

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPECIAL CONVOCATION

IN PUBLIC SESSION

TUESDAY, AUGUST 15, 2017 - 9:00 a.m.

OSGOODE HALL, TORONTO

1 CONVOCAATION ATTENDANCE

2 Treasurer - Paul Schabas

3 Vern Krishna (ph.)	Gisèle Chrétien (ph.)
4 Suzanne Clément	Jan Richardson (ph.)
5 Gerald Sheff (ph.)	Baljit Sikand (ph.)
6 Ron Manes (ph.)	Ross Murray (ph.)
7 Judith M. Potter (ph.)	Bradley H. Wright (ph.)
8 Peter Beach	Fred Bickford (ph.)
9 Jack Braithwaite (ph.)	Christopher D. Bredt (ph.)
10 Robert Burd (ph.)	Paul Cooper (ph.)
11 Dianne Corbiere (ph.)	Cathy Corsetti (ph.)
12 Janis Criger (ph.)	Teresa Donnelly (ph.)
13 Ross F. Earnshaw (ph.)	Robert Evans (ph.)
14 Julian Falconer (ph.)	Howard Goldblatt (ph.)
15 Joseph Groia (ph.)	Michelle Haigh (ph.)
16 Brian Lawrie (ph.)	Janet Leiper (ph.)
17 Michael Lerner (ph.)	Marian Lippa (ph.)
18 Virginia MacLean (ph.)	William McDowell (ph.)
19 Susan T. McGrath	Isfahan Merali (ph.)
20 Malcolm Mercer (ph.)	Sandra Nishikawa (ph.)
21 Susan Richer	Raj Sharda (ph.)
22 Andrew Spurgeon (ph.)	Sidney Troister (ph.)
23 Jerry Udell (ph.)	Tanya Walker (ph.)

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

MATTER :	PAGE NO.
TREASURER'S REMARKS	4
MOTIONS	8

1 --- Upon commencing at 9:00 a.m.

2 -- TREASURER'S REMARKS:

3 TREASURER SCHABAS: Good morning,
4 everybody. I'll call the meeting to order. I'm
5 speaking to you from Convocation Room, where there are
6 a few Benchers present, and from the sounds of it there
7 are quite a few who are on the telephone.

8 We're going to hold the meeting partly
9 in public and partly in camera due to the nature of the
10 different appointments that need to be approved.

11 MR. BICKFORD: You're hard to hear.

12 TREASURER SCHABAS: I'm hard to hear?

13 Sorry. I'll move the microphone closer.

14 MR. BICKFORD: I find it hard to hear.

15 TREASURER SCHABAS: Just a minute.

16 BENCHER: That's because you're in

17 Thunder Bay, Fred.

18 TREASURER SCHABAS: Can you hear me

19 better now?

20 MR. BICKFORD: Yes, thank you.

21 TREASURER SCHABAS: All right. I'll try

22 to speak loudly. So once we determine who is on the

23 telephone I'll let everyone know that we'll be going

24 into lecture mode and we will follow the usual

25 procedures after that and come out of lecture mode at

1 the appropriate times.

2 Let's start by having Mr. Varro take
3 attendance. So bear with us; I think the simplest
4 thing is for him to simply call out everybody's name
5 and we'll see who is on the phone.

6 SECRETARY: Mr. Anand? Mr. Bickford?

7 MR. BICKFORD: Here.

8 SECRETARY: Mr. Braithwaite?

9 MR. BRAITHWAITE: Here.

10 SECRETARY: Mr. Bredt?

11 MR. BREDT: Here.

12 SECRETARY: Mr. Burd?

13 MR. BURD: Here.

14 SECRETARY: Mr. Callaghan? Mr. Cooper?

15 MR. COOPER: Here.

16 SECRETARY: Ms. Corbiere?

17 MS. CORBIERE: Here.

18 SECRETARY: Ms. Corsetti?

19 MS. CORSETTI: Here.

20 SECRETARY: Ms. Criger?

21 MS. CRIGER: Here.

22 SECRETARY: Ms. Donnelly?

23 MS. DONNELLY: Here.

24 SECRETARY: Mr. Earnshaw?

25 MR. EARNSHAW: Here.

1 SECRETARY: Mr. Evans?
2 MR. EVANS: Here.
3 SECRETARY: Mr. Falconer?
4 MR. FALCONER: Good morning.
5 SECRETARY: Mr. Galati? Ms. Go?
6 Mr. Goldblatt?
7 MR. GOLDBLATT: Here.
8 SECRETARY: Mr. Groia?
9 MR. GROIA: Good morning.
10 SECRETARY: Ms. Haigh? Ms. Hartman?
11 Ms. Horvat? Mr. Howell? Mr. Lawrie?
12 MR. LAWRIE: Present.
13 SECRETARY: Ms. Leiper?
14 MS. LEIPER: Here.
15 SECRETARY: Mr. Lem? Mr. Lerner? Ms.
16 Lippa?
17 MS. LIPPA: Here.
18 SECRETARY: Ms. MacLean?
19 MS. MacLEAN: Present.
20 SECRETARY: Mr. McDowell?
21 MR. McDOWELL: Here.
22 SECRETARY: Ms. Merali?
23 MS. MERALI: Present.
24 SECRETARY: Mr. Mercer?
25 MR. MERCER: Good morning.

