

CONVOCATION

IN PUBLIC SESSION

THURSDAY, APRIL 28, 2022 - 9:00 a.m.

OSGOODE HALL, TORONTO

(Via videoconference)

CONVOCATION ATTENDANCE

Treasurer - Teresa Donnelly

| | |
|-------------------------|---------------------|
| Lee Ferrier | Vern Krishna |
| Harvey Strosberg | Thomas G. Conway |
| Janet E. Minor | Catherine Banning |
| Seymour Epstein | Dr. Benson Lau |
| Nancy Lockhart | Geneviève Painchaud |
| Clare Sellers | Gerald Sheff |
| Doug Wellman | Larry Banack |
| Ross Murray | Robert Adourian |
| Prof. Ryan Alford | Jack Braithwaite |
| D. Jared Brown | Robert Burd |
| Gerard Charette | Joseph Chiumminto |
| Dianne Corbiere | Cathy Corsetti |
| Jean-Jacques Desgranges | Etienne Esquega |
| John Fagan | Julian Falconer |
| Sam Goldstein | Gary Graham |
| Joseph Groia | Philip Horgan |
| Jacqueline Horvat | Murray Klippenstein |
| Shelina Lalji | Cheryl Lean |
| Michael Lesage | Atrisha Lewis |
| Marian Lippa | Michelle Lomazzo |
| Cecil Lyon | C. Scott Marshall |
| Isfahan Merali | Barbara Murchie |
| Trevor Parry | Lubomir Poliacik |

Geoff Pollock

Brian Prill

Jonathan Rosenthal

Quinn Ross

Chi-Kun Shi

Julia Shin Doi

Megan Shortreed

Andrew Spurgeon

Sidney Troister

Tanya Walker

Alexander Wilkes

Claire Wilkinson

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

-- TREASURER'S REMARKS:

TREASURER DONNELLY: Good morning. Good morning, everyone, and welcome to Convocation. Bonjour et bienvenue au conseil.

I start by recognizing that we are gathered at Osgoode Hall in Toronto, which is a Mohawk word that means "where there are trees standing in the water".

I acknowledge that we are meeting on the traditional territory of the Mississaugas of the Credit First Nation. Today we have benchers participating from across the province and perhaps elsewhere and across many First Nations territories.

I recognize the long history of all the First Nations in Ontario and the Inuit and Métis peoples. We thank all Indigenous peoples who lived and live in these lands for sharing them with us in peace.

I'd like to welcome benchers back to Convocation. We are in the Lamont Learning Centre here in person at the Law Society for the first time since February of 2020.

-- Applause.

TREASURER DONNELLY: It's so exciting to have you back. There was a buzz and a hum in the

hallway today, and I was walking back to my office and I could hear benchers up in benchers' reception and it was just a wonderful sound to bring life back to the bencher wing of this magnificent building.

So, benchers, so pleased to see you in the room. And not to forget about the benchers on Zoom we're pleased to see you, too, but it's just a really exciting time to be able to bring benchers back.

So let's just do a little flashback to February of 2020. Malcolm Mercer was the Treasurer, and little did we know that within two weeks there would be global pandemic that would really shift so many things in the world and so many things in the way we do business. So welcome back, benchers. I'm really looking forward to today.

Before I turn to the agenda, I have some news items and reminders.

Avant que je passe à l'ordre du jour, voici quelques nouvelles et rappels.

I want to start by addressing the licensing candidates who have been affected by the changes to our licensing examinations. Thank you very much for sharing your stories and concerns with us.

On behalf of Convocation, I acknowledge the added stress and anxiety that this change has

made -- has caused. We have been communicating with licensing candidates, stakeholders and articling principals.

It's important to be candid how we arrived at the decision to shift the exams by four weeks. The move from an online to an in-person delivery format stems from an ongoing investigation into the alleged actions of some licensing candidates, which strongly indicates that the examination content has been improperly accessed through cheating.

This compromised the integrity of the upcoming licensing examination period. To continue with online examinations in the face of this knowledge was impossible.

As a public interest regulator, we have to ensure that our exams are valid and defensible, that we have a timely path to licensure for candidates, that we take steps to protect the reputation of candidates who are not involved in the cheating and that we uphold the integrity of the legal professions.

In response to this unprecedented and disturbing situation, the Law Society focused on delivering a plan that allows candidates to proceed with licensure as quickly as possible in a process that will not be tainted by the possibility of cheating.

The four week shift from June to July for the summer barrister and solicitor examinations is necessary to safely and effectively deliver in person examinations at five cities across the province. The pivot to in-person examinations requires a complex array of logistics, including securing multiple venues, implementing security and invigilation measures, preparing printed materials, implementing COVID-19 protocols, and ensuring there are specific plans in place for candidates who require accommodations on human rights grounds.

Regardless of these efforts, we know that this decision has affected and disrupted the lives of candidates. we have heard and read your stories. I am truly sorry for those of you who are experiencing these impacts. It's unfortunate that so many have been affected by the actions of a few.

The Law Society has taken steps to try to alleviate some of these challenges by extending the deadline for examination deferrals and providing financial assistance through the repayable allowance program. We will continue to offer accommodations as outlined in the Human Rights Code. I encourage you to consider whether these initiatives might help your individual circumstance.

The Law Student Society of Ontario has been very supportive and helpful in coordinating student response and liaising with the Law Society and I would like to thank the Law Students' Society of Ontario for their ongoing assistance.

The Law Society licensing and accreditation team has scheduled a webinar for May 9th for affected candidates. All candidates are encouraged to attend this live question and answer webinar. Information will be provided by way of the online student accounts.

I'm going to turn now and reflect on the Holocaust Remembrance Day event that we hosted earlier this week. We did it in partnership with B'nai Brith Canada and the Centre for Israel and Jewish Affairs. We welcomed more than 900 participants to the program.

This year's event focused on the legal conditions and the erosion of the rule of law in the 1930's Nazi Germany, that these were things that facilitated the holocaust. We were joined by a panel of esteemed speakers who shed light onto the complicity of legal professionals in the atrocities perpetrated on the innocent.

Panelists left us with lessons to be drawn in relation to integrity, ethics and professional

obligations that we, as members of the legal professions, have towards the rule of law and the independence of our legal system.

During the evening's events we also had the honour of hearing again from Dr. Max Eisen, a Holocaust survivor, educator and author of *By Chance Alone*. I know that all benchers remember when Max Eisen came to Convocation and the powerful words that he left us with.

We bestowed an honorary LL.D. on him in November of 2020 in recognition of his outstanding achievements to the rule of law and the cause of justice.

If you were not able to watch that event live, it will be recorded and available for you to do so and it's accredited for an hour and 45 minutes of EDI professionalism.

For upcoming events, we have Asian and South Asian Heritage Month, which is our next equity legal education series that will take place on May the tenth, and we are again pleased to partner with the Federation of Asian Canadian Lawyers and the South Asian Bar Association of Toronto.

During this program we will celebrate the long history and enormous contributions of legal

professionals of Asian and South Asian origins and examine critical access to justice issues impacting upon them. So please visit of Law Society website for more information.

Mental Health Week is next week in Canada, and I invite you to join the conversation. Organized by the Canadian Mental Health Association, this year's event is asking us to get real about how to help those experiencing mental health challenges.

Supporting the wellbeing of the professions is a personal priority and one of my foundational initiatives as Treasurer. My experience as a prosecutor working with victims of crime has allowed me to see firsthand the impacts that our experiences have on us. As legal professionals we are all at risk that our work can pose real challenges for our mental health. We face stressful situations regularly and it's only natural that we carry those experiences with us.

As Treasurer, it's been my privilege to have a platform that allows me to acknowledge the wellbeing challenges that can be faced in the legal sector and to work towards a better understanding and acceptance of those challenges.

I want to empower licensees to

understand the importance of their own wellbeing and to prioritize it at all stages of their career. I am so very pleased with the initiatives that the Law Society has in store for Mental Health Week.

On May 3rd I will be co-hosting the Law Society's second annual mental health summit for legal professionals, along with Beth Beattie, who will be receiving the Law Society Medal at the awards ceremony in May. Beth is a passionate advocate and agent of change in the mental health space within the legal professions and I am extremely grateful for the experiences she openly and graciously shares with the legal professions.

The keynote address will be delivered by the honourable Clément Gascon, retired justice of the Supreme Court of Canada. He is a role model, leader and inspiration to legal professionals for sharing his lived experience. Later, panellists will speak about their own experiences about being open about mental health, supporting colleagues, the power of peer support and practising law differently.

This free webcast is accredited for four hours of EDI professionalism. I encourage you to register; you do so in the LSO store. We have already more than 5,000 registrations, and this confirms again

the need for these open and honest conversations.

In support of the Mental Health Summit and Mental Health Week, Beth and I have co-written a piece in the Gazette about continuing the conversations and action on the mental health of legal professionals. I encourage you to read it.

Throughout the week, the Law Society and, I'm hoping, benchers, will be sharing information and resources about the wellbeing in the professions on our social media channels, as well as highlighting the supports available through the Wellbeing Resource Centre on Iso.ca.

Mental health -- this Mental Health Week and every day I ask you to keep the lines of communication open and move the conversation forward.

The Law Society Awards, as I mentioned earlier, are scheduled in May. They will be held May 25th at 5 p.m. I'll just remind benchers and those watching about the recipients of this year's award.

William J. Simpson Distinguished Paralegal Award, Paula Callaghan; Lincoln Alexander, Lawrence Greenspon; Laura Legge Award, Marian Jacko, J. Shirley Denison Award, Professor François Larocque.

Law Society Medal recipients: Beth Beattie, Chris Bredt, Brian Gover, Deepa Mattoo,

Professor Oosterhof and Stuart Wuttke.

Congratulations to all the award recipients. I'm really looking forward to the first in-person awards ceremony since I have been the Treasurer. This will be an invitation only event. It will be in person and it will be for benchers, award winners and their personal guests. So please stay tuned for more information on that.

The Law Society's Annual General Meeting will take place on Wednesday, May 11th, beginning at 5:15. I have invited all members to attend. Information about this can be found on the Law Society website.

This meeting will include a question and answer session and we welcome questions on the work of the Law Society from licensees in both English and French with bilingual staff present for translation for those who do not speak French.

As you know, Canada is officially a bilingual country, and both official languages have equal status in all institutions of the government. In Ontario both legislation and case law recognize the right of an individual to proceed in French before most judicial, quasi-judicial and administrative tribunals.

When it comes to licensees, lawyers and

paralegals have a responsibility to advise clients of their language rights, including the right to proceed in the official language of the client's choice. This responsibility is outlined in the Rules of Professional Conduct for lawyers and for paralegals.

It's important to stress that the choice of official language is that of the client, and not the lawyer or paralegal.

The Law Society has prepared guidance for licensees for their obligations in this area and I encourage anyone who wishes to learn more about how to access these documents to go to the Law Society website under the title, Advising Clients of Their French Language Rights.

When it comes to the Law Society, people have the right to communicate in French and receive available services in French from the Law Society in designated core areas of its mandate, subject to reasonable limits. I want to thank AJEFO and their president, Marc Sauvé for their help and guidance in moving access to justice in French forward and always encouraging us to do better.

As we draw closer to the Law Society's 225th anniversary this summer, we continue to share stories and some of the events and milestones that have

shaped Ontario's rich legal heritage, as well as the significance of the historic Osgoode Hall. In my latest blog about the Law Society's anniversary, I invite readers to take a tour of Osgoode Hall, using a variety of apps, exhibits and virtual tours.

As the home of the Court of Appeal of Ontario, the Superior Court of Justice and the Law Society of Ontario, Osgoode Hall is not only a hub of legal activity in downtown Toronto, but a historic and architectural gem. Surrounded by mature trees, lush landscaped gardens, and enclosed by a regal, iron palisade fence, Osgoode Hall is truly a sliver of past, set against the backdrop of a modern urban environment that has delighted visitors and tourists since the 19th century.

As an 1860 article from the *Globe* decrees, "All that architecture can do to charm the eye or impress the mind with a sense of splendour is there." Please visit the *Law Society Gazette* to learn more about the history of Osgoode Hall.

Speaking of Osgoode Hall, Metrolinx is moving forward for plans for the Ontario line, a 15 stop subway line that will run from Exhibition Place through downtown Toronto to the Ontario Science Centre.

Here at Osgoode Hall, we have paid close

attention to the Metrolinx plan for construction of a new Osgoode station. The plan would place a subway station entrance on the southwest corner of Osgoode Hall's grounds, significantly impacting the property and community green space.

Osgoode Hall is the oldest continually used industrial property in Toronto, and as its stewards, the Law Society takes our responsibility to protect the buildings and grounds very seriously. We have engaged with various levels of government and heritage organizations as the project moves forward in our efforts to best ensure the care and preservation of this important landmark.

More information about the project, including a rendering of the proposed station and neighbourhood updates, can be found on the Metrolinx website.

I close, before I move to the agenda, with updating all of us about our exciting Access to Innovation project. The A2I project continues to accept applications from legal innovators who wish to deliver new kinds of legal services to consumers in Ontario. Staff are continuing to work collaboratively with applicants towards approvals. We are continually involving the input of legal community stakeholders in

this initiative.

Earlier this week, the A2I's project manager spoke about this project and its potential at the Law Society's Technology and the Law CPD Symposium. He was also joined by Ms. Horvat, who was the chair of the technology task force at that symposium.

If you did not get the chance to do so this week, I'd encourage any of you with an interest in innovation and regulation to check out that CPD session when it's available for replay.

So now I'm going to turn to the agenda. Please note that we have information reports in the materials and I ask you to ensure that you have read those. A few guidelines, I suppose, before we start our hybrid meeting.

So benchers who are in the room will see that there is no podium. You will speak, if you wish to speak after you're called upon, by way of using the microphone at your seat. Benchers who are on Zoom who are presenting reports will do so as we have done for the past couple of years.

So benchers who are in the room who wish to speak would raise your hand to let us know. The secretary, Mr. Varro, and I will be keeping a list, and for those who are on Zoom, ask you to use the raised

hand function, please. And we'll do our best to try to manage our hybrid meeting.

-- CONSENT AGENDA:

TREASURER DONNELLY: So I turn now to the consent agenda, and the consent agenda is moved by Mr. Horgan and is seconded by Mr. Pollock. Is there anybody who wishes to have any items removed from the Consent Agenda? I'm seeing no one in the room and no one -- no raised hands. So could I please ask benchers to vote using the raised hand function, or if you wish to abstain I'll call on that in a moment.

Let's go first, benchers in the room, all in favour of the consent agenda? All right, thank you. And is anyone -- I'm going to call -- we have, online we've got a number of raised hands and check marks. Is there anyone who is abstaining from the motion? So no one in the room. And if you're abstaining, take yourself off mute and let me know. No one abstaining. So the raised hand and the check marks are all in favour. Thank you. Motion passes.

If we could move then to Mr. Groia, move to the Audit and Finance Committee materials, that's found at tab 2. I understand, Mr. Groia, that you are moving the financial statements and that Mr. Troister is seconding those.

MR. GROIA: That's correct, Treasurer.

TREASURER DONNELLY: Would you like to do so now, please, Mr. Groia, and then I understand you'll move, then, to the second motion, which is being moved by you and seconded by Mr. Poliacik?

[-- AUDIT & FINANCE COMMITTEE REPORT:](#)

MR. GROIA: That's correct, yes, thank you.

Good morning, everyone, and thank you, Treasurer. The material I'm going to discuss this morning can be found at tab 2 of the Convocation material on BoardBooks. There are two additional items that will be coming to Convocation today from Audit and Finance.

These are, firstly, a motion asking Convocation to approve the 2021 audited financial statements. The material for this motion can be found beginning at page 48, and the financial statements themselves are to be found at page 57.

The financial statements are accompanied by an unmodified opinion from our auditor, and Mr. Hawtin, our assurance partner at PWC, is in attendance today at the meeting and would be available to answer any questions that any bencher may have about the audit process.

The second item we'll come to shortly is a motion asking Convocation to consider and approve moving forward with the Law Society's business and technology transformation program to modify our processes and systems. This will also include a decision to earmark or dedicate some of our existing fund balances for these purposes, subject, of course, to the usual Audit and Finance and Convocation oversight on how these amounts will actually be spent.

So let me turn first to the first motion for the audited financial statements. I'm pleased to advise all of you and the professions at large that the Law Society continues to be in a strong financial position. We appear to have weathered the financial impact of COVID successfully and we are well positioned from a financial point of view to move ahead with our important regulatory and policy work in what we all hope will soon to be a post-COVID environment.

Let me start with the statement of revenues and expenses at page 58. The Law Society's general funds, which track the Society's program delivery and administrative activities, are reporting combined in-year gains of approximately \$9 million, whereas the 2021 budget planned that we would actually use eight and a half million dollars in those fund

balances.

