

CONVOCATION

IN PUBLIC SESSION

TUESDAY, JUNE 28, 2022 - 9:00 a.m.

OSGOODE HALL, TORONTO

(Via videoconference)

CONVOCATION ATTENDANCE

Treasurer - Jacqueline Horvat (V)

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

Jonathan Rosenthal

Quinn Ross

Chi-Kun Shi (V)

Julia Shin Doi

Megan Shortreed

Cheryl Siran

Andrew Spurgeon

Sidney Troister

Tanya Walker (V)

Alexander Wilkes (V)

Claire Wilkinson

Nicholas Wright (V)

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

SECRETARY: Good morning, everyone, and welcome to Convocation. I'm James Varro, secretary to Convocation.

I would like to confirm the results of the Treasurer election on June 15, 2022, and that Jacqueline Horvat has been elected treasurer of the Law Society of Ontario for the 2022, 2023 term --

-- Applause.

SECRETARY: -- and takes office today in accordance with by-law 3. Congratulations, Treasurer. Please address Convocation, Treasurer Horvat.

TREASURER HORVAT: Can everyone hear me? I apologize -- I think I missed part of the beginning. I couldn't hear. Did I miss the intro? No? Okay.

BENCHER: You're the Treasurer.

SECRETARY: Yes, I introduced you as Treasurer for the 2022, 2023 term, Treasurer Horvat, and you're now invited to address Convocation.

MR. WELLMAN: Are we waiting for Jim Varro to do the intro?

MS. HORVAT: That's my understanding. Jim is supposed to begin Convocation.

MR. POLLOCK: I vote for Doug to do the intro today.

SECRETARY: For those in the room who actually can hear me, we're going to take a break and revisit this --

MS. HORVAT: Sorry, apparently Mr. Varro did an introduction in the room, but none of us on the Zoom can hear him.

--- Off-the-record discussion.

SECRETARY: Good morning, everyone, and welcome to Convocation. I'm James Varro, secretary to Convocation.

I would like to confirm the results of the Treasurer election on June 15, 2022, and that Jacqueline Horvat has been elected Treasurer of the Law Society of Ontario for the 2022, 2023 term and takes office today in accordance with by-law 3. Congratulations, Treasurer.

-- Applause.

-- TREASURER'S REMARKS:

TREASURER HORVAT: Thank you. Thank you, Mr. Varro. Can everyone hear me now? Okay.

So I'm honoured to be elected Treasurer and I look forward to working with all of you as we continue the important work of the Law Society until the end of this bench term.

And in these days of hybrid meetings, I

am pleased to be able to join you today remotely from Taormina, Sicily. I thought that we would have technical issues at my end, but it seems that the issues were in Toronto this morning.

I would like to begin by thanking Emeritus Treasurer Donnelly for all that she has contributed to the Law Society over the last two years and beyond. I am honoured to take over from you as just the sixth woman to serve as Treasurer and the first time that two women have been elected back to back in the 225 year history of the Law Society.

It is a privilege and an honour to call you my friend. Your term as Treasurer throughout the pandemic will have a unique place in the Law Society's history. You rose to the challenge and adapted to ensure that the Law Society continued to fulfill its mandate to regulate Ontario's lawyers and paralegals, but also ensured that, as the regulator, we were supporting our licensees through their challenges.

You are a true champion of mental health, supporting the mental health and wellbeing of lawyers and paralegals at a particularly critical and unprecedented time.

You continue to champion equality, diversity and inclusion within the legal professions.

You have been committed to advancing the Law Society's work under the Indigenous framework and your recent visit to the northern communities illustrated how important that was to you.

The Law Society, the professions and our stakeholders greatly appreciate your dedication to our public interest mandate. You certainly left your mark on the organization and I know that we will all wish you well and look forward -- and look forward to seeing what comes next for you.

I suppose I am having some technical issues. Can everyone still hear me? Apologies for that, thank you.

Now, before we get to the business of Convocation, I am going to take this opportunity to thank a few other people who are important to me and who I rarely have an opportunity to properly thank. The first is my family. I don't ever get a chance to thank them publicly, and now that I have an audience in the room at Osgoode and on Zoom and the webcast, and there will be a transcript for future generations, I'm going to take full advantage.

I would first like to thank my parents, Michael and Violet. They still don't fully understand what a bencher of the Law Society is, let alone the

Treasurer of the Law Society, but their support and guidance have made me the person I am today and I wouldn't ask for anyone else to hold my hand and lead me into adulthood.

Next I just want to acknowledge my grandparents, Joseph and Anne Kovacic and Michael Michael and Marija Horvat. They left everything they had in what is now Croatia and Slovenia and came to Canada with nothing, knowing no one and speaking neither English nor French. They taught me about hard work, commitment, courage and taking a chance.

Next my little nieces, Jaylyn and Alexa, who inspire me to be what I hope they will picture when someone asks them what a kind and successful leader looks like, and they inspire me to fight to protect their rights to be whatever and whoever they want to be when they grow up and to do with their bodies whatever they choose to do.

