
Can long bencher ballot turn around turnout?

Shrinking percentage of profession votes in election

February 18, 2019 | Written By Anita Balakrishnan



Janis Criger says that certain galvanizing candidates and issues might encourage more voting in the upcoming bencher election this year. As the number of lawyers in Ontario has shot up, voter turnout in the law society's bencher election has not kept pace, according to the law society's statistics.

Turnout for elections at the Law Society of Ontario has steadily declined, falling to 33.84 per cent in 2015 from 56 per cent in 1987. The number of total eligible voters rose to 16,040 in 2015 from 10,287 in 1987, a period when the voting pool has more than doubled, largely due to the influx of new lawyers, according to the 2015 election

results.

This downward trend could mean an uphill battle for bench candidates in the next election, scheduled for April 30.



The roster of candidates, at 128 lawyers, is higher than it has been since before 1995, when there were 122 lawyers on the ballot. Plus, this year's election also includes 18 paralegals.

In 2015, 95 lawyers ran.

John Nunziata, a sole practitioner and former member of parliament who represented York South-Weston until 2000, is running for bench. He says that voting in the election should be mandatory, adding that there is a reason that the law society has elections, as opposed to provincial appointments.

"I would like to see lawyers taking a greater interest in their governing body," says Nunziata. "This is done with technology, so there really isn't any excuse for not voting. It shouldn't take that long. There is a lack of interest – so if there is a requirement to vote, then I think lawyers will take a greater interest in the law society. Lawyers are reasonable intelligent people and they should have that obligation. There are certain other situations that the law requires you to participate, such as jury duty."

Janis Criger, a non-practising lawyer and bench candidate who is running for re-election, ranked 13th in 2015 for most votes for bench candidates from outside Toronto. She says that when she campaigns she always encourages people to vote, even if it's not for her, because she knows that the day-to-day practice of law can make it tough to follow through on one's intent to vote.

"It's important to vote even if you think you will never run into a bench candidate anywhere, even if you think you're never going to deal with the law society, and you're going to practise without ever having a question. It's still important to have people there that you think represent the profession well and people there that will work hard," says Criger.

She says that certain galvanizing candidates and issues, such as licensure and the statement of principles, might encourage more voting this year.

"As the Ontario demographic changes, we need to stay relevant, please we are not going to be relevant and what people see in the legal profession is what they see when they look around them. I think it will be galvanizing, though, because law is conservative by nature. Lawyers are individualists, there are strong

personalities, because otherwise you wouldn't be able to do this work," says Criger.

If historical trends are any indication, age, gender, size of practice and position at a firm each have a correlation with voter turnout.

In the 2015 election, voter turnout was lower among practitioners at small firms.

Firms with 76 to 100 members and firms with more than 100 members had turnout of 77.5 per cent and nearly 51 per cent, respectively, in 2015. In contrast, firms with one member had turnout of 36.35 per cent, the law society's data said. Firms with 15 members or fewer had turnout of less than 45 per cent in the 2015 election.

Partners have almost always had the highest voter turnout rates over the past two decades, outpacing associates and sole practitioners as well as government lawyers.

Omar Ha-Redeye, a sole practitioner, says he thinks the issues holding back voters from solo and small firms are less to do with the election process and more to do with the dynamic between sole practitioners and the law society.

"Like many things in our democracy, there is widespread apathy," says Ha-Redeye.

"They don't see the relationship between who the benchers are and what [sole practitioners] are doing on a day-to-day basis. That's part of the disconnect."

"I think this might explain some of the disconnect — when you look at disciplinary actions at the law society, it is disproportionately targeted toward individuals in solo practice," says Ha-Redeye. "Many sole practitioners perceive the law society in strictly antagonistic terms . . . thinking 'this is not someone who is going to help me no matter who I vote for.'"

Ha-Redeye says these issues are also likely to affect voter turnout of younger lawyers. In 2015, turnout was highest among lawyers born between 1951 and 1960. The years of call most likely to vote in 2015 were between 1971 and 1990. Men also had a slightly higher turnout rate than women in 2015, the law society's data shows.

"The reality is that a significant and perhaps growing numbers of new calls and young lawyers are shunted into solo practice without the appropriate support. The legal community needs to be aware of that — it affects our insurance premiums, but more than that. Those running for bencher need to be able to speak to that cohort as well. There is an element of disaffected young lawyers who are looking for people to speak to them and their needs," Ha-Redeye says.

But Criger says that she has seen a lot of discussion about getting younger lawyers excited to vote.

"One area where we might see an uptick in voters is younger people. Younger people are thinking it's more important to have young people at the law society. They are going to be the ones living with the policies we make now," she says.

Elections Canada has researched issues of youth turnout in general elections and has suggested online platforms as one possible solution, alongside working with universities and first nations.

Eva Chan, who was called to the bar in Ontario but now works as a social media consultant to lawyers, noted that even as social media became more popular in the 2000s, voter turnout did not necessarily see a bump. She estimates most lawyers are not on social media.

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However, she says, that doesn't mean that social media campaigning is doomed to the void.

"I think that one needs to remember that social media is just one tool in a communications toolkit. To benefit from it, you need to integrate online and offline efforts. In the last bencher election, I did speak to a lawyer and said, 'Hey, you should write a LinkedIn post,'" she says. "I think it would be very interesting to see if voter turnout does increase, but if it does, I'm not sure we can say it is because of social media, although it seems like as the years have passed it does seem more lawyers use social media . . . I think it certainly can help create awareness about the election."

