



Benchers Bulletin

March 1993 Vol. 1 No. 6

Regional representation in 1995 bencher election

After 123 years of intermittent debate that began in 1870, the Law Society has adopted a plan to allow for the election of regional representatives in bencher elections.

Under the new electoral regime, the total number of elected benchers would remain at 40 with 20 elected within Metropolitan Toronto and 20 elected outside of Toronto.

The major change to the current system involves the election of nine regional benchers — one from each of the seven judicial regions outside of

Metro Toronto and two others from the Metro Toronto area which will be divided into two regions, the City of Toronto proper and the metropolitan area outside the City. The remaining 13 benchers outside of Toronto and 18 benchers within Toronto will continue to be elected by the profession at large.

Regional representatives will be elected solely on the strength of votes cast by voters in their respective regions. In each region the candidate receiving the greatest number of votes cast by voters in that region will be automatically declared the regional bencher.

Although the election mechanics have yet to be specified in the Law Society Rules, one proposal, involving the use of different coloured ballots, illustrates how the scheme would work. For example, for each of the nine regions there will be a different coloured ballot, every ballot having an identical list of candidates. When counting the votes, ballots

would first be grouped by separate colours. The candidate from each electoral region receiving the greatest number of votes from voters within that electoral region would be elected to serve as the regional bencher. All ballots of every colour would then be pooled together. From that count the remaining 13 candidates from outside Toronto and the 18 from within Toronto having the greatest number of votes would be elected.

Before the electoral changes can be implemented, amendments will have to be made to *The Law Society Act*. The amendments will be sought in time for the next election due in the spring of 1995.

Supporters of the changes are optimistic that regionalization will lead to increased voter turnout at election time and more effective representation in the affairs of the legal profession's governing body. Voter turnout has been declining steadily since 1979

In this issue:

- Lawyer Referral Service
- Compensation Fund
- Insurance Update



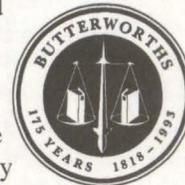
David Scott

Chair, Special Committee
on Bencher Elections

Education Equity Awards

The Law Society of Upper Canada gratefully acknowledges the financial contribution of Butterworths Canada to the Society's second annual education equity awards.

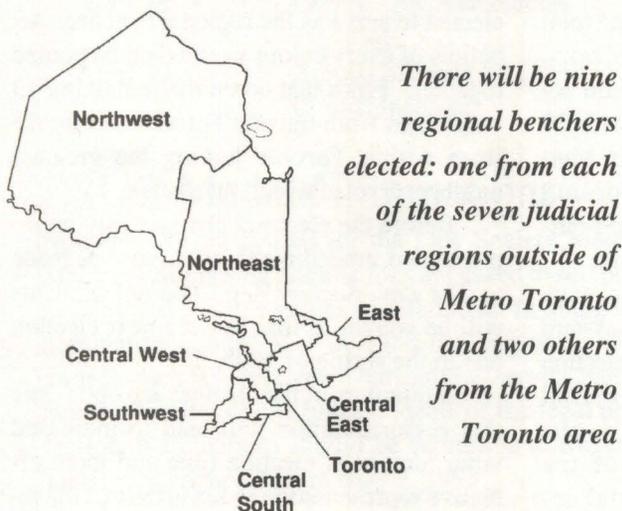
The awards, totalling \$10,000, have been distributed equally among Ontario's six law schools to be awarded to aboriginal and minority students. Butterworths Canada, in the 175th year of its world-wide operations, has pledged to contribute \$10,000 per year for five years. This contribution has been dedicated to fund the Law Society Education Equity awards which were first granted in 1991.



when over 70 per cent of the profession cast ballots. In 1991 this figure had dropped to just over 50 per cent. The results of a questionnaire distributed to Ontario lawyers in 1989 found that 72 per cent of respondents favoured some form of regional representation.

The recent move towards partial regionalization was recommended by the Special Committee on Benchers Elections chaired by Ottawa benchers David Scott. The 11-member committee, which was established in the fall of 1992, included representatives from the County and District Law Presidents' Association, County of York Law Association, Ontario Crown Attorneys' Association and the CBA(O).

In addition to canvassing new proposals advanced by committee members and the authors of some 25 written submissions, the committee reviewed the pano-



ply of options generated by previous committees which had grappled with the complex and often difficult issue of implementing a regional electoral system.

The resulting recommendation for a modified form of regionalization represents a compromise solution among the wide and disparate possibilities considered by the committee which ranged from retaining the status quo to full regionalization. Strong views were expressed on all fronts.

Proponents of the current electoral process argue that regional constituencies are inappropriate for a governing body which concerns itself foremost with protecting the interests of the Ontario public. Those in favour of the status quo maintain that the public interest is not best served under regional representation which would alter the focus of the Law Society's work away from the public interest to the interests of particular constituencies. Such views were expressed by the County of York Law Association and the Committee for Benchers Accountability.

