

# **PROVINCIAL COURT COMMISSION REPORT**

**November 27, 2008**

<b>Chair:</b>	<b>Peter Zakreski, C.M.</b>
<b>Members:</b>	<b>John Beckman, Q.C.</b>
	<b>Kathryn Ford, Q.C.</b>

# **Saskatchewan Provincial Court Commission Report**

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## 1. Introduction

### 1.1 Provincial Legislation

The current Provincial Court Commission was appointed in June 2008 pursuant to section 36 of *The Provincial Court Act, 1998 (The Act)*. This is the fourth commission appointed under this legislation.

The Commission's jurisdiction is provided for in sections 38 and 51 of *The Act*, which are as follows:

- 38(1) A commission shall inquire into and make recommendations with respect to the following:
    - (a) the salaries to be paid to:
      - (i) the chief judge;
      - (ii) an associate chief judge;
      - (iii) judges other than the chief judge, associate chief judges and temporary judges; and
      - (iv) temporary judges;
    - (b) the remuneration to be paid to judges who perform administrative duties assigned to them pursuant to clause 8(f);
    - (c) the allowances to be paid to judges who reside in the Northern Saskatchewan Administration District;
    - (d) professional allowances;
    - (e) vacation leave;
    - (f) pension benefits and additional retirement benefits.
  - (2) A commission may inquire into and make recommendations with respect to the following:
    - (a) the support staff, facilities, equipment and security of the court;
    - (b) the benefits to be provided to judges pursuant to regulations made pursuant to clause 65(d).
  - (3) The salary recommended by a commission cannot be less than the salary being received by the judges on the day on which the report containing the recommendation is submitted to the minister.
  - (4) No commission regulation respecting pension benefits or additional retirement benefits shall reduce a person's benefit that accrued before the coming into force of the regulation.
- 51(1) At the request of the minister or the association made at any time during the term of the members of the commission, the commission may inquire into and make recommendations with respect to any matter of significance to the court.

- (2) Within six months after the day on which a matter is referred to a commission pursuant to section (1), the commission shall submit a report to the minister and the association containing any recommendations of the commission with respect to the matter.

Counsel for the Minister summarized for the Commission that *The Act* authorizes the Commission to make two types of recommendations – compulsory and advisory. The type of recommendations that are compulsory are listed in subsection 38(1). They relate to various matters comprising the remuneration package for Provincial Court Judges. The type of recommendations which are advisory only are listed in subsection 38(2) of *The Act* allowing the Commission discretion about whether to make any such recommendation.

This Commission's term expires on June 30, 2011.

## 1.2 Membership of the Commission

The Commission has three members. As required by section 36(2) of *The Act*:

- (i) one is appointed by the Minister of Justice
- (ii) one is appointed by the Saskatchewan Provincial Court Judges' Association
- (iii) these two members appoint a chairperson

The Commission members are:

- (i) Peter Zakreski, C.M., Chairperson
- (ii) John Beckman, Q.C., appointee of the Saskatchewan Provincial Court Judges Association
- (iii) Kathryn Ford, Q.C., appointee of the Minister of Justice

## 1.3 Process

Advertisements calling for submissions to the Commission were placed in the Regina *LeaderPost*, the Saskatoon *StarPhoenix*, and the Prince Albert *Herald* on August 30, 2008. The advertisements indicated that submissions would be received by the Commission. Advertisements were again placed in the same papers notifying of the dates and locations of the Commission Hearings.

The Commission was assisted by written submissions received from:

- Saskatchewan Provincial Court Judges Association (Association)
- Deputy Minister of Justice, on behalf of the Government of Saskatchewan (Government)
- Canadian Bar Association – Saskatchewan Branch (CBA)
- Saskatoon Criminal Defence Lawyers Association (SCDLA)
- Honourable Chief Judge Carol A. Snell (Chief Judge)

and replies from

- Saskatchewan Provincial Court Judges Association
- Deputy Minister of Justice, on behalf of the Government of Saskatchewan

These documents and other material can be found at  
[www.provincialcourtcommission.sk.ca](http://www.provincialcourtcommission.sk.ca)

The Commission heard oral submissions on October 27, 2008 in Saskatoon and on October 30, 2008 in Regina.

## **2. Background and Context**

### **2.1 Previous Judicial Compensation Commissions**

There have been five previous Provincial Court Commissions in Saskatchewan:

- The Schmeiser Commission reported in 1991
- The Irwin Commission reported in 1993
- The Bundon Commission reported in 1998 and 1999
- The Vicq Commission reported in 2002
- The Barnard Commission reported in 2005

The Bundon, Vicq and Barnard Commissions reported under the current legislation.

The Provincial Government rejected the recommendations of the Schmeiser and Irwin Commissions. The initial salary recommendation of the Schmeiser Commission was for a salary of \$104,000 (October 1, 1990) and the initial salary recommendation of the Irwin Commission was \$108,000 (April 1, 1993).

The rejection of the Irwin Commission salary recommendations resulted in the commencement of a lawsuit against the Provincial Government by the Saskatchewan Provincial Court Judges Association. In June 1997, the Minister of Justice announced that a settlement had been reached in the lawsuit. Under the terms of the settlement, the amount of the salary for Provincial Court Judges was \$112,961 effective April 1, 1997.

The first Bundon report addressed a joint submission from the Minister of Justice and the Saskatchewan Provincial Court Judges Association (SPCJA) and the recommendations of the Commission followed the 1997 settlement.

The second Bundon report addressed the period from April 1, 2000 to March 31, 2003. On January 13, 2000, the Provincial Government announced that it would accept all of the recommendations of this Commission. The salary recommended by the Commission was \$143,000 for the period ending March 31, 2003.

The Vicq report addressed the period from April 1, 2003 to March 31, 2006. The Provincial Government announced in January of 2003 that it accepted all of the recommendations of this Commission. The recommendations resulted in a salary of \$165,190 for the period ending March 31, 2006.

The Barnard report applied for the period April 1, 2007 to March 31, 2009. The Provincial Government announced in January of 2006 that it accepted all of the recommendations of this Commission. The recommendations were as follows, per pages 17 and 18 of that report:

“The Commission recommends that the base salary for judges be set at \$195,000 for the period April 1, 2006 through March 31, 2007.

For the period April 1, 2007 – March 31, 2008 this amount should be adjusted by the increase in the Saskatchewan Consumer Price Index (CPI) as measured between January 1, 2006 and December 31, 2006. This adjustment shall not be less than zero.

For the period April 1, 2008 – March 31, 2009 the previous year’s salary shall be adjusted by the Saskatchewan CPI as measured between January 1, 2007 and December 31, 2007. This adjustment shall not be less than zero.

The Commission recommends that in each of the years mentioned the Chief Judge receive a salary that is \$10,000 greater than the amount determined for the base salary.

The Commission recommends that in each of the years mentioned the Associated Chief Judge receive a salary that is \$5,000 greater than the amount determined for the base salary.

The Commission recommends that in each of the years mentioned Administrative Judges receive a salary that is \$3,000 greater than the amount determined for the base salary.

The Commission recommends that in each of the years mentioned the daily rate for Temporary Judges be determined by dividing the annual salary by the number of available days of work, as has been the practice in the past.

The Commission recommends that pension calculations for the Chief Judge, the Associate Chief Judge and Administrative Judges include the additional compensation mentioned above as part of the salary.

The Commission recommends that the professional allowance available to judges be increased from \$3,000 to \$3,500 in part to address the cost of robes.

The Commission recommends that Judge Gerald Morin be entitled to receive the Northern Allowance because his circuit includes multiple court points in the Northern Administration District.”

## 2.2 Issues

At the conclusion of the hearing on October 30, 2008, the Commission summarized for all parties the status of issues raised with the Commission. The Government and the Association concurred that the status of issues before the Commission were as follows:

1. Issues agreed to by the parties and approved by the Commission:

(i) Chief Judge, Associate Chief Judge, Administrative Judge

- (a) In recognition of the additional specific statutory responsibilities and stature of the position, for each of these years the Chief Judge of the Provincial Court receive a salary seven and one-half (7.5) percent greater than the amount paid to judges other than the Associate Chief Judges and Administrative Judges.
- (b) In recognition of the Associate Chief Judges being required to act as the Chief Judge, in the event of incapacity, absence or vacancy, for each year of these years they receive a salary five (5) percent greater than the amounts paid to judges other than the Chief Judge and Administrative Judges.
- (c) In recognition of their added administrative responsibilities, for each of these years, the Administrative Judges receive a salary two and one-half (2.5) percent greater than the amounts paid to judges other than the Chief Judge and the Associate Chief Judges.

(ii) Senior Judges Program

The Government has agreed to have its officials meet with the Chief Justice and representative of the Association to explore the potential for a "Senior Judges Program". It was recognized that the establishment of such a program may benefit the Government, the Provincial Court, the Association and the general public. However, there is no commitment by either party to institute such a program at some future date in the absence of discussion and agreement.

(iii) Technical Amendments to the Provincial Court Pension Regulations

At the request of the Canada Revenue Agency, the Government advised, and the Association agreed, to make two technical amendments to the Provincial Court Pension Regulations so as to maintain registration of the Judges of the Provincial Court Superannuation Plan pursuant to the *Income Tax Act* (Canada). These changes are summarized as follows:

- i) that a section be added to the Provincial Compensation Regulations providing that a pension provided pursuant to these Regulations will not exceed the maximum pension permitted pursuant to the *Income Tax Act* (Canada); and
- ii) that a section be added to the Provincial Compensation Regulations providing that a judge must commence receiving a pension pursuant to these Regulations on a date which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to a member of a registered pension plan.

The Commission was assured by the Government that neither of these amendments will have any implication as to the calculation and the payment of pensions to retired judges.

