

MINUTES OF CONVOCATION

Thursday, 25th February, 2021
9:00 a.m.
Via Videoconference

PRESENT:

The Treasurer (Teresa Donnelly), Adourian, Alford, Armstrong, Banack, Banning, Braithwaite, Brown, Burd, Charette, Chiumminto, Conway, Cooper, Corbiere, Corsetti, Desgranges, Epstein, Esquega, Fagan, Falconer, Ferrier, Goldstein, Graham, Groia, Horgan, Horvat, Klippenstein, Lalji, Lau, Lean, Lesage, Lewis, Lippa, Lockhart, Lomazzo, Lyon, Marshall, Merali, Minor, Murchie, Murray, Painchaud, Parry, Pawlitza, Pineda, Poliacik, Pollock, Prill, Rosenthal, Sellers, Sheff, Shi, Shin Doi, Shortreed, Spurgeon, Strosberg, Troister, Walker, Wellman, Wilkes, Wilkinson and N. Wright.

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Secretary: James Varro

The Reporter was sworn.

IN PUBLIC

TREASURER'S REMARKS

The Treasurer welcomed everyone to Convocation.

The Treasurer recognized that Convocation would normally be meeting in Toronto which is a Mohawk word that means "where there are trees standing in the water".

When Convocation meets in Toronto, the Treasurer acknowledges that Convocation meets on the traditional territory of the Mississaugas of the Credit First Nation. She also acknowledges the Haudenosaunee. She advised that for this Convocation, benchers are participating across the province and perhaps elsewhere, and across many First Nations territories. She recognized the long history of all the First Nations in Ontario and the Métis and Inuit peoples and thanks the First Nations people who lived and live in these lands for sharing them with us in peace.

The Treasurer welcomed Catherine Banning who was appointed a lay bencher on February 18, 2021.

LL.D. CEREMONY – CATHY CROWE

The Treasurer introduced Cathy Crowe, the candidate for the degree of Doctor of Laws, *honoris causa*.

Ms. Lalji read the citation.

The Treasurer admitted Ms. Crowe to the degree of Doctor of Laws, *honoris causa*.

Ms. Crowe addressed Convocation.

The Treasurer thanked Ms. Crowe for honouring Convocation with her presence.

LAW SOCIETY FOUNDATION REPORT

The Treasurer introduced Ian Hull, Chair of the Law Society Foundation Board of Trustees.

Mr. Hull provided Convocation with a report on the work of the Foundation.

TREASURER'S REMARKS

The Treasurer addressed the protocol for Convocation via Zoom videoconference.

The Treasurer congratulated former bencher Philip Epstein, C.M., O.Ont, Q.C., LL.D. who was recently inducted into the Order of Canada.

The Treasurer congratulated bencher Nicholas Wright and his wife on the birth of their daughter this week.

The Treasurer updated Convocation on her outreach initiatives.

The Treasurer advised Convocation that she delivered greetings on behalf of the Law Society at the swearing in of The Honourable Faye E. McWatt, Associate Chief Justice of the Superior Court of Justice.

The Treasurer noted her participation in a CPD program hosted by LawPRO and the Toronto Lawyers Association (TLA) on February 5, 2021 focused on mental health and the impact of the pandemic on the professions.

The Treasurer noted upcoming events:

- Mental Health Awareness Week, May 3 to 9, 2021 and the Mental Health Summit, May 19 and 20, 2021
- Black History Month Event, February 25, 2021
- International Women's Day Celebrations, March 4, 2021
- International Francophonie Day Event, March 23, 2021

The Treasurer noted that one year ago, the COVID-19 pandemic began and required various changes and pivots to adjust to these circumstances. The Treasurer thanked benchers and staff for their work throughout this period.

The Treasurer announced the nomination of bencher Etienne Esquega for election to the LawPRO Board of Directors to replace Julia Shin Doi, who resigned at her own request.

The Treasurer noted the tragic death of lawyer Scott Rosen, and expressed condolences to the Rosen family.

The Treasurer advised that two items on the agenda will not be dealt with today:

- Priority Planning Committee Report – to be referred back to Committee;
- Lewis/Lesage Notice of Motion – with the agreement of Ms. Lewis and Mr. Lesage, to be referred to the Audit and Finance Committee.