Concerns were also expressed that regionalization

might result in a bench which is less representative of the diverse make-up of today's profession. At present, the pooling of votes province-wide opens the possibility for various interests, particularly women and minorities, to be represented on the governing body. The submission from the Women's Law Association expressed some apprehension that limiting constituencies by region would likely reduce the number of women and visible minority members who are presently elected through the province-wide balloting method.

Support for full regionalization was strongest among members of the County and District Law Presidents' Association who argued in favour of a system that would result in all 40 benchers being elected by regions. The result, advocates argued, would be meaningful representation in the sense that members in each region would be represented by benchers of their choice rather than the choice of others from outside their region. This scheme would ensure that all areas of the province would be represented and would avoid situations, such as has sometimes occurred, when no benchers has been elected from the north west region.

After closely considering the views of all sides, the Special Committee on Benchers Elections opted to propose a modified form of regionalization in order to respond to the majority views of Ontario's lawyers and to assist in bridging their alienation and lack of interest in Law Society business which benchers feel has been exacerbated by the existing electoral process.

"There is a very strong feeling within the profession that the present method of election is not representative and is not adequate," said David Scott in his address to Convocation.

He defended his committee's decision to reject full regionalization by saying that "change itself is not an evil. The real concern is that it could change the focus of the work of Convocation to parochial or regional concerns from a broader concern of the public interest at large."

"In other words, we could become representatives of our constituents and be preoccupied to an undesirable extent by the concerns of our constituents rather than the concerns of the public at large."

The proposed election method, Mr. Scott argued, will allow the Law Society the necessary time to assess the impact changes will have on its work.

"The concern was that full regionalization was too dangerous a step to take as a first step. It would result in a very significant change in the method of election of benchers which could alter the whole character of governance of the profession in the province and we ought not to do this without careful thought and a trial process on a reduced regionalization basis," he said.

Advertising & recruitment for Lawyer Referral Service

Ad campaign set to begin

A promotional campaign to market the Lawyer Referral Service through community newspapers across Ontario is under way and a series of advertisements will appear within the next eight-to-ten weeks.

The focus of the campaign's strategy is to increase awareness and use of the LRS by the Ontario public and to diversify the LRS client base over a broader range of legal services and over demographically more diverse clients.

The campaign will consist of a series of six advertisements promoting use of the LRS both generally and in particular areas of law such as real estate and wills and estates—areas which are under-utilized by current LRS clients despite recent statistics that show 62 per cent of all recent use of lawyers was for matters pertaining to real estate or wills and trusts.

The LRS will be positioned as a fast, easy and reliable method to find **appropriate legal services** with confidence. A January 1992 Decima survey found that over one-third of Ontarians are not confident in their ability to find appropriate legal services. Most rely on informal networks of friends and family when seeking legal advice.

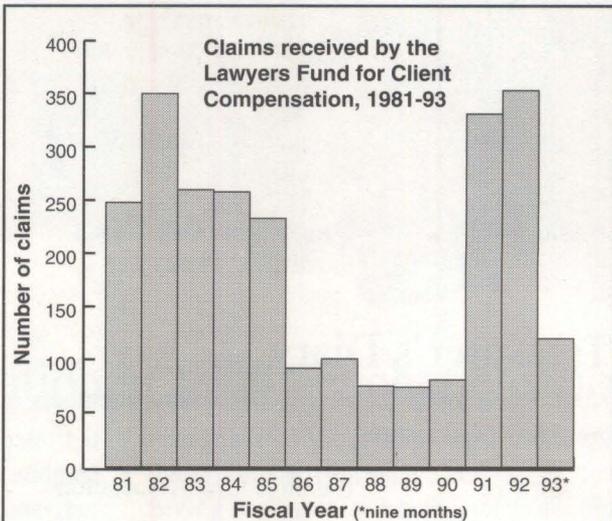
Intermediaries such as social service and community information services, real estate brokers and agents, personal financial planners and advisors will also be targeted as part of the campaigns' strategy to channel information about the Service through those who can then refer the LRS to clients with legal needs.

Recruitment drive continues

The Lawyer Referral panel membership drive launched in late December has recruited over 3,000 lawyer participants as of mid-March. Several provincial counties and districts remain under-represented on the LRS panels, namely: Grey, Huron, Niagara, Parry Sound, Renfrew, Simcoe and Victoria & Haliburton. The LRS also reports shortages of immigration and labour lawyers in the Scarborough and Agincourt areas.

Insurance update

- *Variable levy to be examined.* The Insurance Committee has retained the services of an internationally renowned consultant with extensive experience in professional liability insurance to assist in a review of the current flat-rated levy program offered by the E&O program. The committee will explore various options for setting a levy for the profession, including the development of a variable levy rating structure favoured by many members of the bar.
- *No coverage for sexual impropriety.* Last month, Benchers Bulletin reported the Insurance Committee would inquire about the availability and cost of insurance for claims of sexual impropriety and/or misconduct. Members are advised that no such coverage is currently available and there are no prospects for such coverage in the foreseeable future.