(iv) Disability Entitlement

The Government and the Association agreed that section 20 of *The Provincial Court Act*, 1998, should be amended to allow a decrease in the ineligibility period for disability benefits for judges from one (1) year to three (3) months.

(v) Payment of Accrued Pension

In addressing the matter of early retirement for Provincial Court Judges, such provision must be in accordance and consistent with the *Income Tax Act* (Canada). Accordingly, the Provincial Court Pension Plan Regulations should be amended to provide:

- i) when a provincial court judge attains the age of 60 years, or has a combined age and years of contributing service of 80 or more on the date of their retirement, the judge should be entitled to retire and receive an immediate pension without reduction; and
- ii) when a provincial court judge who is more than 55 years of age but less than 60 years of age and chooses to retire, they should be entitled to an immediate pension reduced by five (5) percent for each year that they are less than 60 years of age or for each year that their combined years of age and contributing service is less than 80 years.

(vi) Pension Calculations for Northern and Administrative Allowances

The Provincial Court Compensation Regulations should be amended to provide for an additional pension supplement calculated at the rate of three (3) percent of the average amount of the allowance times the number of years the allowance was paid to the particular judge, payable when the judge retires.



This provision should apply prospectively. The benefit calculation should only include those years in which a judge has made contributions with respect to an allowance, unless that allowance was included in the judge's salary for the purpose of calculating the judge's pension.

(vii) Indemnification of Judges for Legal Costs

Discussions have commenced between the Government and the Association as to how best to address the judges' concerns about this matter. The Commission recommends that both parties continue with these discussions so as to arrive at a mutually satisfactory resolution.

2. Issues to be further addressed and open for supplemental submission and adjudication during the term of this Commission:

(i) Facilities and Security

The Government asserted that an enormous amount of work has been done in respect of issues relating to facilities and security following the release in 2001 of the three volume Saskatchewan Court Facilities and Security Strategy that was prepared for, and accepted by, the Bundon Commission. The Government reports that there have been significant security enhancements to court facilities across the province and that it continues to be willing to further discuss security issues affecting the Provincial Court of Saskatchewan with the Association.

In the Association's brief, it was acknowledged that a number of facility issues have been addressed since 2001 in some locations, however, significant concerns remain concerning the adequacy of the facilities in the 13 Judicial Centres of the Court, particularly having regard to the capacity of the structures to accommodate the current and anticipated rise in volume of cases and accompanying traffic. The Association provided to the Commission a brief sketch of facility issues in specific courthouses around the province. The Association stated that some security issues are being addressed with the installation of airport-style security screening at the entrances to facilities in Regina, Saskatoon and Prince Albert, and the provision of security personnel in most, but not all, of the courtrooms at each of these facilities and at North Battleford and Moose Jaw. However, security continues to be a constant source of concern and even alarming in many of the 13 court facilities and particularly at the 73 circuit points.

The Commission acknowledges that facilities and security concerns are a high priority among the judges of the Provincial Court. However, the Commission also acknowledges that problems with respect to court facilities are understood and are being addressed where issues with respect to security are multiplying, requiring assessment on a regular and expeditious manner.

The Commission urges and recommends that the parties, through the Saskatchewan Courts Facility and Security Review Committee, conduct an investigation into current security concerns in all judicial centre facilities and circuit points, with a view to updating standards which will guide the future operations of security in the Provincial Court of Saskatchewan.

(ii) Health Benefits After Retirement

The Association requested the Commission to endorse in principle and recommend an extension of health care benefits into retirement for judges and their spouses.

The Government reiterated their position before the Barnard Commission as was set out in paragraph 45 of its reply in 2005:

"There is nothing preventing [judges who are already retired and their partners] from pursuing this item with the Public Employees Benefits Agency and setting up an extended medical and dental benefits plan that would be wholly funded by them."

The Commission would encourage the Association to further pursue this request with the Public Employees Benefits Agency whereby an existing retiree plan within the Agency could be made applicable to retired judges with similar benefits to apply. The Commission is of the view that the provision of this plan should be solely at the expense of the participants.

(iii) Costs of the Commission Process

The Government submitted that the issue of costs of the commission process has previously been resolved between representatives of the Government and the Association. The Government stated it is confident that there will be no reason to expect that it will not be possible to arrive at an agreement on the costs of this Commission.

The Commission is in agreement that at this point in time there is no need to intervene in this process and is confident that a mutually acceptable agreement will be arrived at. Failing a satisfactory agreement, the parties may return the issue to the Commission.

(iv) Disability Benefits After Age 65

The Association requested the Commission recommend that disability benefits “be extended to those judges who continue to work after age 65, until age 70 or until such time as they sooner retire from the Court.”

The Government observed that at present the Provincial Court Judges are required to retire at 65 years of age by virtue of subsection 13(1) of *The Provincial Court Act*, 1998. The Government also agreed that a retired judge may continue to sit as a temporary judge until they attain 70 years of age, always subject to an annual approval by the Chief Judge. The Government brought to the attention of the Commission that it would be more appropriate and in fact the pension plan provides for, the retired judge who is serving as a temporary judge and becomes ill or disabled, to retire and receive a retirement benefit.

The Commission is of the view that the clarification provided by Government resolves this issue for the Association.

3. Outstanding issues which require Commission recommendation:

- (i) Judicial Salaries
- (ii) Vacation Leave
- (iii) Indexing Pension to 100% of Saskatchewan CPI
- (iv) Temporary Judges’ Remuneration
- (v) Red Circling of Chief Judge’s Salary
- (vi) Discontinuance of Contributions Upon Entitlement to Full Pension

Prior to providing an analysis and a recommendation on the above outstanding issues, the Commission will summarize some fundamental concepts referenced from either the Government, the Association, previous Commission Awards or Judicial decisions. This Commission has undertaken this analysis to assist itself in its deliberations and formulation of recommendations.

- The Supreme Court of Canada, in the 1997 P.E.I. Reference, identified that the Commission was to be objective, independent and effective in setting remuneration and benefits for the third branch of government – the judiciary. Commissions were entrusted with the task of making “...recommendations on judges’ remuneration by references to objective criteria, not political expediencies”. The goal is to present “an objective and fair set of recommendations dictated by the public interest”.

- In 2005, the Supreme Court of Canada again considered the Court Commission process in the Bodner decision, writing:

“It is a constitutional requirement that Commissions be independent, objective and effective. One requirement for independence is that Commission members serve for a fixed term which may vary in length. Appointments to a Commission are not entrusted exclusively to any one of the branches of government. The appointment process itself should be flexible. The Commission’s composition is legislated but it must be representative of the parties.

The Commission must objectively consider the submissions of all parties and any relevant factors identified in the enabling statute and regulations. Its recommendations must result from a fair and objective hearing. Its report must explain and justify its position.”

- Judicial independence in Canada has been understood to have three basic components. First, security of tenure; this means judges are not to be removed from office by political whim. Second, financial independence; this means judges must have the financial security to do their job without outside influence or concern for their livelihood. Third, administrative independence; this means that in the administration of the court, judges must not be subject to political interference or working conditions which place their independent judgment in jeopardy.
- Judicial duty involves exceptional sacrifices of a personal and professional nature. Judges are no longer permitted to have other sources of earned income, apart from the judicial salary. A judge’s freedom of speech is limited, and conduct in and out of the courtroom is strictly monitored and subject to complaint. Actions and behaviour in private and in public can come under extraordinary scrutiny and comment.
- The Provincial Court plays a vital role in the administration of justice in Saskatchewan. Charged with the immense responsibility for presiding in 86 far flung locations across this Province (13 judicial centres plus 73 circuit points), it presides over the vast majority of criminal and civil claims in Saskatchewan. While its jurisdiction and workload in criminal and civil matters has consistently increased, it has responded to the needs of the communities that it serves, implementing creative and forward thinking changes to the way in which it delivers justice.

This Commission specifically noted:

- Parliament has imposed many entirely new duties on the Justice System, including: numerous new offences, preventive peace bonds or recognizances, and a number of ancillary orders such as DNA warrants and sex offender registration.

- There has been a marked increase in the reclassification of offences which have been consistently transferred to the Provincial Court.
- There has been a substantial increase in the monetary limit for property offences which now start at under \$5,000, which has resulted in most property offences being tried in the Provincial Court.
- There has been a movement of offences from the indictable category to the hybrid classification. As a result of the amendments over the years, most offences in the *Criminal Code* have been brought within the absolute jurisdiction of the Provincial Court or are usually brought within the jurisdiction of the Provincial Court by a Crown election to proceed summarily or an accused person's election to the Provincial Court.
- The Provincial Court has had its jurisdiction expanded through federal statutes which create offences assigned to the Provincial Court. Since the last Commission, there has been a continuing trend of the Government of Canada to create new offences and at the same time expand the jurisdiction of the Provincial Court.
- The Provincial Government has issued significant law reform initiatives which has resulted in the Provincial Court having jurisdiction to try these offences.
- Two significant changes were introduced during the past three years which have impacted on the work of the Provincial Court. An amendment to the *Provincial Court Act*, creating a Civil Division of the Provincial Court of Saskatchewan, and a Regulation pursuant to *The Small Claims 1997 Act*, which increased the Provincial Court's jurisdiction from \$5,000 to \$20,000.
- It is becoming increasingly common in the Provincial Court for unrepresented or self-represented persons at all stages of proceedings, including bail, plea, sentence and trial. When this occurs it is crucial for the proper administration of justice, that the courts are, and are seen to be: fair, accessible, and accommodating to all self or unrepresented persons. Trial Judges necessarily draw on their experience with people and knowledge of the law but most of all they need to be keenly perceptive as they endeavour to guide self and unrepresented persons through the unfamiliar territory of court proceedings.
- Judges who preside in the north, or at single judge judicial centres, bear additional burdens associated with the remoteness of these points to which they must travel.

