



ALBERTA

Report and Recommendations

of the:

JUSTICES OF THE PEACE 2017 COMPENSATION COMMISSION

PRESENTED TO:

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

THE SOCIETY OF THE JUSTICES OF THE PEACE IN ALBERTA

July 20, 2020

(Amended August 19, 2020)

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION	3
2. ROLE OF THE COMMISSION	4
3. BACKGROUND TO THE 2017 JPCC	5
4. GUIDING PRINCIPLES AND THE REGULATION	6
5. PROPOSAL FOR MONETARY ITEMS IN DISPUTE: (a) Full-time salaries, Per Diems, Pension (b) Shift Differentials	9
6. ANALYSIS	12
7. RECOMMENDATIONS (a) Salaries (b) Shift Differentials (c) Ad Hoc JP's Acting as Administrative JP's (d) Judicial Attire (e) Special Leave and Educational Days (f) Interest	33
8. CONCLUSION	39

1. INTRODUCTION

The Justices of the Peace 2017 Compensation Commission (the “Commission”) consists of the following members appointed by Ministerial Order of The Honourable Doug Schweitzer, Minister of Justice and Solicitor General for the Province of Alberta: Andrew C.L. Sims QC, appointed by the Minister on the nomination by The Society of Justices of the Peace in Alberta (the “Society”); William J. Armstrong QC, appointed by the Minister; and, John M. Moreau QC, appointed by the Minister by way of nomination of Commissioner Sims and Commissioner Armstrong. Commissioner Moreau sat as Chair of the Commission.

A Notice of Hearing and Request for Submissions along with a News Release was published on the Government of Alberta’s (“GOA”) Justice of the Peace Compensation Commission website (www.alberta.ca/judicial-compensation-commissions.aspx) on January 15, 2020. The Notice and News Release set out the Commission’s public hearing dates of February 24, 25, 2020 as well as the deadline for receipt of written submissions from the public of January 31, 2020.

Ms. Phyllis Smith QC appeared on behalf of the GOA and Ms. Susan Dawes appeared on behalf of the Society. Both the GOA and the Society provided written briefs to the Commission in advance of the scheduled public hearing. In addition, the Commission received written submissions from the President of the Alberta Branch of the Canadian Bar Association (“CBA”), Ola Malik; the Honourable Lillian K. McLellan,

Deputy Chief and Coordinator, Justice of the Peace Program, Provincial Court of Alberta; and, from the Law Society of Alberta.

The Commission heard oral submissions from both Ms. Dawes and Ms. Smith on February 24, 2020. Mr. Malik also appeared before the Commission to speak to the CBA Alberta Branch's written submission on February 24, 2020.

On June 18, 2020, counsel for the GOA provided the Commission with a report from Ms. Catherine Rothrock¹ on the state of the economy resulting from recent oil price reductions and the COVID 19 pandemic. Counsel for the Society provided her reply on June 25, 2020.

2. ROLE OF THE 2017 COMMISSION

This Commission was established pursuant to Alberta Regulation 61/2017, *Justices of the Peace 2017 Compensation Commission Regulation* ("the Regulation"). The role of the Commission is set out at Section 4 of the Regulation:

4(1) The Commission shall conduct an inquiry respecting the appropriate level of compensation for justices with a view to preparing the report.

(2) The Commission shall, in the report, make recommendations respecting the compensation of the justices for the period April 1, 2017 to March 31, 2021, the

¹ Chief Economist, Economist and Fiscal Policy (GOA). It is worth noting that an earlier Report on the State of the Alberta Economy, authored by Ms. Rothrock, was presented to the Commission on February 24, 2020 as part of the GOA's Economic Evidence submission.

effective date of the recommendations, unless otherwise stated, being April 1, 2017.

(3) The Commission shall determine issues relating to compensation of justices independently, effectively and objectively.

(4) The Commission shall contribute to maintaining and enhancing the independence of the justices through the inquiry process and the report.

3. BACKGROUND TO THE 2017 JPCC

This is the fifth Commission in Alberta. The first Commission took place in 2000, followed by Commissions in 2006, 2009 and 2013. The Reports from these four Commissions refer to the roles and duties of the Justices of the Peace (“JP’s”) as they have evolved over the years in Alberta². A brief history and the final recommendations of the 2000, 2006, 2009 Commissions are set out in detail in the 2013 JPCC Report.

The most recent 2013 JPCC Report also provides an overview of the role of the JP’s in Alberta, including a reference to the significant amendments which occurred with the proclamation of the *Justice of the Peace Act* in 1998. The 1998 amendments required that Sitting and Presiding JPs be deemed qualified by an independent Judicial Council, which unanimously agreed on minimum qualifications of membership in the

² The early evolution of the office of Justice of the Peace is set out in the Society’s Book of Authorities: Gélinas & Brosseau, *Judicial Justice of the Peace and Judicial Independence in Canada* (2016) Review of Constitutional Studies (vol. 20, issue 2). We note on p. 4: “Since the fourteenth century, the figure of judicial justice of the peace has played an important role in English judicial tradition. In Canada, the role of JJP’s was established when the English criminal law was introduced to the newly conquered colony by the *Royal Proclamation Act* of 1763.”

Law Society of Alberta and at least five years of related experience. The 2013 Report also notes the remarks of the Honourable Allan LeFever to the 2009 Commission where he stressed the need for “talented” and “dedicated” individuals.

The main outcome of the 2013 JPCC was to see increases in salaries and shift differentials over the four-year term of 8.25%. Salaries increased for that four-year term from \$144,830, beginning on April 1, 2013, to the current \$151,813.00 ending on March 31, 2017. The Government accepted the recommendations of the 2013 Commission.

4. GUIDING PRINCIPLES AND THE REGULATION

The previous Commissions in 2009 and 2013 also underlined, in their respective Reports, the leading case authorities of the *PEI Reference*³ and *Bodner*⁴ which established the guiding principles to be followed in this process. The 2013 Report states at p. 11:

In its 2009 report, the Commission stressed the important judicial direction received from the Supreme Court of Canada from *PEI* and *Bodner*. We note in that regard the Commission’s comments starting at p. 6 of its report.

