the Law Society's Family Law Specialty Committee which certifies lawyers as family law specialists throughout the Province. In 1997, Ms. Mossip was the recipient of a Bicentennial Award from the Law Society of Upper Canada. Ms. Mossip is the representative of the County and District Law Presidents' Association.

Regional Senior Judge John Evans, Lindsay

Judge Evans was called to the Bar in 1974. From 1974 - 1984 he was in private practice specializing in criminal law. In 1984 he was appointed a Judge of the Provincial Court (Criminal Division) and in 1990 became the Regional Senior Judge of the Ontario Court (Provincial Division) Central East Region. Judge Evans is one of the representatives of the Chief Judge of the Ontario Court (Provincial Division) on the Committee, Chair of the Judicial Conduct Committee, a member of the Chief Judge's Executive Committee, and a member of the Board of Governors, American Judges Association.

The Honourable Judge Lynn King, Toronto

Judge King was called to the Bar with Honours in 1973. From 1973 - 1986, she specialized in the practice of family law, first as a partner in the firm Copeland and King and later as a partner in the firm of King and Sachs, (all women's law firm). Judge King was appointed to the Provincial Court (Family and Youth Division) in 1986. Prior to her appointment Judge King was actively involved in a number of community organizations including, the Rape Crisis Centre, Women's Habitat, Interval House and the Casey House Hospital. Judge King has several publications to her credit including "What every woman should know about Marriage, Separation and Divorce, (1980). Judge King is the designated representative to the Committee of the Ontario Judicial Council.

Beverley Johnson, Toronto: (Lay member)

Ms Johnson has over 20 years' experience in the field of Human Rights. She is currently the Human Rights Officer with the Ontario Public Service Employees Union, where she provides advice to members on human rights and employment equity issues. She is currently a member of the Ontario Federation of Labour's Human Rights Committee and the Ontario Coalition of Black Trade Unionists. Ms. Johnson is also a founding member of the Congress of Black Women (Toronto), a volunteer and former director of Metro Children's Aid Society.

Jean Mongenais, Windsor: (Lay member)

Monsieur Mongenais, a former high school teacher of physics, basic French and mathematics, is presently the Editor and General Manager of Le Rempart, a weekly community newspaper, a Court Interpreter and is currently a half-time student at the Faculty of Law, University of Windsor. Monsieur Mongenais participates in many community organizations including Association de la Jeunesse Franco-Ontarienne, (regional president for several years), Association Canadienne-Francaise de l'Ontario, (regional president and member of provincial council for many years), Windsor-Essex Bilingual Clinic and Windsor Advisory Committee for the Disabled. He is currently Chair of Harmony in Action (Education and Activity Centre for mentally and physically disabled adults), and Vice President of the Association de la Presse Francophone.

Paul Copeland, Toronto: (Lawyer)

Mr. Copeland has practiced primarily criminal law, immigration law and civil litigation since his call to the Bar in 1967. He is a Bencher and during his tenure has held the positions of Vice Chair, Legal Aid Committee, Vice Chair and Chair, Clinic Funding Committee, Chair, Women in Legal Profession and Chair, Equity Committee. Mr. Copeland has participated in various educational programmes in criminal law, immigration law, ethics and freedom of information for the CBAO, the Criminal Lawyers Association, the Law Union of Ontario and has lectured or participated in seminars at several University Law Schools. He is a regular columnist on drug law for the Criminal Lawyers Association (Vice president 1983-1991), and been actively involved in the Criminal Lawyers Association. The Law Society of Upper Canada designated him to be its representative on the Committee effective June 28, 1996.

Palmacchio Di Iulio, Toronto: (Lay member)

Mr. Di Iulio, a former teacher, immigration officer, restaurateur, has been involved in the development of Villa Colombo Home for the Aged and Columbus Community Centre since 1975 and executive director of the Italian Canadian Benevolent Corporation, a non-profit organization, since 1984. He is a past member of the Canadian Multiculturalism Council.

