1914

c 157 Law Society Act

Ontario
4. PROFESSION OF THE LAW.

CHAPTER 157.

An Act respecting the Law Society of Upper Canada.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as The Law Society Act. 2 Geo. V. c. 26, s. 1.

2. In this Act, "The Society" shall mean "The Law Society of Upper Canada." 2 Geo. V. c. 26, s. 2.

3. The Treasurer and Benchers of the Society, and their successors, shall continue to be a body corporate and politic, by the name of "The Law Society of Upper Canada," and may purchase, take and possess, for the purposes of the Society but for no other purpose, and after acquiring the same may sell, mortgage, lease or dispose of any real estate. 2 Geo. V. c. 26, s. 3.

4. The Annual Terms of the Society shall be: (a) Hilary Term, which shall commence on the first Monday in February and end on Saturday in the ensuing week; (b) Easter Term, which shall commence on the third Monday in May and end on the fourth Saturday thereafter; (c) Trinity Term, which shall commence on the second Monday in September and end on Saturday of the ensuing week; (d) Michaelmas Term, which shall commence on the third Monday in November and end on the third Saturday thereafter. 2 Geo. V. c. 26, s. 4.

5. The Judges of the Supreme Court shall be Visitors of the Society. 2 Geo. V. c. 26, s. 5.
6. Members of the Bar of Ontario, and persons admitted to the Society as Students at Law, shall be members of the Society. 2 Geo. V. c. 26, s. 6.

ELECTION OF BENCHERS.

7.—(1) The following, if and while continuing members of the Bar of Ontario, shall, ex-officio, be Benchers of the Society:

(a) The Minister of Justice, the Solicitor-General of Canada, and every person who has held either of those offices;

(b) The Attorney General of Ontario, and every person who has held that office;

(c) Every person who has for seven consecutive years held the office of Treasurer of the Society;

(d) Every person who has been elected a Bencher at four quinquennial elections.

(2) So long as he does not practise as a Barrister or Solicitor, and is in receipt of an annuity granted under The Judges’ Act (Canada),

(a) Every retired Judge of the Supreme Court of Canada or of the Exchequer Court of Canada who was at the time of his appointment a member of the Bar of Ontario; and

(b) Every retired Judge of the Supreme Court of Judicature for Ontario shall be ex-officio a Bencher of the Society.

(3) Nothing herein shall affect the right of any one who has heretofore been held to be a retired Judge, and who is now ex-officio a Bencher. 2 Geo. V. c. 26, s. 7.

8. The Benchers, exclusive of the ex-officio members, shall be thirty in number, and shall be elected from the members of the Bar as hereinafter provided. 2 Geo. V. c. 26, s. 8.

9.—(1) The Benchers shall, during the Term next preceding an election, appoint, with their assent, two members of the Bar, who, with the Treasurer, shall act as scrutineers at the election, and who shall not be eligible for election to the office of Bencher, and a third person, who shall be a member of the Bar and assist the Treasurer and act for him in his absence, in counting the votes.

(2) The Treasurer may fill any vacancy in the office of scrutineer, and if he sees fit may appoint temporarily any qualified person to act as substitute for any scrutineer or other person appointed during the absence of such person. 2 Geo. V. c. 26, s. 9.
10.—(1) An election shall be held on the first Thursday after the second Wednesday in April, 1916, and the subsequent elections shall be held on the first Thursday after the second Wednesday in April of every fifth year thereafter; but if the scrutineers are unable to complete the scrutiny upon such day, the same shall be continued from day to day until the election is declared.

(2) If any scrutineer is absent during the scrutiny the others may proceed therewith. 2 Geo. V. c. 26, s. 10.

11. Every person who is a member of the Bar in good standing and not in arrears for fees to the Society shall be an elector qualified to vote for 30 persons for Benchers pursuant to this Act. 2 Geo. V. c. 26, s. 11.

12.—(1) The Secretary shall, on the first day of Hilary Term previous to the time for holding an election, make out and sign an alphabetical list of the members of the Bar who are entitled to vote at such election.

(2) Such list may be examined by any member of the Bar at all reasonable times at the office of the Secretary, and if, within five days before the last day of such term, a member of the Bar complains to the Secretary, in writing, of the improper omission or insertion of any name in the list, the Secretary shall forthwith examine into the complaint and rectify the error if any there be.