I'd like to acknowledge my law partners, Sanjay Kutty and Jeff Rosekat, for being unconditionally supportive and covering for me more than once too often so that I could find the time to be a bencher and now the Treasurer. Thank you both for always backing and supporting me.

And thank you to all of my friends and

other loved ones who have supported me and put up with me over the years. I am grateful every day to have such a vast and diverse support network.

And now I want to end my remarks with something that I hope you all take back to your offices and your legal communities. I was raised in a middle class family in Windsor; my dad was a retired auto worker and my mom is a retired civil servant. Neither one of them was born in Canada. I had no lawyers in my family, I didn't know any lawyers personally before I started law school, but the law is a mentoring profession, as we have all experienced over the years, and I think that, more than anything else, is the key to keeping our profession strong.

I'd like to mention two of my mentors by name and thank them both, Harvey Strosberg and Bill Sasso were both exceptional mentors to me. At a relatively early stage in my career, they were the ones who encouraged me to run for bench. They were my champions and were genuinely happy about my successes. And of course they had both worked hard for their own success.

They aren't the type of people, to steal that old sports analogy, who were born on third base and walked around believing that they hit a triple to

get there. They worked to stretch a single into a double and eventually into a triple, and they have the dirt on the front of their uniforms to prove it. But they knew that mentoring wasn't about them.

Mentoring isn't about only talking to the bright, driven young lawyers out there who fit a specific mold. Mentoring isn't about having a new lawyer or paralegal or student follow you around to marvel in your accomplishments. Mentoring is about supporting and encouraging. It's also making room at the table, including the big tables like the one in the Donald Lamont Centre, for lawyers and paralegals who maybe don't look like you or haven't had the advantages in life that you have had or who were struggling to succeed.

Mentoring is about telling the tough stories along with the funny ones and along with the big successes, and mentoring is about listening to the tough stories, too.

So take a chance on some new lawyer or paralegal or hopeful student. Maybe pick someone who doesn't look like you or who doesn't come from the same upbringing or background as you. Encourage, support and promote them in the legal professions, because as rough as we can be with one another when we get into

it, especially around this table, we are better as a profession and we are stronger as a profession when we work together to support the development of everyone who wants to join us.

And now let's let the business of Convocation begin.

I'll start by recognizing that the Law Society of Ontario is located 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 convening our meeting on the traditional territory of the Mississaugas of the Credit First Nation.

Today we have benchers participating across the province and elsewhere, and across many First Nations territories. I recognize the long history of all of the First Nations in Ontario and the Inuit and Métis people. We thank all Indigenous peoples who lived and live in these lands for sharing them with us in peace.

Now, there are a number of information reports in Convocation's agenda that I draw to your attention and encourage you to review.

In the Professional Regulation Committee report you will see the consultation report on

mandatory succession planning. This consultation, which will launch following Convocation, is on a proposed recommendation to require that licensees in private practice maintain a succession or business continuity plan for their legal services business.

The consultation will run until November 30th, and I encourage you all to submit your comments and encourage others to do the same.

In the Equity and Indigenous Affairs report you will see an update on the Law Society's Indigenous initiatives and an information report on the visit led by Treasurer Donnelly to Northern Ontario First Nations this past month.

Next, the Technology Task Force Report provides an update on activities related to access to innovation, the regulatory sandbox for innovative technological legal services. There is also an information report from the Access to Justice Committee on the required evaluation of the Civil Society Organization Program.

Among other things, the evaluation by Calibrate confirms that this model provides access to justice to clients in the participating organizations.

Before we get further into the agenda, just a few instructions about our hybrid meeting

process. Benchers in the room who are presenting reports are to do so seated at their place using the microphone in front of them. Benchers in the room who wish to speak to a matter should raise their hand, and those on Zoom can use the raised hand function. The secretary and I will keep a speakers' list.

If you are attending by telephone, please let the secretary know if you wish to be added to the speakers' list.

Voting will be done either by roll call as appropriate, or otherwise by raised hand for those in the room, and on Zoom by using the yes, no icons or raised hand for abstentions.

-- CONSENT AGENDA:

TREASURER HORVAT: We will now turn to the agenda, starting with the consent agenda at tab 1. You will see that there are a number of items for decision on the consent agenda. Is there anyone who wishes to have an item removed from the consent agenda?

SECRETARY: Treasurer, Bencher Fagan has his hand up.

TREASURER HORVAT: Mr. Fagan.

MR. FAGAN: Thank you, Treasurer.

Although I have no objection to anything that is on the consent agenda, I wish to record at this time that as

Convocation moves along this morning I will be raising a motion from the floor relating to the Equity and Indigenous Affairs Committee Report and a proposed motion therein which will be before Convocation shortly, and I seek your guidance as to whether that motion should be moved and seconded prior to the commencement of the Equity and Indigenous Affairs topic or, in other words, now, or should it be raised at the beginning of the Equity and Indigenous Affairs topic?

