



December

Volume 7 | Issue 127



[2019 BENCHER ELECTION-SELF ASSESSMENT ANALYSIS](#)

The Profession needs you! To test your interest in running for Bencher, ask yourself, spouse, partner or children:

DO YOU HAVE: A willingness to work hard and have enough time to read extensive material and participate diligently on a regular basis (600 to 1,200 hours per year can be devoted to preparation and attendance at Convocation meetings, Committee Days and Discipline Hearings)?

ARE YOU ABLE TO SHOW: A track record of commitment to the Profession and patience, will and ability to work with others in group decision making, remaining open minded while you listen to and opposing views?

CAN YOU: Accept that the role of the Law Society is to regulate the Profession in the public interest and elected benchers do not represent a constituency or self interests?

DO YOU REPRESENT: Diversity in language, geography, practice area and age?

DO YOU HAVE: Leadership skills and experience in financial matters necessary for supervising a \$10 million Law Society Budget?

DO YOU HAVE: Decision making/adjudicative experience, writing skills and ability to meet deadline

If you answered yes to any of the above, consider running for election...

[LICENSING LAWYERS](#)

Guess what? No meaningful change.

Convocation once again voted to maintain the articling status quo (with small tweaks) in response to committee recommendations that were years in the making.

https://lawsocietyontario.azureedge.net/media/lso/media/about/convocation/2018/convocation-decision-professional-regulation-committee-report_1.pdf.

Convocation did not seize the opportunity to make a real change for the future relying on sufficient evidence provided by lengthy internal consideration, consultation with the profession and even a consultant's report. It sidestepped the thorny problem of what students really learn in law schools, overlooked the incapacity of the current articling system to deliver quality-assured, safe training and ignored the reality that many lawyers specialize in a few areas of the law.

Convocation approved retention of the current model with modest enhancements which include: i) a requirement for a "required salary" for paid articling and work placements for a yet to be determined period; ii) limited exceptions; iii) more measurements and monitoring to provide greater oversight of articling and work placements; iv) mandatory education and training for articling principals and work placement supervisors.

These modest changes-not to be implemented until May 2021----may try but will not eliminate the documented failures of our current system that result in inconsistent training, and wholly unacceptable incidents of exploitation through unpaid or poorly paid jobs, discrimination and harassment (Report 1). No one is yet talking about what will be the "required salary" and how that will affect the marketplace. It may further limit jobs when smaller firms decide they just can't afford to pay a student who drains on financial and other resources.

In other words, students and the public will continue to be disadvantaged. As well, acceptance of the current model to transition students into becoming lawyers is now obviously dependent upon the alternate paths offered by Ryerson (LPP) and the University of Ottawa (PDD). Astoundingly, without focused debate, these programmes have effectively become institutionalized. The original projection of 400 candidates annually enrolled has remained stuck at around 240 per year. Those programmes are expensive and are the first choice of most students. However, they cannot now be eliminated at the end of the current pilot period because they are the only game in town to make up some (but not all) of the persistent shortage of articling positions in Ontario, since the Law Society cannot exclude students from the profession simply because articling positions are not available. Convocation has tied its hands in any future debate about the quality and cost of the LPP/PDD.

Does any of this make sense? And once the changes are implemented, the candidate licensing fee is projected to increase from \$4710 to \$4900. But who knows what the actual student cost will be by 2021 and how much of a subsidy will be required by the profession.

Since 1998 Convocation has addressed Bar Admission Reform and Articling issues on no less than a dozen occasions including the last major revision in 2006 when articling was affirmed.

The Law Society remains unwilling to allow the market place dictate when, where and who will be hired when students graduate from law school. The Law Society's sole function should be the initial certification of lawyers' competence to enter the practice of law and throughout our legal careers. If law schools, extracting enormous tuition from students, do not adequately train students for rigorous testing, that will be remedied when their students fail entry examinations.