(3) If any person is dissatisfied with the decision of the Secretary, he may appeal to the scrutineers, whose decision shall be final, and the list shall remain or be altered in accordance with their decision, and the list as it stands on the fifth day of March shall be signed by the Secretary and scrutineers and shall be the settled list of persons entitled to vote at the election.

(4) The Secretary shall add to the list the names of all persons called to the Bar during the term next preceding the election; and no alteration shall be made in the list except as provided in this section. 2 Geo. V. c. 26, s. 12.

13. No person shall be eligible as a Bencher at any election who is not qualified to vote at the election. 2 Geo. V. c. 26, s. 13.

14. At all elections retiring Benchers shall be eligible for re-election. 2 Geo. V. c. 26, s. 14.

15.—(1) No person shall be elected as a Bencher unless he has been nominated as hereinafter mentioned, and every vote cast for any person not so nominated shall be void.

(2) The nomination shall be in writing by a nomination paper, which shall be signed by at least ten of the persons entitled to vote at the election.
(3) The nomination paper shall be delivered at the office of the Secretary or sent by mail to him, so as to be received during the first fifteen days of the month of March of the year in which the election is to take place, and if not so delivered or received shall be invalid and shall not be acted upon.

(4) The Secretary shall, within the first four days after the last day for the receipt of nomination papers, mail notice in writing to each nominee informing him of his nomination, but the failure to mail such notice or the non-receipt thereof by the nominee shall not invalidate the election.

(5) Any person who is nominated may refuse to become a candidate, and he shall be deemed not to have been so nominated and his name shall not be included in the list of candidates if he notifies the Secretary in writing of his refusal within four days after the mailing of such notice to him.

(6) If the number of persons who remain as candidates is not greater than the number of Bencher to be elected they shall be elected Bencher. 2 Geo. V. c. 26, s. 15.

16. In case a poll is necessary the Secretary shall forthwith, after the time for receiving notice of refusal to be a candidate has expired, send to each member of the Bar, whose name is on the alphabetical list mentioned in section 12, if his residence is known to the Secretary, one copy of the form of voting paper with a list of the persons who remain as candidates pursuant to section 15, in such manner and at such time before the holding of the election as may be determined by the Benchers, and the list shall indicate by asterisks and a footnote those whose term of office as Benchers is about to expire. 2 Geo. V. c. 26, s. 16.

17. The votes shall be given by closed voting papers, Form 1, delivered at the office of the Secretary or sent by mail to him so as to be received thereat not later than the second Wednesday of April of the year of the election. 2 Geo. V. c. 26, s. 17.

18. Beginning on the first Thursday after the second Wednesday in April and proceeding continuously thereafter, except on holidays, the voting papers shall be opened by the Secretary in the presence of the Treasurer or the person appointed to assist him, and of the scrutineers who shall scrutinize and count the votes and keep a record thereof in a book to be provided by the Society. 2 Geo. V. c. 26, s. 18.

19. A vote cast for any person who is ineligible to be a Bencher or who is a Bencher ex-officio shall be null and void; and the election shall be declared as if such vote had not been cast. 2 Geo. V. c. 26, s. 19.
20. In the event of a voter placing more than thirty names on his voting paper the first thirty only shall be counted, notwithstanding that any of the thirty persons so named may be ineligible for election. 2 Geo. V. c. 26, s. 20.

21. If an equality of votes between two or more persons leaves the election of one or more Benchers undecided the scrutineers shall forthwith put into a ballot-box a number of papers with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Secretary shall draw by chance from the ballot-box, in the presence of the scrutineers, one or more of such papers sufficient to make up the required number, and the persons whose names are upon the papers so drawn shall be declared to have been elected as Benchers. 2 Geo. V. c. 26, s. 21.

22.—(1) The thirty persons who have the highest number of votes shall be declared by the Secretary to have been elected as Benchers for the ensuing term of five years.

(2) If among the thirty persons who have the highest number of votes there is any Bencher who by virtue of such election becomes ex-officio a Bencher, the scrutineers shall so report and, subject to the provisions of section 19, the thirty other persons having the highest number of votes shall be declared to have been elected as Benchers for the ensuing term of five years. 2 Geo. V. c. 26, s. 22.

23. Any person entitled to vote at any such election shall be entitled to be present at the counting of the votes. 2 Geo. V. c. 26, s. 23.