This 17 and a half million dollar positive variance was driven by three key factors. Our revenues exceeded budget by approximately six and a half million dollars. Our expenses came in under budget by \$9.9 million, and we did not need to use our contingency fund of a million dollars in 2021.

Our restricted funds are also reporting combined in-year gains of 3.2 million dollars, primarily related to a positive change in the value of our investments.

In looking at our revenues, annual fee revenues last year were \$90.7 million, compared to \$95.3-million in the previous year. We planned on a decline in annual fee revenue in the 2021 budget as we reduced fees by \$193 for lawyers and \$42 for paralegals in that budget. This was partially offset by an increase in the number of licensees joining the profession in 2021.

I also want to remind everyone that in the 2022 budget we approved a further fee reduction of \$60 for lawyers and nine dollars for paralegals.

It should be noted that our annual fee revenue was slightly higher than budget due to the number of full fee equivalent licensees increasing by

more than we had forecast. You will recall in mid 2020 when we were planning for the 2021 budget, there was a great deal of uncertainty about the impact of the pandemic on our licensees and we took a very conservative approach to the number of full fee equivalent licensees.

I'm pleased to say that there were more licensees than we had anticipated, again a sign that our ability as a profession to weather the financial impact of COVID-19 remains very positive.

Insurance premiums and levies were up notably from 2020, with the key contributor being an increase in transaction levies from civil litigation and real estate transaction volumes rising.

Our PD&C revenue, which includes licensing process and continuing professional development fees, increased this year from -- to \$22.6-million, in comparison to \$20-million in 2020. The main reasons for this were with the onset of the pandemic, the number of candidates deferring their examinations from 2020 to 2021 was significantly higher than normal, resulting in those revenues being incurred or falling into 2021.

Similarly, coming out of 2020, the number of articling positions returned to more normal

levels and related fee revenue came back to pre-pandemic levels.

Lastly, 2021 saw the Law Society successfully move CPD program delivery and content online, using virtual platforms, with a significant growth in attendance compared to 2020. Revenues exceeded budget expectations, however, we have still not returned to 2019 levels.

The last item with respect to our revenues is the change in the fair value of our investments. In 2021 we recognized \$6.2-million as a result of the positive financial markets in that year; however, I need to point out that there has been significant volatility in the first quarter of 2022 and we currently have some unrealized losses in that fund at the moment.

Turning to the -- looking at our expenses, where we noticed the biggest impact on our finances, our expenses related to operations last year were \$97.9 million, compared to \$97.6-million in 2020. Expenses for 2021 were comparable to 2020, but budget numbers were higher by \$9.9 million, resulting in a significant positive variance.

The 2021 budget planned for a return to more normal operations, however, with continued

pandemic restrictions, this was not the case and we continued to see significant savings across the entire organization for costs related to travel, in person meetings and Law Society events. There were savings in this area from benchers expenses, lower bencher remuneration, as well as savings and costs in departments such as spot audits and investigations.

In addition to the reduction in travel costs, professional regulation, tribunals and compliance entered the year comparable to 2020, but under budget, again largely as a result of spending less money on external counsel fees, as the number of matters where we used external lawyers declined.

PD&C expenses were comparable year over year, but, again, were significantly under budget for 2021. With Convocation's approval of online examinations in 2021 and the budget planning for in person exams, spending was less than anticipated. PD&C also had reduced costs compared to budget related for travel and CPD program costs.

Corporate service expenses were slightly higher, but were comparable to budget. There were, however, notable savings in 2021 as a result of reduced building operations, however, some of this was offset by increased costs for insurance premiums, IT cloud

service subscriptions, and investments to support managing developments related to the Ontario Line.

Convocation policy and outreach expenses in 2021 were comparable to 2020, so we again came in under budget by about \$4 million; again, this is largely as a result of savings on travel, meetings and events for Convocation and committees, and we continue, as we can see at today's Convocation, to have a number of benchers attend Convocation by a virtual method, and that reduces significantly our travel costs and expenses.

Lastly, services to licensees and the public is about a million dollars less than we spent in 2020 and, again, less than budget. These savings primarily come from the continued closure of the restaurant and catering operations.

Let me say a couple of quick words about the statement of financial position on page 57. Our assets and liabilities have remained relatively unchanged, however, our portfolio investments have increased to \$84.6-million as a result of the transfer of approximately \$7 million from cash and short term investments to our portfolio.

As I noted earlier, there's also been an increase in the fair market value of our investments;

however, again, some of this increase has been lost with the financial market activity in the first quarter of this year.

Fund balances are set out at the bottom of the statement of financial position found on page 57. The fund balances are all in a very good position, although we will need to keep in mind that our 2022 budget already plans to call on those balances during the course of this year.

In looking at the general fund, it ended the year with gains of \$8.1-million, closing with a fund balance of \$38.3-million, which is well above our maximum policy benchmark of approximately \$26 million.

Convocation has already approved the use of \$6.4 million of this balance to fund our operations in 2022, and an additional request will be made when we come to the second matter we're going to discuss this morning.

The paralegal general fund ended the year with a gain of \$863,000, compared to the budget, which planned to use roughly \$1.1 million of that fund.

In the lawyer pool of the compensation fund, while there were favourable changes in the fair value of our investments, we did see the provision for unpaid grant expenses exceeding budget by 2.2 million

dollars, which pretty much offset the increase in our investments. This is as a result of the increase in claims activity in the fund, which we had anticipated might occur as a result of COVID-19, and these primarily relate to claims for a single lawyer.

The gains in the fund were about \$500,000, bringing the fund balance of the compensation fund, at the end of 2021, to \$31 million, in line with our fund management policy. The paralegal pool of the compensation fund ended the year relatively unchanged from the prior year of \$964,000.

So in conclusion, the Society ended 2021 in a financially strong position and is well placed to deal with moving ahead in what we all hope to be a post-pandemic environment and turning our attention to modernization and transformation, as well as dealing with any unplanned events that may come our way this year.

Treasurer, I would like to take this opportunity to thank the members of our finance team, particularly Brenda, as well as the entire Audit and Finance Committee for their efforts as we steered the Law Society through a second year of uncertainty and pandemic impacts.

I should mention that the 2021 audited

financial statements come forward with the unanimous recommendation of the entire committee, and so I move, seconded by Mr. Troister, that Convocation approve the Law Society's 2021 annual financial statements and interfund transfers as set out in the motion at page 45, and I would welcome any questions from Convocation, and if I can't answer them, I know that Brenda will be able to do so. Thank you, Treasurer.

TREASURER DONNELLY: Thank you very much, Mr. Groia. Mr. Troister, as seconder of the motion do you wish to be heard?

MR. TROISTER: Not now, thank you.

TREASURER DONNELLY: Could I ask benchers in the room, anyone who wishes to speak to raise their hand. I'm not seeing anyone in the room. And, benchers, if I could ask you on Zoom to use the raised hand function. I'm not seeing anyone there either, so -- oh, Mr. Chiumminto.

MR. CHIUMMIENTO: Yes, thank you, Treasurer. I just had a couple of questions.

I noted that on page 58 on the statement of revenues and expenses, I don't have it up in front of me right now so I'm going off of memory, that our expenses went up by about -- total expenses went up by about 13 million, but there was no breakdown as to how

we arrived at that.

I know Mr. Groia has indicated some of those items, but generally I was wondering if maybe he could explain the variance. Is that as a result of our insurance or self insurance, our move for self insurance in a particular area?

MR. GROIA: I've gone to page 58, Mr. Chiumminto, and I'm looking for the number that you're discussing. I wonder if you would be kind enough to go to the page and help me find it, because I'm showing total revenues of 96.9 and expenses of \$88 million. It's the \$13 million number I'm struggling with.

TREASURER DONNELLY: Perhaps while Mr. Chiumminto is doing that I'll see if there's anyone else --

MR. CHIUMMIENTO: My apologies, I was looking at page 58 of Diligent and I was looking at our total expenses of 229 million for 2021 and a variance for 2020 from 213 million. Maybe I'm looking at the wrong page.

MR. GROIA: Well, first of all, Mr. Chiumminto, when you look at the total expenses, you're including the pass-through of insurance premiums and levies, so right off the bat we probably should not be using those numbers unless we immediately deduct

\$113 million which we collect and immediately pay almost all of to LAWPRO.

So from our actual expenses, in other words, the expenses that we incur for operations and the like, you'd be better to take the 96.9 and the 9.95 and compare those expense items for those two numbers, and what I'm seeing is that our expenses last year in the general fund for lawyers was about \$900,000 above the year before and about -- for paralegals, our expenses actually went down by about \$600,000.

So I'm just puzzled because certainly from Audit and Finance review of our expenses there was some variability, but that primarily was as a result of the starting and stopping of program delivery and reopening or trying to reopen and then shutting down again as COVID returned.

Maybe I could suggest that if you wanted to discuss this with Brenda, she would be happy to try and give you an answer, but, again, certainly our understanding at Audit and Finance was that there was not a dramatic increase in our expenses last year.

MR. CHIUMMIENTO: Thank you. I will take it up with Brenda. I was trying to reconcile those numbers with the ones found in note 4, which seem to be a little different as they come from LAWPRO. So

maybe it's just a matter of levies. I appreciate the information and I'll follow up with Brenda.

MR. GROIA: Yes, thank you. Please do.

TREASURER DONNELLY: Thank you. If we could go next to Mr. Charette.

MR. CHARETTE: Okay. Just a moment, Treasurer. I was having trouble hearing you. Mr. Chiumminto and Mr. Groia are coming in loud and clear, but I'm still have difficulty hearing you. I just mention that, thank you.

TREASURER DONNELLY: Thank you, Mr. Charette. Can you hear now?

MR. CHARETTE: I'm hearing you better, but Mr. Chiumminto and Mr. Groia were coming in loud and clear. Thank you.

TREASURER DONNELLY: Is there anyone else who wishes to address our financial statements? All right. So then we're going to --

MR. CHIUMMIENTO: I have another question, Treasurer.

TREASURER DONNELLY: Mr. Chiumminto.

MR. CHIUMMIENTO: I'm looking at page 65 and perhaps -- I want to make sure I'm not in the in camera portion. I'm not.

I noted there is a 20 percent -- sorry,

a currency risk in the portfolio investments of about 21 million, which represents 20 percent of our -- or 25 percent of our 84 million invested.

I'm just wondering if the Audit and Finance Committee has sort of discussed this and considered this an acceptable risk based on conversations with the investment advisor.

MR. GROIA: Well, we have had extensive discussions, both with our advisor and with our quality assurance people at Proteus. I don't believe the 20 percent is based on just the general fund investments. I think that relates to the entirety of our investment portfolio across all of the funds, but we made a decision to change our investment policy about a year ago, and I know we had extensive discussions at the time based on the advice of our advisors. The one thing we were not doing was looking at any global investment opportunities.

So we did decide as a committee, and I believe it was approved by Convocation subsequently or at least came to Convocation for its information, that we wanted to look at international equity markets as part of our overall investment strategy.

So the policy was discussed and approved, and we are relying on our professional

advisors at Connor Clark and at Proteus and we certainly will be watching our overall investment portfolio, but I don't believe it's for Convocation or Audit and Finance to get to the level of second guessing the advice that we're getting.

The policy was changed and our investments are now in line with the overall investment objectives.

MR. CHIUMMIENTO: Perhaps maybe a better clarification in the report might sort of intimate if this is a maximum exposure as a result of currency going to zero or how they arrived at the 21 million might help, but certainly 25 percent risk, you know, to our overall investments might be something that we can spend a little more detail on, but I appreciate the policy.

I'm not on the Audit and Finance Committee and I will support the committee in that regard. It just seems a high risk --

MR. GROIA: Well, I think, Mr. Chiumminto, what that presupposes is the possibility that all of the foreign equities in which we are invested, such as all the American Dow 50 blue chips, they would have to go to zero. So this represents the principal exposure. It does not, in my view at least,

relate entirely to the currency component of that.

I think what that's telling us is that we have roughly \$21 million across all of our funds now invested in global equities, and if they were all to go to zero then we would have an exposure of 21 million dollars, but if that were to happen we would have bigger problems than just the currency risk.

MR. CHIUMMIENTO: I appreciate that explanation. Thank you, Mr. Groia.

MR. GROIA: You're welcome.

TREASURER DONNELLY: Not seeing any other raised hands --

MR. CHIUMMIENTO: I do have one more, Treasurer. Sorry to belabour the point, but I have one more question.

TREASURER DONNELLY: Sorry, Mr. Chiumminto. I just encourage you to -- these materials are posted in advance and these questions can be asked in advance and I would encourage you to reach out to the chair of the Audit and Finance Committee and the CFO if you have continued questions.

I'm going to move to the vote now. Could I please have the hands raised --

MR. CHIUMMIENTO: I'm sorry, Treasurer. I apologize. I didn't realize you wanted to hold the

discussions on matters of financial interest, but, you know, I hadn't had the opportunity to raise that question prior and, you know, I haven't had that opportunity because of other things that were going on in my life, but, you know, there were things that -- there are questions that I have --

TREASURER DONNELLY: Mr. Chiumminto, okay, please ask your question. I would encourage you in the future to reach out to the chair of the Audit and Finance Committee. If you read the by-laws in the debate section, benchers are to be called on once. This is the third time. Please ask your question.

MR. CHIUMMIENTO: You know, I'll defer. The chair of the Audit and Finance Committee and I have a good enough relationship that I can call on him and we can discuss it.

TREASURER DONNELLY: Could we please move to the vote. So if you're voting on Zoom use the check mark or the X, the check mark for yes, the X for no. The raised hand function to abstain. If you're present in the room, please raise your hand if you're voting in support. Thank you.

The majority pass, and are there any abstentions? So I see Dr. Lau and Mr. Lyon as abstaining. So the motion passes.

If we could move now to the second motion, Mr. Groia, I understand it's moved by you and seconded by Mr. Poliacik.

MR. GROIA: Yes, Treasurer, thank you. I'll try to spend less time on this matter. It's to be found starting at page 85 of Diligent.

You will all recall that at our benchers information session on March the 9th we discussed the vision and the plan for the Law Society's business and technology transformation initiative.

This is a critical initiative and a critical part of our moving ahead as a regulator and as a policy maker. That session included a lengthy presentation of the risks and barriers that arise from our existing legacy information systems applications and processes, and some of those risks are highlighted in the report at page 86.

There was a general consensus at the information session that it was time for the Law Society to modernize these technology processes and systems as there was a serious risk that if we did nothing it could negatively impact on our ability to deliver on our core mandate, and a failure to provide streamlined services for our stakeholders would damage our reputation as a regulator.

It is perfectly clear that a complete business and technology transformation is critical, and this type of initiative involves a reevaluation and a redesign of our business processes and work flows and the replacement of our core technology systems and applications.

Last year Convocation approved the early stages of this project and we have retained a systems integrator to help us plan and implement a new technology solution.

Following the procurement process, the Law Society will work with the systems integrator to complete the planning phase, which will help us refine our efforts and our costs. At that time our normal budgeting approval process will be engaged before we embark on any implementation.

This project is expected to take approximately five years and it will require significant capital resources to develop and complete while we maintain our regular operations.

The preliminary estimate, and I emphasize the word preliminary, for this future funding requirement is approximately three and a half to four million dollars a year, for a total cost of 17 to \$20-million over the life of the project.

This early estimate will undoubtedly change once the procurement cycle and planning phase with the systems integrator is met. The overall initiative will move forward under the usual financial oversight of the Audit and Finance Committee, with first budget approval and then reporting on expenses against budget. Regular progress updates on the status of the project will be provided to Convocation.

So how do we pay for this? In addition to formalizing the approval of this initiative, we are being asked to consider today how we fund this project and use some of our available fund balances, many of which were generated by cost savings over the last two years. These healthy fund balances can be made available if we choose and to be earmarked for purposes of this project.

In addition, you will recall that we recently unrestricted a fund balance within the E&O Fund that we might now choose to restrict for this initiative in order to mitigate future annual fees that otherwise would need to be increased to fund this critical solution.

At the moment there is approximately 8 and a half million dollars of the E & O Fund balance that could be deployed and earmarked for this project.

In addition, as I mentioned, the lawyer general fund balance at the end of last year, even allowing for the intended use of \$6.4 million from that fund, could result in an additional five and a half to six million dollars in fund balances being available at the end of this year above the maximum benchmark set by the lawyer general fund balance.

So Audit and Finance, at its last meeting, considered three options for raising the monies necessary for this initiative. Those options are set out in the material beginning at page 88. Two of them propose the use of these available unrestricted fund balances in varying degrees.

Option 1 recommends the use of 8.6-million dollars in unrestricted fund balances in the E & O Fund and up to \$5.9 million of the current excess fund balance in the lawyer general fund to be earmarked for the purposes of this project.