The parties have pointed out the importance of two Supreme Court of Canada decisions, the 1997 *PEI Reference* and the 2005 *Bodner* decisions. The *PEI Reference* considered cases originating out of Alberta, Manitoba and PEI dealing with the independence of the judiciary in the context of salary reductions to Provincial Court Judges. Lamer C.J.C. wrote in detail in the *PEI Reference* about what he considered to be the three key aspects of judicial independence: financial security,

³ Reference *Re: Remuneration of Judges of The Provincial Court of Prince Edward Island et al*; [1997] 3 S.C.R. 3, referred to herein as the “*PEI Reference*”

⁴ *Bodner v. Alberta* [2005] 2 S.C.R. 286, referred to herein as “*Bodner*”

administrative independence and security of tenure. In implementing those principles, Lamer went on to say that judicial commission processes must be “independent, objective and effective”. In *Bodner*, which involved challenges to the response by governments to recommendations of the JP’s Commission in Alberta, and judges’ commissions in each of Ontario, New Brunswick and Québec, the Court found at paragraph 14 that the judicial compensation process “...is neither adjudicative interest arbitration nor judicial decision making. Its focus is on identifying the appropriate level of remuneration for the judicial office in question”. We also note the following comments from *Bodner* with respect to our role in this process at paragraph 15:

Each commission must make its assessment in its own context. However, this rule does not mean that each new compensation commission operates in a void, disregarding the work and recommendations of its predecessors. The reports of previous commissions and their outcomes form part of the background and context that a new compensation committee should consider. A new commission may very well decide that, in the circumstances, its predecessors conducted a thorough review of judicial compensation and that, in the absence of demonstrated change, only minor adjustments are necessary. If on the other hand, it considers that previous reports failed to set compensation and benefits at the appropriate level due to particular circumstances, the new commission may legitimately go beyond the findings of the previous commission, and after a careful review, make its own recommendations on that basis.

We are also required to consider the criteria set out at section 13 in the *Justices of the Peace 2017 Compensation Commission Regulation*:

13. The Commission, in making recommendations, shall consider the following criteria:

- (a) the constitutional law of Canada;
- (b) the need to maintain the independence of the justices;
- (c) the unique nature of the role of justices;

- (d) the need to attract qualified applicants;
- (e) the compensation other justices of the peace in Canada receive;
- (f) increases or decreases, as applicable, in the Alberta real primary household income per capita;
- (g) the need to provide fair and reasonable compensation for justices in light of prevailing economic conditions in Alberta and the overall state of the economy, including the financial position of the Government;
- (h) the Alberta cost of living index and position of the justices relative to its increases or decreases, or both;
- (i) the nature of the jurisdiction of justices;
- (j) the level of increases or decreases, or both, provided to other programs and persons funded by the Government;
- (k) any other factors considered by the Commission to be relevant to the matters in issue.

In summary, the purpose of our Commission is to make recommendations concerning the appropriate compensation for JP's in light of the objective criteria set out in the Regulation. In doing so, according to the Supreme Court of Canada's decisions in the *PEI Reference* and *Bodner*, we must follow a depoliticized process which reflects the importance of an independent judiciary.

Our guiding principle, as set out in the *PEI Reference*, and included in the Regulation at s. 4(3), is to “...*determine issues relating to compensation of justices independently, effectively and objectively*” in the context of the criteria set out in the Regulation.

5. PROPOSALS FOR MONETARY ITEMS IN DISPUTE

The GOA, as noted below, proposes a compensation freeze for the term of the mandate. The compensation submissions of the Society are summarized below:

(a) Full-time salaries, Per Diems and Pension

	Society's Position	GOA's Position
1. Salary for full-time JP	2017/18: \$151,813 to \$176,395 (16.19%) 2018/19: \$176,395 to \$179,129 (1.55%)* 2019/20: \$179,129 to \$183,428 (2.40%)* 2020/21: \$183,428 to \$186,546 (1.70%)**	No increase.
2. Per Diems for Part-time JPs (based on salary increase for full time JP's)***	2017/18: \$962 to \$1114 (15.80%) 2018: \$1114.to \$1131(1.53%) 2019: \$1131 to \$1158 (2.39%) 2020: \$1158 to \$1177 (1.64%)	No increase.
3. Pay in lieu of pension increase	2017/18: \$19,888 to \$23,108 (16.19%) 2018/19: \$23,108 to \$23,466 (1.55%) 2019/20: \$23,466 to \$24,029 (2.40%) 2020/21: \$24,029 to \$24,438 (1.70%)	No increase.

* Alberta Consumer Price Index ("CPI"):

** Stats Can estimate for 2019 is 1.70% (based on an estimate obtained by the GOA)

*** The per-diem calculations above reflect the Society's salary proposal of \$176,395 effective April 1, 2017, and the resulting per diem of that year of \$1114. The agreed per diem formula is as follows:

$$\text{Full-time JP salary} + 13.1\% (\text{in lieu of pension}) + 20\% (\text{for office and overhead}) + \$5000 (\text{benefits}) / 215.25$$

(b) Shift Differentials

The Society seeks, as of April 1, 2017, that night shift differentials be changed to the following percentages of the per diem amount: 30% for weekday shifts, 40% for weekend shifts and 50% for holiday shifts. In addition, effective April 1st of 2018, 2019, 2020, the Society submits that these amounts should be increased by the percentage increase in the Alberta CPI, over the preceding calendar year.

Friday evening shifts are currently assigned from 1600 to 2400 hours, or from 1400 to 2200 hours. The Society submits that these shifts should be considered a weekend evening shift for the purpose of determining the applicable shift differential. Calculations for each of the weekday, weekend and holidays rates, using the relevant CPI, are set out in the chart below. (The CPI, as noted, is estimated at 1.7% for 2020/2021).

i) Weekday

	Current	2017/2018	2018/2019	2019/2020	2020/2021
Evening	\$54.25	\$54.86 1.12%	\$55.71 1.55%	\$57.04 2.4%	\$58.00 1.7%
Night	\$134.69	\$334.20 (30% of per diem)	\$339.38 1.55%	\$347.53 2.4%	\$353.44 1.7%

ii) Weekend

	Current	2017-2018	2018-2019	2019/2020	2020/2021
Day	\$54.24	\$54.86 1.12%	\$55.71 1.55%	\$57.04 2.4%	\$58.00 1.7%
Evening	\$82.45	\$83.37 1.12 %	\$84.67 1.55%	\$86.70 2.4%	\$88.17 1.7%
Night	\$188.94	\$445.60 (30% of per diem)	\$452.51 1.55%	\$463.37 2.4 %	\$471.25 1.7%

(iii) Holiday

	Current	2017-2018	2018-2019	2019/2020	2020/2021
Day	\$82.45	\$334.20 (30% of per diem)	\$339.38 1.55%	\$347.53 2.4%	\$353.44 1.7%
Evening	\$108.49	\$445.60 (40% of per diem)	\$452.51 1.55%	\$463.37 2.4%	\$471.25 1.7%
Night	\$243.19	\$557 (50% of per diem)	\$565.63 1.55%	\$579.21 2.4%	\$589.06 1.7%

6. ANALYSIS

The extensive briefs of the Society and the GOA focus on the criteria listed above in s. 13 of the Regulation. As noted in the Report of the 2013 JPCC, the criteria have generally remained the same since the first JPCC was established in 2000.