24. If from any cause any election provided for by this Act is not held as hereinbefore provided the Benchers in Convocation shall make provision for holding the same and fix the dates for the nomination and the other proceedings for taking, counting and recording the votes thereat and declaring the result thereof, and such proceedings shall, so far as practicable, be conformable with those provided by this Act. 2 Geo. V. c. 26, s. 24.

25. Upon the completion of the scrutiny and counting of the votes the Secretary shall forthwith declare the result of the election as certified by the scrutineers and report the same to the Society, and shall cause the names of the persons elected to be published in the next issue of the Ontario Gazette. 2 Geo. V. c. 26, s. 25.

26. The Benchers may make such regulations as they consider expedient, not contrary to the provisions of this Act, for regulating the procedure under the preceding sections, and for the remuneration of the scrutineers. 2 Geo. V. c. 26, s. 26.
27. Until after all petitions in respect to the election have been decided the voting papers relating to the election shall not be destroyed, but together with all other papers in connection with the election, shall be retained by the Secretary. 2 Geo. V. c. 26, s. 27.

28. No person shall sign the name of any other person to a voting paper, or alter, or add to, or falsify, or fill up any blank in a voting paper signed by another person, or deliver or cause to be delivered, or send or cause to be sent, by post or otherwise, to the Secretary, a false voting paper or a voting paper which has been added to, or falsified or in which a blank has been filled up after the same was signed. 2 Geo. V. c. 26, s. 28.

29. Where the office of Secretary is vacant or if the Secretary is unable from any cause to act at or in connection with an election, the Treasurer shall appoint under his hand some other person to act as Secretary pro tempore, and the person so appointed shall perform all the duties of the Secretary, as prescribed by this Act. 2 Geo. V. c. 26, s. 29.

30. The elected Benchers shall take office on the first day of Easter Term following their election, and, subject to the provisions of this Act, shall hold office until the beginning of the fifth Easter Term after they have entered on their office. 2 Geo. V. c. 26, s. 30.

31.—(1) The seat of a Bencher, other than an ex-officio Bencher, who has failed to attend the meetings of the Benchers for four consecutive Terms shall at the expiration of that period ipso facto become vacant.

(2) The right of any Bencher who is such ex-officio by reason of having been elected at four quinquennial elections, to sit and vote at meetings of the Benchers, shall be suspended if and while he is in default in payment of any fees to the Society. 2 Geo. V. c. 26, s. 31.

32. The Benchers at any meeting in the first Easter Term after the election may appoint a committee to inquire with respect to the due election of any Bencher whose election may be petitioned against by any member of the Bar who voted at the election, and, after such inquiry, to report such Bencher as duly or not duly elected or qualified according to the fact, and, if necessary, to report the name of the candidate having the highest number of votes next after the candidate declared elected who had the lowest number of votes, in lieu of the person reported not duly elected or qualified; and, on the confirmation of the report by the Benchers, other than persons petitioned against, present at any meeting called for that purpose, the person so reported in lieu of the person petitioned against shall be deemed to be the duly elected and qualified Bencher. 2 Geo. V. c. 26, s. 32.
33.—(1) A petition shall not be entertained unless it is filed with the Secretary at least ten days before the first day of Easter Term next succeeding the election, and contains a statement of the grounds on which the election is disputed; nor unless a copy thereof is served upon the Bencher whose election is disputed at least ten days before the first day of such Term; and no ground not mentioned in the petition shall be entertained on the hearing thereof.

(2) The Benchers, or the committee appointed for that purpose, shall, during the first week of such Term, appoint a day for the hearing of the petition and give notice of such day to the petitioner and to the person whose election is disputed, and all such petitions shall be finally disposed of during such Term. 2 Geo. V. c. 26, s. 33.

34. The petitioner shall deposit with the Secretary $100 to meet any costs which the Bencher petitioned against may in the opinion of the committee before which the petition is heard be put to; and the committee shall have power in the event of such petition being dismissed to award such a sum to be paid to the Bencher petitioned against as in their opinion is just and shall have power in their discretion, in the event of it being decided that such Bencher was not duly elected or qualified, to award costs to the petitioner; and the costs so awarded shall be recoverable in any court of competent jurisdiction. 2 Geo. V. c. 26, s. 34.

35.—(1) The Benchers shall, at their first meeting after the election, elect one of their number as Treasurer, who shall be the President of the Society, and shall hold office until the appointment of his successor; and the election of Treasurer shall take place in each year thereafter at such time as may be appointed by the Rules of the Society.