The Treasurer referred benchers to several reports for information that appear in the Convocation agenda.

POINT OF PRIVILEGE

Mr. Lyon expressed concern about the volume of materials for February Convocation.

The Treasurer noted the concern and her intention to look into the matter.

MOTION – CONSENT AGENDA – Tab 1

It was moved by Ms. Murchie, seconded by Mr. Poliacik, that Convocation approve the consent agenda set out at Tab 1 of the Convocation Materials.

Mr. Goldstein requested that the Human Rights Monitoring Group Report be removed from the Consent Agenda.

The remaining items on the Consent Agenda carried.

Tab 1.1 – DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of November 27, 2020 and February 9, 2021 were confirmed.

Tab 1.2 – MOTIONS

Re: Tab 1.2.1: Annual General Meeting

THAT Convocation approve that the Law Society's Annual General Meeting take place on Wednesday May 12, 2021 at 5:15 p.m. by electronic means, in accordance with Section 5 of By-Law 2 [Corporate Provisions].

Carried

Re: Tab 1.2.2: Appointments

THAT Ryan Alford be removed from the Audit and Finance Committee at his own request.

THAT Jack Braithwaite be appointed to the Law Foundation of Ontario Board of Trustees, to replace Etienne Esquega who has resigned at his own request.

Carried

Re: Tab 1.2.3: Law Society Tribunal Appointment

THAT D. Jared Brown be appointed to the Hearing Division of the Law Society Tribunal for a term ending May 28, 2021.

Carried

SECRETARY'S REPORT

Re: Amendments to By-Law 2 Respecting the Law Society's Annual General Meeting

That Convocation make amendments to By-Law 2 [Corporate Provisions] as set out in the motion at Tab 1.4.1 to facilitate electronic access and participation for the Law Society's Annual General Meeting.

Carried

JOINT REPORT OF THE PARALEGAL STANDING COMMITTEE AND PROFESSIONAL DEVELOPMENT AND COMPETENCE COMMITTEE

Re: Update on Pandemic Response Measures: Licensing Examinations and Articling Term

That Convocation adopt the recommendations by the Professional Development and Competence, and Paralegal Standing Committees to extend the following pandemic related measures as follows:

- a) The online delivery model for licensing examinations will continue for the next 3 years, until the end of the 2023-2024 licensing cycle; and
- b) The reduction in the minimum required length of articling placements, from 10 months to 8 months, will continue for the 2021-2022 licensing cycle.

Carried

HUMAN RIGHTS MONITORING GROUP REPORT

Re: Letter of Intervention on Behalf of Zhang Zhan

It was moved by Ms. Walker, seconded by Mr. Poliacik, that Convocation approve the letters and public statements in the following case: Zhang Zhan – China – letter of intervention and public statement presented at Tab 1.3.1 and 1.3.2.

Carried

ROLL-CALL VOTE

Adourian	For
Alford	For
Banning	For
Braithwaite	For
Brown	For

Burd	For
Chiummiento	For
Cooper	For
Corbiere	For
Corsetti	For
Desgranges	For
Epstein	Abstain
Esquega	For
Fagan	Abstain
Falconer	For
Goldstein	Abstain
Graham	For
Groia	For
Horgan	For
Horvat	For
Klippenstein	For
Lalji	For
Lau	Abstain
Lean	For
Lesage	For
Lewis	For
Lippa	For
Lockhart	For
Lomazzo	For
Lyon	Abstain
Marshall	For
Murchie	For
Painchaud	For
Pineda	For
Poliacik	For
Pollock	For
Prill	For
Rosenthal	For
Sellers	For
Sheff	For
Shi	Abstain
Shin Doi	For
Shortreed	For
Spurgeon	For
Troister	For
Walker	For
Wellman	For
Wilkes	For
Wilkinson	For
Wright	For

Vote: 44 For; 6 Abstentions

Mr. Fagan moved that the Equity and Indigenous Affairs Committee Report be moved from the in camera portion of Convocation to the public portion of Convocation.

The Treasurer advised the Convocation would deal with this matter in camera.