The actual amount of the \$5.9 million that we would allocate would be determined as part of the 2023 budget process. We would then need additional funding requirements that -- those would be incorporated in future budgets and would either come from excess fund balances in those years or would be raised through an increase in the annual fees for the

capital acquisitions.

The amount of any excess lawyer general fund balance that would actually be transferred to the capital fund would be considered as part of the 2023 budget process and would come back to Convocation when it considers the approval of that budget.

It's simply too early this year to assess the overall financial pressures that we may experience over the next nine months to make the decision now to allocate those funds, even though they are currently available.

Option number 2 considers restricting or earmarking the 8.6-million dollars in the E & O Fund and then increasing the capital fund component of the annual fee over the five years of the project in order to pay for any additional amounts required.

Option 3 considered proposing the funding for the initiative solely through the licensee annual fees. This would result in an increase in the capital fund equally over the five years and would mean almost a doubling of the current fee of 66 to \$75 for full fee equivalent in order to pay for the amounts that are required.

So it is the recommendation from Audit and Finance that Convocation approve proceeding with

the initiative, including the continued work of the systems integrator, in order to plan and implement this solution. It was also the recommendation that we adopt the first option and that we approve the transfer of the 8.6-million dollars from the E & O Fund, as well as such additional amounts that might be available from the general fund, as part of the budgeting process.

Again, I want to emphasize that throughout this project Convocation will be updated both as to financial matters and as to the project, and Audit and Finance will apply its usual financial oversight to the expending of these monies that are now being earmarked.

So this motion is moved by me and seconded by Mr. Poliacik, that Convocation approve proceeding with this initiative and agree that the recommendations set out in the motion on page 85 be adopted.

Again, I would invite any questions any bencher may have about this second motion. Thank you, Treasurer.

TREASURER DONNELLY: Thank you, Mr. Groia. Mr. Poliacik, as the seconder of the motion do you wish to be heard now or do you wish to defer?

MR. POLIACIK: Not at this time, thank

you.

TREASURER DONNELLY: Thank you. If I could ask, then, that benchers in the room raise their hand, let me know if they wish to speak. We'll now go to benchers on Zoom and we'll start with Mr. Graham.

MR. GRAHAM: Yes, good morning, Treasurer. I -- I generally support the motion.

What I'm wondering, and perhaps this is a question for another meeting, is what will the governance structure be that will work -- sorry, I'm getting an echo. What will the governance structure be that will work to -- there, I think somebody needed to go on mute. What sort of governance structure will be in place to help us manage and oversee these funds?

You know, I'm analogizing in my mind to a \$50 million construction project. You would have -- the owner would have third parties committed to the owner to watch the expenditure of the funds and monitor, et cetera. There would be separate project accounting for it. I wonder if staff could speak to how the project is intended to be managed. That's one question I have.

The second question I have is the systems integrator, are they someone with the skills to integrate systems or do they make systems selection

decisions and recommendations? And I'd invite some comments on that. Those are my two questions, thank you.

TREASURER DONNELLY: Thank you.

MR. GROIA: Treasurer, I would just simply say I don't think those are matters that fall within the purview of Audit and Finance. So would you call on either Diana or whoever you think should answer for those for Mr. Graham.

TREASURER DONNELLY: Sure. Ms. Miles, could you assist?

MS. MILES: Sure. Thank you, Mr. Graham. So we have internal governance structures with regard to technology and at times in management, and the governance structure, as Mr. Groia has pointed out, includes frequent reporting to Audit and Finance with regard to the application of funds. And, as today's proposal is suggesting, a segregation of funds to a restricted balance so we are at all times knowing where we're getting the funds from and we can account to that.

Through Audit and Finance the chief financial officer will report frequently on how we are drawing down on those funds as the project moves forward, and we'll also every year through the

budgeting process re-analyze what we have available and what further we need. So project accounting will be covered in that manner.

Then there will be frequent reports through to Convocation through my reports and also other reports on a regular basis as to the status of the project, how it's progressing, where we are in the milestones of the project. As we did in the bencher information session, we set out for you generally the milestones. We'll start to granularize that for you and give you more information on that.

Then as for the systems integrator, it will be a significant role that will come in and assist us to ensure we are actually tying and aligning all of our systems together, as we choose both our soft and hardware, and that group, the systems integrator, will assist us to ensure that we are maximizing all of our choices and making everything as efficient as possible. Hope that answers your question.

TREASURER DONNELLY: Professor Alford.

PROFESSOR ALFORD: Thank you very much, Treasurer, and thank you, Bencher Groia, for your presentation.

Just a question to follow up on Bencher Graham's question about the mandate of the systems

integrator with respect to systems selection, and I think that this perhaps will also be something that the CEO may want to speak to.

So just with respect to the mandate of the systems integrator, I'm curious as to whether or not they're going to have any role in suggesting or considering outsourcing of IT functions and whether that will be brought to Audit and Finance for consideration as part of this process. Thank you.

MS. MILES: As we get the project going, Mr. Alford, we will obviously look at how the new systems integration and the changes to our legacy systems will allow us to create efficiencies. So in doing so, my office for sure and the senior management executive will always keep top of mind our ability to also reduce head count in technology in favour of actual automation. I mean that would certainly be the goal. It will take us a few years to get there.

But the systems integrator is here to help us ensure that we can get Microsoft dynamics in across our platform, it's not here to make decisions with regard to FTEs or applications, but they'll certainly help us and show us where we can achieve efficiencies. That's the point. Yes.

TREASURER DONNELLY: Mr. Lyon.

MR. LYON: Thank you, Treasurer. I'm looking at page 86 of Diligent, and I note that the legacy information systems, and I'll leave for another day how they became legacy, but require significant manual interventions, and I fully understand that.

Certainly when you have legacy systems I can imagine it takes much more staff time to deal with them. I'm just wondering if there's been an estimate of the number of FTEs that the Law Society can expect to achieve in reductions once this is up and running and the efficiencies have been effected. Do we have that information?

TREASURER DONNELLY: Ms. Miles?

MS. MILES: No, Mr. Lyon, we don't know exactly how many FTEs will be saved at the end of the project. It will be an ongoing iteration.

We do expect obviously some efficiencies and improvements, but we also have to offset that by the fact that we still have continually increasing numbers of licensees every year, thousands of them, and different programs and projects that Convocation will want to put into place. We don't know the answer to that question right now, and we'll start to project that out as we start to report on the project once we actually commence the project.

TREASURER DONNELLY: Mr. Lesage.

MR. LESAGE: Yes, thank you, Madam Treasurer. So my recollection is that the Law Society has dedicated IT staff of around 40 people and, likewise, from the materials I understand the Law Society proposes spending 17.5 to \$20-million over the next five years, which by straight division, works out to somewhere around \$33,000 of spending on software and hardware per LSO employee.

So my question is why do we need such a high level of spending for software and hardware and, once implemented, what does a promised efficiency mean?

TREASURER DONNELLY: Ms. Miles.

MS. MILES: Mr. Lesage, everything is set out in the report. We've indicated very clearly that the costs for the system hardware, software and also back-fill for staffing is required, three and a half to four million dollars a year.

We are proposing that the project go ahead so that we can create those efficiencies and we'd certainly hope to report to you on a regular basis as to how we are going to achieve those.

TREASURER DONNELLY: Mr. Chiumminto.

MR. CHIUMMIENTO: Thank you. My question relates to the capital fund and the ongoing

funding requirements as we continue to move forward with this project on an ongoing basis.

Since 2018 we have raised roughly about four percent of our expenses or four and a half million per year on average in the capital fund, so since 2018 we're at about 18 or just over \$18 million.

If we continue at that progress and add this \$20-million that we're looking for for this project, we're in the range of 55 to \$60-million in a ten year span.

I'm just wondering if we're going to continue with the same level of, or if it's anticipated we continue with the same level of capital fund spending, in addition to this special project spending. As Mr. Lesage indicated, it's a significant amount per employee.

MR. GROIA: So let me answer that one for you, Mr. Chiumminto. Of course the capital fund deals with a wide range of other matters, not the least of which is the cost of maintaining our heritage building, and so if you go to the Audit and Finance budget numbers that we worked on for last fall, you'll see a detailed breakdown of all of those items.

What I expect we'll see happen is as we move through the integration into a new system, the

capital expenses required for IT will begin to go down, although not immediately, because we're going to have to run two systems for the period of the integration while we're continuing to provide services as we implement a new cloud solution.

So I would -- what I would expect to see happen is this additional 17 to \$20-million will eventually, in five year's time, result in a reduction in that portion of the capital fund expenses attributable to IT, because with a new system we are not going to need to spend the money we're currently spending.

I don't believe, until we have a new system up and running, we're going to see any significant IT savings because, you know, as a result of general revenue and expense pressures over the last several years, we have been maintaining the legacy system on what I'll call a bandaid approach. I mean, we're going to need to continue to do that until we can roll out and have the new programs and systems up and running.

I would hope that a Convocation bench in five year's time from now will see significant savings in the technology portion of the capital fund that ought to continue over an extended period of time once

we move to an iCloud system.

So, you know, if you have any other questions after you've gone and looked at the detailed breakdown of the capital fund expenses, happy to have you ask us some more questions and we'll do our best to try and answer them.

MR. CHIUMMIENTO: Thank you, Mr. Groia. That was one of my questions. I hadn't actually seen a breakdown in the final numbers, I've only seen the budgeted breakdown, but I appreciate the information, both on the operational and policy side.

TREASURER DONNELLY: Mr. Fagan.

MR. FAGAN: Thank you, Treasurer. I very much regret to say that I am not persuaded that the financial case for this project has been satisfactorily made out.

What I mean by that is what are the projected savings in getting into this very expensive project and what is the extent of financial risk to the Society by not going ahead with the project. I'm not saying I could not be persuaded at a future date, but that why is this project actually needed? I submit that requires more attention.

A vote against it today would provide the opportunity to assemble the necessary further

financial facts. Thank you.

TREASURER DONNELLY: Ms. Miles.

Anything on that?

MS. MILES: I can only say that we did a full presentation to the benchers in a bencher information session where we set out the reasons and the risks and benefits of engaging in this systems change now. As an organization we are behind. We do need to catch up or we're going to continue to be behind.

As Mr. Groia has pointed out and I have pointed out on a number of occasions already today, we will be doing frequent reporting to the board to ensure that you're up to speed on how the monies are being allocated and how the project is coming along with its milestones.

TREASURER DONNELLY: Mr. Esquega.

MR. ESQUEGA: Good morning, Treasurer.

Thank you.

I'm in favour of this motion because I think we're long overdue for technology at the Law Society. We're taking on -- we're looking at studies right now and whether or not we should be encouraging technological competence and, meanwhile, we're lacking that at the Law Society, from my perspective, and I

think we're hearing that from our management.

The systems are needed, they're due, and we need to move and get this work underway. As an example, I think we can quickly change our systems and have some automation so that we can move our files along quicker. We have our Resolution Complaints Commissioner report before us in the materials and I encourage you to look at page 455 of that and look at how long it takes to get the file from the investigation branch over to the resolution commissioner. It's taking a very long time. That should be just a click of a button and to get access immediately, not 144 days, or even last year, 65 days.

We are very slow in moving some of these things on in the investigative process and resolution process and I believe that technology will help us move things along quicker so we can do our work more efficiently. Thank you.

TREASURER DONNELLY: Thank you.

Mr. Goldstein.

MR. GOLDSTEIN: Yes, Treasurer, thank you. I'm not sure if I direct my comments to you or Bencher Groia or to Ms. Miles, but, you know, I think, if my recollection is correct, I believe that the report stated that our technology dates back to 1985.

I know just as a simple criminal lawyer I have a Lenovo PC which I bought maybe five years ago and already it's out of date. So I support this motion. We need to have up-to-date technology.

TREASURER DONNELLY: Thank you. And last, then, Ms. Lockhart.

MS. LOCKHART: Thanks, Treasurer. I'm very much in support of this initiative. In fact, I think we have no choice but to move forward. Our legacy systems will fall apart and leave us in worse shape than we are now and with nobody willing to support them or fix them.

I have been through a number of these big projects and they come with a lot of pain. It's going to be very tough on staff over the period of change, it's just inevitable. I wouldn't look for any savings at all in the period during which the implementation is taking place and we'll be lucky if we get savings later, but what we should get is improved data and information that allows us to run our business better and more efficiently.

So I wouldn't be looking at things like head count particularly, I would be looking at what we can get out of it that will maximize our ability to do business better, smarter, sharper and more proactively.

Thanks.

TREASURER DONNELLY: Thank you. I said Ms. Lockhart was the last one, but, Mr. Desgranges, I'll call on you and then that's it, we'll move to a recorded vote.

MR. DESGRANGES: Thank you very much, Treasurer. Yes, I think there's always the risk, and I trust that this was broached through the information session and by staff, there's always the risk that in five years from now when everything is implemented and we're already behind and we are already lagging, I trust that some thought has been given and probably keeping things updated from the -- on a continuing basis in order to make sure that everything is efficient as we move forward.

That's my comment. I thank you very much, Treasurer.

TREASURER DONNELLY: Thank you. As you know, we have an extremely capable CEO and I'm sure she is well aware of all the steps that need to be taken. Thank you, Mr. Desgranges. So we're going to move to a recorded vote now. Mr. Secretary.

SECRETARY: Mr. Adourian?

MR. ADOURIAN: Yes.

SECRETARY: Professor Alford?

PROFESSOR ALFORD: No.

SECRETARY: Ms. Banning?

MS. BANNING: Yes.

SECRETARY: Mr. Braithwaite?

MR. BRAITHWAITE: Yes.

SECRETARY: Mr. Brown?

MR. BROWN: Yes.

SECRETARY: Mr. Burd?

MR. BURD: Yes.

SECRETARY: Mr. Charette? Mr.

Chiummianto?

MR. CHIUMMIENTO: Yes.

SECRETARY: Ms. Corbiere?

MS. CORBIERE: Yes.

SECRETARY: Ms. Corsetti?

MS. CORSETTI: Yes.

SECRETARY: Mr. Desgranges?

MR. DESGRANGES: Yes.

SECRETARY: Mr. Epstein?

MR. EPSTEIN: Yes.

SECRETARY: Mr. Esquega?

MR. ESQUEGA: Yes.

SECRETARY: Mr. Fagan?

MR. FAGAN: No.

SECRETARY: Mr. Falconer?

MR. FALCONER: Yes.

SECRETARY: Mr. Goldstein?

Mr. Goldstein, I'm sorry.

MR. GOLDSTEIN: Yes.

SECRETARY: Thank you. Mr. Graham?

MR. GRAHAM: Yes, for now.

SECRETARY: Mr. Groia?

MR. GROIA: Yes.

SECRETARY: Mr. Horgan?

MR. HORGAN: Yes.

SECRETARY: Ms. Horvat?

MS. HORVAT: Yes.

SECRETARY: Mr. Klippenstein?

MR. KLIPPENSTEIN: Abstain.

SECRETARY: Ms. Lalji?

MS. LALJI: Yes.

SECRETARY: Dr. Lau?

DR. LAU: Yes.

SECRETARY: Ms. Lean?

MS. LEAN: Yes.

SECRETARY: Mr. Lesage?

MR. LESAGE: No.

SECRETARY: Ms. Lewis?

MS. LEWIS: Yes.

SECRETARY: Ms. Lippa?

MS. LIPPA: Yes.

SECRETARY: Ms. Lockhart?

MS. LOCKHART: Yes.

SECRETARY: Ms. Lomazzo?

MS. LOMAZZO: Yes.

SECRETARY: Mr. Lyon?

MR. LYON: Abstain.

SECRETARY: Mr. Marshall?

MR. MARSHALL: Yes.

SECRETARY: Ms. Merali?

MS. MERALI: Yes.

SECRETARY: Ms. Murchie?

MS. MURCHIE: Yes.

SECRETARY: Ms. Painchaud?

MS. PAINCHAUD: Yes.

SECRETARY: Mr. Parry?

MR. PARRY: Yes.

SECRETARY: Mr. Poliacik?

MR. POLIACIK: Yes.

SECRETARY: Mr. Pollock?

MR. POLLOCK: Yes.

SECRETARY: Mr. Prill?

MR. PRILL: Yes.

SECRETARY: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

SECRETARY: Mr. Ross?

MR. ROSS: Yes.

SECRETARY: Ms. Sellers?

MS. SELLERS: Yes.

SECRETARY: Ms. Shi?

MS. SHI: Yes.

SECRETARY: Ms. Shin Doi?

MS. SHIN DOI: Yes.

SECRETARY: Ms. Shortreed?

MS. SHORTREED: Yes.

SECRETARY: Mr. Spurgeon?

MR. SPURGEON: Yes.

SECRETARY: Mr. Troister?

MR. TROISTER: Yes.

SECRETARY: Ms. Walker?

MS. WALKER: Yes.

SECRETARY: Mr. Wellman?