The Reverend Harry Huskins, Lively: (Lay Member)

Rev. Huskins is rector of the parish of Christ Church in Lively, Ontario. He recently served as chair of the Inter-Faith Institutional Chaplaincy Committee with the Ministry of the Solicitor General and Correction Services in Sudbury. Rev. Huskins also teaches in the departments of classical and religious studies at Laurentian University.

Nancy Toran-Harbin, Toronto: (Lay Member) (*Effective 1 April 1997*)

Nancy Toran-Harbin is a partner in the Sleep & Snoring Institute of Toronto. She is the founder for FACE (Family Abuse Crisis Exchange) which assists communities internationally establish initiatives for women re-entering the work force. Ms. Toran-Harbin is a former Vice Chair of the Ontario Film Review Board, has been a consultant to network TV regarding the development and implementation of programming codes and is a co-founder of CRTV. Ms. Toran-Harbin also developed a program of public legal education for Ontario's ethnic communities.

Cynthia Wesley-Esquimaux, Barrie: (Lay Member) (*Effective 1 April 1997*)

Cynthia Wesley-Esquimaux is a former Vice Chief of the United Anishnaabeg Councils and the Chippewa Tri-Council, both regional organizations of First Nations in Southern Central Ontario. She has served as Vice President of the Barrie Native Friendship Centre and is an active member of the Starwalker Educational Foundation. Ms. Wesley-Esquimaux is an Independent Contractor/Consultant in Indian Land Claim Co-ordination and Self Government, and served for two years as the Assistant Negotiator on the 1923 Williams Treaty Specific Land Claim. She has been responsible for developing and coordinating several Wellness and Empowerment Conferences and Seminars, along with a number of political conferences related to the Native Self Government Process. Cynthia is the President of the Pottawatomi Cultural Council and has served as Co-Chair for the Pottawatomi Nation in Canada for the past twelve years. Ms. Wesley-Esquimaux completed a double major in Sociology and Anthropology at the University of Toronto where she will be attending graduate school full-time this fall for M.A. studies within the Department of Anthropology.

Alan Day, Toronto: (Lay Member) (*Effective 1 April 1997*)

Mr. Day graduated from York University with a BA. Economics & Political Science. He is Vice-President of C.I.B.C. Wood Gundy Securities Inc., founding president and active member of the Crescent School Association, current Chairman of the Broadview Foundation which owns and operates Chester Village, a 180-bed long term care facility that is located in the City of Toronto, and an affiliated Alzheimer's facility at 682 Broadview.

Bernice Dubec, Thunder Bay: (Lay Member) (*Retired 28 February 1997*)

Bernice Dubec is a long-term care policy analyst with the Ontario Native Women's Association, a political advocacy group for native women in the province. She also is the former executive director of Wequedong Lodge which provides services to the native community in Thunder Bay. From 1986-91, Mr. Dubec was a member of the Ontario Advisory Council on Women's Issues.

Nancy E. Hansen, Ottawa: (Lay Member) (*Retired 28 February 1997*)

Ms. Hansen is studying towards a PhD. in applied Social Science, specifically Gender Disability and Employment. She teaches in the Department of Law at Carleton University on a part-time basis (Disability and Civil Rights. Ms. Hansen is employed with the Corporate Assignments Program of Statistics Canada focusing on disability issues.

Prof. Emily Carasco, Windsor, (Past Chair) (Lay Member) (*Retired 28 February 1996*)

Professor Carasco is an associate professor at the Faculty of Law, University of Windsor. She teaches Family Law and is actively involved in a number of projects related to the status of women and access to justice. Professor Carasco is a member of the Board of Directors of the Ontario Confederation of University Faculty Association and the Gender Issues Committee of the Canadian Bar Association. In addition she is also a member of the Board of Directors of the South Asian Centre and the Windsor Committee, National Organization for Visible Minorities. Professor Carasco has a number of publications to her credit pertaining to the rights and status of children, women and minorities. Professor Carasco was re-appointed to serve a one-year term.