IN PUBLIC

POINT OF PRIVILEGE

Mr. Lyon raised an issue about his request for information on costs of an investigation under the Benchers Code of Conduct, which information has yet to be provided.

The Treasurer ruled that this was not a point of privilege but relates to a confidential matter and would not be discussed.

FINANCIAL UPDATE

Mr. Groia provided an update on the Law Society's financial situation for information.

REPORT OF THE CHIEF EXECUTIVE OFFICER

Ms. Miles presented the Report for information.

LAW STUDENTS' SOCIETY OF ONTARIO (LSSO) MOTIONS FROM THE 2020 ANNUAL GENERAL MEETING

The Treasurer introduced the report, and referred to the two questions to be answered by Convocation, based on the LSSO motions, as set out in the Report, as follows:

Question 1

Should the matter of a Law Student or Licensing Candidate being a permanent member of the Professional Development and Competence Committee or attending the Committee by way of permanent invitation be further considered by the Law Society at this time?

Question 2

Should the matter of candidates in the licensing process being permitted to vote in Benchers Elections be further considered by the Law Society at this time?

After considering the motions, in answer to Question 1, Convocation answered in the negative.

ROLL-CALL VOTE

Adourian	Against
Alford	Against
Banning	Against
Braithwaite	Against
Brown	Against

Burd	Against
Charette	Against
Chiummiento	Against
Cooper	For
Corbiere	For
Corsetti	Against
Desgranges	Against
Epstein	For
Esquega	For
Fagan	Against
Falconer	For
Goldstein	Against
Graham	Against
Groia	For
Horgan	Against
Horvat	For
Klippenstein	Against
Lalji	Against
Lean	Against
Lesage	Against
Lewis	For
Lippa	Against
Lockhart	For
Lomazzo	Against
Lyon	Against
Marshall	Against
Murchie	For
Painchaud	Against
Parry	Against
Pineda	Against
Poliacik	Against
Pollock	Against
Prill	Against
Rosenthal	For
Sellers	For
Sheff	Against
Shi	Against
Shin Doi	For
Shortreed	For
Spurgeon	For
Troister	Against
Walker	For
Wellman	Against
Wilkes	Against
Wilkinson	For
Wright	Against

Vote: 17 For; 34 Against

In answer to Question 2, Convocation answered in the negative.

ROLL-CALL VOTE

Adourian	Against
Alford	Against
Banning	Against
Braithwaite	Against
Brown	Against
Burd	Against
Charette	Against
Chiummiento	Against
Cooper	For
Corbiere	For
Corsetti	Against
Desgranges	Against
Epstein	Against
Esquega	For
Fagan	Against
Falconer	For
Goldstein	Against
Graham	Against
Groia	For
Horgan	Against
Horvat	For
Klippenstein	Against
Lalji	Against
Lean	Against
Lesage	Against
Lewis	For
Lippa	Against
Lockhart	For
Lomazzo	Against
Lyon	Against
Marshall	Against
Murchie	For
Painchaud	Against
Parry	Against
Pineda	Against
Poliacik	Against
Pollock	Against
Prill	Against
Rosenthal	For
Sellers	For
Sheff	Against
Shi	Against
Shin Doi	For
Shortreed	For
Spurgeon	For
Troister	Against
Walker	For
Wellman	Against

Wilkes Against
Wilkinson Against
Wright Against

Vote: 15 For; 36 Against

PARALEGAL STANDING COMMITTEE REPORT

Mr. Burd presented the Report.

Re: Expansion of Eligibility for the Lincoln Alexander Award

It was moved by Mr. Burd, seconded by Mr. Chiumminto, that Convocation expand the eligibility for the Lincoln Alexander Award to include paralegal licensees, effective immediately.

Carried

Re: Paralegal Criminal Scope – Non-Offence Summary Proceedings

It was moved by Mr. Burd, seconded by Mr. Chiumminto, that Convocation approve an amendment to By-Law 4 subsection 6(1)(c)(i) to remove the words “in respect of an offence” to allow certain non-offence summary proceedings to fall within the scope of the section as set out at Tab 5.2.1.

Carried

PROFESSIONAL REGULATION COMMITTEE REPORT

Ms. Shortreed presented the Report.