TREASURER HORVAT: Thank you, Mr. Fagan.

We moved the Equity and Indigenous Affairs Committee Report to the top of the agenda following the consent agenda or the consent motion in light of your forewarning of your motion.

So I think what we'll do is we'll hear from the Equity and Indigenous Affairs Committee and we'll vote on that motion and then we can deal with your motion immediately following that.

MR. FAGAN: Treasurer, that will be fine as long as it is clear that all that Convocation will be voting on in that sequence will be the actual motion set forth at the beginning of the Equity and Indigenous Affairs Committee Report. In other words, that only non-publication of the inclusion index work to date shall have been dealt with before my motion is dealt

with.

TREASURER HORVAT: That's correct.

We'll be dealing with the Equity Committee's motion first and then dealing with your motion.

MR. FAGAN: Okay. As long as the next steps paragraph on page 7 of the report, page 113 of Diligent Boards, shall not yet have been addressed before my motion is dealt with.

TREASURER HORVAT: I suggest we get through the consent motion and then once Ms. Corbiere begins her report we can deal with that with your motion.

MR. FAGAN: Thank you, Treasurer. Thank you.

MR. FALCONER: Treasurer, I also have a related procedural matter that, respectfully, I propose to bring to your attention.

TREASURER HORVAT: Thank you, Mr. Falconer.

MR. FALCONER: First of all, my congratulations, Treasurer. I find it to be an extremely gratifying moment, to harken back some seventeen or eighteen years, Treasurer, when I saw and watched you as a young lawyer on the Ipperwash Inquiry working with my colleague, Bencher Strosberg, and to

see how you've prospered and succeeded and risen to the ranks you have is a great tribute to yourself and the profession, so congratulations.

Treasurer, I have an in camera item that I wish to raise in relation to the very same matters we're discussing. I want to do it properly, and I believe that since it relates to a member of the board that it ought to be done in camera, and I don't -- I apologize for the disruptive nature of it, but I believe there's really realistically no other way to do it. It relates to the EIAC agenda item.

TREASURER HORVAT: Does it relate to anything on the Consent Agenda?

MR. FALCONER: No. I was concerned about the procedural issue that Mr. Fagan raised. That's why I raised it now.

TREASURER HORVAT: No, no, I understand and I appreciate that. So let's get through the vote on the consent motion and then we'll move to the Equity matters, and thank you for your comments, Mr. Falconer.

Is anyone in the room opposed to the consent agenda?

SECRETARY: There are no hands raised, Treasurer.

TREASURER HORVAT: Is anyone online or

on the Zoom opposed to the consent motion, which is moved by Ms. Murchie and seconded by Mr. Wilkes? I see no hands, so the motion carries. Thank you, everyone.

And before we get to the Equity Committee's agenda item, I just want to welcome to Convocation our newest bencher, Cheryl Siran, from Kenora, Ontario, where she is a partner with Hook Seller Lundin LLP and practices in the area of real estate and civil litigation.

Ms. Siran was called to the bar in July 2006 and she is a past chair of the Federation of Ontario Law Associations and since December 1st, 2018, has served as a member of the Ontario Judicial Appointments Advisory Committee.

In June 2021 she joined the board of the Ontario Deputy Judges Association as a northwest representative. She also served on the LibraryCo board from November 2015 to December 2019, and served as secretary treasurer, vice-president, and two terms as the president of the Kenora District Law Association. So welcome, Ms. Siran.

Now we will move to the Equity Committee's report to be dealt with next on the agenda. So I think we should begin with Ms. Corbiere and then, Mr. Falconer, when do you intend to raise your in

camera matter?

MR. FALCONER: I believe --

TREASURER HORVAT: Or proposed in camera matter.

MR. FALCONER: I believe, respectfully, Treasurer, I'm duty bound to raise it at the outset. I respectfully ask that we -- and I apologize for the disruption -- that we move in camera.

TREASURER HORVAT: Mr. Varro?

SECRETARY: We can move in camera at your direction, Treasurer.

TREASURER HORVAT: So let's move in camera, please.

SECRETARY: Just give us a moment to move the meeting in camera, Treasurer.

-- IN PUBLIC PORTION PAUSES AT 9:29 a.m.

-- UPON RESUMING IN PUBLIC AT 9:59 a.m.

TREASURER HORVAT: Mr. Falconer.

MR. FALCONER: Thank you, Treasurer. Treasurer, as a result of a request by Bencher Klippenstein and out of respect for his request and your jurisdiction over this matter, Treasurer, I am, on the public record instead of how I had managed this in camera before, on the public record I am raising a concern in as collegial and transparent a way as I can

with my colleague, Bencher Klippenstein, who is, of course, a governor with all of the rest of us on this board.

Bencher Klippenstein provided to my attention and the attention of my colleagues on Friday, June 24th, an issued statement of claim in which he is -- names himself as a plaintiff and the Law Society of Ontario as a defendant.