MR. WELLMAN: Yes.

SECRETARY: Mr. Wilkes?

MR. WILKES: Yes.

SECRETARY: Ms. Wilkinson?

MS. WILKINSON: Yes.

SECRETARY: Mr. Charette, I didn't hear
your vote, if you're here to vote. The motion carries,
Treasurer, 44 in favour, three against and two

abstentions.

TREASURER DONNELLY: Thank you. All right. So we're ready now, then, to move on to the Professional Development and Competence Committee report.

As you will recall, this matter was moved in November at November Convocation. It was moved by Ms. Murchie and was seconded by Mr. Adourian. So I'm not going to call on them to move it again, but I am going to call on them in order to speak.

I just want to remind everyone, if you go to tab 3 of the materials in support of this matter, you will go to the motion which is found at page 173 of Diligent, and the motion is highlighted for the part that we're dealing with today.

You will recall that we voted on the first three items in November and passed those matters, and that the fourth matter was deferred until a later Convocation. And so today the only part of the motion that we will be voting on is the highlighted portion, which is item number 4, and that is, whether the Law Society should move to a best practices approach to compensation.

So I'm going to call on Ms. Murchie, and this will be a recorded vote, but I'll call on Ms.

Murchie first, thank you.

-- PROFESSIONAL DEVELOPMENT & COMPETENCE

COMMITTEE REPORT:

MS. MURCHIE: Thank you, Treasurer, and good morning, everyone.

I have some remarks on three issues.

The first is the Treasurer has already taken you to the motion before us today, but I want to remind you that this motion was to -- the intention is to replace the mandatory minimum payment regime that was approved by Convocation in December 2018.

So I want to take you to that so that you can see the -- what was actually approved by Convocation. It's on page 245 of BoardBooks, and it, too, is highlighted, so I want to take you to that.

Then I'm going to review some of the new information that's available to us, feedback from the profession and updated articling statistics, and then talk briefly about next steps, depending upon what the outcome of the vote is.

So you'll see that what was passed at Convocation in December 2018 was a -- an articling and LPP enhancement program that included paid articling and LPP, PPD work placements in accordance with Law Society requirements, in other words, required salary,

with limited exceptions.

And the intention was that exemptions would be for high quality placements like legal clinics where there was no ability to pay, but that is yet to be determined precisely what the ambit of the exemptions would be.

Just a reminder from our conversation in November, that given today's minimum wage of \$15 an hour, a mandatory minimum compensation program regime such as was approved in 2018 would require payments for all placements at about \$30,000 a year; a four month placement would be about \$10,000, a ten month articling placement would be about \$26,000.

Although the PD&C Committee recommended the best practices approach, rather than the 2018 MMC regime, I want to remind you as well that all members of the committee preferred that work placements be paid, that's not what this was about, the majority, however, was unwilling to mandate payment because of job loss, placement loss that was likely to result, and the Law Society estimated that job loss to be 130 to 150 placements.

So just to be clear for today's vote, a yes vote to the motion before you is a vote for encouraged, rather than mandatory, payment, a vote

against the motion is a vote for the mandatory minimum compensation that was approved in 2018.

With that background, let me turn to the new information that is before us and start with the input from the profession. The response was robust, 165 submissions in total from 141 individuals, including lawyers and students, and from 24 organizations, and that response, to be fair, represents a large percentage of profession. The organizations alone, for instance, the OBA, it by itself has 16,000 members.

So a summary of the response is at BoardBooks, tab 3.6 at page 313. I hope you have had a chance to read the summary and maybe some or all of the original submissions that are in the resource centre.

So we asked for input and we got it, and having asked for that input, of course we can't ignore it. And we can't ignore the fact that with some notable exceptions, and one notable exception in particular that I'll refer to later, the profession and students overwhelmingly favoured the 2018 mandatory minimum compensation regime.

There were 150 submissions that supported the mandatory regime, and various reasons, but there were three themes that were apparent. One is

along the lines of students work, they should be paid and it's unbecoming of the profession to do otherwise.

A second theme was, you know, focused on equity considerations, that the lack of compensation is a barrier to entry and also that the Law Society has an obligation to protect vulnerable members of the professions, and students fall into that category, and the third theme was student debt loads are, as we all know, very high, and that has to be taken into account.

Very few of the submissions focused on the committee's concern that mandatory payment would result in loss of placements, but those who did address the issue clearly felt that mandatory minimum compensation was more important and that potential job loss could be addressed in other ways.

There were suggestions that the Law Society could address placement loss through the licensing process or through perhaps potential solutions like fee discounts for principals or subsidized placements or, in one case, by ending the articling requirement completely.

There were six submissions supporting the current proposal for a best practices approach from two organizations and four individuals, and like the committee or the majority of the PD&C committee, the

concern about placement loss was the reason.

A few individuals thought students also should be able to decide for themselves and noted that many unpaid positions are valuable learning opportunities, which, of course, might be taken into account in considering exemptions. That's a possibility for those kinds of placements.

Both organizations made clear that placements should be paid, but they were unwilling to mandate payment that would jeopardize entry to otherwise qualified candidates who could not find paid positions, and one organization expressed concern that the mandatory minimum comp regime would reduce the placement opportunities in less remunerative areas of law and in areas of practice that are historically served -- that historically have served low income and marginalized populations.

Another organization, and this is the, in particular, the notable concern that I identified earlier, the notable exception I identified earlier came from Ryerson's LPP program, and they were particularly concerned that job loss would be significantly in excess of the Law Society estimate of 130 to 150, and Mr. Bentley, who wrote the submission, estimated that the loss could be as high as 600.

Just for context, you'll recall that the LPP and PPD placements are four months long, and traditionally about 33 percent of those placements are unpaid or underpaid. That 33 percent is based on actual salary information collected by both the LPP and PPD.

In 2022, as of the date of the LPP submission, 84 out of 256 placements were unpaid or underpaid in the LPP program.

Articling is somewhat different. The unpaid and underpaid positions are based on extrapolation from voluntary surveys, and not from actual numbers, because the Law Society does not currently require principals to disclose salaries.

Traditionally, only about ten percent of articling placements are unpaid or underpaid. In 2021 however, the survey data indicated that only 5 percent of placements were unpaid or underpaid.

Bottom line is we don't know for sure what the job loss will be. The Law Society estimate of 130 to 150 is probably reasonable. The Ryerson estimate of 600, in my view, is high. It involves assuming that underpaid placements are substantially underreported in the survey. But when I looked at the numbers and I spoke to Mr. Bentley, I concluded that,

from my perspective, at least, it was probably fair to acknowledge that placement loss based on the numbers we have could be as high as 300.

So to summarize, the overwhelming majority of the profession who responded, 24 legal associations, 141 individuals, clearly saw mandatory minimum compensation as a priority. A much smaller group preferred that students be paid, but they were unwilling to risk a loss of placements for otherwise qualified candidates.

In terms of other new information you will have seen, there are updated articling statistics at tab 3.7, page 318 of BoardBooks. When we were here in November, I told you that positions we have are vulnerable to economic conditions, which is still true, but I also told you that -- and I also told you that during the pandemic we lost about 170 positions.

You'll see in table one at BoardBooks 319, and Mr. Groia referred to this, the number of placements has returned to pre-pandemic levels, and then some. You can see that there are over a hundred new positions this year, which is terrific news. That's based on 2019, but you can also see from the page before that there are an additional 200 candidates seeking licensure in that same period, so it tends to

go that way. The number of those seeking their licenses continue to outnumber the number of positions we have available.

The last thing I wanted to talk to you about briefly is the next steps. If Convocation votes for best practices, no further decisions need to be made. Staff will work on implementation, keep Professional Development and Competence Committee updated on the progress, and the goal would be to implement best practices in May 1st, 2023, which is the start of the next articling cycle.

Just a reminder, the best practices includes collecting information like, for instance, the data on what articling principals are paying for placements and otherwise taking steps to encourage paid placements wherever possible.

If Convocation chooses the 2018 mandatory minimum compensation regime, there are further decisions to be made, and we anticipate those decisions will come back to PD&C and then to Convocation in the fall of 2022. So we're going to have to -- we would have to establish a minimum wage. I have given you a ballpark number, but clearly a method of calculation and a specific amount will need to be determined.

Secondly, the exemption framework will have to be established. We -- we have to determine what factors would go into any decision and the weight to be given to those factors and a process for determining eligibility for offering unpaid or underpaid placements.

We would have to consider whether and what enforcement is required and, of course, the implementation date would have to be firmly decided, and right now I can tell you that the intention is or would be to implement mandatory minimum compensation if approved on May 1st, 2023, so that's the next articling cycle.

So just before the discussion of this motion continues let me repeat what I said to you at the beginning about the motion. A vote in favour of this motion that's before you right now is a vote for best practices that will encourage, rather than mandate payment. A vote against the motion is a vote for the December 2018 mandatory minimum compensation regime.

And with that, Treasurer, those are my remarks. I know it's brief, but I didn't want to go over everything that was said last time, but I am happy to answer questions, if there are any. Thank you.

TREASURER DONNELLY: Thank you very

much. Mr. Adourian, as the seconder of the motion do you wish to be heard now or perhaps later?

MR. ADOURIAN: No, thank you, Treasurer.

TREASURER DONNELLY: Thank you. Going to go to Mr. Brown.

MR. BROWN: Thank you, Treasurer. This is a difficult one. I pay articling students. I think it's something that ought to be done, you should be paying them. I mean the easy thing is to make it so, it costs the Law Society nothing, it doesn't come out of our pocket.

But the question before the PD&C Committee was not simply should we legislate a wage, it's actually what can we do for the 500 licensing candidates who can't enter the profession over the last three years because there are no articling jobs. Will we legislate away their ability to take lower value positions, positions that might not agree with my idea of an appropriate wage or compensation or remuneration? Will we eliminate 130, 150 positions?

I mean, articling is in crisis, it's been that way for over a decade. We need more jobs. There have not been enough for many, many years. Ms. Murchie, Bencher Murchie touched upon this. Who

suffers by the lack of jobs and positions? It's those without established networks in our profession, NCA and foreign trained candidates, first generation lawyers, people who don't have lawyers in their family. New Canadians, minority communities. Will outlawing certain jobs help them? No, it will exacerbate the crisis.

I encourage you all to read the impassioned plea from Mr. Bentley from what was Ryerson, what is now Toronto Metropolitan University. It is impassioned. He's calling upon us to do the right thing, not the easy thing, and the right thing in this instance is to ensure that there are more positions available, both in the LPP program, but as well as the articling program.

I need not remind you who Mr. Bentley is, former Minister of Labour, I believe he's Minister of Training Colleges and Universities, former Attorney General, liberal, progressive, and now the executive director of the LPP program at Toronto Metropolitan University.

I'm going to take up the call, Mr. Bentley, to do the right thing for the public interest, for the 500 over the last three years and that number that's growing that can't get into our

profession. I won't make their ability to get into the profession harder. I will vote in favour of the PD&C motion to encourage compensation, but until articling is either fixed or abolished, for that matter, I think this is the best approach.

TREASURER DONNELLY: Thank you, Mr. Brown. Just be careful, there's no right thing and wrong thing. The people who vote in favour of what Convocation passed in 2018 are not doing the wrong thing, so I would just encourage all of us to be thoughtful in our remarks. And I'll move to the next speaker, and that next speaker is Professor Alford.

PROFESSOR ALFORD: Thank you very much, Treasurer. I, too, will be voting in favour of the committee's motion, and I do believe it's entirely appropriate for us to encourage compensation for articling students and, indeed, for LPP placement students. It's my particular concern for LPP placement students that motivates my vote in favour of this motion.

So I, too, think, as Bencher Brown emphasized, that everyone should pay very close attention to the submission from Mr. Bentley from Ryerson University. We created the LPP program because of a serious crisis, a crisis being that students

graduating from Ontario law schools could not obtain articling positions.

My position at Lakehead University, Bora Laskin Faculty of Law, is itself a reflection of that crisis insofar as our program allows students to go directly into calls, rather than having to go through the articling process.

So just taking a look at the math just initially, that submission from Mr. Bentley of Ryerson indicates that approximately 33 percent of the positions that are offered to students in the Ryerson LPP that allow them to complete the program and then to be called, are either unpaid or underpaid.

Now, I have some knowledge from my program of what it means to approve such a placement, because we do the same thing for a four month placement for our IPC programs. These are carefully monitored and approved positions. They are not exploitative. The reason why these positions are unpaid or underpaid is because it's usually, in my experience, quite impossible for the person to provide compensation to that student, in part because they're already taking a substantial financial loss in carefully monitoring, mentoring, supervising and training those students, and these are in positions, as Mr. Bentley noted, that are

in underserved areas of law, particularly often serving marginalized communities.

Now if we take the position that we need to do what would, I believe, everyone has concluded will reduce the available number of articling positions, we need to think about the impact, perhaps even the double impact on Ryerson's LPP and, indeed, the University of Ottawa's PPD program, because now we're going to have far more students who need to complete that program because they're in that program in the first place because they cannot find an articling position. Then we're saying to Ryerson and to University of Ottawa you cannot provide opportunities to these students, these last chance students, you can't give them the opportunity of going and working with these people who are doing refugee claims or doing small consumer law or providing placement opportunities that serve these marginalized communities, that you can't offer that position to that student.

This is really troubling, I really think we need to think very carefully about the knock-on effects of this. Given that, I think it's entirely appropriate for us to pay close heed to this alarm that's been raised by Mr. Bentley about the possibility

of 600 possible articling positions lost, or 300, if the assumptions need to be tweaked a bit, as the chair of the committee has indicated. Think about how that would affect the LPP, think about how that would affect the PPD and the students going through that process, and have some confidence in that those programs are being administered in such a way that they can warrant, they can say that these students are getting quality training.

The compensation is not where we would like it to be, given the level of effort these students are putting in, but it's not exploitative. It's just a nature of what that position entails. So on that basis I will be voting in favour of the motion. Thank you, Treasurer.

TREASURER DONNELLY: Thank you. Ms. Shortreed.

MS. SHORTREED: Thank you, Madam Treasurer. I will be voting against the motion. I have two points; the first is a governance point and then I'll move to the merits.

On governance, I would simply say there was a comprehensive report, full consultation, a debate and a vote in 2018, and those articling enhancements that were approved by Convocation should have been in

effect by May 1st of 2021, so we already have a year of articling students who have suffered by -- under the non-implementation of a Convocation directive.

Revisiting, in my view, with no new evidence or information, that decision is -- simply because there's a new bench is not, in my view, something this board should be doing.

The chronic revisitation of decisions because the politics of the bench have changed is not, in my view, the way a public interest regulating board should operate.

Let me move to the merits. The Law Society controls the commitments of principals and can require that there be a commitment to minimum compensation by principals in the articling principal commitment agreement, and that simply needs to say -- I don't necessarily agree with Ms. Murchie that it needs to be a complicated document, it can simply say the principals commit to abide by part 9 of the Employment Standards Act.

So the professions and students have overwhelmingly in their feedback favoured minimum compensation for very good reasons. It is, in my view, unconscionable of this regulator to require articles, but to allow its licensees to exploit the labour of

students.

Had I been a bencher in 2018 I would have voted with Ms. Horvat's minority report to do away with articling, because it is a market-driven barrier to entry, and we know from the data, leads to inequities driven, in part, by discrimination, but that was not the decision of Convocation, who decided to include the requirement for a market-driven experiential training, and having made that decision, they also made a decision that was a corollary to enhance articles by mandatory minimum wage, which I support. To do otherwise would be to further exploit the most vulnerable new entrants to the professions. Thank you.

TREASURER DONNELLY: Thank you. Ms. Lockhart.

MS. LOCKHART: Thank you, Treasurer. I will be voting against this motion. Like Ms. Shortreed, I agree that articling students should be paid. If a crisis ensues because we ensure they should be paid, then I think it will force the Law Society to do something about articling finally, if it's not a sustainable practice.

But I was alarmed to hear Ms. Murchie say that the committee, or the Law Society, would be

deciding what an appropriate wage is. In my view, the minimum wage is the minimum wage as defined by the government and I think it would be extreme overreach for to us concoct a figure other than that figure.

Competition will take the role that competition should take, and I don't think we should be messing around with the market. So thank you.

TREASURER DONNELLY: Thank you. Mr. Klippenstein.

MR. KLIPPENSTEIN: Thank you, Treasurer. I will be voting in favour of the motion and against mandatory minimum compensation, and I urge you to do so and I urge you to put the interests of students, articling students present and future first, and I do so as someone who is on and has been on the other side of the equation, which I think we need to think about, which is the articling principal, which is the person who hires the articling students, who decides to spend the money.

I, as the sole principal of a small firm for the last approximately two decades, have been in that position close to 20 times. I have hired and mentored something like 20 students, and I am one of those people who decides whether or not there will be an articling job.

