

MINUTES OF CONVOCATION

Saturday, 1st December, 1990
9:15 a.m.

PRESENT:

The Treasurer, (James M. Spence, Q.C.), Bellamy, Callwood,
Campbell, Carey, Carter, Chapnik, Hall, Hunt, Kiteley, Lamek,
Levy, McKinnon, Pepper, Peters, Rock, Somerville, Stewart and
Weaver.

.....

.....

"IN PUBLIC"

.....

The Treasurer called Convocation to order.

ELECTION OF BENCHER

It was moved by Mr. Carey, seconded by Mr. Somerville THAT Mr.
Paul Copeland be elected a Bencher to fill the vacancy created by the
resignation of Ms. Diana Hunt.

.....

LEGISLATION AND RULES COMMITTEE

Mr. Carey presented the Report of the Legislation and Rules
Committee of its meeting on November 8th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of November, 1990, at
11:15 a.m. the following members being present: S. Lerner (Vice-Chair
in the Chair), R. Cass, M. Cullity, P. Bell and A. Stone also attended.

A.

POLICY

No items

B.

ADMINISTRATION

1. BENCHER ELECTIONS

The Special Committee on Bencher Elections Report to be discussed
and voted on by Convocation on November 23rd, will require some changes
to the Rules, which should be made at the same meeting of Convocation,
in time for the 1991 election of benchers. The suggested rule changes
were referred to Arthur Stone, Counsel for the Society and he has
drafted the necessary amendments.

RECOMMENDATION: It is recommended that the Rules made pursuant to subsection 62(1) of the Law Society Act, R.S.O. 1980, c. 233, be amended as follows:-

1 (1) clause 19 (2) (e) of the Rules made under the Law Society Act is amended by striking out all of the words after "nominee" in the second line so that the clause will now read:

10 (2) (e) may include up to 100 words of biographical information provided by the nominee.

(2) Subrule 10 (2) of the said Rules is amended by adding thereto the following clause:

(f) may be accompanied by an election statement, typed on no more than one side of a paper measuring 8 1/2 inches by 11 inches (21.5 centimeters by 28 centimeters).

(3) Rule 10 of the said Rules is amended by adding thereto the following subrules:

(5) Where, in the opinion of the Secretary, an election statement referred to in clause (2) (f) is libelous, is in breach of the rules of professional conduct or is in bad taste, the Secretary shall refer the statement to the Treasurer who may appoint two or more ex officio benchers as a committee to review the statement.

(6) Where the committee is of the opinion that the statement may be libelous, may be in breach of the rules of professional conduct or is in bad taste, the committee shall advise the member who made the statement of their objections with reasons and the member shall have an opportunity to redraft the statement.

(7) A redrafted statement that is not approved by the committee shall not be distributed.

2. Rule 11 of the said Rules is amended by inserting after "Act" in the second line "and these rules".

3. Subrule 12 (1) of the said Rules is amended by striking out the word "and" in the fifth line and is further amended by striking out "or prepared from the Society's records if not provided by the candidates" in the sixth and seventh lines and inserting in lieu thereof "and the election statements submitted under clause 10 (2) (f)" so that subrule 12 (1) will now read as follows:

12 (1) When a poll is necessary, the Secretary shall send to each member and student member of the Society whose name is on the voters lists at the voters address as shown on the books of the Society, a ballot in two parts in the form approved by Convocation, a memorandum of voting instructions, one or more return envelopes, and a booklet containing the names of candidates, their photographs if provided, limited biographical information if provided by the candidates and the election statements submitted under clause 10 (2) (f).

4. Rule 14 of the said Rules is revoked and the following substituted therefor:

14.(1) The electoral regions for the purposes of the election of benchers are:

- (a) the judicial regions that are established under section 92a of the Courts of Justice Act, 1984, except the Toronto Region;
- (b) the City of Toronto;
- (c) the City of North York;
- (d) the Borough of East York and the City of Scarborough; and
- (e) the City of York and the City of Etobicoke.

(2) A member, candidate or voter is from or in an electoral region if his or her address on the records of the Society on the last day for nominations was in that electoral region.

(3) The manner of electing the twenty benchers whose addresses on the records of the Society are within the Municipality of Metropolitan Toronto shall be,

- (a) one person from among the candidates in each electoral region that lies within the Municipality of Metropolitan Toronto who has the highest number of votes cast by voters in the electoral region, as reported by the scrutineers and certified by the Secretary; and
- (b) sixteen persons from among the remaining candidates in the Municipality of Metropolitan Toronto who have the highest number of votes cast by all the electors for the election of benchers, as reported by the scrutineers and certified by the Secretary.

(4) The manner of electing the twenty benchers whose addresses on the records of the Society are outside the Municipality of Metropolitan Toronto shall be,

- (a) one person from among the candidates in each electoral region that lies outside the Municipality of Metropolitan Toronto who has the highest number of votes cast by voters in the electoral region, as reported by the scrutineers and certified by the Secretary; and
- (b) thirteen persons from among the remaining candidates from outside the Municipality of Metropolitan Toronto who have the highest number of votes cast by all the electors for the election of benchers, as reported by the scrutineers and certified by the Secretary.