(2) The retiring Treasurer shall be eligible for re-election. 2 Geo. V. c. 26, s. 35.

36. In case of failure to elect the requisite number of duly qualified Benchers under the provisions of this Act, or in case of any vacancy owing to the death or resignation of any Bencher, or to any other cause, the remaining Benchers shall, with all convenient speed, at a meeting to be specially called for the purpose, to be held during the next Term thereafter, supply the deficiency in the number of Benchers, or fill the vacancy by electing any person or persons duly qualified under the provisions of this Act; and the person or persons so elected shall hold office until the beginning of the first Easter Term after the next quinquennial election. 2 Geo. V. c. 26, s. 36.

POWERS OF THE BENCHERS.

37. The Benchers may make rules for the government of the Society, and other purposes connected therewith under the inspection of the Visitors. 2 Geo. V. c. 26, s. 37.
38. The Benchers may by rule abolish Terms and fix or change the dates for the doing of any act, or the giving of any notice which by this Act is to be done or given in or with reference to any Term, but no such rule shall have the effect of prolonging the term of office of any elected Bencher. 2 Geo. V. c. 26, s. 38.

39. On the hearing of an election petition or upon any inquiry by a committee the Benchers or committee shall have power to examine witnesses under oath, and a summons under the hand of the Treasurer, or under the hands of three Benchers, for the attendance of a witness shall have all the force of a subpoena; and any witness not attending in obedience thereto shall be liable to attachment in the Supreme Court. 2 Geo. V. c. 26, s. 39.

40. The Benchers may appoint such officers and servants as they may deem necessary for the purposes of the Society. 2 Geo. V. c. 26, s. 40.

41. The Benchers may appoint examiners to conduct the examination of students at law and articled clerks and of persons applying to be called to the Bar or to be admitted as solicitors. 2 Geo. V. c. 26, s. 41.

42. The Benchers may make rules for the improvement of legal education including the establishment and maintenance of a Law School; appoint readers and lecturers with salaries; impose fees and prescribe rules for the attendance of students and articled clerks and others at readings or lectures and for examinations thereon, but not so as to reduce the number of years prescribed by statute for call to the Bar or admission as solicitor, and may establish scholarships and prizes in connection therewith. 2 Geo. V. c. 26, s. 42.

43.—(1) The Benchers may make such Rules as they consider necessary for conducting the examination of persons applying to be called to the Bar and may call and admit to the practice of the law as a Barrister any person duly qualified to be so called and admitted according to the provisions of law and the rules of the Society.

(2) The Benchers may in their discretion make rules providing for the admission of women to practise as Barristers and Solicitors. 2 Geo. V. c. 26, s. 43.

44.—(1) The Benchers with the approbation of the Visitors may make such rules as they consider necessary for conducting the examination of persons applying to be admitted as Solicitors, touching the articles and service, and the certificates required by law to be produced by them before their admission, and as to the fitness and capacity of such persons to act as Solicitors.
(2) Where it appears to the Benchers expedient for purposes of further inquiry or investigation, they may suspend, for a period not exceeding twelve months, their final decision in respect to granting or refusing a certificate. 2 Geo. V. c. 26, s. 44.

45. The Benchers may make rules and regulations, not contrary to law, and dispense therewith from time to time to meet the special circumstances of any special case respecting

(a) the admission of students-at-law, the periods and conditions of study, the call or admission of Barristers to practise the law, and all other matters relating to the discipline and honour of the Bar;

(b) the service of articled clerks, the period and conditions of such service, and the admission of Solicitors to practise in the Courts, and all other matters relating to the discipline and conduct of Solicitors and articled clerks. 2 Geo. V. c. 26, s. 45.

46. Where a Barrister, Solicitor, Student-at-Law or articled clerk is found by the Benchers, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct, or of conduct unbecoming a Barrister, Solicitor, Student-at-Law, or articled clerk, the Benchers may disbar any such Barrister, or suspend him from practising as a Barrister for such time as they may deem proper; may resolve that any such Solicitor is unworthy to practise as a Solicitor or that he should be suspended from practising for a period to be named in the resolution; may expel from the Society, and the membership thereof, such student or articled clerk and strike his name from the books of the Society; and may refuse either absolutely or for a limited period to admit such articled clerk to the usual examinations, or to grant him the certificate of fitness necessary to enable him to be admitted to practise. 2 Geo. V. c. 26, s. 46.