There are tens of thousands of us in the sole and small sector, and I suggest we need to be mindful of ways of encouraging those people, like me and a few in this room, although there are very few in this decision who actually have firsthand experience in what it means in terms of hiring an articling student, encourage them to expand the number of articling students, next year, five years from now, ten years from now.

As Professor Alford said, we need to expand the number of articling positions, and to do that somebody has to decide to hire. When somebody like me makes that decision, that money comes from my pocket, and over the close to 20 students I've hired over two decades, you run the numbers, I've spent close to three-quarters of a million dollars in salary. And when you add all the other costs, rent, IT costs, government remittances and so on, I have spent from my pocket almost one and a half million dollars to fund articling students, and here's the key, articling students lose money.

We need to talk about that more, because I hear in the submissions from everybody, not everybody, but a lot of people, unpaid positions are exploitative, they're unconscionable. Well, articling,

the people tend -- some people were saying, well, an articling job is a job like any other and the major factor is the moral obligation to pay for work.

Well, an articling job is not like other jobs and I don't agree that the overall factor is a moral imperative to pay them. An articling job is the first stepping stone in a lifelong career path. It's not like other jobs.

And for us as benchers, yes, people should pay articling students, I totally agree. I always pay. I never hired somebody without salary because it doesn't really make business sense because you need to pay people for respect and incentive, but the moral problem we face is, as others have said, who is going to make the jobs? Who's going to hire people? We need to expand that circle, and that is part of, maybe moral obligation is too strong, but our professional duty as we sit here.

And requiring a significant minimum compensation rate when the tens of thousands of people out there who have to take that money from their own pockets, some of them will be swayed, you know, put it altogether, it is not worth it. Articling students, I've done the spreadsheets many times over the years, lose money almost always because the total hours spent

has to be discounted -- docketed hours has to be discounted to billable hours, has to be discounted to collected hours.

When you add in all the costs, it doesn't make sense to hire an articling student, except in some of the commercial firms, medium and large, who have different types of corporate business customers who can pay, and that's fine, they play a really important role in Ontario, but it's the soles and smalls who serve the real people of Ontario in their legal needs. It's those access to justice issues which are wrapped up into this.

So I don't -- you know, it is very easy for just about everybody to get way up on a moral high horse and blow a golden trumpet for public display, saying we need to pay these people, but you have to look at a little bit of a zoomed out view and say not only how many jobs are going to be lost next year and the year after, because there will probably be increasing jobs just because of the economy expanding, but we will -- there will be jobs that --

TREASURER DONNELLY: Sorry, Mr. Klippenstein, I'm sorry, we have a really long list and I'd just encourage you to wrap it up, please.

MR. KLIPPENSTEIN: But aren't I so

charmingly eloquent that you just want to keep me going?

TREASURER DONNELLY: There are others equally charmingly eloquent. There are others who wish to speak, so...

MR. KLIPPENSTEIN: I'm done. Thank you.

TREASURER DONNELLY: Thank you.

Ms. Lewis.

MS. LEWIS: Thank you, Treasurer. First I want to situate the context of this vote, because I think it's important that we understand where we are and what the prospectus is of licensing candidates.

Last year we, as a bench, voted to not even consider whether licensing candidates, who pay licensing fees, by the way, to the LSO, should vote in bencher elections. We voted to not even consider whether they could participate at the committee that makes decisions about entry level competence.

This year we moved the bar exam, and while for very meritorious reasons, these licensing candidates have minimal notice and had -- and led to a very significant impact.

Now we are, once again, asked to make a vote that has a significant impact on licensing candidates and to date we have done a lot to not give

this group of individuals a lot of reassurance.

I want to also talk about how we got here. Lawyers and articling students are exempt from the Employment Standards Act in Ontario, but I think it's important to note that it is the Law Society itself back in the day, in 2001, that requested that lawyers and members of the legal profession be exempt from the Employment Standards Act.

Having made that request for an exemption, we have now taken on the responsibility to ensure that the most vulnerable in our profession are protected. We know that we have a duty to advance the cause of justice, access to justice and protect the public interest, and I just want to remind this bench that in five other provinces lawyers and law students are not exempt from the relevant Employment Standards Act, including Alberta, Saskatchewan, Nova Scotia, New Brunswick, PEI, Northwest Territories and the Yukon. I just also want to remind this bench that the British Columbia Law Society will be soon implementing its own minimum wage.

I now want to turn to the response from the profession. I'm very grateful that the decision on minimum compensation was deferred until this vote, because we had the opportunity to consult with our

licensees and to consult with the public, and the response that we got was overwhelming and it was overwhelming in support of the minimum wage.

And I hear comments made from some of my colleagues about soles and smalls and what they can afford, but we've heard from soles and smalls. We've heard from FOLA, which is an organization that represents associations and members of 46 county and district law associations across Ontario, or about 12,000 members, who are the voice of soles and smalls, and they were enthusiastically in support of a minimum compensation.

We heard from the leadership of Aaron Durant and Durant Barristers, who wrote a letter on behalf of soles and smalls which was signed on by 58 soles and smalls also in support of the minimum compensation.

We've also heard from not-for-profits. We heard from the executive director of Animal Justice, who said even though she's in a small, not-for-profit organization, that she and her organization supports minimum compensation for articling students.

So I think we need to -- we need to consider and listen to the overwhelming support of the profession.

There were also comments made about what about minority licensees. We have heard from organizations representing racialized licensees; they are also in support of the minimum compensation. We've heard from the profession. It is overwhelming in support.

I also think it's important for this bench to consider the situation of current articling students. I know many of us are decades plus removed from what that is, that experience is, but law school tuition and debt is now very high. The cost of tuition is now exceeding \$30,000 at some law schools, and students graduating these days have immense burden, financial burden, and that raises equity concerns when we think about a barrier to entering the profession. It is unduly burdening our most vulnerable members of our profession at a time where they have taken on such a significant financial barrier.

And then I hear the comments about concerns of lost positions, lost articling positions, and I think that's a fair concern, but there are things that we can do to address that.

And I also want to note, and as Bencher Murchie noted, articling placements have increased. So we are in a climate where we are seeing increasing

articling positions. I also want to note that the initial proposal that passed in 2018 where the minimum compensation was to be mandatory, there contemplated an exemption for meritorious placements, so those who had meritorious placements had to apply to the regulator, apply to us to justify that unpaid position, and that would be contemplated, I hope, in the future.

There are other things that we can look at and should look at. Should we have subsidies. Should the Law Society be doing more to promote shared articles. And we have heard from the profession and I think we can also look to the profession to assist, which is the profession has spoken overwhelmingly in favour of articling, paid articling positions and paid placement positions, and we can and should be asking the profession to help us in the future once we pass minimum compensation for licensing candidates to ensure that there are placements in the future.

So, finally, I just want to conclude by saying that accepting anything less than a minimum wage compensation in my view is unacceptable and reflects poorly on the profession and will reflect poorly on the Law Society. We have a significant reputational risk at stake in this vote, so I encourage everyone to vote no and support a minimum compensation for licensing

candidates. Thank you.

TREASURER DONNELLY: Mr. Graham.

MR. GRAHAM: Thank you, Treasurer. I appreciate the remarks of my fellow benchers.

I'm going to vote in favour of the motion. I would invite those who oppose the motion, whether they win or lose, to join me in encouraging this bench to find a small project, to develop an app that would enhance the ability of small and sole firms to share a student.

We have the ability to make it a hell of a lot easier for small and solo firms to combine their student requirements in a way that allows for the creation of a full-time articling position that could be more remunerative than any minimum wage that might be paid over eight months, which I would roughly calculate at about \$24,000. I'm not sure that anyone can live on that, particularly in the City of Toronto, but we have the ability as the Law Society with the financial position we're in to dedicate what would not be a large amount of money to underwrite the cost of developing an app that could enhance the ability of practitioners to conceive of assignments, improve their mentoring, and share the cost and time of a student. And regardless of what happens on the motion, anyone

who is interested in getting behind that could contact me. Thank you.

TREASURER DONNELLY: Thank you.

Ms. Wilkinson.

MS. WILKINSON: Thank you, Treasurer. I am on the PD&C Committee and I was one of the benchers who voted in favour of encouraging mandatory minimum wages as opposed to making it -- sorry, encouraging minimum wage, as opposed to making it mandatory, obviously for the reason that you've already heard about, the concern about lost articling positions. And we have certainly heard from some candidates who say I would rather be unpaid but get my licensure on the road and get working than have it delayed while I search for a paid articling position. So that's a real concern.

Bencher Klippenstein already took much of my thunder by speaking from the perspective of a sole practitioner, but I just want to say, so everyone understands, it's not just \$30,000 as an annual salary. Lots of law firms, including mine, have rental and overhead costs that easily double what you're paying. So for a \$30,000 position you're probably paying 60.

And Bencher Klippenstein, to talk about how much he has personally paid, most of the people at Convocation may not have personally paid out of their

own pay cheque, their own salary, their own draw for a student, and if you have, good for you, then you know what I'm talking about. But it is a chunk and we are going to lose positions, I think we need to accept that.

So the question is what's the priority, mandatory minimum wage or losing spots? And I do recognize the comments of Bencher Alford as well about the end, of course, the submission from Chris Bentley at Ryerson. These are really compelling arguments.

So with that background, I have always said that I maintain an open mind when we come to Convocation, and when we hear from the profession, and we have heard from the profession, and although I have to say I was kind of surprised by FOLA's submission, given the concerns that I know sole practitioners expressed, FOLA does represent the sole practitioner and FOLA is in support of mentoring minimum wage.

And I also appreciate all the people in organizations that took the time to write. Your voices were heard. It makes a difference. It certainly makes a difference with this bencher, because even though I am very concerned and I think, quite frankly, it's actually somewhat irresponsible for us to demand or command mandatory minimum wage with no plan in place

for what's going to happen to these extra students now who aren't going to get jobs, I am going to vote against the motion because I am following the will of the profession.

But I want to say one other thing. I would like to see Law Society staff seriously look at a subsidization program for soles, so that we can take some proactive measures to try to maintain as many placements as possible. And if that means that there might be some increase in all of the fees of all of the licensees across the profession in order to fund that, then so be it, because we need to make sure that our students get through their articles and get on with their lives.

So that's my comment. I put that to staff. Please, make it a priority and let's look into subsidization, but I will be voting against the motion. Thank you.

TREASURER DONNELLY: Thank you very much. And on that note, we're going to take a break.

We have seven people on Zoom who wish to be heard and we have a number of people in the room, so we're going to take a break, a short break until 11:15. We're going to start back then. So I will see you back soon.

For the speakers who haven't spoken yet, I just ask you to be concise in your comments and don't repeat anything. And a reminder for benchers who are here to please wear their masks when they're leaving the room. Thank you.

--- Recess taken at 11:04 a.m.

--- On resuming at 11:15 a.m.

TREASURER DONNELLY: Thank you. We're resuming debate. Mr. Lyon.

MR. LYON: Thank you, Treasurer. I want to begin by echoing Bencher Brown, so I won't repeat myself, won't repeat what's been said. Mr. Brown, Klippenstein and Alford's comments.

I'm hesitating because I was quite shocked by some of the comments about what a previous bench had done and that we were somehow bound by or should continue what they did, which is, to my way of thinking, quite anti-democratic. We have a new bench, we're looking at this afresh, and that's good governance. That's exactly what democratic institutions are about.

I'll ask you -- well, I'll reference Edmund Burke's admonitions to the electors of Bristol about how democratic systems work. We are a representative democracy. We don't go with the wind,

we're elected to exercise our judgment and good judgment says you want to maximize, as long as there's articling, you want to maximize the opportunities for people.

So I'm not going to repeat the comments, I'll just ask the question, where does this stop? Do we mandate first year salaries? Do we mandate what sole practitioners should earn? I mean, how far does the Law Society want to stick its hands into the practice of law and where does it end?

So I will leave it there, because everything else that I wanted to say has been said. The reality is that I think that the motion should pass as drafted, and thank you for the opportunity.

TREASURER DONNELLY: Thank you.

Mr. Troister.

MR. TROISTER: Thank you, Treasurer. I feel like I'm experiencing déjà vu all over again in one way or another, and the speakers, a number of the speakers, I know Mr. Brown and Mr. Alford both used the word "crisis" when they spoke of articling and, in my view, this motion is just another example of the crisis that we have with articling.

We keep trying to fix an archaic, outmoded system. Articling worked as a model a hundred

years ago when people, in fact, articulated for small firms because there was no big firm, and people learned how to be lawyers in articling. In my view, that's no longer the case, that's not what articling is or articling has become, and that what we are now trying to do is to tinker with and fix a system that we should have abolished and we had the opportunity to abolish it a number of times and, frankly, the Law Society benchers in their wisdom continue to chicken out.

Now, I am not bringing a motion, and I'll speak to the motion at hand, but whatever happens today, I think it is incumbent on the Law Society to begin to be creative and be ready for another system that is alternative to articling, whether it is by imposing -- by having some kind of program or course or some of the things that were talked about at the last bench when we had the option to get rid of articling and, as I say, the old bench chickened out, and in --

TREASURER DONNELLY: Okay, Mr. Troister, we're not going to embark upon a debate about what we should do to replace articling.

MR. TROISTER: That's --

TREASURER DONNELLY: I'd ask you to focus your remarks, please, and please do not accuse other benchers of not doing their job by saying they

chickened out.

MR. TROISTER: In my opinion, the Law Society should be embarking on a program now to find a solution to the articling program that involves its evolution.

In my view, and I follow up with what Ms. Lockhart had said, it may well be that a mandatory minimum wage will be the camel -- sorry, the straw that breaks the camel's back on articling.

I appreciate all the comments that have been made about the moral reasons for having a mandatory minimum wage. I am in favour of it. I will be voting against the motion and hopefully if that happens, it may, in fact, push this bench or the next bench or the bench after that to do what should be done about articling. Thank you.

TREASURER DONNELLY: Thank you.

Ms. Horvat.

MS. HORVAT: Thank you, Treasurer. It appears Mr. Troister looked at my notes on the break, because he basically said what I wrote down.

So I'll only say I support the motion. If we're going to keep articling as part of the licensing process we have to pay these people, it's just not fair not to.

I'm voting against the motion, sorry, just to make it clear. And the other point, I just wanted to correct Bencher Shortreed, the minority report was in 2012, not in 2016 or 2017, and it seems we debate the articling issue every ten years or so. Diana knows. Every three? So I think it's probably time to look at it again and I ask that the committee do that. Thank you.

TREASURER DONNELLY: Mr. Esquega.

MR. ESQUEGA: Treasurer, I will be very brief. I acknowledge the submissions that we've received from the profession, and Bencher Lewis has done a fantastic job of summarizing the feedback that we have received and it's clear that an overwhelming majority of the profession support paying a minimum wage and I will support that as well.

In reviewing the materials, I'm reminded by the Canadian Association for Legal Ethics' submission, and they noted the survey that was done last year in the summer of 2021 where they asked lawyer licensing candidates, well, the Law Society did, the types of hours that they were putting in and they summarized that one-third of the students were saying that they were working more than 50 hours a week. Another 63 percent of those who responded said that

they're working 35 to 50 hours a week.

The work that students are putting in is obviously significant, it's a lot of hours, and how are they supposed to earn an income to keep a roof over their head is one of the questions that I have been struggling with as I consider this issue.

And when you think about the type of work that we do, we're quite tired at the end of the day after we've used our brains the way we do, and to expect the students to go off and then work a night shift somewhere and then have very little sleep and then come back to work the next day to meet the demands of their principals is simply not fair.

There's no doubt that there are benefits, even though you may not be billing out your articling students at a high rate and earning a tremendous amount of revenue from them. We have to keep in mind that they do have a service and they do have a benefit to you, because they do legal research, they do drafting for you, they make those phone calls that you don't have the time to make. They have your back when you need the support, so it's -- simply to look at this from an economic perspective is very concerning.

So I will be supporting minimum wage, I

will not support the motion that's on the floor. Thank you.

TREASURER DONNELLY: Thank you. Mr. Lesage.

MR. LESAGE: Yes, thank you, Madam Treasurer. So I will be voting against, as I'm in favour of mandatory minimum compensation. The U.S. experience teaches us that there will always be high unemployment for new law grads, and by having articling we're, in effect, mandating as a regulator that some students, often disadvantaged, work for free which, in my view, is simply wrong.

Candidly, I'm hoping that having or requiring mandatory compensation helps to kill articling in Ontario. The U.S. legal system gets by substantially better without having articling, so what data do we have that it's even necessary. Thank you.

TREASURER DONNELLY: Thank you. I think you were reading Mr. Troister and Ms. Horvat's notes over the break. Could we please go to Mr. Charette.

MR. CHARETTE: Thank you, Treasurer. I'd ask a question initially, if I may.