The entire subject matter of the claim is the -- are the equity initiatives; in particular, the inclusion index and the Stratcom work and the Challenges Report. It is the subject matter of the statement of claim. The essence or the pith of the proceeding is to get access to documents based on his allegations that the work is invalid and compromised.

In the circumstances, I am asking, frankly, I'm pleading with my colleague to recognize that he has put himself in an irreconcilable conflict as a governor while, at the same time, a litigant in the Superior Court of Ontario. I need only point to the title that appears in the pleading over paragraph 19, Concerns Regarding the Validity of the Stratcom Report and the Inclusion Index.

The entire nature of his lawsuit is to, in essence, criticize and attack the work in legal

pleadings. How does an individual who has chosen to take this route at the same time vote and participate in proceedings about that very subject matter as a governor on the Law Society of Ontario?

If we as members of the Law Society can't recognize a clear and overwhelming conflict of interest, then how do we expect the 57,000 lawyers we regulate to recognize it?

Respectfully, I'm encouraging -- I want to be clear, I recognize we're not in a litigation setting, and I want to be collegial and I, frankly, offered and did attempt to do all this in camera, but Bencher Klippenstein objected and wanted it on the public record, so I'm doing it the way he wants to do it. I'm simply pleading with my colleague to please, let's not make this any worse. Could he please recuse himself from deliberations and decision making that have to do with the pith of his lawsuit; in particular, the inclusion index and the equity initiatives he identifies in his statement of claim. I'm encouraging and inviting him to recuse himself at this stage.

TREASURER HORVAT: Thank you, Mr. Falconer. Mr. Alford, I see you have your hand up, but I'm going to allow Mr. Klippenstein an opportunity to respond to Mr. Falconer before I turn to you. Mr.

Klippenstein.

MR. KLIPPENSTEIN: Thank you, Treasurer.

A couple of brief observations. First of all, as I heard Bencher Falconer just a few seconds ago, I believe he revealed the content of some of what happened in camera and I'm not sure that's proper.

Secondly, I first became aware of this upcoming conflict of interest motion a few minutes ago this morning. Bencher Falconer was aware of this situation more than a week ago, because he received the statement of claim which I issued against the Law Society requesting information as a director, back then he knew about this meeting.

He says this idea of a conflict of interest occurred to him, I think he said, last night, and I would have thought that if this matter was as concerning as he now says it is, it would have occurred to him earlier. He would have discussed it with others earlier. He would have given me notice, he says now in a collegial and respect as a colleague. Well, that's not too respectful and collegial for me not to have any notice of this. I had no inkling.

Further and finally, he would have provided us as benchers some materials for us to make a decision, including what are the rules on conflict of

interest, what are the precedents, what are the considerations, but we, myself and all of us, have none of that.

Bencher Falconer has not given this Convocation any tools to work with on this serious allegation. He's popped up this morning, yelled -- sorry, I shouldn't say that, said conflict of interest, and now all of you are supposed to make a decision, I guess, having no notice, having no materials. You don't even have the wording of the conflict of interest provision rule or by-law in front of you.

There has been precedents to this. You may recall that Bencher Falconer brought -- it's the same motion of conflict of interest against me related to the statement of principles issued on my first Convocation, and that was dealt with then by the Treasurer, who dismissed the motion. What are we supposed to do, recall that and remember how it applies today?

In other words, this is an unfortunate eruption, and I guess Bencher Falconer now needs to formally bring his motion with a seconder. I invite him not to do so. That's all for now. Thank you, Treasurer.

TREASURER HORVAT: Thank you, Mr.

Klippenstein. Before I get to Professor Alford, just give me a minute with Mr. Falconer. Mr. Falconer, do you intend to bring your motion?

MR. FALCONER: So I just have some response comments for clarity for Bencher Klippenstein, if I may, to his remarks, if I may, Treasurer?

TREASURER HORVAT: Briefly, please.

MR. FALCONER: Thank you. I just want some clarity around the suggestion about timing. June 24th, the morning of June 24th was Friday. Today is Tuesday. By my calendar, that's when I found out about the statement of claim. I think at this stage, since there's a suggestion somehow I brought up in camera what is on the public record that's completely inappropriate to suggest that. I was asked by Bencher Klippenstein to make this a public request, so I'm acceding to his request.

Finally, on the issue of suggesting that this has been previously argued and determined, I want to be crystal clear. An issue of conflict was raised last year relating to litigation started by -- it wasn't actually last year, it was two and a half years ago, litigation started by Benchers Alford and Klippenstein, and in that instance the litigation had actually been concluded and there was a cost issues

outstanding, nothing but a costs issue, and on that basis Treasurer Mercer dismissed what was a motion.

This is not a motion at this stage.

This is an invitation to Bencher Klippenstein to exercise his discretion and recognize that he's in a hopeless conflict of interest and to recuse himself. I'm inviting him to do that. As I said I would have preferred to do that in camera, but he asked me to put it on the public record, so that's how I'm managing it.

Those are my remarks. I just wanted some clarity about my position. I thank you for the opportunity of addressing it, Treasurer.