- It was reported to the Commission that the Provincial Court has been recognized as an innovative court citing such examples as: Sentencing Circles, Circle Court, Restorative Circle Initiative, Domestic Violence Treatment Option Court, Drug Treatment Court, Cree and Aboriginal Court.

Upon review of the above factors, this Commission strongly concurs with the Government that the Provincial Court of Saskatchewan is composed of accomplished, diligent and dedicated judges. This Province is indeed fortunate to have such highly qualified, highly motivated and highly esteemed individuals serving the public's interest.

The Commission now turns its attention to the specific outstanding issues which will require a definitive recommendation:

### **3. Judicial Salaries**

#### **3.1 The Association**

The Association requested the Commission to consider recommending that the base salary for judges be set at \$240,000 for the period April 1, 2009 through March 31, 2010.

The Association's position is that:

- For the period April 1, 2010 to March 31, 2011, the requested base should be adjusted by the increase in the All Items Saskatchewan Consumer Price Index (CPI) as measured by the average annual increase between January 1, 2009 and December 31, 2009. This adjustment shall not be less than zero.
- For the period April 1, 2011 to March 31, 2012, the previous year's salary shall be adjusted by the increase in the All Items Saskatchewan Consumer Price Index (CPI) as measured by the average annual increase between January 1, 2010 and December 31, 2010. This adjustment shall not be less than zero.

In support of this request, the Association referenced four factors:

#### **1. Attracting the Most Qualified Candidates**

- The Association quoted from the 1998 Alberta Commission Report at pages 33-34:

"We wish to emphasize that the importance of attracting highly qualified candidates to the bench ought not to overshadow the significance of two other fundamental principles in human resource management, motivating and retaining those individuals once appointed. If history and current practice is any guide, appointment to the bench is a long-term commitment, not a staging post."

- The Association noted that it is important for the future of the Court that the most highly qualified candidates from all sectors of the profession be attracted and noted for the Commission that in order to attract the most qualified candidates from the private bar, the salary range and benefits offered must be commensurate with the expectations of potential candidates from the private bar.
- Quoting from the December 31, 2007, Navigant Consulting Inc., the Association stated:  

“With respect to Saskatchewan lawyers, the survey found that in 2006, the annual income earned at the 75<sup>th</sup> percentile was \$192,857.00. That figure increased dramatically in 2007, to \$259,375.00, an increase of 34%.”
- The Association noted for the Commission that of the 24 judges who were in private practice at the time of their appointment, only one came from the pool of “larger firms” whereas a very high number of judges appointed to the Court of Queen’s Bench and the Court of Appeal were practicing in “larger firms” at the time of appointment.

## 2. Economic and Market Factors

The Association submitted that this Commission should consider Saskatchewan’s strong economy, financial health, and bright economic future in determining what constitutes fair and reasonable compensation for Provincial Court Judges and referenced a number of factors:

- A review of the relative economic performance of Saskatchewan would reveal that it is likely to continue to be a “have province”.
- A quote from the 2008/2009 Saskatchewan Provincial Budget Summary:  

“Our economy is thriving – Saskatchewan is an economic leader and a ‘have province’. There’s a new confidence in our province and people are noticing. Our resource-based economy – while volatile – is extremely diversified, and new and innovative opportunities are bringing people to Saskatchewan.”
- The Association expressed confidence in a strong economic future for Saskatchewan, as supported by the lowest level of unemployment rate, highest growth in retail sales, value of building permits, housing starts and international exports.
- Quote from the 2007 Report of the Provincial Auditor:  

“For the year ending March 31, 2007, the Government’s financial condition has showed continued improvement from prior years. With its annual surplus of \$574 million, the Government has recorded a surplus for the third straight year. The Government has further reduced its net debt in 2007 by almost \$500 million to a fifteen-year low of \$7.3 billion.”

- In making a recommendation regarding salary and benefits, the Association argued that the Commission should look to the salary and benefits received by judges in provinces having a comparable standing, namely Alberta, British Columbia and Ontario.

### 3. Salaries Paid to Other Trial Judges in Saskatchewan (Court of Queen's Bench)

The Association noted the following salary gap during the period from 1982 to 2008:

<u>Year</u>	<u>SK Provincial Court</u>	<u>Queen's Bench Court</u>	<u>Gap Between Provincial vs. Q.B.</u>
1982	\$65,988	\$80,100	\$14,112
1983	\$68,988	\$84,900	\$15,912
1984	\$71,000	\$89,100	\$18,100
1985	\$71,000	\$105,000	\$34,000
1986	\$73,130	\$115,000	\$41,870
1987	\$80,052	\$121,300	\$41,248
1988	\$90,000	\$127,700	\$37,700
1989	\$90,000	\$133,800	\$43,800
1990	\$90,000	\$140,400	\$50,400
1991	\$90,000	\$147,800	\$57,800
1992	\$90,000	\$155,800	\$65,800
1993	\$92,250	\$155,800	\$63,550
1994	\$94,556	\$155,800	\$61,244
1995	\$94,556	\$155,800	\$61,244
1996	\$94,556	\$155,800	\$61,244
1997	\$112,961	\$165,600	\$52,639
1998	\$112,961	\$175,800	\$62,839
1999	\$112,961	\$178,100	\$65,139
2000	\$143,000	\$198,000	\$55,000
2001	\$143,000	\$204,400	\$61,400
2002	\$143,000	\$210,941	\$67,941
2003	\$158,000	\$216,600	\$58,600
2004	\$161,634	\$240,000	\$78,366
2005	\$165,190	\$244,200	\$80,090
2006	\$195,000	\$244,700	\$49,700
2007	\$198,900	\$252,000	\$53,100
2008	\$204,552	\$260,000	\$55,448

The Association then noted the following factors for consideration by the Commission:

- If the Government was evaluating levels of remuneration for engineers, it would consider the salary of Saskatchewan engineers who work outside the Government.



- Judges of the Provincial Court and the Court of Queen's Bench are all trial judges, have the same education and qualifications for appointment, and apply substantially the same set of legal procedures and materials to determine disputes.
- Judges of the Provincial Court are competent to make decisions to commit an individual to an indeterminate sentence (dangerous offender determinations) and apply the same constitutional instruments (i.e., Canadian Charter of Rights and Freedoms) and the same body of common law relating to contracts, torts and other commercial and private law areas, when deciding civil disputes.
- The May 30, 2008 Report of the Quadrennial Compensation and Benefits Commission undertaken pursuant to s.26.2 of the *Judges Act* recommended that the salary of federally appointed puisne judges, effective April 1, 2008, be \$264,300, inclusive of statutory indexing, effective that date. Thereafter on April 1<sup>st</sup> in each of the following years to 2011, the salary will be increased by 2%, not compounded (i.e., the previous year's salary should be multiplied by the sum of the statutory indexing and 2%). See p. 38 of the Report. Allowing for cost of living at 2%, per year, the Association projected the salaries for federally appointed judges as follows:

<u>Year</u>	<u>SK Provincial Court</u>	<u>Queen's Bench Court</u>	<u>Gap</u>
April 1, 2008	\$204,552	\$264,300	\$60,000
April 1, 2009		\$274,872	
April 1, 2010		\$285,866	
April 1, 2011		\$297,300	

- It must be noted that these recommendations have neither been accepted nor rejected at this point in time.
- The Association further concluded that disparity is not justified based on different roles of Courts, as supported by the following observation:

Professor Peter Russell of the University of Toronto observed that while it may appear logical to pay "lower court" judges less when the judicial system is viewed as a hierarchy, doing so amounts to a double standard, which is inappropriate to the proper administration of justice.

#### 4. Salaries Paid to Other Trial Judges in Canada (the "have provinces")

The salaries paid to Provincial Court Judges in the three "have" provinces are matters which could be considered analogous on rational terms with that of Saskatchewan. In terms of those jurisdictions, the following benchmarks were noted:

- Current Salary of Saskatchewan Provincial Court Judges as at April 1, 2008 - \$204,552/annum

- Weighted Average:

$$\frac{\text{The actual numbers of judges in each province/territory x their salary}}{\text{The actual number of judges}}$$

$$= \$234,826$$

- "Have" Provincial Salaries – Projected to April 1, 2009:

British Columbia - \$226,600

Alberta - \$242,000

Ontario - \$249,267

Average - \$239,289

### 3.2 The Government

The Government requested the Commission to make the following recommendations:

For the period April 1, 2009 to March 31, 2010, the base salary for judges other than the Chief Judge, the Associate Chief Judges and the Administrative Judges be \$212,734 which amounts to a 4% increase.

For the period April 1, 2010 to March 31, 2011, this amount be adjusted by the CPI – Saskatchewan All Items Index for the 2009 Calendar Year.

For the period April 1, 2011 to March 31, 2012, this amount be adjusted by the CPI – Saskatchewan All Items Index for the 2010 Calendar Year.

The Government submitted the following table on the monetary value of the current remuneration package for Provincial Court Judges in Saskatchewan:

**Total Compensation Paid to Saskatchewan Provincial Court Judges as of April 1, 2008**

Chief Judge – Annual Salary	\$214,552
Associate Chief Judge – Annual Salary	\$209,552
Judge – Annual Salary	\$204,552
Pension and Additional Retirement Benefits	Benefit rate of 3% per year of service, up to 23-1/3 years, times average salary over best 3 years. Full pension of 70% times average salary over best 3 years, when age and years of service equal 80, at age 58 with minimum of 18 years' service. Contributory 5%. Pensions indexed to 75% of CPI.
Northern Allowance	\$10,228
Professional Allowance	\$3,500
Remuneration for Judges who Perform Administrative Duties	\$3,000
Annual Sick Leave	18 days
Annual Vacation	30 days
Group Life Insurance	\$400,000 plus \$50,000 for accidental death.
Disability Benefits	100% of salary for temporary disability (up to 1 year); 70% for permanent disability. On recommendation of Judicial Council. No premiums.
Dental Plan	No premiums.
Extended Health Plan	No premiums.
Monetary Allowance for Travel and Meals	Actual and reasonable travelling and sustenance expenses.