Do we have an opinion concerning the Employment Standards Act? I perceive this proposal to effectively nullify a provision of the Employment

Standards Act. Have we got any kind of an opinion?

TREASURER DONNELLY: Ms. Murchie.

MS. MURCHIE: We have -- our general --
our general counsel has looked at this --

MR. CHARETTE: I'm sorry, I can't hear
you. Forgive me.

MS. MURCHIE: Can you hear me now?

MR. CHARETTE: Yes, that's better.

Thank you.

MS. MURCHIE: Okay, I'm looking for my
notes on this issue, Mr. Charette. Our general counsel
has looked at the issue and is satisfied that we have
the authority to take these steps. So I can't go into
detail with it right now, but, yes, we have looked at
it.

MR. CHARETTE: Okay, thank you. I would
hope -- I'd like to see a second opinion, if I may,
because I think what we're effectively doing is
nullifying a provision of a provincial statute. I'd
question whether we have the authority to even do that.

We talked about -- I'll keep it brief --
we talked about job losses. The one point that perhaps
hasn't been mentioned is that for vast parts of
Ontario, and many markets in Ontario, and Ontario is a
complex set of many different markets, the minimum wage

isn't even relevant. And when people like -- or organizations like the LPP, Ryerson, sound the alarm, I just think we need to pay attention and I think the support I'm hearing for the minimum wage -- and take it it's genuine, is really made it ideology, not practicality, and I'm quite concerned that we're getting into an area now, because in concept, if we regulate articling students' wages, why can we not regulate associate lawyer wages?

There's no clear jurisdictional definition at all. In fact, I think there is a serious argument that we are exceeding our jurisdiction.

I think students want to get their careers launched, I want to focus on that, and for that reason I will support the motion that we do move forward with this recommendation.

The last thing I'll say is that we're talking now about a system of exemptions and we are creating for ourselves another bureaucratic structure that is going to add to the cost and complexity of lawyers simply trying to help people get their careers launched and students getting their careers launched as well. It's wonderful to hear these ideological claims, and I take it that they're sincere, but the practicalities of the issue indicate that I will be

supporting the motion. Thank you.

TREASURER DONNELLY: Ms. Shi.

MS. SHI: Thank you, Treasurer. First I want to thank the PD&C and Bencher Murchie for a very, very informative report and great presentation. Thank you.

I query this issue of mandating minimum wage, even how it would work. Perhaps I'm dating myself, I articled on Bay Street and worked day and night and my principal never told me how many hours I should work in the day. I worked as many hours as I needed to get done the work that was assigned to me.

We were in a six weeks trial and I don't know, if I were to add up all the hours, that I would have made minimum wage.

How are we going to enforce a mandatory minimum wage requirement? Do we tell the firms that they have to report what the student's earning and advise the student if you have gone past a certain number of hours you're to stop working?

We all know that the articling year, for me anyway, was really a great learning opportunity. I did not begrudge the hours that I spent, so I think that's something we have to think about, how it would be enforced. Are we going to deal with disputes

between students and firms and do we require, then, the students and firms to keep logs as to how many hours each student has worked?

Again, speaking for myself, I know I did a lot that even my principal didn't ask of me, an extra copy of documents to make life easier for them, and all of that. So that's something to think about.

I'm going to vote to support this motion, and I would urge everyone when you vote to think about in terms of the people that need our support and protection, who are the most vulnerable. I would submit it is the students who want to article, but cannot find a position, that we have to put them foremost in our minds. They are the most desperate, having invested heavily in a legal education, but cannot practice until they have articulated.

And this idea of forcing the issue of examining the articling program by mandating a minimum wage, I would submit I simply cannot agree with it, because in that tussle the people being sacrificed are, again, the students who have invested in their legal education but cannot find articling. Are we really going to sacrifice them in order to motivate the Law Society to act as if they are a modern day (indecipherable) -- sorry.

And finally, I really am encouraged by all the comments that we need to study the articling program and I urge the Law Society to put that on a priority basis to get to the bottom of it. Is it going to continue and, if so, how do we make it better? Even just today we have heard some very interesting ideas, such as sharing students. Have we done enough to make it viable for small and soles to host articling students? Thank you, Treasurer.

TREASURER DONNELLY: Thank you. Mr. Desgranges.

MR. DESGRANGES: Yes, thank you, Treasurer. I have been quite informed by this discussion and I appreciate everyone's input. I am particularly interested by the kill the articling arguments that were put forth.

Now, I'm more of the view that the Law Society should not get involved more than it should in the practice of a law firm, be it a sole practitioner or a large firm.

I do note that many of the small firm and the medium firms form the largest part of the firms that are out there articling, I think about 70 percent or more, and I do share the concern with respect to losing positions for articling students. And because

of that, I'm going to have to vote in favour of this motion.

It's -- frankly it's an encouragement and I don't think anybody would like to take some people and not pay for their services, but these positions have to be available for those students who choose, who have the free choice of accepting a position that is lower paid.

Now, that being said, I understand that there's -- if this motion -- if this is rejected, there has been some suggestions that other programs such as subsidies and what not at the Law Society be looked at. I would suggest that we're going beyond our mandate with that, the same way that I do believe we're going beyond our mandate with this particular -- with a motion that goes into the payment, how much law students should be paid.

Now, going there, there's another suggestion that needs to be considered is the extent to which the Law Society will involve itself in the practice of a firm. Would that include, for instance, capping the salary of law students in larger firms? I noticed that \$60,000 and above were paid, and capping that amount such that these firms can actually hire two students instead of one.

We can go very, very far with this particular way of progressing, and so I caution the Law Society with respect to where we're going with this. Thank you very much.

TREASURER DONNELLY: Mr. Goldstein.

MR. GOLDSTEIN: Yes, thank you very much, Treasurer. I just want to remind the bench that this is not an issue of forcing people to work or giving them for free or a minimum wage, this is simply a motion which suggests that we encourage people to pay. In other words, this vote is about some money or minimum. No one is suggesting that people work for free, although the reality is, as Bencher Murchie had pointed out in the report, and thank you, Bencher Murchie, for your report, your fine work on that and the committee's fine report.

There are some people who do, in fact, article for free and that is a problem of our market system and the fact that we just simply have too many articling students. That, you know -- that is a problem which we'll have to deal with. But I don't think that the way to deal with it is to vote for this motion. If people don't want to have articling anymore, whatever the reason may be, then let's deal with that on a head on basis. Let's not try to do this

through the back door by selling pricing articling -- making it too expensive for people to hire articling students and therefore indirectly we'll get rid of articling.

I'm sorry, Treasurer, I'm trying to use thoughtful language in how to express myself to those benchers who want to vote against this motion because they want to get rid of articling, and the word that comes to my mind is pusillanimous. If you want to get rid of articling, let's put that motion on the floor and let's debate that motion. Let's not try and do it through the back door.

I want to move my next comments to the concept of a regulatory consistency, and I'm sorry, Treasurer, that maybe regulatory consistency makes sense within the period of time that Convocation is elected, but there are elections, and I believe it was a former Treasurer who said that elections have consequences.

To the benchers who think that they just simply want to do things because we've done that in the past is a very anti-democratic sentiment. We have -- every year we have four year elections and, as a result, the profession gets to express itself and give direction to this Convocation as to what they want to

do.

For example, not to belabour the point, Treasurer, but you know where I'm going to go. In 2019, for example, a prior bench decided to bring in a statement of principles. The profession spoke, they didn't like that, and we've revoked that statement of principles. According to benchers who believe in some of the regulatory consistency, that would mean that we shouldn't be able to have a vote on the statement of principles.

Moreover, if we want to talk about, well, we've done it in the past a certain way and we have to have regulatory consistency, I can only point out the hypocrisy of that statement, given the fact that for over a hundred and some years this organization was called the Law Society of Upper Canada, and then some groups of benchers decided they didn't like that name, they didn't care about regulatory consistency, and they changed it.

So I totally disagree, and I can't express myself more emphatically about that concept of regulatory consistency. There are elections, elections have consequences.

On that sort of similar topic, in terms of what Bencher Desgranges just mentioned, I'm not

going to belabour his point, but I'm totally in agreement with it. I have concerns, as he has expressed and Bencher Charette has expressed, about, you know, whether we have the jurisdictional ability to engage in this sort of motion to say that people -- and in fact we're not mandating -- I understand the motion is simply a matter of encouraging people, but, you know, we can't mandate mandatory minimum wage for people. If we could, you know, we could vote on a motion to say that partners in law firms should only get paid so much. I think that's a great idea, Bencher Desgranges, and then they can all be limited in the salaries that they make and, therefore, we could take the excess of the --

TREASURER DONNELLY: Sorry, Mr. Goldstein. Mr. Goldstein, just to be clear, we're not voting on whether we should limit associate salaries. We're voting on whether or not there should be a best practices recommendation for minimum salaries. So I'm going to ask you to wrap up. Could you please wrap up.

MR. GOLDSTEIN: Yes, I have two quick points and I will, Treasurer.

If it's a cost of universities, that's not our problem, that would be the university's

problem, we can't do anything about it. But the main issue, and I'm sorry I've left it till the end here, Treasurer, is the issue that, you know, we are a responsible government. I don't take my directions from other people, what they have to say, and my most concern -- my biggest concern is the real vulnerable people in the legal profession is the client.

If we start saying people have to be paid something, who is going to have to pay for them? And that comes from the client. That means peoples' fees are going to have to go up. That means the client, some people, are not going to be able to afford things.

I don't think people realize what, for example, in terms of a sole practitioner who deals with family law, criminal law, immigration and so on, what their hourly rates are, for example, on Legal Aid. A ten year lawyer on Legal Aid will make, per hour, \$136. Let that sink in for a moment. Those people who serve the marginalized communities, which my friend, bencher Brown, was talking about earlier, their hourly fee is \$136 on Legal Aid, and they are limited to the number of hours they can charge on a Legal Aid certificate.

Where are they going to get the money to hire articling students? Just let that sink in for a

moment. It is great for many of the benchers who work for law firm to say to people like myself and other sole practitioners who do Legal Aid that I should start, you know, paying my articling students more money, where am I going to get that money if not charging it on to the client. I will be voting in favour of this motion.

TREASURER DONNELLY: Ms. Painchaud.

MS. PAINCHAUD: Thank you, Treasurer. I will be voting a strong no. The word "encourage" will change absolutely nothing, not one more student will be paid.

In terms of arguments against mandatory compensation, we can make the same arguments against loss of jobs when we ever talk about increasing minimum wage in Ontario, but it's done because it's the right thing to do for the greater good.

I also have trouble hearing about the cost of having articling students. Is none of their time ever billed, not even an hour for two hours per day, which would be enough to cover minimum wage? If someone doesn't want to pay a student, then, in my opinion, they should not even be able to bill out their time.

Finally, I think it's clear, based on

the submissions we received, that students know the risk and they still clearly told us they absolutely want minimum compensation. Thank you.

TREASURER DONNELLY: Thank you.

Mr. Wilkes.

MR. WILKES: Yes, thank you, and I'll be very brief, as most of these comments have been made in one form or another by the people.

First off, I just hope everyone, when they're voting, use the most marginalized as who I view it as, those that cannot secure paid placements, as Bencher Chi-Kun said.

If you cannot secure a paid placement, you are not assisted by having the ability to take an unpaid placement removed. There's some number of placements that are currently below the threshold that we're discussing. Some of them may be raised because people will say, hey, I am making money off this and this is worthwhile, therefore, time to stop exploiting, as the argument is being made, and that is perfectly fair and we all know it is. As has been discussed, all benchers feel that everyone should be paid.

The question is for the people that cannot make that raise, what do we do and what will be the end result, based on the Ryerson submission,

especially we are in trouble and this will further exacerbate the problem.

On that I would just suggest that anyone that feels that this is a good way of dealing with the articling crisis generally and this will be the straw that breaks the camel's back, it's a fair point and the debate about articling, as has been said, has been going on for a long time.

I had a debate at Runnymede where I was on the side of abolishing a few weeks ago, and I did my best to argue why this is an archaic system that needs to be abolished, but that is not the issue right now. The issue is what will this single decision we are here to make today do and what the effect of that will be.

If you truly believe that the effect will be the straw that breaks the camel's back, please, I suggest to you, do not vote against this motion because if you do, you are basically using a generation of students that will be unable to find placements as cannon fodder. I think that's a bad idea and it's not appropriate. So I would encourage against that voting direction, if that's why you're voting that way.

Finally, just as a general point in terms of this and other issues we vote on, I think it's been great discussion and debate publicly and at

Convocation in relation to this issue. I think everyone is very clear that based on differing philosophical and world views, we all are trying to act in the best interests of students. I'm not necessarily as convinced that the overwhelming majority, as has been said, are in favour of minimum wage. The responses were good, but fairly limited, and as I've discussed with many benchers, and I've shared some of the correspondence I've received, there have been many people that have chosen not to engage in this process, as with many other issues that we debate since I have been a bencher, that have become, frankly, moral issues to a degree, and there is a -- for some there is a correct side and there is a morally reprehensible side. And that does seem to discourage some people from engaging with the process in a way that can skew results that we have.

So all that said, I would encourage everyone to vote in favour of this motion where it's recommended and not mandatory. Thank you very much.

TREASURER DONNELLY: Mr. Braithwaite.

MR. BRAITHWAITE: Thank you, Treasurer.

I don't believe that there's any dispute behind the principle of having paid articles, particularly given it's my understanding from the last recent survey that

about 96 or 97 percent of articling positions are, in fact, paid. It may be within that concept that some are paid below a minimum standard, whatever that may be, but the reality is that we're looking at about three or four percent, and I know Ms. Murchie made reference to five percent. Be it what it may be, these are students that are having difficulty finding articling positions.

It seems to me that we would be throwing an anchor upon them to say that with respect to those -- and, frankly, disadvantaging these particular students by adding even more pressure on them by saying if you do get an articling position, you got to make sure that it's paid. That seems to be counterintuitive at this particular stage.

The issue, in my view, is whether paid articles should be made mandatory and, if so, how much that would be. I think we have run into a little bit of direction of the Employment Standards Act in reference to what are we looking at in terms of minimum, and the number that sort of pops out at that, and I heard reference to one speaker talking about legislation. Well, the legislation that we're talking about is the Employment Standards Act, and this is an act of which, to be very clear to others who are

wondering about the jurisdiction, lawyers, articling students, they are exempt from the Employment Standards Act, and rightfully so, because it's an inapplicable model.

But if we are going to then look at the Employment Standards Act in terms of an hourly rate and presently that hourly rate is \$15 an hour, and so that has projected itself into minimum compensation and we do have to make the distinction between wage and compensation, because wage gets us into the Employment Standards Act. If we're following the Employment Standards Act, then we have to be careful that we don't start -- we become inured in the Employment Standards Act and we don't start cherrypicking various positions of the Employment Standards Act, because then that would get us into not only an hourly rate, but would also get us into issues of overtime.

Given the recent amendments in the Employment Standards Act, it also gets into the problem which is going to be implemented rather shortly as a right to disconnect.

It's for those reasons -- this was generally after five o'clock. For those reasons, the Employment Standards Act, or even following along the lines of the Employment Standards Act as a piece of

legislation we should follow, really emphasizes the inapplicability of the provision to lawyers or articling students. If we are in for the position of anybody working after five, and as Chi-Kun has indicated, it runs into a major problem if you can't get articling students to work after five o'clock, or at that point it's at time and a half. So we run into all kinds of situations if we're going to start measuring what we do by a piece of legislation which is inapplicable to lawyers and articling students.

I'm concerned about adding -- in fact, ironically, we would be adding another barrier to these particular students. So I won't repeat the arguments made by Dr. Alford or Brown or Mr. Klippenstein, Ms. Chi-Kun. I think the arguments they made are right on and I think we have to take serious concern and listen to those particular arguments, and also the impassioned plea of Mr. Bentley.

These are the kinds of concerns that are a concern to me. I believe we also have to look at another perspective. And the other perspective, and to some degree is also a perspective of the firm itself, of the sole practitioner who is hiring these -- and we've already heard and it is accurate, that articling students lose money. There's no question about that.

But the reality is is that it's short term. Because there are different reasons why a firm would pick up an articling student. One reason is they either believe it's a professional responsibility to do so. The other reason is is that they're looking at successors to build their firms and grow their firms for the future. And, thirdly, it's a combination of both. Professional responsibility and growth for the firm to reach the client and provide future services. So there are different reasons.

We also have to look at not all articling students come from the same cloth. We have to look at what is the priority of students. For some students, the main priority is to get through the licensing process, the licensing process, they have to do articling. But for some students who are not coming right out of law school or right out of university, law school and so forth, but some of them are coming off a second job or a third job or a second profession or a third profession. Getting paid isn't their priority, getting through the licensing is.