Appendix I

JUDICIAL APPOINTMENTS RECOMMENDED BY
THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE
JANUARY 1996 - DECEMBER 1996

Name	Location	Effective Date
Edward, Gethin	Brantford	1 December 1996
Frazer, Bruce	Kitchener	13 January 1997
Glenn, Lucy C.	Chatham	16 December 1996
LeDressay, Richard	Guelph	1 December 1996
Libman, Rick	Barrie	15 November 1996
Merenda, Sal	Toronto	21 February 1996
Wolski, William	Barrie	20 January 1997

Appendix II

JUDICIAL APPOINTMENTS RECOMMENDED BY THE JUDICIAL APPOINTMENTS ADVISORY COMMITTEE JANUARY 1989 - DECEMBER 1996

Name	Location	Effective Date
Agro, P.H. Marjoh	Brantford	16 September 1994
Allen, J. Elloit	Brampton	15 November 1991
Anderson, Charles D.	Brockville	5 August 1990
Atwood, Hugh K.	Brampton	4 January 1993
Austin, Deborah J.	Sarnia	1 December 1992
Baig, Dianne P.	Fort Frances	2 April 1990
Bassel, William P.	Toronto	12 April 1995
Bentley, Paul	Toronto	1 June 1992
Bigelow, Robert G.	Toronto	9 August 1993
Bishop, Peter T.	Dryden	6 September 1994
Blacklock, W. James	Brampton	25 January 1993
Blishen, Jennifer A.	Ottawa	15 January 1993
Bonkalo, Annemarie E.	Brampton	2 April 1990
Bovard, Joseph W.	Toronto	31 December 1989
Brownstone, Harvey P.	Toronto	9 March 1995
Budzinski, Lloyd M.	Brampton	1 April 1992
Campbell, Hugh J.	Oshawa	7 November 1994
Carr, Ralph E.W.	Sudbury	1 July 1991
Casey, Jeff	Toronto	9 August 1993
Cavion, Bruno	Brampton	15 November 1991
Cleary, Thomas P.	Barrie	6 June 1994
Cohen, Marion L.	Toronto	9 August 1993
Cole, David P.	Scarborough	1 March 1991
Crawford, James C.	Oshawa	1 June 1990
Culver, Timothy A.	Kitchener	16 May 1994
Douglas, Norman S.	Brampton	16 May 1994
Dunbar, Mary F.**	Brampton	1 February 1991
Edward, Gethin	Brantford	1 December 1996
Fairgrieve, David A.	Brampton	21 December 1990

Name	Location	Effective Date
Finnestad, Faith M.	Toronto	12 April 1995
Flaherty, Roderick J.	Dryden	2 April 1990
Foster, Stephen E.	Newmarket	7 November 1994
Fraser, Hugh L.	Toronto	3 May 1993
Frazer, Bruce	Kitchener	13 January 1997
Gauthier, Louise L.	Northeast Region	15 August 1992
Glaude, G. Normand N.	Elliott Lake*	17 April 1990
Glenn, Lucy C.	Chatham	16 December 1996
Hackett, Donna G.	Scarborough	21 December 1990
Hansen, Inger	Kitchener	1 February 1991
Hardman, Paddy A.	Kitchener	1 March 1991
Harris, C. Roland	Barrie	8 August 1994
Harris, Peter A.J.	Brampton	13 February 1995
Hatton, Mary Jane	Toronto	2 April 1990
Hawke, Kathryn L.	Brampton	6 February 1995
Hryn, Peter	Toronto	1 June 1991
Hunter, Stephen J.	Ottawa	1 June 1991
Isaacs, Peter R.W.	Stratford	13 February 1995
Johnston, Karen E.	Oshawa	1 July 1991
Jones, Penny J.	Toronto	15 July 1991
Katarytnch, Heather L.	Central South Region	1 July 1993
Kerrigan-Brownridge, Jane	Brampton	15 January 1993
Khawly, Ramez	Sarnia	1 December 1991
Khoorshed, Minoo F.	Toronto	1 June 1992
Knazan, Brent	Toronto	15 August 1990
Kukurin, John	Sault Ste. Marie	29 May 1995
Lafrance-Cardinal, Johanne	Cornwall*	6 September 1994
Lane, Marion E.	Brampton	1 February 1991
LeDressay, Richard	Guelph	1 December 1996
Lenz, Kenneth G.	Simcoe/Norfolk	4 July 1989
Lester, Ronald B.	Thunder Bay	1 March 1991
Libman, Rick	Barrie	15 November 1996
Linden, Sidney B.	Toronto	25 April 1990
Lindsay, Eric S.	Toronto	1 September 1990