(a) the constitutional law of Canada; (b) the need to maintain the independence of the justices:

These two criteria are also found in the Regulation which guided the *2017 Alberta Judicial Compensation Commission*⁵, as well as previous Commissions. In addressing consideration of the criteria, the Constitution and the need for judicial independence, the 2017 Commissioners state at p. 13 of their Report:

This Judicial Compensation Commission exists because the Supreme Court of Canada, interpreting the Constitution of Canada, has determined that the constitutional principle of the rule of law requires independent courts staffed by independent judges. Independence requires that Courts and their judges are insulated from interference by parties, governments, and the public generally, in order that important societal goals be served: impartial adjudication, and public confidence in the impartiality of the judiciary and the courts. The required insulation entails a degree of financial independence. In *PEI Reference*, Chief Justice Lamer specified that there must be an *independent, effective and objective* process for determining judicial compensation, that judges should not be engaging in negotiations over remuneration with the executive or legislative branch, and that any reductions in judicial remuneration, including de facto reductions through the erosion of judicial salaries through inflation, must not take the salaries below a basic minimum level required for the office of a judge. *The goal is to depoliticize the relationship between the judiciary and the other branches of government. (emphasis added in italics)*

⁵ The 2017 Alberta Judicial Compensation Commission Report dealt with the judges of the Provincial Court of Alberta.

As noted in *Bodner*, the goal of our Commission, in conducting our review and making recommendations, must be to ensure that the relationship between the judiciary and the legislative/executive branch is depoliticized. The Constitution lays the foundation for the separation of the legislative and the judicial powers. It is fundamental that an independent judiciary, which includes serving JP's, be preserved. As the Commissioners noted in the 2017 Judicial Compensation Commission Report at p.15: *"Judicial independence is a key mechanism for ensuring that judges are able to carry out their unique and demanding role"*.

(c) the unique nature of the role of justices:

The Regulation requires that we consider the unique nature of the role of JP's. The day-to-day-work of a JP calls for patience, an ability to be dispassionate and a great deal of common sense. JP's must decipher the issues quickly and decide on their own the proper course of action to take in each case. The capacity to make decisions efficiently and without favour, at any time of the day or night, is part of the unique role that JP's perform in Alberta throughout the year. The office of Justice of the Peace, similar to any other member of the judiciary, requires individuals that are beholden to no one but the public and the rule of law.

(d) the need to attract qualified applicants:

In terms of the need to attract qualified applicants, the minimum qualifications for the 10-year appointment are five years of related experience at the Bar. A full-time JP

cannot practice law after their appointment. A part-time JP cannot practice criminal or family law, or appear on any matter in the Provincial Court of Alberta. JP's must also undergo a six-month cooling off period after their term expires before they can accept employment by the GOA or a Provincial agency.

The application process to become a JP in Alberta is exhaustive and certainly akin to what an applicant would go through when applying for a position as a judge on the Provincial Court of Alberta or federal judiciary. A prospective applicant for a JP position must provide eight references, including four legal and four non-legal; a list of judges or tribunals before whom the applicant has appeared; a list of professional colleagues who are familiar with the applicant's work; a list of publications; a personal history; and, reasons for applying to be a full-time or part-time JP. The applicants are then short-listed by an interview panel, following which further interviews of those applicants on the short-list takes place before a Judicial Council. The Ministry of Justice then advises the short-listed applicants as to the outcome of their interviews by the Judicial Council⁶.

The rigorous selection process, coupled with the 10-year appointment, assures the recruitment of high caliber applicants who are committed to their career choice. As Deputy Chief Judge Lefever stated before the 2009 JPCC, at p. 5:

⁶ The most recent statistics show that recruitment notices were posted for full and part-time positions in Calgary and Edmonton on September 19, 2017 which attracted 35 applicants of which 32 were interviewed and 18 recommended for appointment. In 2018, recruitment notices were posted in Calgary and Edmonton on December 17, 2018 which generated 36 applicants of which 32 were interviewed and 18 recommended for appointment. Out of this pool of successful applicants, only 6 were appointed in 2017 and none in 2018. As the Society points out, only half of the applicants were interviewed in the 2018/19 round.

To try and get the best possible candidates has always been my objective. I want talented individuals. I want dedicated individuals. I want individuals who see being a justice of the peace as a career choice...

Underlying the appointment process is the fact that an applicant for a JP position, like other lawyers aspiring to a bench appointment, view the appointment as a final career move. The interview statistics confirm this. For a lawyer in his or her mid-40's, the idea of launching a new career in their mid-50's is not an attractive option⁷. A far more appealing career alternative to a JP after their 10-year appointment expires is to continue their career as an *ad hoc* JP for as long as 5 years⁸. Again, the statistics bear this out.

The first wave of JP's appointed for 10-year terms on February 1, 1999 saw their terms end on January 31, 2009. The second wave of 10-year appointments, starting in 2009, have now expired. As the Society points out in their brief, there was only one *ad hoc* JP at the time of the 2013 JPCC. With all the 10-year terms expiring in 2019, the number has increased dramatically to 24. The total number of JP's in Alberta currently stands at 42, which includes 9 full-time, 9 part-time and the 24 *ad hoc* JP's. As Deputy Chief Judge McLellan noted in her submission, there are currently 3 full-time and 4 part-time vacancies for JP positions.

⁷ Of the applicants interviewed for the period April 1, 2018 to March 31, 2019, only 3 of the 15 applicants were under the age of 45, with a mean average of 17.66 years at the bar.

⁸ Amendments to the *Justice of the Peace Act* in 2011 instituted the appointment of *ad hoc* JP's for one-year terms that were renewable for up to 5 years.

The sophisticated process established to screen candidates for a JP's full-time or part-time position continues. What is evident is that the GOA is relying on the experienced contingent of *ad hoc* JP's to perform the duties that, right up to the 2013 JPCC, had been performed by part-time judges. The turnover of *ad hoc* JP's has begun with two JP's retiring in 2020. The next group of potential retirees within the ranks of the *ad hoc* JP's cannot be far behind given their maximum tenure of 5 years.

