

## THE ASSURANCE FUND OF THE LAW SOCIETY OF ALBERTA

For some years prior to 1938 there was much consideration and discussion among members of the legal profession in Alberta generally, and at the Benchers' meetings, as to the advisability of making provision for the protection of clients from defalcations of solicitors. While such defalcations were not unusually large or frequent, they had occurred at widely scattered points throughout the province, had received great publicity, and had been the subject of public criticism of the profession much more severe than the amounts involved justified, a criticism which was sometimes reflected in speeches by private members of the legislature or members of the Cabinet.

The views of the members of the profession were so widely divided that no effective action seemed possible. The majority of the older and more influential members of the profession, whose views were of particular weight in the discussions of the governing body, regarded the agitation with great disfavor as an unwarranted reflection upon the profession, as impracticable in operation, unfair to the honest practitioner, and of little practical importance.

At the 1938 session of the legislature, however, it became obvious that legislation was imminent to compel the bonding of all solicitors. On the representation of the Law Society, action by the legislature was postponed for a year on the understanding that the Law Society would in the interval endeavour to devise some scheme for the protection of the clients, reasonably effective and satisfactory alike to the profession and the legislature.

After much discussion the Society rejected any scheme for bonding as expensive and unsatisfactory and submitted to the Cabinet a proposal for the setting up of an assurance fund on the general principles adopted in New Zealand, with such modifications as appeared necessary to meet local conditions. The suggestion of the Society was approved by the Cabinet and by the legislature without change and embodied in an amendment to the Legal Professions Act and the rules made thereunder.

Briefly, the provisions of the plan were as follows:

1. The Benchers were to have power to create a special fund by the levy of an annual assessment of such amount as might be fixed by the Benchers from time to time upon the members of the Society for the purpose of the reimbursement in whole or in part of persons sustaining pecuniary loss by reason

of the misappropriation or conversion by any member of the Society of money or other property entrusted to or received by such member in his professional capacity, and to administer such fund, and for that purpose to make such rules and regulations as they might deem necessary.

2. Payment of the annual assessment might be enforced in the same way as payment of the annual dues.

3. No payment should be made out of the fund in respect to any claim which arose prior to the first day of January, 1939.

4. No claim should be considered in respect of any solicitor who had not been found guilty by the Benchers of unprofessional conduct unbecoming a solicitor. Provision was made for the publication in the *Alberta Gazette* of notice that a solicitor had been struck off the rolls, and no claim was to be entertained except by special resolution of the Benchers, unless notice of the claim was received by the secretary within six months of the publication of this notice.

5. A report was to be made annually to the Attorney General as to the fund and all payments made therefrom.

The annual payment to the fund was fixed at first at \$10.00 per member. It was then reduced to \$5.00 per member, and now stands at \$7.50.

There is now to the credit of the fund, without the annual assessment for 1943, the sum of approximately \$14,750.

The Society has been extremely fortunate in the fact that defalcations reported have been very light since the fund was established and only two claims, one for \$140.00 and one for \$133.82 have been made against the fund, both of which have been paid.

It seems reasonable to expect that in the course of the next ten years the fund will reach an amount which should enable the Law Society to pay any claim ever likely to be made against it.

The fund now has the strong support of the great majority of the members of the Society. They would be strongly in favor of its continuance even if all legislative pressure were removed. The prestige of the profession and the confidence of the public in it has undoubtedly been greatly enhanced and this has redounded particularly to the benefit of the young practitioner establishing a practice.

S. W. FIELD.

EDMONTON.