

National Post

Christie Blatchford: Ontario lawyers score victory for free thought in Law Society election

This week, a slate of those brave enough to publicly oppose the 'statement of principles' the Law Society of Ontario imposed upon lawyers was resoundingly elected

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I often have kind words for lawyers — those I have seen at work and admire but also, in general, on how when you're in trouble, with your liberty at stake, your lawyer is your best friend.

But I don't think I've ever been more proud of them as a group than I am now.

This week, after a 15-day election period, a slate of those brave enough to publicly oppose the “statement of principles” (SOP) the Law Society of Ontario imposed upon lawyers in December of 2016 was resoundingly elected as benchers (the Law Society's board of directors).

The SOP forced lawyers to create, adopt and abide by a mandatory statement acknowledging their “obligation to promote equality, diversity and inclusion” and required law firms with 10 or more lawyers or paralegals to complete an “inclusion self-assessment” every two years and publish the results.

Lawyers and firms that didn't toe the line were threatened with “progressive compliance measures.

(I have heard from one paralegal who also claims the LSO attempted to intimidate him by sending two investigators to his office, with a recorder, demanding he verbally enter into an undertaking to refrain from criticizing the LSO on social media. That was back in 2017, when the resistance to the SOP was just beginning. He didn't respond to an email Thursday.)

In any case, the SOP is in my eyes a form of compelled expression, and those who ran against it were the StopSOP slate.

There were 22 and all 22 were elected to Convocation (which is what the LSO calls its monthly board meetings) when the votes were tallied this week.

The election was divided, as it always is, into candidates from Toronto and candidates from outside the city. The top 20 vote-getters in each category were elected as benchers.

When I say StopSOP's victory was resounding, it was.

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In the outside Toronto category, seven of the top vote-getters were members of the StopSOP slate.

In Toronto, the top 10 vote-getters were all from StopSOP.

The two candidates who got the most votes were, in Toronto, Murray Klippenstein, and outside it, Ryan Alford, a law professor at Lakehead University.

It just happens that these two men were among the outspoken leaders of StopSOP and the two who have launched a constitutional challenge to the new Law Society rules — they, and the Canadian Constitution Foundation that supports them, say the SOP abridges the Charter rights of freedom of speech, thought and conscience.

Among the deposed were some of the stalwarts who defended the SOP, and, rather delightfully, all but three of the 10 candidates the Criminal Lawyers Association had smugly endorsed, noting that the CLA board had “conducted a detailed survey and screening process” to weed out those “whose values and concerns” it deemed did not align with CLAthink.

(The press release said the CLA had endorsed 11 lawyers for election; alas, only 10 were named in the release.)

The CLA was backing, it said, only those who would be strong advocates for the Legal Aid certificate system, who were opposed to expanding the scope of what paralegals can do in criminal court, and only those “that are aligned with the CLA's stance that we must support the LSO's five strategies for equality, diversity and inclusion.”



StopSOP supporter Murray Klippenstein received the most votes among candidates from Toronto. PHOTO BY TYLER ANDERSON/NATIONAL POST/FILE

As Klippenstein wrote (with Queen’s University law prof Bruce Parry, who first blew the whistle on this mess in the pages of the National Post) in a piece for the Quillette, only routinely a great read, earlier this year, “I will not be told what to say or what to value — especially by the regulator of what is supposed to be a body of independent lawyers.”

Klippenstein is usually described as a “progressive” — a believer and practitioner of equality who has often represented, and often pro bono, Indigenous and disadvantaged clients such as those mass-arrested at the 2010 G20 Summit.

As he said in Quillette, “For all of my adult life, I have worked to advance social justice. Now I am horrified by what my own professional regulator is doing in the name of that same cause... Our regulator was demanding that lawyers and paralegals draft and then obey a set of specific political ideas — both in their personal and professional lives — as a condition of their licence.”

He also wrote what few others dared to say: If lawyers were now expected to adopt and promote racial representation according to proportion in the general population, as they are, that meant the

proportion of some skin colours and ethnicities was too low, and that in turn meant the proportion of others must be too high.

The Law Society is telling us that there are, in effect, too many white Jewish lawyers

“And while the authors of these rules no doubt would be quick to deny this plain corollary, the arithmetic truth is plain as a matter of simple logic: Without having the nerve to say so directly, the Law Society is telling us that there are, in effect, too many white Jewish lawyers — for there is no single group that has had more success, on a per capita basis, in gaining representation in the Ontario legal market.”

Klippenstein — for the record, of Prairie Mennonite background though he is now non-religious — wrote the Law Society and told them to go to hell; he refused to comply with the SOP, and wound down his law firm to a one-man show so no one else would suffer the consequences he expected.

And now he’s a bencher.

Hooray for him and fellow Toronto StopSOP benchers Robert Adourian, Chi-Kun Shi, Geoff Pollock, Sam Goldstein, Lubomir Poliacik, Jared Brown, John Fagan, Nicholas dePencier Wright, and Phil Horgan, and, from outside the GTA, Cheryl Lean, Ryan Alford, Gerard Paul Charette, Gary D. Graham, Joseph Chiumminto, Cecil Lyon, Jean-Jacques Desgranges, C. Scott Marshall, Trevor Robert Parry, Jorge Pineda, Brian Prill and Alexander Wilkes.