47. Upon a Barrister being disbarred, all his rights and privileges as a Barrister shall thenceforth cease and determine, or, in case he is suspended, he shall, during the period of his suspension, possess no rights or privileges as a Barrister, and notice of his being disbarred or suspended shall forthwith be given by the Secretary to the Senior Registrar of the High Court Division. 2 Geo. V. c. 26, s. 47.

48.—(1) Where it has been resolved by the Benchers that a Solicitor is unworthy to practise a copy of the resolution shall forthwith be communicated to the Senior Registrar of the High Court Division; and thereupon, without any formal motion, an order of the Supreme Court may be drawn up striking such Solicitor off the roll, but he may, at
Sec. 48 (1).

Suspension of solicitor, notification of.

(2) Where it has been resolved by the Benchers that a Solicitor should be suspended from practising for a period named in the resolution a copy of the resolution shall be forthwith communicated to the Senior Registrar of the High Court Division; and thereupon, without any formal motion, an order of the Supreme Court may be drawn up suspending such Solicitor from practising for such period. 2 Geo. V. c. 26, s. 48.

49. Any powers which the Visitors of the Society may have in matters of discipline are hereby vested in the Benchers, and the powers by the next preceding three sections conferred upon the Benchers may be exercised by them without reference to or the concurrence of the Visitors. 2 Geo. V. c. 26, s. 49.

COUNTY LAW LIBRARIES.

50. The Benchers may make regulations for promoting the efficiency of County Law Libraries, and may prescribe and enforce remedies for the violation thereof, and may by resolution of Convocation cause to be dissolved any County Law Library Association which neglects or refuses to comply with such rules or regulations. 3-4 Geo. V. c. 31, s. 1.

LAW BENEVOLENT FUND.

51. The Benchers may establish a fund for the benefit of the widows and orphans of Barristers and Solicitors, to be called "The Law Benevolent Fund," and may make all necessary rules and regulations for the management and investment of such fund, and the terms of subscription and appropriation thereof, and the conditions under which such widows and orphans shall be entitled to share in such fund. 2 Geo. V. c. 26, s. 50.

REPORTERS.

52.—(1) The Benchers may appoint such person or persons, being members of the Society of the degree of Barrister, as they may think proper to report and edit the decisions of the Courts.

(2) Such person or persons shall hold office at the pleasure of the Benchers, and shall be amenable to them in Convocation, for the correct and faithful discharge of their duties according to such regulations as the Benchers may make in respect thereof.

(3) The Benchers shall make regulations for printing and publishing the reports of such decisions, and the distribution of the reports and the price and mode of issuing the same, and all such other regulations in respect thereto as they may
at any time consider necessary; and any profits arising from the reports shall form part of the general funds of the Society.

(4) The Benchers shall determine the salaries to be allowed for such reporting and editing and shall pay the same out of the general funds of the Society. 2 Geo. V. c. 26, s. 51.

REVENUE AND EXPENDITURE.

53. The fees payable by Barristers on call to the Bar and annually, and by Solicitors on admission, and for the annual certificate to practise, and by students and articled clerks on admission as such, and by them and others on examinations and attendance on lectures and readings, shall be paid into the general funds of the Society, and shall be such as the Benchers may prescribe. 2 Geo. V. c. 26, s. 52.

54. The Society shall, during Hilary Term in every year, furnish to every member of the Society entitled to vote at the election of Benchers a statement in detail of the revenue and expenditure of the Society, for the year ending on the next preceding 31st day of December, the same to be first duly audited by an auditor appointed by the Benchers to audit the accounts and report upon the finances of the Society. 2 Geo. V. c. 26, s. 53.

SCHEDULE.
FORM 1.
(Section 17.)
VOTING PAPER.

Law Society Election, 19

The appointed scrutineers for this election are Mr. of 1, of Mr. of 1, of the in the of Barrister, do hereby declare—

1. That the signature hereto is in my proper handwriting.

2. That I vote for the following persons as Benchers of the Law Society:

A.B., of , in the of
C.D., of etc. in the of etc.

3. That I have signed no other voting paper at this election.

4. That this voting paper is signed on the day of the date thereof.
Witness my hand, this day of , 19 .

2 Geo. V. c. 26, Sched.