1 SECRETARY: Ms. Murchie? Ms. Nishikawa?
2 MS. NISHIKAWA: Here.
3 SECRETARY: Ms. Papageorgiou?
4 Ms. Richer?
5 MS. RICHER: Here.
6 SECRETARY: Oh, hi. I'm sorry, I didn't
7 see you. Mr. Rosenthal? Mr. Sharda?
8 MR. SHARDA: Here.
9 SECRETARY: Mr. Spurgeon?
10 MR. SPURGEON: Here.
11 SECRETARY: Mr. Troister?
12 MR. TROISTER: Here.
13 SECRETARY: Mr. Udell?
14 MR. UDELL: Good morning.
15 SECRETARY: Ms. Vespry? Ms. Walker?
16 MS. WALKER: Present.
17 SECRETARY: Mr. Wardle? Mr. Armstrong?
18 Mr. Ferrier? Mr. Krishna, I have you marked, thank
19 you.
20 MR. KRISHNA: Thank you.
21 SECRETARY: Mr. Millar? Mr. Strosberg?
22 Ms. Boyd? Ms. Chrétien?
23 MS. CHRÉTIEN: Here.
24 SECRETARY: Mr. Epstein?
25 Ms. Richardson?

1 MS. RICHARDSON: Present.

2 SECRETARY: Mr. Sheff?

3 MR. SHEFF: Here.

4 SECRETARY: Mr. Sikand?

5 MR. SIKAND: Here.

6 SECRETARY: Ms. Strosberg? Mr. Banack?
7 Mr. Copeland? Mr. Furlong? Mr. Gottlieb? Mr. Manes?

8 MR. MANES: Here.

9 SECRETARY: Mr. Murray?

10 MR. MURRAY: Here.

11 SECRETARY: Mr. Porter? Ms. Potter?

12 MS. POTTER: Here.

13 SECRETARY: Ms. Ross? Mr. Ruby?
14 Mr. Swaye? Mr. Wright?

15 MR. WRIGHT: Here.

16 SECRETARY: Mr. Yachetti? Mr. Conway?
17 Ms. Minor? Ms. Pawlitza? Is there anyone on the phone
18 whose name I haven't called?

19 MR. LAPPER: It's Rob Lapper. I'm
20 calling in.

21 SECRETARY: Thanks, Rob.

22 TREASURER SCHABAS: Thank you very much,
23 Mr. Varro. That could be the longest portion of the
24 meeting.

25 -- MOTIONS:

1 TREASURER SCHABAS: Turning to the
2 agenda, there is a motion for the committee
3 appointments. I'm going to ask for a mover and a
4 seconder. Ms. McGrath, seconded by Mr. Beach. Thank
5 you very much.

6 I'll just say a few words about it. I
7 believe the committees worked well in the past year,
8 2016, 2017, and I've discussed with a number of the
9 chairs how they've worked and who are content largely
10 with the makeup of the committees and keen to keep
11 working on the agendas set for them.

12 So the changes to the committees are
13 quite modest, made after discussion with a number of
14 you and consideration by me. I continue to strive to
15 keep the size of the committees manageable, if I can
16 put it that way. It is a challenge and this is
17 something I know that the Governance Task Force will
18 also be looking at and coming forward with
19 recommendations in the coming year.

20 I've also, you'll notice, left the task
21 forces and working groups intact for the time being.
22 Some of them will be completing either their mandate or
23 significant portions of their work over the next month
24 or two, and I'm mindful of that and will be examining
25 whether or not those task forces should continue in

1 their present form, whether there is a way to look at a
2 more efficient process for our task forces, and also
3 assessing whether we're looking at the right issues in
4 the right way.

5 So that's something that I expect I will
6 be talking to many of you about over the next month or
7 two and we will be bringing back to Convocation some
8 proposals on that in the near future.