Re: Amendments to By-Laws 4, 7 and 14

It was moved by Ms. Shortreed, seconded by Mr. Wright, that Convocation approve the motion at Tab 6.1.1, which amends By-Laws 4, 7, and 14, in order to implement the strategic change items detailed in this report.

Carried

For information

- Update on Civil Rules Motion from the 2020 Annual General Meeting
- Professional Regulation Division 2020 End of Year Report

NOTICE OF MOTION

Ms. Shi moved, seconded by Mr. Fagan, THAT:

WHEREAS

- (1) Since the passage of The Law of the People’s Republic of China for Safeguarding National Security in the Hong Kong Special Administrative Region (the “National Security Law”), Hong Kong government has used it to arrest and charge dissenters. Those targeted are

mostly activists and young people who did no more than to participate in expressing views on how Hong Kong should be governed.

The latest round of arresting 55 activists was condemned around the world, including Canada. (Tab 1)

Respected Chinese human rights artist Ai Weiwei made a film about the struggle of Hongkongers, including teenagers, for freedom and the price that they have paid for it. (Tab 2)

Amnesty International raised its concern about this Law. (Tab 3)

- (2) On January 14, 2021, Hong Kong passed another grim milestone. A lawyer has been arrested with others for having assisted protesters seeking universal suffrage (Tab 4)
- (3) The Right Honourable Beverley McLachlin, former Chief Justice of Canada, is a current overseas non-permanent judge of Hong Kong Court of Final Appeal and therefore part of the system of enforcement of the National Security Law. (Tab 5)
- (4) Unlike Canada, Hong Kong does not enjoy any constitutional guarantee of fundamental rights and freedoms that the judiciary can safeguard by striking down any laws that are in breach of such rights and freedoms.
- (5) Instead, this National Security Law specifically stipulates in *Article 65 that*

The power of interpretation of this law shall be vested in the Standing Committee of the National People's Congress (of the People's Republic of China) (Tab 6)

- (6) There is increasing concern that the Communist rulers of China use foreign judges in the Hong Kong Court of Final Appeal as a fig leaf to create the illusion of legitimacy to an increasingly oppressive regime and its latest and most blatant oppression of the fundamental freedoms of people of Hong Kong.
- (7) Noted UK barrister David Perry QC has withdrawn from Hong Kong government's team that will prosecute Martin Lee QC, a noted Hong Kong barrister and the founder of Hong Kong Democratic Party. Mr. Lee was arrested for having participated in the well-known demonstration in Hong Kong which was attended by over 1 million Hongkongers last year. (Tab 7, 8)

UK has commenced discussion on whether UK judges should continue their membership of said Court. (Tab 9)

- (8) It is time that LSO and the former Chief Justice address such concern.
- (9) Not only is it a moral imperative for LSO to take a stand with respect to one of the highest and most respected legal officers of Canada and her continuing membership in an oppressive and brutal regime, but it is also difficult to justify the LSO's having a Human Rights Monitoring Group advocating human rights to foreigners, while remaining silent as Canada's own former Chief Justice sits on a court whose mandate from a brutal regime is to enforce a law as interpreted by the Communist government of China, a law that is antithetical to all that Canada stands for, and one that punishes a lawyer for doing his or her job in supporting fundamental freedoms.

THEREFORE BE IT RESOLVED that Convocation direct LSO to write to the Right Honourable Beverly McLachlin forthwith, and request that she resign her position at the Hong Kong Court of Final Appeal immediately.

Links to Tabs referred to in Shi/Fagan Notice of Motion

Link to Tab 1 information:

<https://www.ctvnews.ca/world/canada-joins-other-nations-in-condemning-hong-kong-mass-arrests-1.5260744>

Link to Tab 2 information:

<https://www.artnews.com/art-news/artists/ai-weiwei-cockroach-hong-kong-protests-review-1234579945/>

Link to Tab 3 information:

<https://www.amnesty.org/en/latest/news/2020/07/hong-kong-national-security-law-10-things-you-need-to-know/>

Link to Tab 4 information:

<https://globalnews.ca/news/7575459/hong-kong-lawyer-arrested/>

Link to Tab 5 information:

https://www.hkcfca.hk/en/about/who/judges/nps/index_id_61.html

Link to Tab 6 information:

[https://www.elegislation.gov.hk/doc/hk/a406/eng_translation_\(a406\)_en.pdf](https://www.elegislation.gov.hk/doc/hk/a406/eng_translation_(a406)_en.pdf)

Link to Tab 7 information:

https://www.spectator.co.uk/article/the-legal-profession-s-troubling-relationship-with-china?irclidid=z8Mxsn2k%3AxyLWKAwUx0Mo3b3UkEWUbxNMSqsyA0&utm_source=27795&utm_medium=planit_affiliates&irgwc=1

Link to Tab 8 information:

<https://www.washingtonpost.com/opinions/2020/04/21/i-was-arrested-hong-kong-its-part-chinas-larger-plan/>

Link to Tab 9 information:

<https://www.reuters.com/article/hongkong-britain/uk-considers-whether-to-remove-british-judges-from-hong-kong-court-idINKBN28405V>

Mr. Falconer moved, seconded by Mr Goldstein, that the motion be tabled.

Lost

ROLL-CALL VOTE

Adourian	Against
Alford	Against
Banning	Against
Braithwaite	For

Brown	Against
Burd	For
Charette	For
Chiumminto	For
Cooper	Against
Corbiere	For
Corsetti	Against
Desgranges	Against
Epstein	For
Esquega	For
Fagan	Against
Falconer	For
Goldstein	For
Graham	For
Groia	Against
Horgan	Against
Horvat	Against
Klippenstein	Against
Lalji	Against
Lau	For
Lean	Against
Lesage	Against
Lewis	For
Lippa	Against
Lomazzo	Against
Marshall	Against
Murchie	Against
Painchaud	Against
Pineda	Against
Poliacik	Against
Pollock	Against
Prill	Against
Rosenthal	Against
Sellers	Against
Sheff	For
Shi	Against
Shin Doi	For
Shortreed	Against
Spurgeon	Against
Troister	Against
Walker	For
Wellman	Against
Wilkes	Against
Wilkinson	Against
Wright	Against

Vote: 15 For; 34 Against

The main motion was put to a vote and was lost.

ROLL-CALL VOTE

Adourian	For
Alford	For
Banning	Against
Braithwaite	Against
Brown	For
Burd	Against
Charette	Against
Chiumminto	Against
Cooper	Against
Corbiere	Against
Corsetti	Against
Desgranges	For
Epstein	Against
Esquega	Against
Fagan	For
Falconer	Against
Goldstein	Abstain
Graham	For
Groia	Against
Horgan	For
Horvat	Against
Klippenstein	For
Lalji	Against
Lau	Against
Lean	For
Lesage	For
Lewis	Abstain
Lippa	Abstain
Lomazzo	Against
Marshall	For
Murchie	Against
Painchaud	Against
Pineda	For
Poliacik	For
Pollock	For
Prill	For
Rosenthal	Against
Sellers	Against
Sheff	Against
Shi	For
Shin Doi	Against
Shortreed	Against
Spurgeon	Against
Troister	Against
Walker	Against
Wellman	Against
Wilkes	Abstain
Wilkinson	Against
Wright	For

Vote: 17 For; 28 Against; 4 Abstain

IN PUBLIC

REPORTS FOR INFORMATION ONLY

PRIORITY PLANNING COMMITTEE REPORT

- Update on 2019-2023 Strategic Plan Implementation

AUDIT & FINANCE COMMITTEE REPORT

- LawPRO Financial Statements for the Nine Months Ended September 30, 2020
- LIRN Inc. Financial Statements for the Nine Months Ended September 30, 2020

PROFESSIONAL DEVELOPMENT AND COMPETENCE COMMITTEE REPORT

- Professional Development & Competence Division 2020 Program and Resource Report

TRIBUNAL COMMITTEE REPORT

- Law Society Tribunal Quarterly Statistics from July 1, 2020 to September 30, 2020

UPDATE FROM THE LAW SOCIETY FOUNDATION

CONVOCATION ROSE AT 5:07 P.M.

Confirmed in Convocation this 22nd day of April 2021.

Teresa Donnelly,
Treasurer