Those voting for the new/old articling programme took comfort in the fact that we will continue to other Canadian law societies. Even though we have the largest Law Society in the country and absolute largest percentage of foreign trained students, we are unwilling to abandon an articling programme clearly broken. We refuse to lead by example, as we once did with the regulation of paralegals.

What Convocation entirely ignored is the utterly insufficient number of adequate (read quality) articling work placements available, now and worse in the future, because of the increasing number of candidates seeking a license to practice law in Ontario.

The quaint notion of the introduction to the day to day practice of law being learned from an experienced qualified principal is as long gone as the profession of law; which is now sadly no more than a dress business enterprise that can claim solicitor client privilege. The unfortunate consequences, which should have been perpetuated, of a power imbalance between students and some law firms will not be overcome by education and training of articling principals and work place supervisors.

Additionally, a one size fits all post law school training regime does not reflect the reality that many will never try to pursue the general practice of law. Most will likely restrict their professional work to speciality such as real estate, family law, immigration or criminal matters to name but a few. Yet, we have come to grips with the fact that the public interest will be best protected and served by introducing licensing that can be substantively tested by empirically sound examinations. We must inevitably move to limited licensing where the majority of practitioners elect to practice in self-selected, limited areas of which they will receive focused training and targeted examinations to ensure competence.

As well Convocation failed to consider at this time, let alone adopt, a skills examination consistent with practices developed by legal regulators in the United States and the United Kingdom. Why not immediately implement skills examinations to assess a candidate's ability to perform essential lawyering tasks to a consistent standard regardless of law school attended or articling path followed?

Guess what Convocation and the profession will be debating again by 2023 and beyond?

[BENCHER PAY-](#)

[26 Day Deductible Eliminated](#)

In 2005, 58% of the profession who voted in a referendum, approved remuneration for Benchers.

There was a desire to recognize that an element of public service was involved in Bencher's work and that the position does not morph into a full time job like some municipal councils. So, compensation was not available until a Bencher first devoted 26 days of service to the Law Society.

Bencher pro bono activities include time devoted to discipline matters. However, in 2005 and 2017, dramatic changes were made to the hearing process including the creation of the Law Society Tribunal and the appointment of a significant number of non-Bencher adjudicators. The 26 day deductible created an and unfair burden because not all elected Benchers could participate in the adjudication process. The process requires ongoing training and values quality, transparency and timeliness. Benchers engaged in the important but burdensome work of the discipline process were disadvantaged in comparison to appointed Tribunal members and some could not do both discipline and governance work.

To promote fairness, professionalism and efficiency, Convocation voted to eliminate the 26 day deduction relation to adjudication work. This will not impose a significant additional cost to the profession (as Benchers exceed the deductible by devoting 25-30 days per year to governance matters.) The change just shifts the stage at which compensation will be available to elected Benchers who devote time to dis matters.

But you should know that in 2016, the Bencher per diem allowance was increased to \$600.00 and \$365 half day. The 2019 Law Society Budget anticipated expenses for Benchers and the Treasurer at \$3.2 (\$600,000 expense reimbursement, \$460,000 bencher functions, \$1.2m Bencher remuneration a Treasurer's honorarium.)

SOUND JUDGMENT

Our cost concious Treasurer has cancelled January Convocation as there are no matters for Convoc immediate consideration..

Go figure, when there are so many pressing problems facing the profession.

NEW TRIBUNAL MEMBER

Ms. Kathleen Lickers has been appointed as a non-bencher, lawyer adjudicator. As a sole practition experience in administrative tribunals she brings a wealth of knowledge in Indigenous law matters Hearing Panel.

IMPORTANT DATE:

December 31 - Final date to complete all required CPD hours and record them on the LSO Portal. Fa complete AND record CPD hours will result in a late fee and referral for suspension.

HOLIDAY WISHES.

I wish for you and your family a happy, healthy and safe holiday season.

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