9 Finally, just with respect to one of the
10 items on the motion, you'll see that the third motion
11 is that Suzanne Clément be appointed to the Complaints
12 Resolution Commissioner Selection Committee established
13 under Ontario Regulation. So there is a regulation
14 that provides for a selection committee for the
15 Complaints Resolution Commissioner.

16 The chair of that is to be a Lay Bencher
17 appointed by Convocation. Another member is another
18 Bencher appointed by me, who will be Mr. Rosenthal, and
19 the third member is appointed by the Attorney General
20 and, Mr. Varro, we've just learned today that it will
21 be Juliet Robin, who is the Assistant Deputy Minister
22 of Policy for the Ministry. So I just wanted to
23 clarify that in case some of you were wondering what
24 that was about. So that's provided for by the
25 regulation.

1 So with that, I will unmute the phone
2 and see if there's any comments, questions that people
3 wish to make. The floor is open.

4 MR. MURRAY: Yes, I'd like to speak to
5 the motion.

6 TREASURER SCHABAS: Yes, Mr. Murray?

7 MR. MURRAY: Can I go now?

8 TREASURER SCHABAS: Yes, go ahead.

9 MR. MURRAY: My comments are going to be
10 brief and they only relate to the issue of the
11 out-of-town Life Benchers that have been left out once
12 again to appointments to the standing committees, and I
13 take strong exception to that decision.

14 I notice that the two Toronto Life
15 Benchers have been appointed -- reappointed to the
16 committees, and I have no problem whatsoever with that
17 decision. My concern is that the Life Benchers from
18 out of Toronto have been left off the committees,
19 standing committees, and I think that consideration
20 should have been given to the helpfulness of having
21 those people, and there are only a handful of us,
22 reappointed. So that's what I wanted to say.

23 TREASURER SCHABAS: Thank you. Is there
24 anybody else who wishes to speak? Ms. Richer is in the
25 room.

1 MS. RICHER: I'll just agree with Ross.
2 I was disappointed to not see the few remaining Life
3 Benchers on the list. I think, in the big scheme of
4 things, it's a mistake.

5 TREASURER SCHABAS: Anybody else on the
6 telephone?

7 MR. LERNER: Yes, Mr. Lerner. First, I
8 agree with Mr. Murray and, secondly, I intend to vote
9 against the motion not because I object or disagree
10 with any of these specific appointments for the
11 personalities, I believe that every committee should
12 have a Chair or a Vice-Chair from outside of Toronto.
13 I also think the Priority and Planning Committee should
14 be composed of an equal number of in Toronto and out of
15 Toronto Benchers. That not being the case, I intend to
16 vote against the motion.

17 MR. BICKFORD: It's Fred Bickford. I
18 agree with Michael and I also agree with Ross and
19 Susan.

20 MR. FALCONER: Julian Falconer here, if
21 it's the appropriate timing.

22 TREASURER SCHABAS: Go ahead, Mr.
23 Falconer.

24 MR. FALCONER: Treasurer, my thought is
25 that with this concern, which I certainly include in my

1 perspective to be a legitimate concern in the sense
2 that there has to be a feeling of engagement across the
3 jurisdictions.

4 You know, leaving aside the merits of
5 whether people are or are not excluded appropriately,
6 it sounds to me very much like an issue for the
7 Governance Committee, which is an issue I identify, I
8 agree there is a jurisdictional issue, but I identify a
9 fundamental issue, which is how do we take advantage of
10 the wisdom of what amounts to be our senior governance
11 folks; in other words, the Life Benchers.

12 Our ability to be guided by and assisted
13 by those with the most experience in our ranks,
14 regardless of the fact of whether they're elected or
15 not, I think it's a live governance issue that I think
16 the committee that is currently constituted, we should
17 be looking at identifying and getting some serious
18 recommendations on.

19 If I'm out of line in the sense that
20 they're already doing that, my apologies, but I think
21 that that very much addresses certainly what Mr. Murray
22 raised.

23 TREASURER SCHABAS: Well, this is very
24 much on the agenda of the Governance Task Force; the
25 role of all Benchers and the different categories of

1 Benchers is under consideration by the Governance Task
2 Force.

3 As I explained a year ago, my goal was
4 to reduce the size of the committees, and one of the
5 ways in which that was done, frankly, was giving
6 priority to those who are the currently elected and
7 appointed Benchers who are accountable to our members
8 and the public through the electoral process.

9 There are two Life Benchers on the
10 Toronto committees. That was at the specific request
11 of the chairs of those committees for their specific
12 wisdom and expertise in that area, and I've maintained
13 that.

14 Some of this, this is the first time
15 I've heard Mr. Lerner's concerns. I know the concerns
16 of some of the others about the role of Life Benchers
17 and, as I've said, that is under review by the
18 Governance Task Force.