The Society submits that the departure of 9 JP's since October 14, 2016, as noted in anecdotal comments of some of those JP's, indicates that remuneration was a significant factor in their decision to retire before their 10-year term expired. That view was articulated by some of the departing JP's in the Society's brief. But there are also 24 *ad hoc* JP's who have chosen to continue performing part-time work beyond their initial 10-year mandate.

Given the significant number of JP's who have chosen to keep working after their 10-year appointment expires, and despite the number of retirements since 2016, it is our view that the demands of the job and the remuneration that goes with it remains sufficiently attractive to those seeking a position as a JP. The statistics on the whole bear out that neither the 10-year appointment or the job demands, which includes shift work, has deterred potential applicants from applying for a JP position.

(i) the nature of the jurisdiction of justices:

The GOA maintains that there have been no significant changes in the JP's jurisdiction since the 2009 and 2013 Commission Reports were issued. The Society for its part underscores that JP's over the years have taken on a greater proportion of work that used to be performed by judges of the Provincial Court of Alberta. The Society submits this represents a qualitative increase in the duties of JP's which will continue to increase with the introduction of recent Federal legislative changes (Bill C-75) to modernize the criminal justice system.

Although there has been no specific expansion of the JP's jurisdiction since the 2009 and 2013 Commission Reports were issued, the Society does have a point when it suggests that there have been some qualitative changes in the duties of the JP's, particularly with respect to the Hearing Office duties.

Further, with the addition of Crown Prosecutors, and now Duty Counsel as well as Court Clerks, bail hearing proceedings more closely resemble those before a Judge of the Provincial Court. All of the bail hearing work, as Her Honour Judge McLellan notes in her submission, can now be performed through *"...an efficient virtual court system. Justices for the Peace have learned to become familiar with electronic documents, including electronic bail lists and multiple screens."*

The fact that JP's in Edmonton and Calgary can now conduct a virtual bail hearing does not amount to a jurisdictional change. But the introduction of

communication changes, such as virtual platforms in bail hearings, does demonstrate the importance of adaptability on the part of JP's to a new technological reality in the performance of their daily duties. Not to be forgotten is the important fact that JP's in Alberta must perform all these duties on a 24/7 shift basis.

We now turn to consideration of the economic factors as they relate to the Alberta economy, as set out under the Regulation in criteria (f) (g) and (h):

(f) increases or decreases, as applicable, in the Alberta real primary household income per capita;

(g) the need to provide fair and reasonable compensation for justices in light of prevailing economic conditions in Alberta and the overall state of the economy, including the financial position of the Government;

(h) the Alberta cost of living index and position of the justices relative to its increases or decreases, or both:

As noted in the 2017 Alberta Judicial Compensation Commission, criterion (g) requires an assessment of the broad economic and fiscal conditions in Alberta while criteria (f) and (h) direct our Commission to consider the specific economic indicators of the primary household income and the cost of living index in Alberta.

Dealing first with criteria (g), the prevailing economic conditions in Alberta, the Society filed a report by Dr. Melville McMillan, PhD. of the Department of Economics, University of Alberta. The GOA filed a report by Dr. Beverly Dahlby, PhD. Both are highly qualified experts in the field of economics.

Dr. McMillan, in the general introductory comments set out in his report, stated the following with respect to the economy in Alberta, starting in 2017, the first year of our mandate (p.9):

The Alberta economy began to recover in 2017. However, unlike the recession in 2009 which realized a full recovery within two years, Alberta is not expected to achieve the 2014 peak level of real per capita output from the last recession even by 2023. However, it is expected to return to the 2012 to 2014 average level over the boom by then. Nominal GDP per person is expected to return more quickly to the 2012–15 average by 2021 and the 2014 peak by 2023. The latest recession lasted longer and the recovery is weaker. Although nominal GDP continued to grow, real per capita GDP growth seems to have stalled in 2019 and may grow only modestly in 2020. Real GDP, however, is expected to continue its long-term growth. For example, by the end of the decade, per capita GDP is expected to be 9.8 per cent greater than in 2000 and 13.4 per cent larger by 2023.

The Society highlighted in their initial brief some of the salient points made by Dr. McMillan in his detailed report. Most notably, the Society underlined the economical situation that existed at the time of our Commission's hearings in February 2020, compared with the recession years of 2015 and 2016 (para 227):

- the extended post 2000 economic boom in Alberta came to an abrupt halt with the recession in 2015 and 2016, a recession from which the province experienced a turnaround and substantial recovery in 2017, but a recovery that halted in 2019. While recovery and growth have been delayed, those are expected to be renewed, and the provincial government has a positive outlook and predicts that the economy “is set to expand at a solid pace” (pages 1, 34-36);
- despite the setbacks, the Alberta economy has emerged still leading the other provinces in per capita GDP by considerable margins and GDP per capita is expected to continue to be 40 to 60 per cent greater than that of most other provinces, including those in Western Canada (pages 1, 12, 71);

- while employment dropped substantially during the recession in 2016, it began recovery during 2017 and, as of April 2018, exceeded mid-2015 peak levels (page 16);
- average weekly earnings in Alberta remain the highest in Canada and 11% greater than those in Ontario, the second largest (page 24);
- while population growth slowed between 2014 and 2019 due to the economic setback, growth was still 90% of that in British Columbia, Manitoba and Ontario. Future population growth is expected to improve with the Conference Board of Canada projecting growth of 6.7% by 2023, which exceeds the pace elsewhere (page 29).

Dr. McMillan also notes in his report that Alberta continues to retain a “premium” for earnings when compared with other provinces like British Columbia and Ontario (p. 71):

The recession [2015,2016] reduced, but did not eliminate, the economic advantages that have characterized Alberta for some time. GDP per capita is still the highest among the provinces at 40 to 60 per cent greater than in the other four most western provinces. Similarly, an Alberta premium remains for earnings. That premium, however, is declining somewhat relative to British Columbia and Ontario thanks to strong economies posted there while Alberta struggled. For example, average weekly earnings, average income per employee and primary household income in Alberta are the highest and, for example, exceed those in Ontario by 10 to 15 per cent. Thus, the traditional premiums or differentials, although somewhat reduced, continue to be considerable and they are expected to persist.