The Government also emphasized that the benefits portion of the current compensation package is significant, amounting to an equivalent of 49.25% of the current judicial salary or \$100,742 in addition to a salary of \$204,552.

The Government noted the following considerations for the Commission:

- The Commission is statutorily forbidden to recommend a reduction in judicial compensation below the amount paid to judges on December 31, 2008.
- The Commission is statutorily prohibited from recommending a reduction in pension and other retirement benefits “that accrued before the coming into force of the Regulations”.
- There is a statutory direction in clause 35(b) which defines what is meant by the term “national average” for the purposes of *The Act*:

35(b) “National average” means the average of the salaries paid to judges of the provincial courts or territorial courts for the other provinces and territories in Canada, calculated as of the most recent occurrence of the date January 1.”

This definition is only applicable in circumstances where the Government declines to accept a Provincial Court Commission's recommendation on judicial remuneration.

The Government submitted that a review of provincial and federal legislation equivalent to *The Act* reveals that there is a large measure of consensus about what factors a judicial compensation commission should take into account when crafting its consultative report and salary recommendations. The Government submitted that these are well reflected in the factors first identified and applied by the Vicq Commission in 2002, and endorsed by the Barnard Commission in 2005. These factors are:

- the history of judicial remuneration in Saskatchewan
- changes in the cost of living
- prevailing economic and fiscal conditions in Saskatchewan
- public and private comparators both within and outside Saskatchewan
- recruitment and retention
- the unique responsibilities and work environment of provincial court judges.

The Government addressed two preliminary matters:

- (i) the adequacy of the current level of remuneration paid to judges of the Provincial Court of Saskatchewan; and
  - (ii) the relevant "starting point" for the Commission's deliberations.
- (i) On the Adequacy of Current Judicial Remuneration

The Government notes that one of the fundamental attributes of institutional financial security identified in the P.E.I. Provincial Court Judge's Reference is that judicial salaries should not fall "below a basic minimum level of remuneration which is required for the office of a judge". The Government then provides the April 1, 2008 salary of \$204,552 to the judge of the Provincial Court of Saskatchewan and a total remuneration package with benefits of \$305,293.86.

From the above amount, the Government took the position that the remuneration package was generous when the judicial stipend and the annual monetary equivalent of the pension benefits were considered and quoted from the New Brunswick Court of Appeal where it was observed that "It is universally accepted that the value of the judicial pension is a significant factor to be taken into account in comparing the income position of judges and lawyers in private practice". The Government then provided the following chart which was prepared by the Public Employees Benefit Agency:

**Survey of Provincial Judge Salaries and Current Pension Service Costs - As of October 1, 2007**

<b>Jurisdiction</b>	<b>Judges' Salary</b>	<b>Pension – Current Service Cost</b>	<b>Total</b>
Newfoundland & Labrador	\$173,591	\$81,241	\$254,832
Nova Scotia	180,708	74,199	254,907
Prince Edward Island	191,349	Not identified by PEI	
New Brunswick	174,946	52,711	227,657
Quebec	191,267	56,615	247,882
Ontario	221,748	98,900	320,648
Manitoba	178,230	76,265	254,495
Saskatchewan	198,900	99,450	298,350
Alberta	220,000	56,738	276,738
British Columbia	202,355	70,683	273,038

The Government then submitted that the Provincial Court Judges in this Province are very well remunerated, especially when compared to their counterparts in other jurisdictions.

(ii) On the Starting Point for this Commission's Salary Deliberations

The Government referred to the New Brunswick Provincial Court Judges' Association, where the Supreme Court directed that absent "demonstrated change", a new compensation commission should build upon the report and recommendations presented by its predecessor Commission. The Government referred to the previous Commission (the Barnard Commission) which awarded an increase of approximately \$30,000 or 18% to the base judicial stipend set in 2002. The Government takes the position that this increase was sizeable and eradicated any perceived deficiencies in prior awards.

Having elaborated on these two preliminary matters, the Government then referred to the following six factors:

1. Recruitment and Retention of Provincial Court Judges

The Government submitted the following factors which would motivate a lawyer to seek judicial appointment. The first four from the Vicq Commission identified as "nature of work", "prestige associated with being a judge", "security of position", and the "salary and benefits package". To this list the Government added "a desire for public service". The Government submits that it has no difficulty in selecting highly qualified individuals to serve as Provincial Court Judges and states that currently there are 35 individuals whose qualifications the Judicial Council has reviewed and recommended for appointment. A summary of appointments since December 2005 amounting to 11 was provided, outlining the varied and successful careers of these individuals prior to their appointment as a Provincial Judge of the Province of Saskatchewan.

The Government also stated that the retention of Provincial Court Judges in Saskatchewan is not a problem and cited that only two Provincial Court Judges resigned since 1987, stepping down due to judicial disciplinary proceedings.

## 2. Comparison with Judges in Other Provinces

The Government submitted that while comparisons to the compensation package paid to federally appointed judges may prove interesting, it can have no bearing on the appropriate level of remuneration that should be paid to Provincial Court Judges in Saskatchewan.

In support, the Government quoted from the New Brunswick Court of Appeal that concluded at paragraph 163 that:

"[T]he Government of New Brunswick is justified in its contention that the Association's claim to salary parity with federally appointed puisne judges is misguided. The federal salary is fixed by reference to factors that have no application in the provincial context. Specifically, the fact that the federal salary is uniform, so as not to reflect regional differences, and that it is set at a level that is capable of attracting qualified candidates in major metropolitan areas throughout Canada, where salary levels are much higher than in the small urban centres, are factors that need not concern provincial remuneration commissions. Thus, the Government has identified a 'factor' that justifies the existence of a salary differential between provincially and federally appointed judges."

## 3. National Average of Provincial Court Judge Compensation

The Government submitted that the level of remuneration for judges of the Provincial Court of Saskatchewan should be ascertained by reviewing and weighing local economic realities, including compensation paid to senior lawyers in the public service, as well as lawyers in the Saskatchewan legal market. The Government reminded the Commission that for the purposes of constitutional division of federal and provincial legislative powers, judges of the Provincial Court of Saskatchewan are provincial officers and concluded that as remuneration is paid entirely out of the provincial treasury, it must be tied to local economic conditions and bear a reasonable relationship to local market comparables.

The Government further noted that were a "national average" standard to be employed, this Commission would effectively abrogate its constitutional and statutory responsibilities by deferring to recommendations made by compensation commissions in other provinces that utilized economic and other labour market data relevant to those particular jurisdictions but not to Saskatchewan. According to the Government, this would run contrary to the Supreme Court's direction in *P.E.I. Provincial Court Judges Reference* that an "effective" compensation commission is a constitutionally necessary precondition to the setting of judicial remuneration.

Further, the Government stated that from a practical perspective, the “national average” is an elusive standard. It is exceedingly difficult to obtain an accurate picture of the average judicial salary across Canada because the convening of provincial compensation commissions varies across the country. It is possible only to obtain a snapshot of the level of judicial compensation across Canada at a specific time.

4. Prevailing Economic and Fiscal Conditions in Saskatchewan

The Government acknowledged that the state of the Saskatchewan economy is a relevant consideration for purposes of setting the appropriate levels of judicial remuneration for the next three years, namely, April 1, 2009 to March 31, 2012. The Government does not dispute that the Saskatchewan economy is enjoying an unprecedented period of growth, however, the Government also states that it is a matter of speculation as to how long it is sustainable at its current level.

5. Increase in the Cost of Living

The Government acknowledged that projected increases in the cost of living are a relevant consideration for this Commission to take into account and the cost of living increase would form the basis for the various salary recommendations which the Government will make to this Commission.

6. Other Salary Comparators

The Government asserts that the level of compensation paid to senior Crown Counsel is more relevant for this Commission’s deliberation than that paid to the Deputy Minister of Justice, and elaborated on two comparator groups which were relevant to the Government: senior legal counsel employed in the Saskatchewan public service and senior lawyers engaged in the private practice of law in Saskatchewan.

- Senior Crown Counsel Employed by Saskatchewan Treasury – As of April 1, 2008, senior Crown Counsel employed by the Government in a non-supervisory capacity are paid \$131,436. The benefits portion of this compensation package is not insignificant. It comes to the equivalent of 15.47% of salary or approximately \$20,333. The Government submitted that the total value of a senior Crown Counsel’s remuneration package in 2008 amounted to \$151,769.

- Senior Lawyers in Executive Management – The Government reported that the Deputy Minister of Justice is at a DM4 level of compensation and receives a salary of \$194,076. The Government submits that this is not a good comparator for several reasons: Deputy Ministers do not enjoy security of tenure, Deputy Minister of Justice is required to fulfill vastly different public responsibilities, and finally, the Deputy Minister's salary paid may fall anywhere within an established range.

The Government further asserts that it is difficult to obtain current and accurate information respecting the earning capacity of senior lawyers in private practice across Canada, let alone information that is specific to Saskatchewan. The Government went on to submit that indeed, the Federal Quadrennial Judicial Compensation and Benefits Commission chaired by Ms. Sheila Block (the "Block Commission") in its Final Report dated May 30, 2008 at paragraph 112 commented on the paucity of current and reliable data on the income earned by lawyers in private practice. In the course of its discussion, the Block Commission referred to a survey of Canadian private sector lawyers' income prepared by Navigant Consulting Inc. at the request of the Canadian Superior Court Judges Association and the Canadian Judicial Council. This survey relied upon reported income by lawyers in the private sector in 2006. Of interest to the Government was the statement in paragraph 114 of the Block Commission's Final Report that Saskatchewan lawyers in the 75<sup>th</sup> percentile of income earned \$192,857 in 2006. As well, it cannot be forgotten that lawyers in private practice are responsible for underwriting the complete cost of their pension and other benefits.