TREASURER HORVAT: Mr. Klippenstein, do you have anything to comment in response, hopefully briefly?

MR. KLIPPENSTEIN: I appreciate Bencher Falconer's ministrations on my behalf in inviting me to decline. I don't think I have any reason to decline. I actually think that the review of these issues specifically, the information that should be forthcoming about some of these reports should be dealt with in public. I hadn't foreseen or intended this to come up in this way, but I decline Bencher Falconer's invitation to recuse myself.

I think it's really important that over

time the members of our profession and the public get to know more about this. Maybe this morning is a good time to start. Thank you.

TREASURER HORVAT: Okay. So we don't have a motion on the floor. Mr. Falconer, are you bringing a motion or shall we move to the Equity Report?

MR. FALCONER: I've reflected on where we are at and the importance of moving the agenda along and the extraordinary expense that unfocused directions go. I am worried that ultimately Bencher Klippenstein's inability to recognize the conflict is going to consume us in a day of inappropriate back and forth, almost like litigation, when we're in a board.

So I've invited the board member to recuse himself. He's chosen not to. I think we all have to live with that reality and I suggest we just move on, Treasurer, respectfully.

TREASURER HORVAT: And I continue to have Professor Alford's hand raised. Professor Alford, is there something, given that there is no motion on the floor and we seem to have cleared up the request to recuse himself issue, is there something that you wanted to add?

PROFESSOR ALFORD: I guess, Treasurer, I

would just seek to correct the record very briefly with respect to the precedent that was set by Treasurer Mercer's ruling on the motion made to disqualify myself and Bencher Klippenstein from the debate on the statement of principles.

At that time the litigation was ongoing.

That was the basis for Bencher Falconer's motion to disqualify me, which was ruled upon by Bencher Mercer and subsequently affirmed in a motion of Convocation.

It subsequently mooted out because of the motion proposed and adopted by Bencher Troister in Convocation. Thank you, Treasurer.

TREASURER HORVAT: Thank you. So now we are back to Ms. Corbiere and the Equity Committee's motion, which I believe is seconded by Mr. Burd, is that correct?

MS. CORBIERE: Yes, correct, Treasurer.

TREASURER HORVAT: Go ahead,

Ms. Corbiere.

-- EQUITY AND INDIGENOUS AFFAIRS

COMMITTEE REPORT:

MS. CORBIERE: Good morning, everyone.

Congratulations, Treasurer Horvat, and my deep, deep gratitude to you, Treasurer Emeritus Donnelly, and welcome, Bencher Siran.

As the chair of the Equity and Indigenous Affairs Committee, I am speaking to the report and motion at tab 4.1 of Diligent.

The motion sets out the EIAC Committee's recommendation to Convocation with respect to the 2019 inclusion index that was developed pursuant to recommendation 6 of the Challenges Report. The motion at page 108 of Diligent asks Convocation to approve EIAC's recommendation not to publish the 2019 inclusion index.

Again, as Treasurer has indicated, this motion is moved by myself and seconded by Bencher Burd.

Recommendation 6 of the Challenges Report calls for the development of an inclusion index for legal workplaces of 25 or more licensees. In adopting the recommendation, the Law Society committed to measuring progress in addressing barriers faced by racialized licensees in legal workplaces.

This was to be achieved by analyzing data related to three elements: Demographics in each workplace; the EDI programming and policies reported by each workplace, plus licensee acknowledgment of this programming; the licensees' experiences of the inclusion in the workplace.

The goal of the index was to improve

transparency and accountability among legal workplaces.

It was intended to be a tool for legal workplaces and the Law Society of Ontario to determine whether there is progress towards EDI.

As outlined in the report before you found at tab 4.1, the index was indeed developed in 2019 by an external consultant using data gathered from the 2018 annual report filings submitted by lawyers and paralegal licensees in Ontario.

In March 2020, the Law Society shifted its focus to addressing the disruptions caused by the pandemic. This led to delays in progressing with the index and concerns about continuing relevance of collected data.

Accordingly, a confidential peer review of the inclusion index was undertaken to assist EIAC and Convocation in determining the appropriate use and application of the 2019 inclusion data and the index. The peer reviewers concluded that the index did not provide the transparency that was envisioned by the authors of the Challenges Report, the methodology and result of the index are not evident and cannot be explained or justified to the legal workplaces and the professions.

While the goal of the index is to

provide transparency and valuable information, the data collection from individual participants was necessarily founded on two critical principles, that the confidentiality of the participants would be strictly maintained and that provision of the data would be completely voluntary.

This tension between striving for transparency and respecting confidentiality led to issues with the data and consequently the index itself. The peer review panel strongly supports the concept of data collection and publication to show progress toward equity, diversity and inclusion in the legal profession; however, the panel found that the 2019 inclusion index is not transparent.

The panel concluded that, in its current form and given the passage of time, the release of the 2019 inclusion index is not an effective means to achieve the Law Society's equity goals.

The majority of the EIAC committee accepted the recommendation of the peer review panel and recommends that the current iteration of the inclusion index not be publicly released.