Name	Location	Effective Date
Linhares de Sousa, Maria T.	Ottawa	4 July 1989
Livingstone, Deborah K.	London	31 December 1989
MacPhee, Bruce E.	Brampton	2 April 1990
Main, Robert P.	Barrie	2 April 1990
Marin, Sally E.	Toronto	9 August 1993
Marshman, Mary E.**	Windsor	15 July 1991
Masse, Rommel G.	Ottawa*	4 July 1989
McGowan, Kathleen E.	St. Catharines	1 June 1990
Merenda, Sal	Toronto	21 February 1996
Minard, Ronald A.	Newmarket	5 April 1993
Morgan, J. Rhys	Toronto	15 August 1990
Morten, Marvin G.	Toronto	5 July 1993
Newton, Petra E.	Toronto	31 December 1989
Nicholas, Dianne M.	Ottawa	1 June 1991
Omatsu, Maryka J.	Toronto	1 February 1993
Ormston, Edward E.	Toronto	31 December 1989
Otter, Russel J.	Toronto	5 July 1993
O'Hara, Terrence G.	Newmarket	6 February 1995
Phillips, Douglas W.	Windsor	1 March 1991
Pockele, Gregory A.	Stratford	2 November 1992
Ratushny, Lynn D.	Ottawa	1 March 1991
Rawlins, Micheline A.	Windsor	15 October 1992
Ray, Sheila	Toronto	15 April 1992
Ready, Elinore A.	Brampton	21 December 1990
Reinhardt, Paul H.	Toronto	2 April 1990
Renaud, J.R. Giles	Cornwall*	23 January 1995
Richards, Ronald J.	Toronto	21 December 1992
Roberts, Marietta L.D.	Brampton	1 March 1991
Robson, M. Wendy	Peterborough	4 July 1989
Rogers, Sherrill M.	Newmarket	15 July 1991
Rosemay, Vibert T.	Brampton	1 December 1991
Salem, Harvey M.	Scarborough	1 March 1991
Schnall, Eleanor M.	London	1 March 1991
Scott, Margaret A.C.	Oshawa	15 December 1993

Name	Location	Effective Date
Shamai, Rebecca S.	Brampton	2 April 1990
Sheppard, Patrick A.	Newmarket	1 June 1991
Simmons, Janet M.†	Brampton	21 December 1990
Sparrow, Geraldine	Toronto	15 January 1993
Stead, W. Brian	Simcoe	1 July 1991
Stone, David M.	Oshawa	1 June 1990
Taillon, Raymond P.	Oshawa	1 July 1991
Timms, David Roger	Oshawa	1 March 1991
Vaillancourt, Charles H.	Downsview	21 December 1990
Vyse, Diane Terry	Cambridge	1 March 1991
Wake, John David	Brampton	8 August 1994
Waldman, Geraldine	Brampton	15 November 1991
Weagant, Brian	Toronto	8 May 1995
Westman, Colin R.	Kitchener	1 June 1990
Whetung, Timothy C.	Peterborough	1 December 1991
Wolder, Theo	Brampton	1 June 1990
Wolski, William	Barrie	20 January 1997
Woolcott, Margaret F.	Brampton	4 January 1993
Wright, Peter J.	East Region	5 July 1993
Zabel, Bernd E.	Hamilton	24 April 1990

* Denotes Designated Bilingual Position

** Subsequently appointed to the Family Court, a Branch of the Ontario Court (General Division).

† Subsequently appointed to the Ontario Court (General Division)