### 3.3 Association's Reply

#### 1. On the Commission's Role Relative to Recommendations of Previous Commissions

The Association urges the Commission to consider that in 2008 there is ample evidence of change regarding the role of the Provincial Court, the salaries paid to other judges in Canada and Saskatchewan, the health of the Saskatchewan economy, the salary range required to attract the most qualified members of the profession and the source of judicial appointments to the Provincial Court and other Courts in Saskatchewan. Further, while the recommendations of previous Commissions provide an informative and helpful backdrop to the deliberations of this Commission, the Association submits that this Commission should evaluate all relevant factors so as to meet legislative and constitutional tests for judicial remuneration and benefits and this arguably requires a fresh analysis each time so that the public can be confident that all issues have been considered.



2. On the Date for Determining National Average

"Both the Government and the Judges provided us with data on salaries in provincial and territorial courts. The data from Government (exhibit G2 of the material presented to us) was very conservative, presenting only actual and agreed arrangements. The material from the Judges (exhibit J6) was more predictive, projecting what might happen in other jurisdictions under two sets of assumptions. One projection showed current salaries plus an adjustment for cost of living, while the other showed the salaries that will be in place if the recommendations of other Commissions are adopted. This second set of material is more helpful to us, since we are to make a recommendation that will take effect on April 1, 2006."

3. On the Adequacy of Judicial Remuneration and the Total Remuneration Argument

The Association refers this Commission to paragraph 173 Lamer where CJC discussed the essential requirements for an independent, effective and objective Commission. He said:

"In addition to being independent, the salary commissions must be objective. They must make recommendations on judges' remuneration by reference to objective criteria, not political expediencies. The goal is to present 'an objective and fair set of recommendations dictated by the public interest'."

The Association further submits that with the greatest respect to the Brunswick Court of Appeal, the Supreme Court of Canada did not refer to the assertion that pensions be included in the calculation of judicial remuneration.

The Association requests the Commission to note that although the Government estimates the value of the pension service costs at 41% of salary, it has never made contributions to fund the plan. The Association also disputes the "current period benefit cost not covered by member contributions" to be \$99,450 as presented by the Government rather than \$73,840 as calculated by the Association.

4. On Attracting the Most Qualified Candidates

The Association reports from the federally appointed Judicial Benefits and Compensation Commission convened pursuant to s.26(2) of the *Judges Act*, in its May 30, 2008 Report:

"We accept that remuneration is not the only motivation for candidates to seek a judicial appointment and that for many candidates, judicial salary, pension and benefits are already attractive. However, for judicial appointments to be attractive to the full range of candidates, including senior members of the Bar, adequate compensation must remain an important consideration."

The Association submits that the concern for the Provincial Court is twofold: that the spread between the income of lawyers in private practice and the income of judges should not be allowed to increase further and, that the spread between the income of Judges of the Court of Queen's Bench and the Provincial Court not be allowed to spread such that this Court will be unable to draw from the same pool of excellent candidates for judicial appointment.

5. On the Economic and Market Factors

The Association reported to the Commission on numerous recent reports of ongoing optimism for the Province of Saskatchewan by the Premier, Ministers and the Royal Bank of Canada and concluded that arguments that infer otherwise by the Government are untenable.

6. On the Salaries Paid to Other Trial Judges in Canada and National Average

The Association projected the National Average to April 1, 2009 based on various Commission recommendations, all of which have been adopted except the most recent Federal Report affecting Nunavut and Court Decisions, excluding Saskatchewan and estimating minimum increases by other Commissions to be \$222,384 (straight average).

The Association further projected the average of the three "have" provincial salaries on April 1, 2009 to be \$238,922.

7. On the Salaries Paid to the Most Senior Public Officials in Saskatchewan

The Association notes that in 2005 these senior crown prosecutors were paid \$109,992. Since then they have received an increase of 19.5% to \$131,936. Applying that same percentage increase to the judges' salary would indicate an increase of \$38,020, and a resultant salary of \$233,025.

The Association agrees that the Deputy Minister has significant responsibilities and that a comparison to Saskatchewan Provincial Court Judges is not appropriate and presents their reasons as being:

- First, the Government has provided very limited comparators, having regard to the category typical to judicial compensation commissions; "The Most Senior Public Officials in Saskatchewan".
- Second, the Deputy Minister's position does not enjoy nor require constitutional guarantees for the protection of judicial independence.
- Third, the salary information of senior Crown Corporation employees would be more helpful. Salaries range from a low of \$191,000 to a high of \$296,000.

The Association also presented the Commission information on salaries paid to various senior employees of Crown Corporations.

### 3.4 Other Submissions

Since the submissions filed by the Canadian Bar Association, Saskatchewan Branch and the Saskatoon Criminal Defence Lawyers' Association focus exclusively on the judicial stipend issue, this Commission will summarize their representation at this point in our report.

1. Canadian Bar Association (CBA), Saskatchewan Branch, provided by Murray Sawatzky, President

The CBA noted the three essential components for judicial independence from the P.E.I. references by the Supreme Court of Canada: Security of Tenure, Financial Security and Administrative Independence.

The CBA stated that it has consistently emphasized that the independence and quality of the judiciary is predicated on adequate salary and retirement security. An appropriate level of salary and benefits are essential elements of the foundation upon which rests the independence of the Bench from the other levels of government. The CBA took the position that to attract the best candidates to seek appointment to the Provincial Court, and to ensure the highest levels of competence (and to keep the best Judges from leaving the Bench), the salaries and benefits of judges must be at a sufficiently high level to entice experienced, knowledgeable and senior lawyers to become Judges. The CBA further observed that to attract and keep these types of candidates a Judge's salary and benefits must be commensurate with the position which Judges enjoy in our society and must be a reflection of the respect to which they are entitled.

In the opinion of CBA, unless there is an appropriate level of remuneration and benefits, economic realities dictate that quality lawyers will neither apply for nor accept appointments.

In the view of CBA, upon being appointed a Provincial Court Judge, the individual no longer has any opportunity for "growth in their salary or benefits" by the standard means by which a lawyer in private practice would have their salary increase, including through factors such as being more productive and efficient, by working longer hours, by taking advantage of technology and by gaining more experience.

CBA submitted there are some other factors to be considered in setting remuneration and benefits for Saskatchewan Provincial Court Judges such as:

- Workload of the Court.

- The Provincial Court is the forum in which the vast majority of cases where protections by the Canadian Charter of Rights and Freedoms is initially tested, challenged and ensured.
  - There are 73 circuit locations in Saskatchewan requiring the Provincial Court Judges who reside and preside in 13 judicial centres to travel and to be away from home.
  - There is a public perception that individuals do not differentiate between the Provincial Court and the Court of Queen's Bench leading to the conclusion that a judge is a judge and there is a real danger if a disparity in compensation remains to create a two-tier justice system.
  - To attract the best quality candidates from the private bar, an appropriate level of salary is required to attract the senior practitioners from the private bar.
2. Saskatoon Criminal Defence Lawyers' Association (SCDLA), presented by Andrew Mason, Co-ordinator; William Roe, Q.C., President; and Mark Brayford, Q.C., Member

The SCDLA submission mostly related to the need of maintaining a real and apparent judicial independence. They provided the Commission with the following information:

- Historical Comparison

Salaries of Saskatchewan Court of Queen's Bench and Saskatchewan Provincial Court from 1985 to 2008 by noting the difference in each year and submitting that this disparity is not justified on the basis of qualifications or workload of judges nor the importance/value of the work done by the Provincial Court.

- Qualifications and Workloads Do Not Justify Different Treatment

The SCDLA noted that over the past 30 years, the increase in the workload for the Provincial Court appears to have greatly exceeded the increase in work of the Court of Queen's Bench. Amendments to the *Criminal Code* over the last ten years or so have resulted in fewer offences within the exclusive jurisdiction of the Court of Queen's Bench and more offences within the jurisdiction of the Provincial Court. In addition, new and innovative sentencing legislation designed to take pressure off the penal institutions and parole system has created more work for the Provincial Court.

Cost is also a factor, favouring use of the Provincial Court in criminal matters. It is usually less expensive for an accused person (whether represented by a member of the private bar or by legal aid) and for the prosecution to have a matter heard and resolved in Provincial Court rather than the Court of Queen's Bench.

The SCDLA believes that it is apparent that the Provincial Court is the court of choice for the vast majority of criminal matters in Saskatchewan. Not only has the workload in terms of sheer numbers of cases increased for the Provincial Court but the type of work demanded of Provincial Court is much more complex than it once was. In addition, the SCDLA noted that the Provincial Court has been proactive in addressing the community's demand to improve access to justice, to determine the causes of offending behaviour and to come up with sentencing alternatives that not only punish but address the root causes of this behaviour.

- "Two Tier" Support for Saskatchewan Trial Courts Not in Public Interest

The SCDLA maintains that as a matter of principle, there is no reason Provincial Court Judges should receive less remuneration than Queen's Bench Judges. In support of this statement, the SCDLA referenced a report entitled "Report of the Survey of the Court Structure in Saskatchewan" by Mr. Justice Hall in 1974 and an article from the Canadian Bar Review by the Honourable T. G. Semiuk where he addressed the issue of public perception of two trial courts.

