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REPRISE: GOOD GOVERNANCE

The November motion by Benchers Fagan and Poliacik to implement a good governance practice was lost by a vote of 22 against and 21 in favour. Following a technical failure in securing all the votes of Benchers, the Treasurer vacated that determination and a new vote was conducted in December Convocation. The vote was taken again and this time passed 24 in favour and 22 against. Accordingly, the will of Convocation is now understood to be that Benchers entitled to vote or participate, are to be given notice of all meetings involving Law Society matters and they be entitled to attend.

FAMILY LEGAL SERVICES PROVIDER

Following a rancorous procedural and substantive debate, Convocation (holding its collective nose) approved a new narrow scope Family Legal Services Provider Licence (FLSP) by a surprisingly wide margin of 37 in favour and 10 against. The determination is the result of a lengthy consultation with the Ontario Superior Court and the Ontario Court of Justice. Several Benchers questioned, without success, the role of the judiciary entering the arena of the Law Society's regulation and licensing of the professions. The judiciary's proposal advanced by two Benchers was not recommended by the Access to Justice Committee nor the Paralegal Standing Committee. The expressed goal of the initiative is to enhance access to justice by allowing paralegals to offer certain limited family law services to many unrepresented family law litigants. The FLSP License will not be available to other qualified professionals like social workers who could be trained but are not presently regulated by the LSO. Many critics loudly assert that the very narrow scope of the FLSP will not put a dent in the access to justice problem. One Bencher assessing the proposal said: "shame on us" and another that this is "not a whole loaf and is barely a quarter loaf". Others asserted that this step was needed immediately in view of the long standing crisis of unrepresented family law litigants. The new FLSP License will be subject to review within 3 years. The background report can be found at: <https://lawsocietyontario.azureedge.net/media/lso/media/about/convocation/2022/convocation-december-2022-treasurers-report-flsp-en.pdf>

WILLFUL:

An online estate planning platform is the first selected participant in the LSO Access to Innovation project. The goal of seeking to enhance access to justice through online aids is laudable. However, the Law Society supported initiative to create a will or power of attorney online results in direct competition with the specialized, experienced Estate Bar. One knowledgeable practitioner has described the initiative as “brutal for the profession and it is not a solution”. Following a two year operating phase, it will be critically important to objectively assess any enhancement to access to justice that may be achieved as balanced against the risks to clients securing unsupervised legal advice in this fashion. Against whom will clients have recourse in the event of any failure of the estate planning platform? Whose practice area will next be offered up as a sacrifice to perceived Access to Justice enhancement?

LawPRO EXPOSED:

Bencher Joe Groia has continued to write about LSO matters. As raised during the 2022/2023 budget debate, Joe has explained in understandable terms how elected Benchers can better serve the professions and achieve lower fee levels. We should all read:

<https://www.canadianlawyermag.com/news/opinion/a-simple-solution-to-fixing-the-law-society-of-ontarios-budget-woes-lawpro/372255>

METROLINX OSGOODE SUBWAY STOP:

The plan to build a monolith out-of-character subway stop within the iconic Osgoode Hall Fence is steaming down the track. Expropriation proceedings are underway and Metrolinx planned to remove five, already marked trees from the historic grounds. After public opposition by the Haudenosaunee Development Institute, exercising treaty rights, Metrolinx later attended with a police escort to install temporary fencing around the perimeter of the expropriated property. It intends to undertake an archaeological assessment by excavating a 41 metre by 28 metre test pit. There is supposed to be an independent review of the station location, overseen by the City of Toronto. Stay tuned for important community gatherings to raise awareness of proposed alternative locations for the Osgoode station. The professions and public are charged with the historic duty of preserving the public green space within the heart of Toronto that has been maintained and treasured for over 200 years. There can be no return if Metrolinx is allowed to proceed with its devastating and irreversible plan when reasonable alternatives exist. Please speak up to your elected City and Provincial representatives.

THE HONOURABLE JUSTICE MICHAEL MOLDAVER:

The Law Society of Ontario presented a degree of Doctor of Laws *honoris causa* (LLD) to former Supreme Court Justice Michael J. Moldaver in recognition of his outstanding achievements in the legal profession, the rule of law and the cause of justice. He has made a lasting mark on criminal law in Canada as a lawyer, teacher and jurist. Following his career as one of Canada’s leading criminal lawyers he began his judicial career in 1990. He was elevated to the Court of Appeal for Ontario on December 22, 1995 and to the Supreme Court of Canada on October 21, 2011. He retired from the Court on September 1, 2022.

[Read the Gazette article about Justice Moldaver.](#)

CONVOCATION DECEMEER 1, 2022:

The recorded webcast may reveal to you how well (or not) the professions are being served by elected Benchers, many of whom will be seeking re-election in the spring. In the context of an unprecedented exchange, one Bencher said: “How low can we

go". The demonstrated ongoing disrespect for the work of Convocation and challenge to the authority of the Treasurer is appalling and reflective of a general failure of all those governing this institution created in 1797. In comparison with the current conduct of Convocation, I invite you to inquire and assess how others charged with regulation of their professions carry on: Consider the Royal College of Dental Surgeons; College of Physicians and Surgeons; Institute of Chartered Accountants of Ontario; The College of Nurses, Professional Engineers Ontario; etc. It is apparent to me that we have fully entered into Bencher "silly season" in advance of the coming election. I encourage you to read Joe Groia's article on Convocation civility and watch the webcast he is speaking about: <https://www.thelawyersdaily.ca/articles/42268/convocation-civility-joseph-groia?category=opinion> and <https://lso.ca/about-lso/convocation/2022/december-1#update-6>

HAVE A HAPPY AND SAFE HOLIDAY SEASON

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