The majority of the committee also supports the continued collection and publication of data pertaining to equity diversity and inclusion from

licensees and legal workplaces and has committed to developing a new protocol to collect and publish this data.

If the motion is adopted by Convocation, the Law Society will engage with the professions over the coming months as part of the process to develop a new protocol for the collection and publication of data pertaining to equity, diversity and inclusion in legal workplaces in Ontario.

The new EIAC, starting September, will consider next steps and address at committee and that work will come back to Convocation.

The minority of the committee takes the view that the Law Society should discontinue the work of the inclusion index in its entirety and no further work should be taken on the inclusion index and the collection and publication of EDI data. In fact, Bencher Fagan, as you know, is bringing a motion in support of the minority views today.

The committee majority considers Bencher Fagan's motion to be premature. The minority position assumes that a new data protocol will be expensive and time consuming. That is pure speculation at this point. This is not the time to abandon recommendation 6 of the Challenges Report without hearing from the

profession and without considering what data protocol could better serve the goal of measuring progress among legal workplaces in addressing equity, diversity and inclusion.

It is simply wrong to abandon this project because the first iteration did not work out. We need to give our licensees a chance to share their views on the data protocol and we need to determine if we can effectively develop another data protocol that will measure progress in legal workplaces as benchers.

As a pioneer in this field, the Law Society of Ontario experiment assessed and innovated. We have learned a lot of valuable lessons along the way and we can apply them in developing a new protocol. Let us get on with the work in September and let us make a final decision regarding the data protocol when we have all the facts before us.

I ask my fellow benchers to vote in support of this motion. Thank you.

TREASURER HORVAT: Thank you, Ms. Corbiere. Mr, Burd do you wish to speak now or at the end of the speakers' list?

MR. BURD: I will reserve, Treasurer.

TREASURER HORVAT: Thank you. Let's start with hands in the room. Mr. Varro, is there

anyone that has a hand raised?

SECRETARY: Yes, we have Mr. Fagan and Mr. Klippenstein so far, Treasurer.

TREASURER HORVAT: Okay. Mr. Fagan.

MR. FAGAN: Thank you, Treasurer. I submit that this is the right moment for the moving and seconding of my motion. As to whether debate on it should go first or second, as long as it is clear that any approval of the majority Equity and Indigenous Affairs Committee report relates only to the motion, not to publicize the 2019 inclusion index and does not include any approval or disapproval by Convocation of the next steps paragraph on page 7 of the committee report, page 113 Diligent Boards.

As long as Convocation shall not yet have accepted or rejected that next steps paragraph, then I submit the main motion can and might as well go first.

If, however, there is any thought that disposal of the committee motion also implies approval by Convocation of the next steps paragraph on page 7 of the report, then I submit my motion must be debated and voted upon first. Thank you, Treasurer. I move my motion.

TREASURER HORVAT: Thank you, Mr. Fagan.

I've already said that the Equity Committee's motion should be heard and decided upon first. It's quite clear, I think, the wording of it is quite clear at page 108 of BoardBooks, and I promise I'm not trying to do a runaround of your motion. We'll deal with your motion once we have voted on this motion.

MR. FAGAN: Thank you very much, Treasurer. Thank you.

TREASURER HORVAT: Now, I have Ms. Shi raised her hand first on Zoom. We'll go to her next.

MS. SHI: Thank you, Treasurer. I feel that there is some missing information that should be put before Convocation and I hope that EIAC and -- supported by you, Treasurer, will do so in our September Convocation.

Number one, how much money was spent on the inclusion index that we're now throwing out, and, number 2, in the May 2022 materials for EIAC, there was excellent information on specific presentation and recommendations from the three experts and I think that -- I urge all the benchers to read it. I also believe that those recommendations, which are instrumental to the bringing of this motion today, and the discarding of all the work that went into the first inclusion index should be put on the public record at

Convocation so that we can be accountable and be transparent to membership as to how we spend their money.

It is also vital to Convocation to review those materials and the expenses to date to make sure that we don't make the same mistakes again.

I look at the next steps; it talks about developing a new protocol. Well, have we learned our lessons from last time? What were the mistakes and how are we correcting them? What is the new budget?

We owe it to membership who have paid for that first index, which is now completely wasted, and we need to account for that, at the very least.

I mean hopefully, ideally, we should have an accounting as to how did it all go wrong. But I'm more interested in looking forward. Let's have a thorough review of what happened last time to make sure it doesn't happen again, and I will give one example. It cited the pandemic as a reason why the index failed. As far as I know, all the information was collected before the pandemic, so after that it was all analysis which should not have been impacted by the pandemic.

As we all know, the Law Society managed to heroically carry on throughout the pandemic and discharge its functions. I don't see why that should

have made the inclusion index a failure.

So I think the profession which paid for this failed index may well be interested in it. Thank you, Treasurer.