- Attracting Qualified Members of the Bar to the Provincial Court Bench

The SCDLA reiterated that there are many sacrifices lawyers must make in moving from private practice to the Bench. A lawyer must sever ties with his or her clients, withdraw from political life and exercise care and discretion in community, charitable and personal affairs. Accepting a judicial appointment may entail financial sacrifices as well. Judges must dissolve any business and financial connections they had before their appointment and cannot make any new ones or follow many business opportunities while on the Bench. Accordingly, judges do not have the same flexibility of investment and the same ability to seek financial opportunities as lawyers in practice. The compensation and benefits accorded a Provincial Court Judge should recognize this reality.

- Tying Judicial Compensation to a Province's Fiscal Capacity and Cost of Living

The SCDLA submitted that the administration of justice in Saskatchewan and across Canada is not constrained by provincial and local boundaries. All judges must hear cases, conduct trials, apply the law and reach decisions. The SCDLA concluded by saying that while there may be differences between provincial governments in terms of their abilities to pay judicial salaries, this should no longer be a significant consideration in setting the salaries of Saskatchewan Provincial Court Judges.

### 3.5 Government's Reply

The Commission notes the following position of the Government:

Its recommendation as summarized on page 38, paragraph 88 satisfies, if not exceeds the constitutional standard. The Government maintains that its recommendation represents a constitutionally acceptable "made in Saskatchewan" compensation package for Provincial Court Judges.

The Government retained and presented to the Commission Mr. James Marshall, an Economist-in-Residence at the Johnson-Shoyama Graduate School of Public Policy, University of Regina. The Commission took note the following information from Mr. Marshall:

<b>Jurisdiction</b>	<b>Judges' Salary as of April 1, 2008</b>	<b>Ratio to Saskatchewan</b>
British Columbia	\$220,000	107.5%
Alberta	\$220,000	107.5%
<b>Saskatchewan</b>	<b>\$204,552</b>	<b>100.0%</b>
Manitoba	\$178,230	87.1%
Ontario	\$242,007	118.3%
Quebec	\$220,872	107.9%
New Brunswick	\$175,619	85.9%
Nova Scotia	\$181,403	88.7%
Prince Edward Island	\$205,246	100.3%
Newfoundland & Labrador	\$177,062	86.6%
Northwest Territories	\$215,255	105.2%
Yukon	\$222,214	108.6%
Simple Average	\$205,205	100.3%
Weighted Average	\$220,147	107.6%

In addition from Mr. Marshall's information, the Commission noted that there are very few measures of productivity available that would examine the production of judges within the court system. Mr. Marshall did offer to the Commission comparative information from the period 2002-03 to 2006-07 on a number of factors such as:

(a) Volume of Production Indicators

Number of Criminal Court Cases in Saskatchewan and Cases per Judge

Number of Guilty Cases and Cases per Judge

Population of Saskatchewan and Population per Judge

(b) Value of Production Indicators (2003-07)

Rate of Growth in Judges' Salaries and Real Domestic Product for Saskatchewan

Rate of Growth of Judges' Salaries and National Gross Domestic Product for Saskatchewan

Rate of Growth in Judges' Salaries per Capital Person Income for Saskatchewan

Rate of Growth in Judges' Salaries, the Consumer Price Index and the Gross Domestic Product Price Index for Saskatchewan

(c) 2008 Forecast on Real GDP Growth and CPI Increase

(d) Ability to Pay by Examining from the Period 2002-03 to 2007-08

Financial Indicators of Revenue and Expenses

Year Over Year Change in Financial Indicators Compared to Percentage Increase in Base Salary for Judges

(e) Analysis of 2008-09 Estimates

(f) Inter-Jurisdictional Comparables by Examining

Basic Salary for Judges in Saskatchewan in Comparison to Other Canadian Provinces and Territories

Comparison of 2008 Salary Levels for Saskatchewan Judges to Economic Indicators for Saskatchewan and Canada

Comparison of 2008 Salary Levels for Saskatchewan Judges to Earnings Indicators for Saskatchewan and Canada

Comparison of 2008 Salary Levels for Saskatchewan Judges to Compensation Indicators for Selected Industries in Saskatchewan and Canada

Comparison of Maximum Salaries for Crown Attorneys in Each Jurisdiction and Maximum Salaries for Saskatchewan Crown Attorneys and Salaries for Saskatchewan Court Judges

Rate of Growth in Judges' Salaries and Wage Settlement 2003-07

	2003	2004	2005	2006	2007	2008	Cumulative
Judges' Basic Salary	10.5%	2.3%	2.2%	18.0%	2.0%	2.8%	43.0%
Executive Gov't Salaries in SK*	0.0%	1.0%	3.0%	7.38%	4.0%	4.5%	21.4%
SK Teachers*	3.97%	2.0%	2.0%	3.3%	5.0%	4.0%	22.0%
SK Nurses*	3.0%	4.9%	2.5%	3.15%	4.1%	23.02%	46.3%
SK Health Services*	3.58%	5.7%	2.0%	3.86%	4.0%	6.18%	28.1%
SK All Sectors	3.0%	1.6%	2.0%	2.1%	4.1%	6.0%	20.6%
Canada All Sectors	2.5%	1.8%	2.3%	2.5%	3.3%	3.0%	16.4%

\*Included changes in cost of benefits.

Specifically the Commission noted the following information from the Government's reply:

(i) On Judicial Salaries

- The Government noted that on the issue of "closing the gap or partial parity", the Association is proposing an increase of 17.3% which the CBA and the SCDLA would go farther by equating the Provincial Court Judges' salaries to those paid by the Court of Queen's Bench.
- The Government urged this Commission to resist the Association's request, as well as that of the CBA and the Saskatoon Criminal Defence Lawyers' Association, that closing the salary differential between federally appointed judges and Provincial Court Judges is an objective of this process. The Government quoted from the Barnard Commission in its Final Report:

"This Commission does not find the argument to compare with the Court of Queen's Bench to be compelling. The two courts are separately recognized in Canada's Constitution and the jurisdiction of each is vastly different. While the parity argument, or movement towards parity argument, has been a hallmark of the submissions on behalf of the Provincial Judges before every Commission, our salary recommendation...proposed a principled and rational basis to determine the appropriate salary for Provincial Court Judges. The salary of Judges of the Court of Queen's Bench adds very little to our principled approach."

(ii) On the General Comments Respecting the Association's Submission on Other Provincial Court Judges in Canada

- The Government submits that it is unrealistic to prepare an averaging of salaries paid to Provincial Court Judges in some or all of the other provinces and territories, on the basis of salary amounts which Provincial Court Judges in those jurisdictions are not actually receiving. This uncertainty becomes even more acute respecting projections in relation to jurisdictions, for example, where recommendations of judicial compensation commissions may possibly be rolled back or the subject of ongoing judicial review applications.



- The Government submitted that the annual salary paid to judges of the Nunavut Court of Justice should be ignored and not included in our calculations.

(iii) On Specific Comments Respecting the Association's Submission on Other Provincial Court Judges

- The Government submitted that a weighted average calculation is not appropriate as by using this approach local circumstances are ignored as are regional differences and diversity across the country. The Government maintains that apart from involving an element of speculation by employing anticipated salary levels as of April 1, 2009, averaging only the three "have provinces" is an even more artificial calculation than the simple average of all provinces and territories, excluding Nunavut.

(iv) On Salaries Paid to Senior Lawyers in the Private Practice of Law in Saskatchewan

- The Government in its submission provided arguments about recruitment of excellent lawyers to serve as judges of the Provincial Court. The Government reiterated those submissions, and highlighted the fact that of the eleven appointments to the Provincial Court since the last provincial court commission, over half of the individuals came from private practice, and one came from a "large firm". The Government maintains it is simply not credible to assert that the quality of individuals appointed to the Provincial Court is less than excellent or below what it can or should be.
- The Government took issue with the Association's assertion that the "brightest and best" lawyers are found in "large firms" and, as a consequence, appointments to the Provincial Court should be harvested from this pool.
- The Government further maintained that it is incorrect to assume that the most senior and highest paid lawyers in large private firms would necessarily make the best judges.
- The Government submits that the report by Navigant Consulting Inc. to the Block Commission proved to be highly controversial. The Government noted that in its final report, the Block Commission made passing reference to the 2006 data based on actual incomes, but did not reference 2007 data based on estimated data. The Government suggests that this Commission should similarly ignore the 2007 data of estimated incomes set out in the report by Navigant Consulting Inc.
- The Government notes that only 85 lawyers were surveyed in Saskatchewan out of the approximately 1,500 lawyers practicing in this province.

- More significantly, the Government notes that Navigant Consulting Inc. acknowledges an error in its calculation of the 75<sup>th</sup> percentile 2007 income estimated for lawyers in Saskatchewan. The Association asserted in its submission:

“With respect to Saskatchewan lawyers, the survey found that in 2006, the annual income earned at the 75<sup>th</sup> percentile was \$192,857.00. That figure increased dramatically in 2007, to \$259,375.00, an increase of 34%.”

- The Government provided evidence that Navigant Consulting Inc. conceded that the figure \$259,375 was incorrect and should be \$218,750.

#### **4. Submission of the Chief Judge Carol A. Snell**

In her written submission, the Honourable Chief Judge brought the following points of view for consideration by the Commission:

- The Justice Ministry has been supportive and responsive to many of the needs of the Court and she expressed her recognition and appreciation to the Ministry. In support, her Honour outlined for the Commission, the additional resources allocated to the Court including a pilot project in Saskatoon to have a Provincial Court Case Manager, hiring of an Executive Legal Officer and Registrar of the Court, hiring an additional secretary to assist with her workload with particular opportunities for the typing of written judgments for judges at locations where there is no secretarial service. In addition, the approval to hire an Administrative Assistant to the Chief Judge and an additional part-time assistant in Saskatoon were cited by the Chief Judge in support of her recognition and appreciation of the Ministry.
- Her Honour outlined for the Commission the consultation that takes place with the Executive Director of Court Services and the puisne judges by constantly assessing and revising the circuit points in an effort to provide efficient and cost effective delivery of service. This consultation has resulted in the Court utilizing Justices of the Peace and appearing by telephone including the use of technology to reduce costs and improve efficiency and videoconferencing.
- Her Honour outlined for the Commission the very valuable service provided by retired judges who act as “temporary judges” and some of the challenges the Court has to deal with.
- Her Honour outlined for the Commission the restructuring which has taken place with an additional Associate Chief Judge, the revised responsibilities of Administrative Judges in Regina, Saskatoon and Prince Albert, the addition of an Administrative Judge responsible for Security and Facilities, and one responsible for Aboriginal issues.
- Her Honour states that we have an excellent Court and she is honoured and proud to serve as the Chief Judge.