Further, the Society points out Dr. McMillan’s view that the GOA’s tax capacities from personal income, consumption and property taxes alone are sufficient to provide Alberta with an above-average fiscal capacity. He goes on to make the point in his

report that Alberta could balance its budget if it adopted a tax system that compares to another province with the next lowest taxes (p. 74):

Alberta does not have a difficult fiscal problem. The provincial governments have been in a position to address its fiscal challenges with a combination of cuts and additional revenues and still maintain a fiscal advantage over all other provinces. None of the last several governments have ventured in that direction. Alberta has a political problem. Alberta's world has changed from what it was ten, even five, years ago and that has drastically undermined resource revenues as a source of provincial funds. The political problem is the need to convey the unpleasant implications to Albertans. The UCP may have been supported by many in the mistaken belief that it would not implement its platform budget or that cuts would not hurt. Those appears to have been a mistaken assumption. Thus, put simply, Alberta's problem is not a fiscal problem but a political problem.

The Society disagrees with the GOA's analysis which compares the current economic circumstances (using the 2018 year-end GDP figures) to the peak years in the earlier part of the decade when the GDP was at its highest. Dr. McMillan, in that regard, characterized the 2013, 2014 and part of 2015 as the "boom years" when the Alberta economy was abnormally strong. Dr. McMillan noted in that regard that the earlier years of the decade show that *"...real GDP per capita in 2017 and 2018 was essentially equal to or better than the levels in 11 of the 13 years 2006 to 2018. Comparisons to 2013-2015, while reflecting actual events (and shocks), imply a boom economy and so unduly high and probably somewhat unreasonable expectations"* (p. 2, Reply report).

Dr. Dahlby notes, in commenting on the general economic conditions in Alberta, that Alberta's economy began to decline following the price collapse of oil in 2014 and

that private sector investment is not expected to return to those pre-2014 levels in the next four years (p. 10).

Dr. Dahlby, similar to Dr. McMillan's report, notes that the energy sector is the major determinant of Alberta's economic performance and how reduced income from the oil and gas markets have impacted overall revenues (p. 34):

The downturn in the oil and gas markets since 2014 has had a dramatic impact on provincial government revenues, mainly from the reduction in resource and corporate income tax revenues. In 2015-16, revenues declined by \$6.8 billion ... and total revenues did not return to their 2014-15 levels until 2018-19.

Budget 2019's revenue targets for 2022-23 are based on a projected \$3.2 billion increase in resource revenues, a \$2.5 billion increase in personal income tax revenues, and a \$1.7 billion increase in federal transfers compared to 2018-19. Total revenues are projected to increase by \$7.9 billion or 16% compared to 2018-19. The projected increase in total revenues will eliminate the deficit if the government sticks to its spending plans.

Dr. Dahlby also comments how world oil price fluctuations can affect budget projections, (p. 35):

As noted in the previous sections, the Alberta government's revenues can fluctuate significantly with changes in world oil prices or other events such as continued constraints on pipeline capacity. Consequently, there are significant downside risks to the Budget 2019 revenue forecasts.

Dr. Dahlby also comments that the absence of a provincial sales tax contributes to the volatility in revenues (p. 29):

The absence of sales tax revenues in Alberta means that other resource revenues, corporate income tax revenues and other own-source revenues are larger shares of own-source revenues than in the comparator provinces. The

absence of a sales tax contributes to the revenue volatility in Alberta compared to the other provinces because the sales tax base, which are broadly related to total consumption spending, does not fluctuate as widely as the personal and corporate income tax bases in response to economic fluctuations. Note that with the downturn in the provincial economy in 2015, personal income tax revenue in Alberta declined by \$594 million and corporate income tax revenues declined by \$426 million.

Both experts are in an agreement that the decline in the price of oil continues to have a detrimental effect on the general economic conditions in Alberta economy. As Dr. McMillan comments in his report (p. 51):

Within a decade, Alberta's resource revenues have fallen to one-third of earlier levels and from meeting almost 40 per cent of program expenditures to meeting only 7.6 per cent in the past four years and, if projections are realized, 12.5 per cent over the next four years. This turnaround occurred in two stages with a collapse in provincial revenues from natural gas and then the collapse of the revenues from oil and bitumen. Low natural gas prices persist and revenues for oil are expected to remain low for some time...

We turn to the individual factors of the increases and decreases in the real primary household income and the cost of living index, as set out in criteria (f) and (h) above.⁹

The Society submits, as it did with respect to the general economic conditions, that the GOA has provided an incomplete picture of both the primary household income

⁹ It should be noted that the 2017 JCC made the point at p. 28 of the JCC report that both criteria should be read together to avoid double discounting for erosion as a result of inflation: "Criteria F and H direct attention to two specific indicators. We note F, with its reference to "real" data, incorporates an inflation adjustment. Inflation is also dealt with in H. These two criteria must be read together to avoid "double discounting" for erosion based on inflation.

and the cost of living index by comparing the peak pre-recession levels to the levels of today. The Society notes that salary comparisons measuring JP salaries to changes in the real primary household income per capita only start in 2013 in the GOA's brief. The Society advocates for a broader scope of comparison. The Society, for its part, compares the growth of JP salaries dating back to 1998, the year of the JPCC's first mandate, through to 2016. Using 1998 as a starting point, Dr. McMillan's analysis has shown that JP's salaries have closely matched the growth in real primary household income. A similar result occurs when average weekly earnings are compared over the same period of time.

The GOA's central point is that nominal primary household income has not recovered since its precipitous fall of 12% in 2016. Counsel notes that this is a decrease in real terms over the term of our mandate.

Although 2016 was a pivotal year economically in Alberta when reviewing primary household income, we also consider it appropriate to take into account the broader period of time proposed by the Society. In that regard, looking at a longer span of years beginning in 1998, it appears that the growth in salary closely parallels the growth of primary household income (as does the average weekly earnings). Although JP's salaries have clearly exceeded the primary household income since the last recession in 2016, they do not appear to have markedly exceeded the average if one takes the longer view back of close to 20 years.

With respect to (h), the cost of living index, the GOA notes that the CPI in Alberta increased 35.2% while the JP's salaries, exclusive of shift differential, rose 78.6% from 2002 to 2016. The GOA further notes that actual and forecasted rates over the term of our Commission's mandate indicate that, even with the GOA's proposal for no salary increases, JP's salaries will remain ahead of inflation. The Society, in reply, submits that the JP's are not the only group whose pay increases have exceeded inflation and points to the fact that JP's salaries have actually tracked closely to the increases in average weekly earnings over the period 1999 to 2016. The Society refers to the chart below to support their view that the freeze in salary proposed by the GOA would mean significant erosion in the cost of living¹⁰ over the initial period of the Commission's mandate from 2016 to 2019:

Year	2016	2017	2018	2019	2020
GOA Proposal	n/a	0%	0%	0%	0%
% increases in CPI	1.12%	1.6%	2.4%	1.7%	1.8% (forecast)
Real JP Salary	\$151, 813	\$150,112	\$147, 710	\$144,165	\$141, 714

¹⁰ CPI figures for 2016-2019 are from Budget 2019. Forecast of 1.8% for 2020 is from Alberta's 2019-2023 fiscal plan.

