

Approved 2023 Special Meeting Minutes

Special Meeting of the Law Society of Alberta (“Law Society”)

February 6, 2023

Zoom Webinar

11:00 a.m.

	Item
1	Call to Order Mr. Ken Warren, Chair, called the Special Meeting (Meeting) to order at 11:00 a.m. The Chair reported that the Meeting was called in accordance with clause 28(1)(b) of the <i>Legal Profession Act</i> (Act) in response to a petition received by the Executive Director on Friday January 13, 2023. On January 26, 2023, the notice of the Meeting was sent to active members with the proposed agenda and the petition providing notice of a resolution that Rule 67.4 be repealed.
2	Confirmation of Quorum There were 3748 active members present for the Meeting, as well as the Law Society’s four Lay Benchers attending as guests to observe, but not participate in the Meeting. The Chair stated that section 27 of the Act stipulates that 20 active members constitutes a quorum at a Special Meeting and therefore quorum was met.
3	Review of Meeting Special Rules and Etiquette As is the Benchers’ tradition, and as an act of reconciliation, the Chair delivered a Provincial Land Acknowledgment. The Chair provided an overview of the meeting procedures, technology use and the Meeting Special Rules and etiquette.



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4 Adoption of the Agenda

It was moved, by Ms. Margaret Unsworth, and seconded **that the proposed agenda be adopted.**

During debate the following points of order were raised:

- To request a recorded rather than anonymous vote for public interest.

The Chair responded that the technology was set to anonymous, could not be changed and that taking a roll call vote for decisions such as these is not common.

- To object to the constitution of the panel and appointment of the Chair due to bias for reasons of having pre-determined the issue and being strongly in support of one side.

The Chair ruled that the point of order was not well taken in that the objection was an allegation of impropriety by the Chair, not a point of order raising a breach of the rules. As a point of information, he advised that the Chair and Benchers were not sitting in any adjudicative capacity. The Chair was committed to fulfilling his obligation to the assembly as an impartial facilitator of the meeting including following the order of business, recognizing members who were entitled to seek the floor, to state and put to vote all questions that legitimately come before the assembly, to promote balanced debate, enforce the rules, and expedite business. The Chair does not participate in debate and assists members in completing the business of the assembly to have a balanced debate and get to a vote on the resolution.

- To request that Mr. Song's letter of January 30, 2023, in support of the motion, be circulated using the chat function.

The Chair ruled that the point of order was not well taken as it did not pertain to a breach of the rules and no additional materials would be circulated. He added that Mr. Song would have preference to speak.

It was moved, by Sebastian Anderson, and seconded **to call the previous question** on the adoption of the agenda. Voting on the motion was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3564

The number of votes necessary for adoption (2/3) 2376

Votes for motion 2869



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Votes against motion 695

The Chair announced that the motion was adopted.

Voting on the motion **that the proposed agenda be adopted** was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3606

The number of votes necessary for adoption (majority) 1804

Votes for motion 3531

Votes against motion 75

The Chair announced that the agenda was adopted.

5 Consideration of the Proposed Resolution

The Chair confirmed that the proposed resolution **that Rule 67.4 be repealed** was moved by Mr. Yue (Roger) Song, as the submitter of the petition, and that the signatories of the petition were collectively seen as seconding the resolution.

Debate on the proposed resolution began at 11:41 a.m. and lasted until 12:41 p.m., when the 60-minute time limit for debate expired.

The Chair recognized Mr. Song as entitled to preference in speaking in debate. Debate then alternated between those speaking against and those speaking for the resolution.

Points made in debate for the resolution included:

- Mandated education is a form of indoctrination.
- Questions were raised regarding the Benchers authority to mandate education.
- Concern was expressed about potential future mandated political, cultural, social, and/or historical education.
- The petition is not about race or The Path.
- The Law Society should regulate for competence and ethics. The Path is not connected to a lawyer's practice.
- The Truth and Reconciliation call to action has been fulfilled and Rule 67.4 should be repealed.
- Education should be encouraged not imposed.



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- Mandating education is an authority overreach by the Law Society.
- Suspending lawyers' livelihoods should be for serious offences and not for non-compliance of completing an education requirement.
- The rule should be replaced with one that is narrower and more balanced.

Points made in debate against the resolution included:

- Support for regulators imposing required Continuing Professional Development to protect the public by ensuring a high standard of competence.
- Self-regulation is a privilege in return for ethical and competent service as lawyers and as Benchers are elected to govern in the public interest, there must be the power to impose standards of competence and in unique circumstances to mandate the particular nature of the competence such as Indigenous Cultural Competency.
- A Law Society strategic goal is equity, diversity and inclusion and the Law Society has taken a moral approach to see, acknowledge and understand history.
- The Supreme Court decision, *R. v. Gladue*, indicates that it is incumbent on the Law Society to ensure that lawyers understand Indigenous history.
- Rule 67.4 has been used in the public interest for Trust Safety, Responsible Lawyer Training, Principal Training as a result of the Articling Survey Results and Indigenous Cultural Competency training in response to the Truth and Reconciliation Commission's Calls to Action.
- Section 7(1) of the *Act* gives the Benchers broad rule making authority for numerous purposes including how the Law Society is to fulfill the duties that are imposed on it as a self-governing profession.
- The Supreme Court of Canada decision, *Green v. Law Society of Manitoba*, provides Law Societies with independence and authority that can be broadly interpreted.
- Rule 67.4 does not refer to political, cultural or ideological education.
- If the resolution passes, self-regulation is at risk and as the legal profession is often called upon to challenge the authority of the state and protect the rights of individuals, it is incumbent on the regulator to ensure lawyers are educated and competent.



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- The Path content was vetted by Indigenous advisors and implemented by the Law Society in good faith to strengthen cultural competence in the province.

During debate the following points of order were raised:

- The speaker is impugning the motives of the mover as being racist and is out of order.

The Chair ruled the point of order well taken; the remarks of the speaker were not in accordance with the meeting decorum and were regarded as being disrespectful of other lawyers.

- The use of the word Indians is offensive language and a request was made that the speaker refrain from referring to Indigenous peoples as Indians.

The Chair acknowledged that the use of the term Indian referenced in the Indian Act is appropriate, otherwise, ruled the point of order well taken with respect to other uses of the term.

- Comparing top-down approaches from the Law Society to lawyers as compared to the British or Canadian Government to Indigenous people is not a fair comparison.
- The Chair ruled the point of order not well taken because it does not relate to a procedural item. The Chair reminded the speakers of the assembly to be respectful and use appropriate language.

Voting on the resolution **that Rule 67.4 be repealed** was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3473

The number of votes necessary for adoption (majority) 1737

Votes for resolution 864

Votes against resolution 2609

The Chair announced that the resolution was defeated.

In response to a request for information asking how secure was the vote, the Chair advised that voting was conducted in accordance with the approved technology.

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6	Adjournment It was moved, by Lindsay Amantea and seconded to adjourn . As there was no further business, a vote was not required and the Chair declared the meeting adjourned. The Meeting adjourned at 12:52 p.m.

Approved by Minutes Approval Committee:

February 23, 2023

Minutes Approval Committee Chair:

“Cal Johnson”

Cal Johnson

Secretary:

“Christine Schreuder”

Christine Schreuder