- Her Honour expressed concern that the Provincial Courts will lose excellent judges to the other trial courts and opined that there are lawyers who would make fine judges of the Provincial Court, who would reject an appointment as a Provincial Court Judge based on a difference in salary and prestige.
- Her Honour also made comments for the Commission's consideration on security concerns, workload of the Court, and innovations of the Court.
- Her Honour concluded her submission by stating that in addition to increasing the use of technology both to assist the Court in its administration and in conducting court proceedings, it is necessary to modernize the legislation which governs the Provincial Court. Her Honour also reiterated that judges are deserving of remuneration which properly reflects the workload they perform, the office they occupy, the importance of their work, and the stature and importance of the Provincial Court to the citizens of Saskatchewan.

## **5. Vacation Leave**

### **5.1 The Association**

The Association requested that the Commission give consideration to increasing the vacation leave of Judges of the Provincial Court from 30 to 40 days per year.

In support of their request, the Association noted for the Commission that public service employees of the Government who have 22 years of service are entitled to 30 days vacation and, in addition, out-of-scope employees regardless of years of service enjoy 12 scheduled days off per year.

The Association also noted that vacation for Judges was set at 30 days by the 1991 Schmeiser Commission.

### **5.2 The Government**

The Government proposed that the Commission recommend the vacation leave entitlement be maintained at 30 working days. In support, the Government provided the Commission with two reasons. First, the current 30 day entitlement is the highest vacation leave entitlement available to members of the Saskatchewan Public Service and, secondly, virtually every jurisdiction allows for 30 days vacation leave for Provincial Court Judges (Ontario grants 40 days while Newfoundland grants 25 days).

The Government did acknowledge that Public Service employees are entitled to a further number of scheduled days off, however, this entitlement is to be utilized for personal basics such as opportunities or emergent personal matters.

### 5.3 Judges' Reply

The Judges strongly disputed the claim by the Government that Scheduled Days Off are intended for personal basics such as opportunities or emergent personal matters and maintained that there are no such restrictions on the use of Scheduled Days Off.

In their final reply, the Association amended their request to provide a vacation leave of 7 weeks per annum.

## 6. Indexing Pension to 100% of Saskatchewan CPI

### 6.1 The Association

The Association requests this Commission to recommend that pensions payable to all retired judges, regardless of date of retirement, be fully and automatically indexed to 100% of the cost of living utilizing the Saskatchewan CPI.

In support of this request, the Association submits that pensions payable to all retired judges should be indexed to 100% of the cost of living and sees no justification for treating inflation that exceeds 5% in a given year any differently. The Association refers to the limits imposed by s.11 of the *Provincial Court Act* which limits any ability of judges to earn income and their ability to draw upon other methods to hedge against inflation. The Association also references comments made by Mr. William Fyles, the Chairman of the Public Superannuation Board in a memo to employees concerning pension indexing that future pensioners who have an earned pension should not see any erosion of their benefits due to the ever spiralling increase in the cost of living.

### 6.2 Government's Reply

The Government reminds the Commission that insofar as this request involves Provincial Court Judges who are now retired, it reiterates that as these judges no longer hold judicial office, the Commission lacks statutory authority to make any recommendation in relation to them or their surviving partners.

The Government also referenced an AON Consulting report dated April 24, 2008 where it was revealed that the estimated current period cost of the current plan amounts to approximately 45.8% of pensionable earnings with the judges funding 5% of this cost and the Government funds the remainder, approximately 41%. AON, also in this report, undertook to cost the Association's request to increase indexation from 75% to 100% and reported that this change would increase the Government's contribution to the plan as expressed at its current service cost by a further 3% with the actuarial liability of the plan increasing by \$6,140,000.

### **6.3 Association's Reply**

The Association submits that at least six jurisdictions have the equivalent of guaranteed 100% CPI pension indexing and that federal judges' annuities are fully indexed. The Association offered to increase pension contributions by 1% (from 5% to 6%) for this additional 25% of CPI indexation.

## **7. Temporary Judges' Remuneration**

### **7.1 The Association**

The Association requests the Commission to adopt a formula for remuneration of "temporary judges", tying the remuneration to the salary of a full-time judge. The Association, in its submission, makes mention that when the Government drew up the Regulations following the Barnard Commission it utilized a one-sided recommendation of the "available days of work" or "sitting days". For this reason, the Association further requests a determination of the "available sitting days" of the Court which should be used in determining the salary of temporary judges. The Association provided the Commission with a summary of other jurisdictions used to determine sitting days ranging from 1/210<sup>th</sup> of full salary in the Northwest Territories and Ontario to 1/220<sup>th</sup> of full salary in Alberta and P.E.I., and 1/224<sup>th</sup> of full salary in Nova Scotia. The Association provided an analysis for the Commission as to the 219 expected days judges are to be available for the Provincial Court of Saskatchewan.

### **7.2 The Government**

The Government disagrees with the method of calculating the rate suggested by the Association and submits that the current figure of 243 days is accurate, being arrived at by deducting 104 days (52 Saturdays and 52 Sundays) from a leap year of 366 days. In addition, the Government submits that the 12 additional days for statutory holidays and the 7 days of allotted time off should be deducted and arrives at a conclusion of there being 243 days.

### **7.3 Judges' Reply**

The Association replied by bringing to the Commission's attention that Adjudicators appointed by the Indian Residential Schools Resolution Secretarial Adjudication – Independent Assessment Process are now paid \$1,200 per day based on a 7.5 hour work day and they are allowed one day for preparation and one day of writing on the expectation of a one day hearing.

## **8. Red Circling of Chief Judge's Salary**

### **8.1 The Association**

The Association submitted a request to the Commission that at the conclusion of their term that the Chief Judge's salary be red circled in recognition of the contribution to the Court and in the administration of justice. If their submission were to be approved, it would result in the Chief Judges not having his/her salary reduced at the conclusion of their term as Chief Judge and would remain at this level until the salary level for puisne judges reached this amount. The Association referenced the current practice for all Administrative Judges in British Columbia, Alberta and Ontario.

### **8.2 The Government**

The notes for the Commission that the entire allowance paid to the Chief Judge is intended to compensate the Chief Judge for the various administrative responsibilities assumed upon taking office, and upon completing their term and retiring to being a puisne judge the additional administrative responsibilities cease and therefore no additional compensation should apply.

## **9. Discontinuance of Contributions Upon Entitlement to Full Pension**

### **9.1 The Association**

The Association submits that Judges of the Court no longer be required to make pension contributions once they are entitled to a full pension or after 23-1/3 years of contributing, whichever first occurs. In support of this request, the Association outlines an anomaly which appears to exist within the present legislation whereby contributions cease after 23-1/3 years and a maximum pension of 70% is achieved. Under the modified rule of 80 (18 years service plus 58 years of age), a judge can achieve a maximum 70% pension after the 23-1/3 year on the Bench and still be required to make contributions up to 23-1/3 years.

In conclusion, the Association submits that in all but one jurisdiction there is a basic principle that contributions cease upon reaching a maximum pension.

### **9.2 The Government**

The Government opposes this request and refers to subsection 28(3) of *The Provincial Court Act, 1998* which provides that no judge shall make contributions for more than 23-1/3 years and is not couched upon reaching entitlement to a maximum pension. This section requires each judge to make contributions for the same maximum number of years.

The Government concludes by submitting that this request is inequitable and runs counter to the general principle that all those who hold judicial office should receive the same salary and benefits regardless of their age on appointment or years of service, and accordingly all judges should be required to contribute to the pension plan for a period of 23-1/3 years.

## 10. Analysis

The Commission has considered, in-depth, all of the submissions presented by interested parties and observed as follows in arriving at its recommendations:

1. This Commission was properly constituted and is limited in its jurisdiction to sections 38 and 51 of *The Provincial Court Act, 1998*.
2. This Commission was provided background information reports from the previous three Commissions: Bundon, Vicq and Barnard.
3. The Association and the Government reached agreement on a number of issues which this Commission concurs with and recommends their approval as set out on pages 6, 7 and 8.
4. There are other issues to be further addressed by the Association and the Government, namely: Facilities and Security, Health Benefits After Retirement, Costs of the Commission Process and Disability Benefits After Age 65, as set out on pages 8, 9 and 10.

This Commission encourages both parties to have further discussions with the view of arriving at mutually satisfactory resolution.

In the event of disagreement, either party can make supplemental submissions during the term of this Commission's mandate.

5. This Commission considers itself to be objective and independent as was referenced by The Supreme Court of Canada in the P.E.I. Reference and assures all parties that in its deliberations and conclusions all relevant findings were examined and evaluated.
6. This Commission strongly supports the three basic components of judicial independence: security of tenure, financial independence and administrative independence.
7. This Commission fully appreciates, as was noted on page 11 of the report, that judicial duty involves exceptional sacrifices of a personal and professional nature. Judges are no longer permitted to have other sources of earned income, apart from the judicial salary. A judge's freedom of speech is limited, and conduct in and out of the courtroom is strictly monitored and subject to complaint. Actions and behaviour in practice and in public can come under extraordinary scrutiny and comment.