19 Are there any other comments? Anybody
20 else wish to say something?

21 MR. WRIGHT: Yes, Brad. I would like to
22 speak.

23 TREASURER SCHABAS: Go ahead,
24 Mr. Wright.

25 MR. WRIGHT: Thank you, Treasurer. The

1 legislation provides for Life Benchers. The Governance
2 Task Force may be looking at whether or not to
3 recommend their abolition, but until that happens, we
4 are there by legislation.

5 I don't think it's proper to exclude us
6 almost entirely, especially the out-of-towners, when we
7 are there by legislation and we do have perspectives to
8 bring forward for the advantage of the electorate.

9 TREASURER SCHABAS: All right.

10 MR. WRIGHT: I'm going to speak briefly
11 about the solicitor's side of things. As you know, in
12 most of the world, barristers and solicitors are
13 separate positions for sensible reasons.

14 The areas of law are very different;
15 think murder trial versus creating a planned
16 subdivision. The areas require very different skill
17 sets. They attract very different personality types.
18 We comprise at least 50 percent of the private bar.
19 When you add the non-private bar, barristers are quite
20 a bit less than 50 percent of the profession, and I say
21 God bless barristers, but they are very much
22 over-represented in a body that governs the entire
23 profession, and solicitors are very much
24 under-represented.

25 And the solicitors, perspectives that

1 solicitors bring have a hard time being heard and
2 having beneficial influence. I appreciate it's not
3 your fault, but there are not enough elected solicitors
4 to go around, and one hopes the Governance Task Force
5 will look at effective ways to correct that problem.

6 In the meantime, there are other
7 solicitors to be found among the legislatively
8 provided ranks of the Life Benchers, who have a good
9 track record of contribution. I don't understand why
10 you don't use them.

11 Recently the Advertising Working Group
12 was about to bring forward a flawed rule concerning
13 real estate advertising. I truly wish that they had
14 drafted the rule well, but unfortunately the rule as
15 drafted would have been worse than no rule because it
16 would have, in effect, given a pat on the head to
17 misleading advertising.

18 The problem is not the people on the
19 working group, they're all great and they're all well
20 intentioned, the problem was the lack of more people on
21 it who actually practice in the area today and saw the
22 problem immediately. That resource has been available
23 all along, but wasn't used. It should be used.

24 The Tribunal Committee features no
25 solicitors on it at all. Let's concede that that makes

1 sense, tribunals work is largely barrister-oriented,
2 but the real estate working group is made up of
3 50 percent barristers, five out of ten. Probably none
4 of them have ever done a real estate deal in their
5 lives, or not in many years, and the system has changed
6 a lot since then. Why not reduce the number of
7 barristers on the real estate working group from five
8 to three or four and add one or two solicitors from the
9 ranks of the Life Benchers to help out? There is no
10 good reason not to do that.

11 And picking up on what Mr. Lerner said,
12 there's another problem, and I'm not taking anything
13 away from the intelligence and the talents of the
14 downtown male Toronto barrister Benchers, they're a
15 great group, but all the chairs of the major standing
16 committees are male barristers, almost all of them
17 downtown Toronto male barristers.

18 With great respect, Treasurer, I don't
19 see that as healthy diversity. It could be seen as
20 carelessness where over half the bar is concerned, and
21 it could even be seen that it's disrespectful of other
22 demographics such as women, and I'm sure, Treasurer,
23 that that's not your intention, but that seems to be
24 the effect of it.

25 With great respect, I wish you would

1 consider more carefully the over half of the bar that
2 has almost always been and continues to be shortchanged
3 in Convocation and on committees. I submit to you,
4 sir, that simple fairness and, frankly, better
5 decision making demands it. Thank you.

6 TREASURER SCHABAS: Thank you. Is there
7 anybody else that wishes to speak?

8 MS. POTTER: Yes.

9 TREASURER SCHABAS: Who's that?

10 MS. POTTER: Judith Potter. And I
11 wanted to --

12 MR. BICKFORD: I'm having difficulty
13 hearing Judith Potter.

14 MS. POTTER: Well, I'm doing the best I
15 can. Can you hear me?

16 TREASURER SCHABAS: Go ahead, Ms.
17 Potter. We can hear you.

18 MS. POTTER: Can you hear me better now?

19 TREASURER SCHABAS: Yes.

20 MS. POTTER: Okay. I was trying to get
21 my name on the list well before most of speakers, but
22 I'm on now.

23 First, I'd like to say that I wanted to
24 say the same thing, make the comments about the
25 regulation with respect to Life Benchers and the work

1 of the task force that's looking at governance. I echo
2 the remarks made by Mr. Wright on that subject.