TREASURER HORVAT: Thank you for your remarks, Ms. Shi. I'm sure the chair of the Equity Committee will take those back to the committee. Were you speaking in favour of the motion or opposed to the motion?

MS. SHI: I am going to vote for the motion, but I believe that this is only the -- and I'm concerned about what we need to do to account to the profession and also to make sure we are going to work effectively regarding the next steps. I'm very concerned about that. Thank you, Treasurer.

TREASURER HORVAT: Thank you. Ms. Murchie.

MS. MURCHIE: Thank you, Treasurer. I'm going to vote in favour of Ms. Corbiere's motion. I agree that we should not publish the inclusion index in the current circumstances, but I also agree with the next steps proposed by Ms. Corbiere and the committee, the majority of the committee in the report.

I agree that the development of a protocol that's useful to assist the profession and to

advise the public on our progress towards an inclusive profession is an important goal and should be investigated and considered. We need to be able to monitor progress toward our goals of an inclusive profession and I look forward to further discussions on the development of a protocol that's both useful and inclusive itself, not divisive in its nature. Thank you.

TREASURER HORVAT: Thank you, Ms. Murchie. Mr. Varro, do we have a speaker's list running in the room?

SECRETARY: Yes, we still have Mr. Klippenstein and Ms. Lewis as well.

TREASURER HORVAT: Okay. Apologies, Mr. Klippenstein, I forgot about you. If you'd like to go next and then I'll go to Mr. Lyon on the Zoom.

MR. KLIPPENSTEIN: Thank you, Treasurer. I don't know if that's an auspicious start to your term when in the first meeting you forget about me, but I'm sure that won't happen again.

Madam Treasurer and colleagues, I would suggest that there is no doubt that the inclusion index report prepared in 2019 should not be published, and so the specific motion before us as framed should pass. However, there is more to the picture and it is

relevant to the committee majority report before us today, and especially the last paragraph in the report.

That inclusion index which was authorized by Convocation in 2016 as part of the adoption of the Working Together Report should have been cancelled long ago. In fact, I submit that it should never have been adopted in the first place.

That inclusion index was based on information from a survey of all Ontario lawyers and paralegals, a survey which every licensee was compelled, that is, forced to complete in their annual Law Society filing as a prerequisite for continuing to practice.

That information as compiled in this inclusion index was then going to publicly rank over a hundred law firms in Ontario in a simple list from best to worst, whether those firms wanted it or not, on some very political grounds. This would have had a devastating public impact on scores of Ontario law firms, except that none of this was justified and that should have been clear and was clear from the start.

Here's why. Firms of fewer than about 150 employees will not have sufficient numbers of respondents from many diversity groups to facilitate a valid examination of group differences through general

employee satisfaction or engagement surveys.

That last sentence is not me speaking.

That sentence is a quote from a key report relied on and specifically cited in a footnote in the original 2016 Working Together Report itself on page 32. If the Working Together group or others had actually read the report that they themselves cited back in 2016, it would have been, and it was, obvious that this inclusion index should simply never have happened.

This conclusion didn't depend just on that quote from that cited expert. It was also clear from common and common sense survey principles, and the vast amount of money spent on this index should never have been thrown away as it has been. Further, the money recently spent on the three consultants in a so-called peer review panel would not have been necessary.

There is another problem we faced today, I would suggest, and that is that the committee majority report before us today does not fairly describe what the three consultants actually said and how critical they were in great detail of the whole process of these reports going back to 2014.

Although the report before us is, I say, rather one-sided I'm not sure that I can even point out

some of those details in this meeting today because of confidentiality restrictions on me as a bencher, confidentiality which at this point hinders not only our consideration, but the awareness of our membership and of the public of what has gone on. That despite the principle in our governing Law Society Act which says in section 4.2 that it is the Law Society's duty to act in an open manner.

One of the details that came out from the three consultants' review is the survey response rate of the survey in Key Challenges Report of 2014, a survey which is the foundational underpinning of the 2014 Challenges Report and of the massive Working Together Report of 2016 which is still being implemented today in a wide array of policies across the legal professions.

I have been saying for years that the survey response rate obviously should have been reported back then and should be reported now, but apparently some will say I can't give that number publicly now due to confidentiality. However, I had reverse engineered that number years ago and it was extremely low, I calculated six percent, and that was not even a random sampling. That was a relatively miniscule group of entirely self-selected respondents.

On seeing that number, the whole process should have stopped. That was no valid basis for everything that has followed. But, instead, that survey was wrongly stated to be representative of the whole body of the legal professions in Ontario.

TREASURER HORVAT: Mr. Klippenstein, if I can just ask you to confine your comments to this particular motion. I think we're getting into Mr. Fagan's motion at this stage.

MR. KLIPPENSTEIN: Well, thank you, I'm just wrapping up now. I will not repeat these comments in Mr. Fagan's motion, at that point I will just say ditto.

TREASURER HORVAT: Thank you.