8. This Commission subscribes to the four factors identified in the Vicq Commission as to why a lawyer would seek judicial appointment: nature of work, prestige associated with being a judge, security of position, and salary and benefits package.

This Commission would add a fifth factor as identified by the Government, “a desire for public service”.

9. This Commission strongly agrees that the Provincial Court plays a very vital role in the administration of justice in Saskatchewan and that this role continues to expand as a result of either new duties being imposed by the Parliament of Canada and the Legislature of Saskatchewan or as a result of new, innovative approaches by the Judges of the Provincial Court. This Commission took note and agrees with the statement by the Chief Judge “we have an excellent Court”.
10. This Commission observes that there does not appear to be difficulties in attracting candidates to serve as Provincial Court Judges and noted that currently there is a list of 35 individuals whose qualifications the Judicial Council has reviewed and recommended for appointment. Further, this Commission noted that the turnover rate within the Bench is zero other than in two examples, where judicial disciplinary proceedings were involved.
11. This Commission concurs that Saskatchewan is experiencing a very strong economy, resulting in exceptional financial health for the Province of Saskatchewan. How long this will continue in light of global events is very difficult to predict.
12. This Commission reviewed the salary gap that exists between Saskatchewan Provincial Court and the Court of Queen’s Bench for each year from 1982 to 2008. This Commission notes that on an absolute basis this gap has widened from \$14,112 in 1982 to \$55,448 in 2008. However, this Commission also notes that on a relative basis the gap in 1982 was at 82.4% as opposed to a gap of 78.6% in 2008.
13. This Commission calculates the “simple” national average paid to judges in Canadian Provinces and Territories on April 1, 2008, excluding Saskatchewan and Nunavut, to be at \$205,264 as compared to Saskatchewan’s salary for a Provincial Court Judge of \$204,552. This Commission is of the view that this is a proper comparator to use when assessing appropriate salary.
14. This Commission, although it was noted, does not subscribe to allowing future potential national adjustments in the calculation of a national average due to the speculative nature of this consideration. Projections can prove to be a slippery slope.
15. This Commission rejects any comparator reference to a “have province” vs. a “have not province”. In arriving at a recommendation, this measurement serves no purpose, particularly when one examines what defines a “have” from a “have not” and the resulting volatility.



16. This Commission, although it was noted and took into consideration, does not subscribe to the practice of allowing salary adjustments based solely on a Cost of Living factor. There are two reasons for this observation: first, an individual's increase in the Cost of Living will vary vastly from one individual to another, particularly when one examines the components which are used to measure an increase in a specific cost and; secondly, no allowance is made as to any increase in real disposal income as reflected by other adjustments in other sectors of the economy.
17. This Commission noted that by applying a Cost of Living Increase only, for the period April 1, 2007 to March 31, 2008 and April 1, 2008 to March 31, 2009, the actual adjustment did not correspond to the Provincial Public All Sector Average Increase of 4.1% in 2007 and 6.0% in 2008.
18. This Commission defines compensation as including salary and benefits. The pension component of a Provincial Court Judge is very generous and far exceeds this type of benefit in other private and public sectors.
19. This Commission does not subscribe to the suggestion that the salaries of Provincial Court Judges be determined by a single comparator factor (eg., Court of Queen's Bench). To adopt this practice would make Judicial Compensation Commissions purely a rubber stamp rather than have the ability to take a fresh approach and consider numerous current factors.
20. This Commission did not have accurate current total income information on private sector lawyers. Information which was presented to the Commission was of very little value to formulate a definitive opinion.

## **11. Recommendations**

### **A. Issues Not Recommended by Commission**

- (i) This Commission was not persuaded to recommend any change in vacation leave and believes on balance that the current process of 30 days is fair and reasonable.
- (ii) This Commission is not prepared to recommend any change to the current indexation of pension provisions established at 70% increase in cost of living. In this Commission's view, the current pension is very lucrative and when considered with the benefit level available with no restriction on maximum payment, it far exceeds provisions of other private and public sector organizations within the province.
- (iii) This Commission does not recommend the red circling of the Chief Judge's salary at the conclusion of his/her term. This Commission is of the view that the additional stipend paid to a Chief Judge correlates to the extra duties required and should only apply for the period of time in office.

- (iv) This Commission does not endorse the discontinuance of contributions by a judge upon being entitled to a full pension. To recommend otherwise would be in contravention of subsection 28(3) of *The Provincial Court Act, 1998*.

B. Issues Jointly Agreed Upon for Implementation

(i) Chief Judge, Associate Chief Judge, Administrative Judge

- (a) The Chief Judge of the Provincial Court receive a salary of seven and one-half (7.5) percent greater than the amount paid to judges other than the Associate Chief Judges and Administrative Judges for each year in the position of Chief Judge.
- (b) The Associate Chief Judge receive a salary of five (5) percent greater than the amounts paid to judges other than the Chief Judge and Administrative Judges for each year in the position of Associate Chief Judge.
- (c) The Administrative Judges receive a salary of two and one-half (2.5) percent greater than the amounts paid to judges other than the Chief Judge and the Associate Chief Judges for each year in the position of Administrative Judge.

(ii) Senior Judges Program

The Government meet with the Chief Justice and representative of the Association to explore the potential for a "Senior Judges' Program".

(iii) Technical Amendments to the Provincial Court Pension Regulations

This provision should apply prospectively, however, the benefit calculation should only include those years in which a judge has made contributions with respect to an allowance, unless that allowance was included in the judge's salary for the purpose of calculating the judge's pension.

- (a) That a section be added to the Provincial Compensation Regulations providing that a pension provided pursuant to these Regulations will not exceed the maximum pension permitted pursuant to the *Income Tax Act* (Canada).
- (b) That a section be added to the Provincial Compensation Regulations providing that a judge must commence receiving a pension pursuant to these Regulations on a date which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to a member of a registered pension plan.

(iv) Disability Entitlement

Section 20 of *The Provincial Court Act*, 1998, should be amended to allow a decrease of ineligibility for disability benefits for judges from one (1) year to three (3) months.

(v) Payment of Accrued Pension

The Provincial Court Pension Plan Regulations should be amended to provide for:

- i) when a provincial court judge attains the age of 60 years, or has a combined age and years of contributing service of 80 or more on the date of their retirement, the judge should be entitled to retire and receive an immediate pension without reduction; and
- ii) when a provincial court judge who is more than 55 years of age but less than 60 years of age and chooses to retire, they should be entitled to an immediate pension reduced by five (5) percent for each year that they are less than 60 years of age or for each year that their combined years of age and contributing service is less than 80 years.

(vi) Pension Calculations for Northern and Administrative Allowances

The Provincial Court Compensation Regulations should be amended to provide for an additional pension supplement calculated at the rate of three (3) percent of the average amount of the allowance times the number of years the allowance was paid to the particular judge, payable when the judge retires.

This provision should apply prospectively, however, the benefit calculation should only include those years in which a judge has made contributions with respect to an allowance, unless that allowance was included in the judge's salary for the purpose of calculating the judge's pension.

(vii) Indemnification of Judges for Legal Courts

The Government and the Association address the judges' concerns about this Matter so as to arrive at a mutually satisfactory resolution.

C. Commission Recommendations on Other Issues

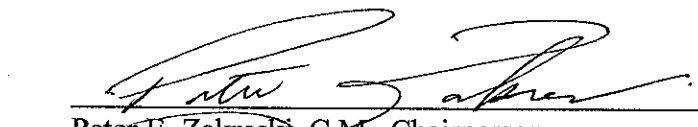
- (i) - For the period April 1, 2009 to March 31, 2010, the base salary for judges other than the Chief Judge, the Associate Chief Judges and the Administrative Judges be \$220,916.00 which amounts to an 8% increase.

- For the period April 1, 2010 to March 31, 2011, this amount be adjusted by 4%, setting the base salary for judges other than the Chief Judge, the Associate Chief Judges and the Administrative Judges at \$229,753.00.
  - For the period April 1, 2011 to March 31, 2012, this amount be further adjusted by 4%, setting the base salary for judges other than the Chief Judge, the Associate Chief Judges and the Administrative Judges at \$238,943.00.
- (ii) Effective April 1, 2009, remuneration for Temporary Judges be based on a formula of 1/220 of the salary paid to a full-time judge. This Commission concludes that remuneration of Temporary Judges should be based on a formula of 1/220 of the salary of a full-time judge as a result of examining sitting days available in a year calculated as 366 days less 30 days vacation, less 12 days statutory holidays, less 104 weekend days and recommends this change.

The Commission submits that upon enactment of these recommendations, an appropriate level of compensation is being maintained to attract and retain Provincial Court Judges in the Province of Saskatchewan.

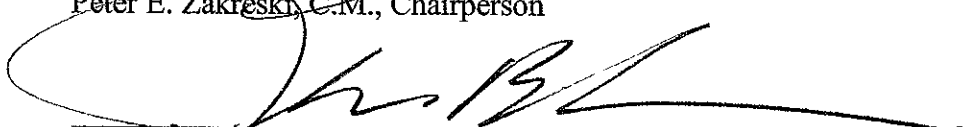
This report contains the unanimous recommendations of this Commission.

Dated at Saskatoon, Saskatchewan, the 27<sup>th</sup> day of November, 2008.



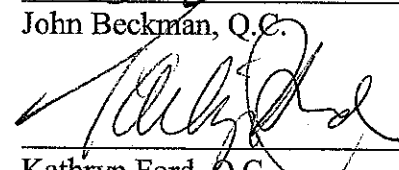
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Peter E. Zakreski, C.M., Chairperson



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John Beckman, Q.C.



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Kathryn Ford, Q.C.