3 The other thing is that I am
4 disappointed, after we had our dinner -- this may be
5 for the benefit of the other Benchers -- after the Life
6 Benchers had a dinner with the Treasurer in June, we
7 expressed our concerns and our points of view, most of
8 which have been reflected in the comments you've heard
9 today, but not all, and not all the attendees are on
10 the phone today.

11 And I do think it's unfortunate, you
12 know, I'm not going to belabour the points that have
13 been made, but I totally agree that we do have a
14 perspective and we do have a right to be on those
15 committees. Moreover, I would like you to consider
16 that, according to the statistics, ageism is the
17 biggest form of discrimination in our country, and I
18 would say in North America.

19 I think it's unfortunate that we
20 sideline the Life Benchers because obviously we are the
21 older, we are the elders of the group, and I think we
22 do have much to contribute.

23 We're always (inaudible) and moreover,
24 we're open to discussing and meeting with the other
25 Benchers and we don't have that opportunity if we're

1 not on committees. We miss committee day, so we miss
2 the socialization aspect of getting to know our
3 fellows.

4 I would just like to finally wrap up by
5 adding, yes, we are not prone to being kicked out by
6 the lawyers and paralegals in the -- well, lawyers in
7 this case -- in the province because we are not
8 elected, but we all have been elected for a complete
9 four year term, but we have all been elected for at
10 least 15 years and we do have the interests of the
11 profession and the public at heart, and we've shown
12 that and proven that and I'm sorry that the Treasurer
13 has taken this ongoing position of not including us.
14 Thank you.

15 TREASURER SCHABAS: Is there anybody
16 else on the telephone who wishes to speak? Hearing
17 nobody else --

18 MS. LEIPER: Sorry, Treasurer, it's
19 Janet Leiper. Could I speak briefly?

20 TREASURER SCHABAS: Go ahead, Ms.
21 Leiper.

22 MS. LEIPER: Thank you. Very briefly,
23 I'm listening with interest because of course it's all
24 through the governance lens that we're all going to be
25 working on together in the fall. I do see the issue

1 has fallen into a broader context, and that is the
2 desire of all of us, and there are a lot of us, to
3 participate as much as we can because it's great work,
4 interesting work, we like to be part of it, so there's
5 that piece that I am very sympathetic to.

6 I'm also sympathetic to the difficulty
7 for the Treasurer in trying to combine efficiency,
8 ability, interest and fairness, and we can slice it
9 into any number of different demographics, in and out
10 of Toronto, racialized, non-racialized, gender, age,
11 so I guess if speak for one of the earlier speakers,
12 the notion that, look, we are going to be working on
13 this together and it includes committee membership,
14 makeup, all of it, and very soon, actually, in October.

15 I also see as a key piece to this
16 there's also the leadership aspect, and we have put our
17 vote behind the Treasurer, Paul Schabas, after
18 consulting and speaking to people and not sure that he
19 can please everybody, but I think he's been
20 consultative with all of us, including people who may
21 not have (inaudible) wanted.

22 I do intend to vote for it, knowing that
23 we are going to be revisiting this as a group, but I
24 think for now that it's a good thing for us to support
25 the report. Thanks.

1 TREASURER SCHABAS: Anybody else on the
2 telephone? If not, we'll put it to a vote. I suppose
3 we'll have to hear from -- maybe I'll ask in the room,
4 all in favour? Who's in favour? So those in the room
5 are in favour.

6 I guess I'll ask who -- I know a couple
7 of people expressed a view that they would vote against
8 it. Perhaps we could -- those who are planning to vote
9 against it, if they could just confirm their names.

10 MR. LERNER: Michael Lerner.

11 TREASURER SCHABAS: Mr. Lerner. Anybody
12 else against? I guess Mr. Lerner on the telephone is
13 voting against and otherwise I'll take it that
14 everybody else is in favour and the motion is carried.
15 Thank you.

16 We'll then move to the second motion,
17 which is the motion to appoint Ms. Walker to the
18 Tribunal, and we need a mover and a seconder for that,
19 I believe. Ms. McGrath, seconded by Ms. Clément. And
20 Ms. Leiper is coming off the tribunal, that's the other
21 part of that motion.

22 So all in favour in the room? Thank
23 you. Anybody opposed to that on the telephone?
24 Hearing silence, then the motion is carried.

25 --- Whereupon the public proceedings adjourned at 9:27 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I HEREBY CERTIFY THE FOREGOING
to be a true and accurate
transcription of my shorthand notes
to the best of my skill and ability

SHARI CORKUM, C.S.R.

Computer-Aided Transcript