So if you have a particular articling students that says, listen, would they attend to a small practitioner, a sole practitioner and say, listen, I don't care if I get paid or not, but I do

want that opportunity to be a part of the law firm, to get the mentoring and so forth so that I can get through the licensing process, that is their priority. By making things mandatory, we are taking away that opportunity for some of these students to get through the licensing process. So that in itself creates a barrier.

With respect to -- finally, let me say this. With respect to the hours that an articling student may work, if you calculate all of the hours, and this is a concern with unintended consequences, if you calculate all of the hours we would be asking the articling students and calculate all the hours they actually work, if you're going to measure yourself against the Employment Standards Act, which would be 15,000 hours -- and they divide the number of hours they've actually worked into the compensation rate that they're getting, let's say --

TREASURER DONNELLY: Sorry, Mr. Braithwaite, could I please ask that you wrap up.

MR. BRAITHWAITE: Yes, I am wrapping up. If they divide it into -- it may turn out that they've actually worked less than 15.50 an hour, and if that's the case, then this is -- how do we enforce that? There are some unintended consequences and I just

wanted to bring that to your attention. Thank you.

TREASURER DONNELLY: Thank you.

Mr. Wellman, I saw you had your hand up at one point, but it's down now. Is that on purpose?

MR. WELLMAN: Yes, I have nothing to add. Thanks.

TREASURER DONNELLY: Thank you. Mr. Rosenthal.

MR. ROSENTHAL: Thank you. I know Mr. Alford meant no disrespect, but I need to comment on something Mr. Alford said.

Mr. Alford called the LPP the last chance. I think that's unfair. The LPP is a fantastic program. The students who take it come out as fantastic, experienced lawyers. I know Mr. Alford meant no disrespect.

I'm voting against this motion. The profession overwhelmingly spoke in 2018. The profession overwhelmingly spoke in 2022, just a month ago, but, most importantly, the students, the students who we don't give a seat at this table, the students who we don't allow to elect someone to sit at this table, the students we don't invite to PD&C on a regular basis, the students whose lives have been really put in upheaval because of what happened to the

exams, their views are clear.

Their association has reached out, and their view is clear, and this decision impacts them more than anyone else. If we have a problem with articling, we can solve it, but the solution is not to allow people to work for less than a minimum wage, and that's what this debate is about.

It's not about mandatory hours, it's not about maximum hours, it's not about, as Mr. Charette says, putting associate salaries on the table. That's not what it's about. It's not saying that the Employment Standards Act is going to apply. But if this bench gets rid of minimum wage, what we are saying is that we know better than the profession, we know better than all of the students who have reached out to us, and I'm sorry, but we do not.

This is a debate about the politics of minimum wage loss. Someone posted a video advocating that minimum wage loss actually lower wages. This is about whether we're going to allow our profession to employ people below the minimum wage, and that makes our profession look ridiculous. It gives a black eye to our profession. We know better than everyone else, and we don't.

We've reached out for consultation and

the consultations are clear. We can't make this decision based on bald conclusory statements about how many positions Mr. Bentley, who I greatly respect, thinks will be lost. He doesn't decide, and there's no support for what his position does. What we have to remember is we have been exempted from the Employment Standards Act, and if this bench chooses to allow for unpaid articles or articles below minimum wage, the folks up at Queen's Park may take a look at why they granted us this exemption and they may say, you know what, we're not going to allow an exemption from the Employment Standards. So if you want to get into how many people are allowed to work, how many hours they're going to be allowed to work, we don't want the government to say the Employment Standards Act applies. They exempted us for a very good reason, and it's not too much to say that we are going to allow people to work for free. That's illegal in every other job.

Sure, if you lowered minimum wage, if it was \$15 and you lower it to five, you're right, you could hire three people at that wage, to use that sort of logic. It makes our profession look worse.

I'm not sure that anyone has been to a cocktail party and you say you're a lawyer and someone says, oh, that's the greatest profession in the world,

we love lawyers. We're not a love profession. And we actually want to say to the public we want people to work for free?

I'm going to vote strongly against this motion. The profession has spoken. The students have spoken, and we should not be saying you got it all wrong, folks, just trust us, and that's what people are saying. We've got this, we'll take care of you. It's wrong, it's wrong on every basis. There may be a solution to fix articling, it's not allowing people to work for nothing. Thank you.

TREASURER DONNELLY: Mr. Ross.

MR. ROSS: Thanks. I'll be really brief.

I guess I'm struggling to find out where the fight is, because there seems to be some pretty significant consensus on all the really important issues, and to be honest, I find this to be the case regularly with this Convocation.

There seems to be consensus that there should be mandatory minimum payment of articling wherever possible, on both sides of this argument. Everyone has started, whether they support the motion or reject the motion, with notionally everyone who is articling should be paid wherever possible. That's

agreed upon.

It's agreed upon that the most profoundly affected by this particular situation are the most vulnerable, those with the least power to negotiate and advantage themselves in the system. Those without network. That's agreed upon, both those supporting and rejecting the motion.

It's agreed upon that there are those certain high quality placements that should be given some exception due to economic reasons so that they can continue to offer articles. It's agreed upon.

It strikes me as fascinating that this is exactly what was contemplated in the original iteration that we are now debating a second time, so I think that there's something else afoot, and I have not yet been able to figure out what it is, but hopefully those wiser than me can. I can't see how when those people we all agree are most profoundly impacted have spoken themselves and said we want you to mandate a mandatory minimum, that we take the highly paternalistic and, indeed, potentially arrogant view that they are not the arbiters of what's in their own best interest, that we are, to echo my friend's comments a moment ago.

This situation strikes me as one that

has been solved, and that is being reargued with the approach that the market is the only determining factor and that we have no place informing the market.

Granted, the regulator is the regulator and the market is the market and never the twain shall meet, but in this instance they have. And to the extent that the regulator creates a regulatory framework that in any way tacitly or implicitly allows for what is akin to indentured servitude is shocking. As such, I will be voting strongly against this motion. Thank you.

TREASURER DONNELLY: Thank you.

Mr. Burd, and then we'll go from Mr. Burd to our last speaker, Mr. Falconer.

MR. BURD: Thank you, Treasurer. I have, first, a question that I'll pose and then I'll go right into my submissions, and then maybe Ms. Murchie can answer the question afterwards.

So my question procedurally is the 2018 package that we approved was not implemented, at least that's from my understanding. Ms. Murchie, you commenced your submissions about that, that if we vote against this, that your committee will have to continue to look at what those measures are that are still unresolved from the 2018 Convocation approval, and so

my question is, what would be the status quo if today Convocation voted against the motion that's before us today.

So that's my first question, and I'll go right into my submissions. So I have been here as a bencher for twelve years. This articling issue has been around since I have been here, and probably before that, and I've heard all sides and I agree with all sides.

This is one of those arguments where you can agree on both sides, because I do believe for those that are in favour of this motion that people will be affected. There will be positions lost, even the chair, Ms. Murchie, said she believes that even Mr. Bentley's although exaggerated 600 may be somewhere in the likelihood of 300 jobs lost.

There is no perfect answer and the reason why there's not a perfect answer is because articling is not a perfect situation. We have heard from students from time ago, the first time I was here we heard about inequality of articling placements. So this is one way of balancing the inequality, by affording everybody minimum compensation.

We don't control the quality, necessarily, of the placements of articling and, as a

result, the least we can do is ensure minimum compensation. So I will be in support of the minimum compensation and will be voting against the one today that's before, but what I do want to say to the committee is we really need to look at, regardless of which way this goes, on answers, because if what Mr. Bentley says is correct, we need to find solutions. And I like what Mr. Graham said, and others, that there are other avenues that we should be looking at to resolve the issue if we're going to maintain articling.

I personally have always been in support of abolishing articling and I hope one day we do get to that. I know I won't be around.

The good news about today's story is that at least the students' voice has gotten heard, and I think that was loud and clear and I think we can't ignore it. That's why I'm supporting the minimum compensation. Thank you.

TREASURER DONNELLY: Thank you. Mr. Falconer. Mr. Falconer, if you're speaking we can't hear you.

MR. FALCONER: Thank you, Treasurer. I'm assuming my audio is working and you can hear me now?

TREASURER DONNELLY: Yes, we can.

MR. FALCONER: Thank you. Treasurer, I will be voting against the motion and I would simply cite my reasons as follows.

First of all, I don't believe that one's background is determinative on which way -- professional background is determinative on which way you're going to vote.

Perfect example is you've heard from sole practitioners who indicated their lengthy time in the profession as a sole practitioner servicing quote, unquote, real people. I want to distance myself from those remarks and simply say that I have been, out of my 33 years of practice, 31 years as a small firm practitioner. I consider all of us as lawyers serving real people, it's just we serve different perspectives. And as a small firm practitioner, I wholeheartedly favour ensuring a minimum wage for articling students.

I want -- we talked about the fact that firms, organizations, individual students all favoured a minimum wage in large numbers.

We adjourned this motion last November because we didn't consult appropriately, then we consulted. I simply want to provide the numbers that appear at page 314 of BoardBooks. We heard from 165 respondents. Of the 165 respondents, 155 voted or

opted in favour of a minimum wage and would support opposing this motion. 22 of the 24 organizations all voted -- elected in favour of a minimum wage, 133 of 141 individuals. An overwhelming substantive response that when we -- if we voted in favour of this motion, ignore, we have to come to terms with how we are out of touch and tone deaf.

I want to speak to the issues that Bencher Lewis so eloquently spoke to, which are the equity issues that flow from all of this.

If you look across society, whether it's maximum or limits on rent hikes, whether it's minimum wages across society, every time these issues are debated there is a talk about a potential loss to the economy or job loss or economic loss by implementing regulation, and it then becomes a political football. I just want to emphasize, in our instance we're in a much weaker position to have that discussion.

Why do I say that? There's a famous management consultant, American professor, Peter Drucker, who once said, and it's gone through time as a quote, "You can't manage what you don't measure". We don't measure the issues, so we have the head of Metropolitan talking 600 losses, our committee says 150 job losses, and then there's a suggestion we end up

somewhere in the middle. What an embarrassing way for a very well resourced regulator to make decisions. You can't manage what you don't measure. We need to start measuring this stuff so these conversations have an element of credibility when we talk numbers.

What we do know right now is that the vast majority of these positions are paid, meaning the impact by requiring a minimum wage is going to be negligible. What that impact is we haven't measured, so we can't manage it.

But I want to move on from that to actually look at what we have learned. We have learned that there are portions of the profession that at different times need help, and we have responded historically. A perfect example is PLAP, the Parental Leave Assistance Program.

I want to emphasize that if we identify a gap, people that need help as a result of requiring the minimum wage, then the obvious answer is to create criteria for giving the help, giving the supports, and then make those supports available.

When Bencher Brown referred to nothing comes out of our pocket, I say it should come out of our pocket, it's part of our job. And to finish about our job, the suggestion that we should not be involving

ourselves in the conduct of the practices of law firms, I find this a startling revelation. That is our job as a regulator. That's what we're entrusted in the public interest to do, involve ourselves in the practices of law firms. And I want to emphasize, I wholeheartedly oppose the notion of creating a wild, wild west in terms of payment for people who are otherwise vulnerable.

The obvious answer is a minimum wage and what that minimum wage will do is send a very important message across this profession and across this province that the Law Society is not out of touch with organizations, the Law Society is not out of touch with students, and the Law Society is not out of touch with basic principles of labour and equity.

We get a service from articling students. I've enjoyed the service of articling students. I, because of offices in Thunder Bay, have been honoured to receive placements from Lakehead, and I can tell you I have lawyers who work for me today arising out of that wonderful work.

All I can tell you is the full package tells me one thing. We know in 2022 that the right thing to do is the minimum wage. It is a no brainer and it reflects a serious regulator that is out of

touch if we were to fail to implement that minimum wage. So I thank you, Treasurer, and that concludes my comments.

TREASURER DONNELLY: It feels like we went full circle from Mr. Brown saying what was the right thing to Mr. Falconer saying that was the right thing, and what I'm just going to say to you is there is no right and wrong. This has been a very thoughtful, lengthy, intense debate where everybody has had an opportunity to take their position.

We're going to move to a vote now. It's going to be a recorded vote. Before we do that, Ms. Murchie, I'm going to ask you to remind us, as you've reminded us twice, maybe three times already, what a no vote means and what a yes vote means.

MS. MURCHIE: Thank you, Treasurer, I'm happy to do that. A yes vote means a vote for best practices and not mandatory compensation. A no vote means a vote for mandatory compensation.

TREASURER DONNELLY: Mr. Adourian, you seconded the motion and I forgot to go back to you. Is there anything you wanted to say?

MR. ADOURIAN: No, I was hoping that you would forget that you were going to come back to me. I think all sides have been canvassed and I'll just leave

it at that. Thank you.

TREASURER DONNELLY: Thank you.

SECRETARY: Mr. Adourian?

MR. ADOURIAN: Yes.

SECRETARY: Professor Alford?

PROFESSOR ALFORD: Yes.

SECRETARY: Ms. Banning?

MS. BANNING: No.

SECRETARY: Mr. Braithwaite?

MR. BRAITHWAITE: Yes.

SECRETARY: Mr. Brown?

MR. BROWN: Yes.

SECRETARY: Mr. Burd?

MR. BURD: No.

SECRETARY: Mr. Charette?

MR. CHARETTE: Yes.

SECRETARY: Mr. Chiumminto?

MR. CHIUMMIENTO: Yes.

SECRETARY: Ms. Corbiere?

MS. CORBIERE: No.

SECRETARY: Ms. Corsetti?

MS. CORSETTI: No.

SECRETARY: Mr. Desgranges?

MR. DESGRANGES: Yes.

SECRETARY: Mr. Epstein?

MR. EPSTEIN: Yes.

SECRETARY: Mr. Esquega?

MR. ESQUEGA: No.

SECRETARY: Mr. Fagan?

MR. FAGAN: Yes.

SECRETARY: Mr. Falconer?

MR. FALCONER: No.

SECRETARY: Mr. Goldstein?

MR. GOLDSTEIN: Yes.

SECRETARY: Mr. Graham?

MR. GRAHAM: Yes.

SECRETARY: Mr. Groia?

MR. GROIA: No.

SECRETARY: Mr. Horgan?

MR. HORGAN: Yes.

SECRETARY: Ms. Horvat?

MS. HORVAT: No.

SECRETARY: Mr. Klippenstein?

MR. KLIPPENSTEIN: Yes.

SECRETARY: Ms. Lalji?

MS. LALJI: Yes.

SECRETARY: Dr. Lau?

DR. LAU: No.

SECRETARY: Ms. Lean?

MS. LEAN: Yes.

SECRETARY: Mr. Lesage?

MR. LESAGE: No.

SECRETARY: Ms. Lewis?

MS. LEWIS: No.

SECRETARY: Ms. Lippa?

MS. LIPPA: Yes.

SECRETARY: Ms. Lockhart?

MS. LOCKHART: No.

SECRETARY: Ms. Lomazzo?

MS. LOMAZZO: No.

SECRETARY: Mr. Lyon?

MR. LYON: Yes.

SECRETARY: Mr. Marshall?

MR. MARSHALL: Yes.

SECRETARY: Ms. Merali?

MS. MERALI: No.

SECRETARY: Ms. Murchie?

MS. MURCHIE: No.

SECRETARY: Ms. Painchaud?

MS. PAINCHAUD: No.

SECRETARY: Mr. Parry?

MR. PARRY: Yes.

SECRETARY: Mr. Poliacik?

MR. POLIACIK: Yes.

SECRETARY: Mr. Pollock?

MR. POLLOCK: Yes.

SECRETARY: Mr. Prill?

MR. PRILL: Yes.

SECRETARY: Mr. Rosenthal?

MR. ROSENTHAL: No.

SECRETARY: Mr. Ross?

MR. ROSS: No.

SECRETARY: Ms. Sellers? Mr. Sheff?

MR. SHEFF: No.

SECRETARY: Ms. Shi?

MS. SHI: Yes.

SECRETARY: Ms. Shin Doi?

MS. SHIN DOI: Abstain.

SECRETARY: Ms. Shortreed?

MS. SHORTREED: No.

SECRETARY: Mr. Spurgeon?

MR. SPURGEON: No.

SECRETARY: Mr. Troister?

MR. TROISTER: No.

SECRETARY: Ms. Walker?

MS. WALKER: No.

SECRETARY: Mr. Wellman?

MR. WELLMAN: No.

SECRETARY: Mr. Wilkes?

MR. WILKES: Yes.

SECRETARY: Ms. Wilkinson?

MS. WILKINSON: No.

SECRETARY: The motion fails, Treasurer,
24 for, 25 against, and one abstention.

TREASURER DONNELLY: We're going to take
a brief break before we move on to the next. Just a
five minute break, just a really quick five minute
break.

--- Recess taken at 12:16 p.m.

--- On resuming at 12:22 p.m.