Comp Fund payments

The Lawyers Fund for Client Compensation has paid out over \$3.1 million in claims to 94 clients in the first nine months of the fiscal year ending March 24th. This figure exceeds the previous record of \$3 million paid out during the peak of the last recession in 1982-83.

Claims have been on the rise since the start of the current economic downturn in 1990. A record number of claims was lodged in 1991-92 with 354 clients seeking to recover all or partial losses from the fund which is financed by an annual levy on the profession presently set at \$1 per member. Typically, claims involve lawyers' misuse of clients' mortgage investment funds.

With the \$100,000 per client limit applied, the Fund's exposure is estimated at \$17.4 million with 590 claims yet to be paid as of February 1993. The Fund's present balance stands at approximately \$30 million. No increase is expected in the \$1 levy in 1993-94, but the dramatic rise in claims may require a levy increase at some point if a significant number of claims are found to have merit.

Upcoming Events

Osgoode Hall, Toronto

April 22/23	Special Convocation/ Convocation
May 13/14	County and District Law Presidents' Plenary

Treasurer's Diary

Allan Rock looks forward to addressing members in the following locations:

April 15	Hastings Law Association
April 26	Lanark Law Association
April 30	Annual Meeting of Law Clerks Institute

LSUC Medal Nominations

Nominations are invited for the Law Society Medal. Members submitting nominations are asked to set forth reasons and give the names of references. In doing so, nominators should bear in mind the purpose of the award which is to recognize outstanding service that is in accordance with the highest ideals of the legal profession. Nominations should be submitted to Richard Tinsley, Secretary, before May 3, 1993.

Correction—Fee Arrears Policy

Last month, the Benchers Bulletin incorrectly reported that members suspended prior to February 26, 1993 will be required to pay an administrative fee when seeking reinstatement. **This is not the case.** Only those suspended on or after that date will be required to pay the administrative fee.

Members are also reminded that reinstatement penalties may be waived in cases of financial hardship. Fee arrears however, will not be waived regardless of financial circumstances.

The Law Society
of Upper Canada



Le Barreau
du Haut-Canada

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Convocation attendance and roll-call votes

Mar. 26, 1993	Attend	Motions*	
		1	2
Arnup, John	✓	A	F
Bastedo, Thomas	✓	A	F
Bellamy, Denise	✓	A	A
Bragagnolo, Rino			
Brennan, Lloyd	✓	A	F
Campbell, Colin	✓	A	F
Carter, Robert			
Copeland, Paul			
Cullity, Maurice			
Curtis, Carole			
Elliott, Susan	✓	Ab	F
Epstein, Philip	✓	A	F
Feinstein, Abraham	✓	A	F
Finkelstein, Neil	✓	A	F
Goudge, Stephen			
Graham, Netty	✓	A	A
Hickey, Michael			
Hill, Casey	✓	A	F
Howie, Kenneth			
Howland, William			
Kiteley, Frances	✓	F	F
Krishna, Virender			
Lamek, Paul			
Lamont, Donald	✓	A	A
Lax, Joan	✓		
Legge, Laura	✓	A	F
Lerner, Samuel			
Levy, Earl	✓	A	A
McKinnon, Colin	✓	A	F
Manes, Ronald	✓	A	A
Martin, Arthur			
Mohideen, Fatima	✓	F	A
Murphy, Daniel	✓	F	F
Murray, Ross	✓	A	F
O'Brien, Brendan	✓	A	F
O'Connor, Dennis	✓		
O'Connor, Shirley	✓		
Palmer, Julaine	✓	A	F
Peters, Patricia	✓	F	A
Richardson, Nora			
Robinette, John			
Ruby, Clayton			
Scace, Arthur			
Scott, David	✓	A	F
Sealy, Hope	✓	A	F
Somerville, Marc	✓	A	F
Strosberg, Harvey	✓	A	A
Thom, Stuart	✓	A	F
Topp, Robert			
Wardlaw, James	✓	F	F
Weaver, Mary	✓	A	A
Yachetti, Roger			
Rock, Allan (Treas.)	✓		

Non-voting Benchers in attendance

R. Cass, G. Farquharson, P. Furlong, A. Lawrence, P.B.C. Pepper.

*Motions A=against, F=for, Ab=abstain

- That Toronto benchers be elected on the basis of the Ferguson report. Moved by James Wardlaw, seconded by Dan Murphy. Lost 24 to 5.
- That the Scott report be adopted as amended by Brendan O'Brien. Moved by Brendan O'Brien, seconded by Marc Somerville. Adopted 21 to 9.