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Tech debate hits bench election

Lawyers say they are looking to the Law Society of Ontario for guidance on technology issues, particularly cybersecurity and access to justice. But at the same time, bar members and bench hopefuls disagree on how far the LSO should go in creating new rules to enforce technological competency.

Tech debate hits bencher election

BY ANITA KALANICKIAN
Law Times

LAWYERS are looking to the 11th annual Benchers' election in Ontario for guidance on technology issues, particularly cybersecurity and access to justice. But at the same time, the members and benchers hopefuls disagree on how far the LSO should go in creating new rules to address technological competency.

"There are wide practitioners and smaller law firms that have been practicing in a paper-based practice for a long time and there are ways to balance the obligations around being cost efficient and smart," says Lisa Orson, a partner at the law firm of Orson, Wolfe & Associates at York Mills LLP in Toronto, who is not running for bencher but says technology plays an important part in her practice.

"I don't think it has to be a hard and fast rule that either way is completely up to date on technology or not to use."

"While there seems to be new digital resources available for lawyers, there is no explicit rule



Lisa Orson (Photo by Peter Hooten) reads into a tablet and her son is there to help learn about technology.

that lawyers in Ontario must be competent in the use of technology.

"The law society needs to take a leadership role to guide the profession in this direction, and to do that they need to take a very good look," says Orson's lawyer

Nick Bencalita, who is running for bencher. He says lawyers are looking for "actual guidance on responsibility (IT issues)."

"There are there are great releases and announcements and committees — and I guess it seems that it is responsible for a

practitioner who practises in a small firm to keep on top of their practice, keep on top of the law and new "technology things," he says.

That message is consistent at the Federation of Law Societies

Going to law school in your 80s

BY ANITA KALANICKIAN
Law Times

LASTE night's studying at the University of Ottawa law 3L year may not be for everyone.

But for 82-year-old Louise, who graduated from the University of Ottawa's law school with an LL.M. and also obtained the B.P. in 1964, it brought her career full circle.

"I just turned 82 last year in September," Louise says. "So going to school among people one-third of my age and [her] could be my granddaughters. I was a little apprehensive at first, I should have been, because it was intimidating."

Louise had already earned an education degree as a law student during Parliament in 2004 after 27 years in the judicial system as a federal representative in Saint-Louis, Que.

But one thing for Louise accomplished was completing her legal education.

Louise studied law in the 1960s in Ottawa, Montreal and later in Cape Town, South Africa.

Lawyers' groups push government for change



Michael Howard says it's important to help the province's smallest practice groups to reduce backlog.

DISCUSSION LAW
Law Times

LAWYERS' groups in Ontario are urging the Minister of the Attorney General with more resources in the courts to reduce and expand the simplified procedure process to try to reduce the backlog in the civil courts.

"We all recognize that doing so is an essential," says Michael Howard, the newly elected chairman of the Federation of Ontario Law Associations.

"We would like the attorney general to come out and specifically state the change she is considering in the process and then ask for feedback. The ball is in their court," adds Howard, a partner at Willetts, Topley & Fielding LLP.

Ben Behm, president of the Ontario Trial Lawyers Association, agrees that progress such as expanding the maximum claim that can proceed under Rule 13, which sets out the rules for simplified procedure trials, would be beneficial.


The Benchers' Election is Coming
 Visit our new micro-site devoted to the upcoming LSO Benchers' Election with news coverage, candidate profiles and advertising opportunities for bencher candidates. Connect with all facets of the benchers' election and make an informed decision by visiting BenchersElection.ca today.

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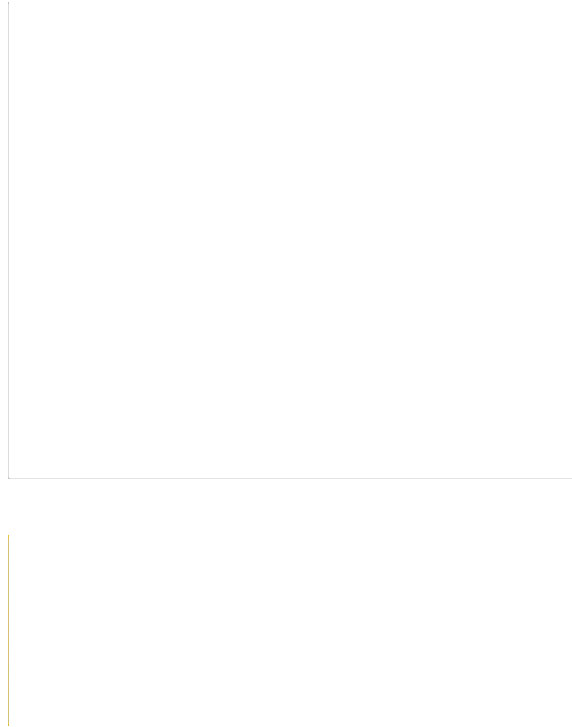
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Law Times Poll

Law Times reports that there is the highest number of lawyer candidates in the upcoming Law Society of Ontario Bencher election since 1995, but turn-out is declining. Do you think voting should be mandatory for all lawyers and paralegals in this election?

- Yes, it's important for lawyers and paralegals to take an interest in their governing body.
- No, voting should not be mandatory.

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