In considering criteria (h), we generally agree with the comment set out in the 2017 JCC with respect to the cost of living factor that “...*fair compensation requires maintenance of real income rather than erosion through inflation*” (p. 49).

In reviewing economic criteria (f) (g) and (h), overall, we note counsel for the GOA’s comment before our Commission on February 24, 2020 that both experts describe “*a very difficult economy...that is not forecast to recover to the place it was before the recession.*” Those economic difficulties in Alberta have unfortunately been exacerbated by the unforeseen and world-wide economic collapse due to the COVID 19 virus pandemic.

As noted, the GOA provided the Commission with a report from Ms. Rothrock on the effect of the recent collapse in oil prices, and the COVID-19 pandemic, on Alberta’s economy. The following is a summary of her report.

Ms. Rothrock notes that business shutdowns and public health restrictions have led to unprecedented job losses. Similar to the other provinces, Ms. Rothrock notes that Alberta is expected to see severe declines in economic activity, employment and incomes due to COVID-19. In addition, Alberta in recent months saw the collapse of world oil prices which has added to its economic challenges. Growth in Real GDP is expected to be in negative territory across the country in 2020, with Alberta’s 2020 forecast -7.9%. More hopeful signs are projected for 2021 with forecasted growth at 5.5%.

Ms. Rothrock further notes in her report that although the projections for next year are more hopeful as the Alberta economy reopens, the depth and duration of the recession remains uncertain. This is particularly so given the possibility of a second wave of infection which would derail any economic progress.

In terms of the oil and gas sector in Alberta, Ms. Rothrock notes in her report that the collapse in world oil prices, which have recently only slowly begun to recover, has led to a significant pullback in energy investment with rig drilling activity falling 80% on a year-to-year average (May 2019 to May 2020). Ms. Rothrock

also notes the decline in investment outside the energy sector, such as in the construction and other major industries in Alberta.

In terms of the labour market, Ms. Rothrock points to the massive unemployment-in the order of 360,000 jobs lost-with employment only beginning to pick up in May 2020 with the Phase 1 relaunch. The decline in employment and lost incomes has in turn resulted in a pullback of consumer spending and further declines in the housing market.

Turning to the global economy, Ms. Rothrock notes that the IMF is forecasting the global economy to contract by 3% in 2020, which is the worst downturn since the Great Depression. Ms. Rothrock, on a more positive note, notes that the relaxation of COVID-19 health restrictions has resulted in the gradual reopening of provincial economies and that the improvement in oil prices bodes well for Alberta's export-oriented economy.

Ms. Dawes reply on behalf of the Society is set out below:

We are in receipt of Ms. Smith's letter of June 18, 2020 and the documents enclosed, including the Report from Ms. Rothrock and the Memorandum of Agreement between the Government of Alberta and the Alberta Union of Public Employees. On behalf of the Society, we offer the following brief response.

Ms. Rothrock cites data and revised forecasts from recent months which show a significant downturn in the Alberta economy arising from the COVID-19 pandemic and the collapse of oil prices. As she emphasizes repeatedly, the depth and duration of the current situation is entirely unknown and much will depend upon the rate at which the Alberta economy, and other economies across Canada and around the world, can reopen as the pandemic continues to unfold. It is clearly the case that it will take some time to gain any meaningful perspective on current economic events, and to fairly assess the depth and the duration of the downturn and the speed and extent of the recovery. One can reasonably surmise that the uncertainty associated with current events is one of the reasons that the GOA and the AUPE agreed to suspend negotiations for a new collective agreement until September.

Ms. Smith has provided the documents as "supplementary information" and has not indicated that the information provided alters the position advanced by the GOA concerning compensation for Justices of the Peace. Similarly, it does not change the position advanced by the Society about what is appropriate for the period April 1, 2017 to March 31, 2021. As was argued before the Commission at the hearing itself, the appointment of the current Commission was so substantially delayed that it would be manifestly unfair if the current situation, as uncertain as it is, were to dictate the Commission's approach for a period of time

that commenced more than three years ago. A new Commission will be appointed to make recommendations for the period commencing April 1, 2021 and will be well-positioned to fairly assess the impact of the current events.

Finally, to the extent the current economic situation is considered by the Commission, it must also be considered that Justices of the Peace have continued to work on a 24/7 basis throughout the pandemic. Indeed, they took on additional responsibilities in dealing with all priority applications during the period when the Provincial Court Judges were working reduced hours

(e) the compensation other justices of the peace in Canada receive:

Another criteria which requires our consideration is the compensation received by other Justices of the Peace in Canada.

The Society took the position in its oral submissions that our Commission can “comfortably ignore all of the jurisdictions except Nova Scotia, B.C and Quebec” because these are the only jurisdictions other than Alberta that require legal training for their JP’s. The Society purposely excludes Manitoba, the Northwest Territories, P.E.I., Nunavut, Ontario and the Yukon as comparators for this reason. The Society also points out that several of these jurisdictions also do not have Commissions, including the Northwest Territories and P.E.I. Further, Alberta has a 24/7 bail hearing system while Ontario operates only during regular business hours, and between 9:30 a.m. and 4:30 p.m. on weekends.

The Society also notes that the zero-increase proposal of the GOA would result in Alberta JP’s salary falling behind those of the JP’s in Ontario over the course of our Commission’s mandate. Focussing on B.C. and Quebec, the Society points out that, in

these two provinces, the night shift is on an “on-call” basis from the JP’s home, as opposed to Alberta where JP’s have to work a shift in the hearing office. Further, the Society notes that only senior JP’s in Saskatchewan are legally trained.

The GOA submits, overall, that JP’s in Alberta are still among the best paid in Canada if current compensation levels are maintained, even compared with jurisdictions where the JP’s are legally trained and where the core responsibilities are similar to those of JP’s in Alberta. In addition, the GOA underlines that most of the part-time JP’s and *ad hoc* JP’s in Alberta are working almost full-time, which results in annual income of some \$207,071 exclusive of shift premiums.