TREASURER DONNELLY: Welcome back,
everyone. We're going to turn now to the next item on
our agenda, and that agenda item is we're going to hear
from Ms. Lippa for the Human Rights Monitoring Group
report, request for intervention. Ms. Lippa. Ms.
Lippa?

MS. LIPPA: My apologies, Treasurer. If
I may have a moment. Perhaps we can go to another
item.

TREASURER DONNELLY: Yes, I'll do that.
I'm going to the LAWPRO annual report. Mr. Spurgeon.

-- LAWPRO ANNUAL REPORT:

MR. SPURGEON: Thank you, Treasurer. I
appreciate you calling upon me.

I have to express my regret for not

being able to be there in person. It was a last minute thing. I wish I was there, because you look much happier all being there together in the room, and I wish I was there.

I want to thank you, Treasurer, for this opportunity to provide an overview of LAWPRO. LAWPRO's 2021 financial statements are in Diligent at tab 5.

You can read them also online at LAWPRO.ca/annualreport. For a detailed background of my comments today, I suggest you review the annual report, as it has information about LAWPRO operations beyond that included in the basic financial statements.

LAWPRO continues to successfully navigate the many challenges of the COVID-19 pandemic. It is well positioned to identify and cope with emerging risks and respond to the evolving nature of legal services work. For more than 30,000 lawyers who are insured under the primary program, the company also has a deep understanding of medical -- sorry, malpractice risks and claims trends.

I would like to take a moment to reflect on LAWPRO's focus on offering the best coverage at the lowest possible premium. Over the last ten years, the company's combined operatopm ratio has averaged 107 percent. This means that on average we lose seven

cents on every dollar of premium before investment income. The ratio reflects our commitment to providing affordable insurance to members of the Ontario bar.

LAWPRO investments generally make up the loss and allow the company to comply with regulatory requirements and remain a going concern.

LAWPRO, as an insurance company, is regulated by Ontario's Financial Services Regulatory authority, or FSRA for short. FSRA's attentions focused on LAWPRO's solvency.

In 2023 new worldwide international financial reporting standards, known as IFRS 17, will become applicable to the financial statements and reporting requirements of insurance companies. Like other insurers, LAWPRO must completely overhaul its financial statements and reporting methodologies effective January 1, 2023.

LAWPRO's solvency is measured in part by what we know as the minimum capital test, also known as the MCT. This is a measurement to help determine whether a property casual insurance company's assets are sufficient to meet its present and future obligations.

In December, LAWPRO's MCT was 214 percent. That is just slightly above our preferred

band range of 215 to 240 percent. The strong MCT position will help the company make any adjustments that might be required due to unforeseen risks and as part of the upcoming IFRS 17 requirements.

However, based on our external -- based on input from our external advisors, actuarial and accounting professionals, we will not have a full understanding of the impact of IFRS 17 on our MCT until the middle of 2023. As regulators that work in the insurance space, FSRA and the Office of the Superintendent of Financial Institutions at the federal level, OSFI, may calibrate MCT requirements based on the 2023 industry results, it could be 2024 before we truly know the full impact of IFRS changes on LAWPRO. There is a possibility that these changes could result in premium increase.

I would like to talk a little bit about claims trends in 2021. The highest number of claims continue to be related to real estate and civil litigation, represented by 54 percent of all claims. The number of real estate claims increased to 719 from 609, and litigation related claims increased to 699 from 549.

The number of litigation claims is still fewer than in 2019, which may reflect the pandemic

related slowdowns in the courts. As court activity continues to increase, we may see a corresponding increase in litigation-related claims.

Communication mistakes and inadequate investigation continue to cause challenges for insureds. We often see claims when lawyers have not uncovered all the facts or developed a sufficient understanding of a client's matter. This is categorized as inadequate investigation and led to 649 claims in 2021.

Whether it's misreading or not reading information on a document, not conducting a research -- a search or not researching thoroughly, it is important to make sure clients understand their risks, and those discussions are documented. We encourage lawyers to ask about client circumstances to ensure everything is taken into account. Not knowing key information can cause significant problems.

To talk a little bit about the broader insurance market, it is interesting to note what's happening in the broader insurance market. In its global errors and omissions in cyber market review, the insurance broker AON observed that E&O and cyber insurance rates increased 137 percent compared to last year. AON also reported that E&O and cyber insurers

have been implementing more strict underwriting requirements.

As the external environment becomes more complex, with new and growing cyber dangers, increased privacy risks and complicated business structures, our underwriting team and actuaries analyze our position to carefully balance possible risks with keeping premiums low.

Another part of these efforts is finding ways to help lawyers avoid claims. The Practice Pro program continues to evaluate the claims scenarios we see and educate lawyers about ways to avoid undue risk. For example, there has been a recent increase in funds transfer fraud. This involves fraudsters hacking into e-mail accounts to impersonate vendors or lenders, opposing counsel or firm staff to convince lawyers to transfer funds to bank accounts under the control of the criminal. This is most common in real estate, but it is present in all areas of law.

The attacks are usually carried out through a spoofed e-mail. Just before closing, the criminal will send an e-mail pretending to be the vendor or a client requesting a change in the direction of payment. Often fraudsters cover up that the money is being misdirected by diverting e-mails to a new

e-mail address, which makes it harder for the victims to recognize that the crime has been perpetrated.

There is a simple solution to prevent this type of fraud. I urge you to share far and wide the importance of making sure everyone in a firm knows that any change in payment instructions or banking information needs to be verified through a phone call to the person specifically asking for that change.

So what's new at LAWPRO -- in LAWPRO's operations. Like any other company, it is important that LAWPRO continues to look for new ways to improve service and gain efficiencies.

In 2021 LAWPRO was deeply involved in the process of implementing two of its largest projects in its history. The first major project is an ambitious plan to modernize our core technology systems and improve user experience for both insureds and employees. By working with established technology providers, we are creating purpose-filled systems that integrate policy administration, billing, underwriting, claims management and analytics.

The project is complex, as it involves transitioning the many data sources that feed our underwriting claims, actuarial, insured and firm information data bases, reviewing and updating hundreds

of document templates, and building integrations with our existing systems and third parties with which we share data. It's an exciting, yet daunting project that will benefit the organization and our insureds through greater efficiencies from improved work flows and automation.

The second major project we undertook in 2021 was the exciting launch of the better, faster and lawyer centric TitlePLUS experience. This project includes an intuitive application website, the implementation of TitlePLUS legal counsel fees to recognize the work of lawyers, separate owner and lender policies, and clearer understanding of policy -- underwriting policy issuance.

Importantly, the new TitlePLUS is accessible on multiple platforms, including TitlePLUS.ca, Realtyweb and Unity. Our related title insurance company is an important factor in keeping real estate transactions under the purview of lawyers and we are proud of our longstanding commitment to supporting Ontario lawyers with TitlePLUS insurance program.

In conclusion, we continue to focus on finding ways to adapt, be resilient and offer coverage that meets the needs of our insureds. We have already

started the consideration of changes that will come for the 2023 insurance program.

I thank everyone on the LAWPRO team for stepping up and responding to all the challenges we have faced. A full LAWPRO report is available at lawpro.ca/annualreport, as it is in Diligent, if you would like to read more in detail.

I thank you for your attention and I or Mr. Pinnington, with your permission, Treasurer, will be happy to answer any questions.

TREASURER DONNELLY: Thank you. I see that Mr. Klippenstein and Mr. Horgan have a question. So Mr. Klippenstein.

MR. KLIPPENSTEIN: Thank you, Treasurer, and thank you, Bencher Spurgeon.

For the benefit of our general membership and licensees, to follow up on a point you mentioned, which you have mentioned before and which is obviously significant, which is the new international regime of IFRS 17, which is, I gather, major changes from outside beyond your control, but you mentioned it might result in higher premiums and I wonder if, for our benefit and the general licensee membership, can you give the gist of why that might result in premiums, for example, I'm guessing through all those very

complicated changes there's probably some higher asset to risk ratio that's required. Is that what's going on, just so -- in case members are interested if they see future premium increases they will have some idea of what the -- what this complicated provision is requiring you to do and why.

MR. SPURGEON: Yes, I'll defer to Mr. Pinnington for a more detailed explanation, but the basic thrust of it is that it might impact our capital requirements at the end of the day.

The actual implementation of completely revising the manner in which we account for and report our financial position is actually, in itself, an expensive proposition. We have had to expend significant monies just to redo the system. So we're not really sure how it will all shake out at the end of the day because these systems -- these new standards are being brought into place and it will take a while for it to work itself out.

I'm going to turn it over to Mr. Pinnington to more fully flesh it out to you.

TREASURER DONNELLY: Thank you.
Mr. Pinnington, just briefly.

MR. PINNINGTON: Thank you, Treasurer.
The intent of the IFRS standard is to have a global

consistency in terms of how financial entities report their results, and there's a specific set of requirements for insurance companies. Those changed requirements have us stating or presenting our financial results in a completely different manner and, as was suggested, indeed, we think it's likely that the changes being implemented will result in a change to our capital requirements.

As I've mentioned in the past, we have certain capital requirements. We try to keep within a particular range, because things go up and down for us during the year and the markets go up and down, and we have been recently successful in staying within that range, with the exception of the recent drop slightly below when the pandemic first hit.

We are in the process of reviewing 14 different technical papers that are pages and pages of rules on how to measure, come up with final results on financials. We're not fully through those requirements, even the regulators are unable to tell us exactly with specificity how to interpret some of the requirements at this point in time.

These new standards are effective. We have to start reporting to them January 1 of next year. Our expectation is the regulators are going to wait and

see how these new changes impact different entities and they will quite possibly, based on those results, recalibrate them in later 2023 or into 2024. So it will be 2023 or even 2024 before we fully know the impact.

The good news is that when -- generally when these types of changes happen there's a sometimes transition role that let organizations that are hit in an extreme direction, one way or the other, some time to adjust. We are actively updating our regulator, FSRA, on the status of our effort to comply, and anticipate working with them if there are negative impacts, i.e., increased requirements for us on the capital side that we will work to phase those in as best we can.

Important to note that because we are run like a not-for-profit insurance company, the yardstick for us kind of works in a different way than it does than for for profit organizations. That may mean at the end of the day, because we run closer to the break even point, that the capital requirements as they would be applied to others may have a bigger impact on us, but we're only going to know that when we get kind of a better idea what our actual results are, what the results that other entities are seeing and

what the regulator does in terms of adjusting those new requirements.

So long way to say at this point in time can't even give you a ballpark figure on what the impact might be on premiums.

TREASURER DONNELLY: Mr. Horgan.

MR. HORGAN: Thank you, Treasurer. Perhaps this is for Mr. Spurgeon, but perhaps for Mr. Pinnington.

At page 36 of Diligent we have the statement of revenue and losses, and the big swing number, it appears to me, is not so much in the operations categories, but in the investment income, which was reported at 46 million in 2020 and down to 9 million in 2021 in a year in which I would have thought there would have been some positive investment results.

It then refers me to note 5. I go to note 5D of 381 of Diligent and the big swing number in that table is the change in net unrealized gains from a positive of 13 million in 2020 to a net loss of close to 14 million in 2021. There's also reductions in interest, reductions in net realized gains.

I know that LAWPRO changed its investment advisor, I believe it was in late 2020. I'm

just wondering if there's a further explanation for the not so impressive results on the investment side.

Thank you.

MR. SPURGEON: Do you want to handle that, Dan? I can speak to that to some degree.

You know, the vast majority of LAWPRO's investments are in the bond market. So with the irony about what's going on in the bond market, is that as interest rates go up, the bonds we hold, our yield goes down, we only get to take advantage of those things as those bonds come to their conclusion, we buy newer bonds at higher rates. That's an interesting issue we face. About 80 percent of our investments, 75 to 80 percent are in bonds.

With respect to the issue of position in equity markets, we did change our investments. We had -- and moving into 2020 -- and had impacts in 2021 and had certain unrealized losses there.

The interesting thing is over the longer period of time we have been very successful with our investments and they have been -- they are there to moderate the volatility of our position, enabling us to maintain stable premiums. So as -- you know, it really depends, because only about 20 percent of our total portfolio really is in the equity market and that tends

to be very conservative and it's targeted based on our policy of capital retention, and not only trying to seek maximum profit, but to maintain capital. If there's anything else you wanted to mention, Dan.

MR. PINNINGTON: Sure. The key point here is that we invest for capital preservation rather than capital growth, and we do that by diversifying our investments across the two portfolios, one that is largely fixed income based, the other that gives us some exposure to the markets.

The result last year -- in any given year up or down always has to be measured, and the figure you're referencing mentions the year before. Remember what happened to the markets the year before. There was a substantial run-up in the last six months and this year some more stability.

So in the longer run, and I could say on the fixed income front, we actually had a yield of 2.62 percent on our bond portfolio last year, as opposed to 2.5 percent the year before, so we actually did better on our bonds last year and I think the unrealized gains and losses come from the fact that we made a change in one of our investment managers, which have triggered that within the portfolio.

TREASURER DONNELLY: All right. Thank

you very much, Mr. Spurgeon and Mr. Pinnington. Thanks for joining us today.

We're going to move on, then, to another item on the agenda for decision, and that's the Human Rights Monitoring Group Request for Intervention. I understand now, Mr. Falconer, you're moving that.

-- HUMAN RIGHTS MONITORING GROUP REQUEST
FOR INTERVENTION:

MR. FALCONER: That's correct, Treasurer.

TREASURER DONNELLY: Thank you.

MR. FALCONER: Treasurer, if I could ask benchers to direct their attention to tab 4 of their materials. There's a proposed letter and public statement for review, as well as an introductory memorandum.

This concerns the proposed interventions on behalf of legal counsel, Mohammad Najafi, in respect of his ongoing detention by the country of Iran.

I pose the following question, which will make some sense if people have regard to page 327 of BoardBooks. How could a recipient of the 2019 Human Rights Award, known for his courage, determination and commitment to defending human rights by the Council of Bars of Law Societies of Europe be in jail for his

ongoing courageous representation of his clients? And that's exactly the circumstances we find ourselves in.

Mohammad Najafi of Iran has the unanimous support of the Human Rights Monitoring Group. In 2018, he was arrested for shining a light on the suspicious death of his client, a young protestor who died in police custody after participating in anti-government demonstrations.

Mr. Najafi claimed his client was killed by state agents, who tried to cover up his murder by claiming he died by suicide. Mr. Najafi himself was subsequently convicted of disturbing the public order and publishing false information and sentenced to three years in prison and 74 lashes.

Following this initial sentence, other sentences have been heaped on Mr. Najafi. In the latter part of 2019 Mohammad Najafi was sentenced to an additional 14 years, the offenses being called propaganda against the state, insulting the supreme leader, et cetera.

In 2019 he was sentenced to another three years, in 2020 he was sentenced to another six months, and in 2021 he was charged with propaganda against the state for calling on a boycott in respect of the presidential elections.

He has been courageous in the face of ongoing detention and torture and, frankly, he makes our profession proud.

What I would encourage my colleagues to review is the serious health issues that he has had to endure while in custody. I want you to have regard to the reality that as recently as August 2021 he has been -- suffered a heart attack and that he was denied medical furlough or treatment outside of the prison until months after his heart attack. He actually got treatment by being on a hunger strike.

The situation is sad and atrocious and, of course, the Human Rights Monitoring Group sees it as an appropriate case to intervene.

On that basis, Treasurer, we respectfully offer the letter of intervention. My seconder is Bencher Wellman, and so I turn it over to him for his comments.

TREASURER DONNELLY: Thank you. Bencher Wellman.

MR. WELLMAN: I'll defer, Madam Chair.

TREASURER DONNELLY: Thank you. Is there anyone -- I don't see anyone in the room who wants to speak to this or anyone on Zoom, so I guess I'm back to you, Mr. Wellman, if there's anything you

wish to add.

MR. WELLMAN: I'm pleased to stand and speak in support of the motion. The Law Society of England and Wales has called Mr. Najafi's imprisonment part of a continuous pattern of threat and intimidation aimed at silencing his legitimate work as a lawyer and has called for his release, as has the Council of Bars and Law Society for Europe, Lawyers for Lawyers and Centre for Human Rights in Iran. So by issuing the public statement and the letter of intervention, the Law Society of Ontario will be joining these international calls for the Iranian government to immediately reform its practices and respect the human rights of lawyers, paralegals, judges, and human rights defenders. So that's what I have to say, thank you.

TREASURER DONNELLY: Thank you very much. We're going to -- in the room, all those voting in favour, could I see from a show of hands, please. On Zoom, could you use the check buttons and raised hand function for abstain.

Is there anyone in the room abstaining?
Mr. Charette. And I see Ms. Shi and Mr. Desgranges are abstaining as well. The motion passes.

Now, we are going to -- that completes our public portion of our agenda. I'm going to ask

that we now go in camera.

--- Public proceedings adjourned at 12:49 p.m.

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