(5) The manner in which Convocation shall elect a bencher to supply a deficiency or fill a vacancy under section 21 of the Act shall be in accordance with this rule as applied to the seat in respect of which the deficiency or vacancy has occurred.

5 (1) 17. (1) Subrule 17 (1) of the said Rules is amended by striking out 20 in the first line and inserting in lieu thereof "19".

17. (1) A petition under section 19 of the Law Society Act shall not be entertained unless it is filed with the Secretary within the fifteen days next following the day on which the result of the election was certified under rule 14 and unless it contains a statement of the grounds on which the election is disputed and unless a copy thereof is served within the twenty days next following such day upon the bencher petitioned against.

5 (2) Subrule 17 (6) of the said Rules is revoked and the following substituted therefor:-

17. (6) Where the benchers petitioned against is found to be not duly elected or qualified, Convocation shall declare to be duly elected and qualified the candidate who, among the candidates who were not elected, has the highest number of votes as determined under the same clause of subrule 14 (3) or (4) as applied to the election of the person who was found to be not duly elected or qualified.

A copy of the consolidated Rules under the Law Society Act concerning Benchers Elections is attached with changes underlined.

(Pgs. B1-B6)

2. AMENDMENT OF REGULATION 573 SUBSECTION 22
RE: THREE YEAR BAR ADMISSION REFRESHER

Legislative Counsel at Queen's Park has indicated that the amendment to subsection 22 (5a) of Regulation 573 approved by the Committee on March 8th, and Convocation on March 2nd, 1990, gave too broad a discretion to Convocation. Counsel for the Law Society has redrafted the proposed amendment that will accomplish the same result.

RECOMMENDATION: It is recommended that Subsection 22 of Regulation 573 of the Revised Regulations of Ontario, 1980, be amended by adding after subsection 22(5), subsection 22 (5) as follows:-

(5a) Where three years have elapsed after a person has completed the Bar Admission Course during which the person has not been called to the bar and enrolled as a solicitor, the Bar Admission Course is not completed until the person successfully completes such further experience and studies as Convocation considers necessary to ensure that the person remains current with the law.

3. POLICY RE BENEFICIARIES OF ESTATES
MAKING CLAIMS TO THE COMPENSATION FUND

The Compensation Fund Committee, on October 11th, 1990, and Convocation on October 26th, 1990 approved of a policy change to permit beneficiaries of estates to make claims to the Fund.

RECOMMENDATION: Your Committee recommends that the policy change be referred to counsel for the Law Society for clarification and drafting as a policy that will not be in the General Guidelines.

4. COURT MERGER - COURTS TO
WHICH SOLICITORS ARE ENROLLED

In response to the Treasurer's letter of July 24th, 1990, Chief Justice Dubin has replied and as a result, sub-rule 53(4) should be amended so as to comply with the view of Chief Justice Dubin as set out in his letter of September 26th, 1990, which is that it would be appropriate and desirable that solicitors be sworn in and enrolled as solicitors "of the Court of Appeal for Ontario and of the Ontario Court of Justice (General Division)".

This matter was approved on October 11th, 1990 and is being reported at this time as there was no Committee Report on October 26th, 1990.

RECOMMENDATION: It is recommended that sub-rule 53(4) be amended to comply with Chief Justice Dubin's view, as follows:

Sub-rule 53(4) of the rules made pursuant to subsection 62(1) of the Law Society Act, R.S.O. 1980, c. 233, is repealed and the following substituted therefor:

- (4) Immediately after a candidate is called to the bar he or she shall be presented to the Court of Appeal for Ontario or the Ontario Court of Justice (General Division) by any bencher present in the court and the presiding judge shall administer the oaths prescribed by rule 51 and the court may cause the candidate to be admitted and his or her name to be enrolled on the Rolls of the Society as a solicitor of the Court of Appeal for Ontario and of the Ontario Court of Justice (General Division).

It is recommended that Convocation pass the recommended amendments and other rule changes.

C.
INFORMATION

No items

ALL OF WHICH is respectfully submitted

DATED this 23rd day of November, 1990.

"T. Carey"
for Chair

Attached to the original Report in Convocation file, copy of:

B-Item 1 - Copy of the consolidated Rules under the Law Society Act re: Bencher Elections, with changes underlined. (Marked B1 - B6)

It was moved by Mr. Carey, seconded by Mr. Somerville that paragraphs 1, 3 and 5(1) under Administration re: Bencher Elections, be adopted.

Carried

The items not dealt with were deferred to the January 1991 Convocation.

B-PARAGRAPHS 1, 3 AND 5(1) WERE ADOPTED

.....

CONVOCATION ADJOURNED AT 9:30 A.M.

.....

Confirmed in Convocation, this 15 day of February, 1991.



Treasurer