The Society, properly in our view, points out that the GOA could remedy this concern over part-time and *ad hoc* salaries by appointing more full-time JP’s. This would also solve the concern expressed by Deputy Chief Judge McLellan in her submission concerning the repercussions stemming from the pending retirement of two *ad hoc* JP’s:

In March and April 2020, two Ad Hoc Justices of the Peace will be retiring. It will be impossible to fill all Provincial Offence/Traffic Court dates and/or hearing office shifts. Courts and shifts will need to be combined and will likely result in longer trial times and add to the problems ensuring timely bail applications.

The GOA further highlights the after-tax advantages for JP’s living in Alberta compared to those JP’s, for example, living in Ontario or B.C.

Counsel for the Society advised the Commission during her oral presentation that the GOA raised this after-tax advantage argument in the 2017 Alberta Judicial Compensation Commission process but that the Commissioners did not comment on this submission in their report. The Society submits in that regard that it is not the task of a judicial commission to recommend a take-home salary that equates to or has a connection to what is paid on an after-tax basis in other jurisdictions.

We agree that it would be an error to factor in the provincial tax structure with our salary considerations. As the Society points out, to do so would mean that salaries would need to be adjusted based on changes in the provincial tax rates. One could not consider the provincial tax structure without having to consider other differences, such as the cost of housing or utilities in other jurisdictions. Such an exercise would stray from the Alberta-focussed purpose of our Commission and the factors that require our consideration under the Regulation.

In the end, we note that although other jurisdictions increasingly compare to Alberta when it comes to important factors such as requiring practising lawyers to preside over bail and other proceedings, Alberta still leads the way in providing 24/7 face-to-face service. Alberta also excludes JP's from being able to practice criminal or family law.

As the Society puts it, the situation in other jurisdictions is evolving but has not reached the level of service or expertise provided by JP's in Alberta. For these reasons

alone, it is our view that Alberta's JP's salaries should still remain for the period of our mandate among the highest paid in Canada.

(j) the level of increases or decreases, or both, provided to other programs and persons funded by the Government:

As the Society points out, this criterion refers to “...*the level of increases or decreases provided to other programs and persons funded by the Government and not to the actual salary levels of public servants*”. (para 250). The Society submits that one must cautiously approach any comparisons with public sector programs and employee groups given that JP's “*are not civil servants*”. (para 256). The Society also cites Dr. McMillan's economic assessment that, unlike other provinces, Alberta's structural deficit could be addressed through tax increases alone. Dr. McMillan notes that the GOA's current approach in addressing the deficit is to rely on reducing expenditures and corporate taxes.

In response to the comments of Dr. McMillan with respect to the use of increased taxes to resolve revenue concerns, counsel for the GOA notes that it is within the Government's exclusive prerogative to decide how to deal with its finances. Although the Government could rely on increased taxes, or introduce new taxes for revenues, it has chosen not to do so. As counsel for the GOA put it in her submissions on the Province's current economic conditions, “...*you can't pay real expenses with hypothetical dollars*”.

The GOA further points out that bargaining unit employees in the public service received no increases for the years 2017/2018 and 2018/2019. Other employees who were involved in collective bargaining including teachers, nurses and auxiliary nurses as well as Alberta Health General Support Services also received 0% increases for those years. Employees who work outside the bargaining units in Alberta's public service have received no increases since April 2015. The GOA also points out that, when looking at the hierarchy of public servants, only Deputy Ministers and Senior Officials have higher salaries when one compares real salary increases. The Society notes, however, that the GOA's General Service Employees and the Auxiliary Nursing Bargaining Unit, both represented by the Alberta Union of Public Employees, more recently received a 1% increase (through interest arbitration) for the period from April 1, 2019 to March 31, 2020.

We share the view expressed by the Society that the pay for these public sector groups is not calculated in reference to the factors set out in the Commission Regulation that governs this process. We agree with the following comments set out in the 2019 British Columbia JCC: *"There are no positions among those paid out of public funds with duties that are truly comparable to the judges and judicial justices"*. (see page 76, page 23/24).

It would be improper in our view to apply an across-the-board approach to the issue of compensation for JP's that relies on comparisons with other settlements or interest arbitration awards for the same period that falls within our mandate.

Nevertheless, we must be cognizant of the pattern of negotiated zero increases over several of the last number of years by virtually all in-scope and out-of-scope employees.

(k) any other factors considered by the Commission to be relevant to the matters in issue:

It is clear that one of the essential pillars of this Commission process is to ensure that it is “effective”, as set out in the *PEI Reference*. In order for it to be effective, the Commission must be able to carry out its duties in a timely manner.

We are concerned about the inordinate amount of time it has taken to establish our Commission and proceed with our mandate, which covers the period from April 1, 2017 to March 31, 2021. The effectiveness of the Commission system must be reflected in a process which deals as closely as possible with current circumstances, and not with past years, when formulating its recommendations.

The fact that the first three years of our mandate have passed is a *prima facie* indicator that the effectiveness of the process is being undermined by unacceptable delay. Further delays through court appeals would only serve to weaken a process intended to be fair, impartial and independent.

8. RECOMMENDATIONS

The following are the Commission’s recommendations. It is understood that, pursuant to s. 4(2) of the Commission Regulation, the effective date of our recommendations is April 1, 2017. Accordingly, all JP’s who were in office for any period

of time after the effective date of the recommendation will receive the benefit of the recommendation, even if they leave office prior to its implementation.

(a) Salaries:

The salary for a full-time JP as at March 31, 2017 was \$151,813. The salary for a full-time JP for the period April 1, 2017 to March 31, 2021 is set as follows:

- (i) April 1, 2017 to March 31, 2018-**\$154,546** (increase of **1.8%**)
- (ii) April 1, 2018 to March 31, 2019-**\$156,401** (increase of **1.2%**)
- (iii) April 1, 2019 to March 31, 2020-**\$156,401** (no increase)
- (iv) April 1, 2020 to March 31, 2021-**\$156,401** (no increase)

The salaries for per diem JP's shall continue to be based on the following agreed formula:

Full-time JP salary + 13.1% (in lieu of pension) + 20% (for office and overhead supplement) + \$5000 (benefits)/215.25

(b) Shift Differentials:

We recommend that shift differentials remain the same from April 1, 2017 to March 31, 2018 and from April 1, 2018 to March 31, 2019. The shift differential recommendations from April 1, 2019 to March 31, 2020 and from April 1, 2020 to March 31, 2021 are as follows:

		Current	2017/2018	2018/2019		2019/2020	2020/2021
Weekday	evening	\$54.24	\$54.25	\$54.25		\$58	\$58
	night	\$134.69	\$134.69	\$134.69		\$160	\$160
Weekend	day	\$54.25	\$54.25	\$54.25		\$58	\$58
	Evening	\$82.45	\$82.45	\$82.45		\$105	\$105
	night	\$188.94	\$188.94	\$188.94		\$225	\$225
Holiday	day	\$82.45	\$82.45	\$82.45		\$105	\$105
	evening	\$108.49	\$108.49	\$108.49		\$130	\$130
	night	\$243.19	\$243.19	\$243.19		\$290	\$290

Friday evening shifts are currently assigned from 1600 to 2400 hours, or from 1400 to 2200 hours (p. 90 of Society's submission). We agree with the Society's request and recommend that both of these Friday night assignments should be considered a "weekend evening shift". We do not accept the Society's position that this should be implemented retroactively from April 1, 2017 but rather that implementation take place effective July 21, 2020.

(c) Ad Hoc JP's acting as Administrative JP's:

We recommend, based on the agreement of the GOA and the Society on this item, the following:

Effective upon implementation, *Alberta Regulation 6/99* shall be amended to permit *Ad Hoc* JP's to fill the role and perform the functions of Administrative JP's like their full-time and part-time colleagues.

(d) Judicial Attire:

We recommend, based on the agreement of the GOA and the Society on this item, the following:

Effective upon implementation, the Regulations which specifies the judicial attire to be purchased shall be amended to include an option for "or equivalent", to contemplate that some JP's prefer to purchase a so-called "onesie" as an alternative to the gown waistcoat and shirts.

(e) Special Leave and Education Days:

The Society requests that each full-time JP shall be entitled to ten days of special leave, essentially for dealing with family illness and injuries. The Society underlines that requiring a JP to resort to using their earned vacation to care for a family member defeats the intended purpose behind vacation time. The GOA recognizes that several negotiated contracts have such a provision, but also that they vary in form or substance. There are several permutations, for example, of what constitutes an "immediate family" in those agreements. Counsel for the GOA further notes that these provisions are now more common in collective agreements, but there are also a number of collective agreements with only 24-hour or 48-hour special leave clauses.

Our panel is sympathetic to this request, particularly the Society's alternative suggestion that a JP should be able to access their own sick leave in order to deal with family illness. Given the variety of these provisions, however, we are more inclined to leave this matter for further discussion and resolution by the parties themselves. Hopefully, they can come to an agreement before the next Commission is appointed.

The Society submits that *ad hoc* JP's, like their full-time and part-time colleagues, should have access to up to 10 days of judicial education. The Society maintains that *ad hoc* JP's are often working close to full-time hours and have the same need for judicial education as their colleagues. We agree with the Society that some days of judicial education for *ad hoc* JP's-perhaps not 10 days given their career experiences as JP's-merits consideration. This would be a new cost line item which unfortunately is not sustainable given the current economic climate. We are not prepared to accede to the Society's request to count the time spent in travel to educational conferences as a paid shift for full-time, part-time or *ad hoc* JP's.

(f) Interest:

The Society requests that we order interest within the framework of the *Judgment Interest Act*, retroactive to April 1, 2017. The Society submits that interest should apply to all salary increase(s) including the differentials for the administrative JP's, per diem rates for *ad hoc* JP's, as well as all shift differentials.

The Society submits that the Commission has jurisdiction to make recommendations for interest based on the broad wording of the *Judicature Act*. The

Society cites in further support a decision of the Manitoba Court of Appeal in *Manitoba Judges' Assn. v. Manitoba* [2013] M.J. No. 279 where the Report of the 2008 Judicial Compensation Commission made a recommendation for interest, which the Government of Manitoba subsequently rejected.

The Court of Appeal in Manitoba confirmed the ability of the Judicial Compensation Commission to recommend the payment of interest. Interest has been recommended and paid since that time by the Manitoba Judicial Compensation Commissions, including those in 2011, 2014 and 2017. Likewise, the Society notes that the 2019 British Columbia Judicial Compensation Commission, chaired by former Supreme Court of Canada Justice Thomas Cromwell, also recommended the payment of interest on their retroactive recommendations.

The Society further points out that, in the last two JPCC processes in Alberta, JP's have consistently waited more than 5 years from the start of the JPCC's 4-year mandate to receive the resulting salary adjustments. The Society also notes the general decline in the value of money over time and urges our Commission to follow the examples of the Commissions in BC and Manitoba and award interest.

The GOA submits that the mandate of the Commission under the Regulation is to determine the "appropriate level of compensation", which includes "remuneration and benefits". The GOA submits that this wording is not broad enough to permit our Commission to make recommendations regarding interest. Further, the GOA submits that any increases to compensation arising from our recommendations should not be

considered as “delayed compensation”, even if a portion of the mandate period has already passed.

The GOA also argues that no increases in compensation is due to judicial officers like the JP’s until after the Commission has submitted its recommendations and the Government has made the decision to accept those recommendations. Accordingly, the GOA takes the position that it would not be appropriate for our Commission to recommend the payment of interest on any retroactive increases in compensation arising from our recommendations.

We recognize the Society’s argument for interest. We have already noted our concerns, in addition to the Society’s, over delays. We agree with the GOA, however, that there is no clear legal path to the awarding of interest under current legislation, or within the structure of the Regulation governing this process.

Although we are mindful of the thoughtful analysis of the BC and Manitoba cases, we are not convinced our Commission has the authority to award interest on our recommendations. Accordingly, there will be no recommendation to award interest.

9. CONCLUSION:

The panel wishes to express our thanks to both counsel for their efforts in producing thorough briefs for our review in advance of the Commission hearing, as well as their oral presentations at the hearing on February 24, 2020. We also wish to thank the Honourable Deputy Chief Judge and Coordinator of the Justice of the Peace

Program, Lillian K. McLellan, for her submission as well as the submissions from both the Law Society of Alberta and the Canadian Bar Association, Alberta branch represented at the hearing by Mr. Ola Malik. Finally, we wish to express our thanks to Ms. Ruth Fast, Legal Counsel Legal and Legislative Initiatives, Alberta Justice and Solicitor General, for her administrative assistance from the outset of this process.

Respectfully submitted,

Signature on original

JOHN M. MOREAU QC

Signature on original

ANDREW C. L. SIMS QC

Signature on original

WILLIAM J. ARMSTRONG QC

July 20, 2020

(Amended August 19, 2020)