MR. KLIPPENSTEIN: None of the above is discussed in the report before us today. The consultants had apparently seen the original data set of the key 2014 survey. I have been asking repeatedly for a long time to see that data, but that has been denied me as bencher and as a director of the Law Society corporation. By the way, I am again asking for that today, that I be provided with a copy of the 2014 survey data set and the data set for the 2019 inclusion index so that I can fulfill my duties as a bencher and as a director of the Law Society corporation charged by

statute with the governing and managing the affairs of the corporation.

Finally, in that context I am concerned by the last paragraph of the committee majority report before us today, which states under the heading Next Steps, that "The committee will now proceed to consider the development of a new protocol for collection of data and publication of data pertaining to equity, diversity and inclusion in legal workplaces". That is stated simply as a fact, not as a request for authorization to do so.

Reluctantly I say this. Given the track record so far, I would respectfully suggest that it is not appropriate that the committee give itself at this point a blank cheque. Before anything else happens, Convocation needs to ensure that any such work proceeds with proper oversight in a careful and methodologically and financially prudent manner.

Having said all that, the -- I suggest that the motion should be approved, but on the very narrow specific grounds in which the actual motion is worded. Thank you. Thank you, Treasurer.

TREASURER HORVAT: Thank you. Mr. Lyon, I had you next.

MR. LYON: Sorry, Treasurer, Bencher

Goldstein has to leave for I think a judicial pretrial at eleven so I agreed to swap, if you don't mind.

TREASURER HORVAT: Okay. Mr. Goldstein.

MR. GOLDSTEIN: Thank you, Treasurer. I'm in Superior Court at eleven, but no matter, I thank you.

I, too, will be supporting this motion; however, I disagree with the suggestion that the Law Society and the EIAC committee should engage further in trying to solve the problems of the -- what I would term to be as and what it actually is as a race audit.

The EIAC committee -- this issue cannot be solved. Indeed, encouraging ethnic majority hires is a laudatory goal, but conducting a race audit is not the way to go about that. There is nothing inclusive about a race audit that essentially divides the profession into people who are white and people who are not white.

For example, one of the problems with this race audit is that it leaves no room for Jews to identify as being Jewish. Jews are lumped into the category of white people. Despite the importance of progressivism gives to self identification, I am not allowed to self identify as being Jewish.

A good example of this phenomenon of the

erasure of Jewish identity within the progressive humanist left is when Whoopi Goldberg last year described the holocaust as white on white violence.

Year after year, Treasurer, statistics show that the black community and the Jewish community are the greatest targets of hate crime, and Jews are the most likely to be targets of violence.

The race audit denies the existence of antisemitism, which is in itself a form of Jew hatred. Indeed, I point out that the EIAC committee has no singular representative specifically from the Jewish community, and before any benchers start suggesting that, well, we have a Holocaust Memorial Day, to say that is to simply prove the truth of Dara Horn's book titled People Love Dead Jews.

Furthermore, the race audit denies that the level of success Jews have achieved in society is due to their own hard work. Rather, Treasurer, by lumping Jews with whites, the suggestion is that Jewish achievement is due to Jews passing themselves off as white people. This is no different than the mid 20th century ethno-national antisemitism that saw Jews masquerading as white Europeans.

I am very familiar with the antisemitism of ethno-nationalism. We know what the

ethno-nationalists look like. They're people wearing brown shirts, black boots, and carrying tiki torches.

What is problematic today is that we are less open, less able to see the antisemitism of the progressive humanist left, but I know what they look like, Treasurer. They come with smiley faces promising utopian visions of the world with their social justice. They're the people who say, well, these minor issues can simply be solved through further statistics, further social engineering of society.

I encourage the Law Society not only to adopt this motion, but to adopt Bencher Fagan and Bencher Klippenstein's motion. This is not the way to unify the legal profession. Thank you. Thank you, Bencher Lyon.

TREASURER HORVAT: Thank you. Ms. Lewis in the room.

MS. LEWIS: Thank you. I am one of the vice-chairs of the Equity and Indigenous Affairs Committee and I will be voting in support of this motion, but it is with some sadness or with great sadness that I acknowledge and recognize that it's necessary. The data is stale, it's from 2018, it's no longer helpful today to release the inclusion index and I think that's the principal reason why I'm supporting

this motion.

I do want to make very clear that I, and I believe the majority of EIAC, support the finding of the existence of discrimination, both systemic and direct, in the legal profession and the Law Society's responsibility to take steps to address that as set out in the Challenges Report.

It's unfortunate that the inclusion index could not go forward, and it's for a variety of reasons, including COVID and some staffing turnover, and I'm looking forward to the work of EIAC to figure out a path forward with respect to the inclusion index.

I just want to briefly address a couple of comments from Mr. Klippenstein because I think he did not fairly accurately describe what took place with respect to the experts that the Law Society engaged to assist us with reviewing the inclusion index. And specifically one point I want to make very clear and that the three reviewer experts were very supportive of, the exercise of the Law Society in collecting data and publishing it, and so to suggest that they were not supportive of that exercise I think is a mischaracterization of their very clear conclusion.

So I just want to make that very clear to everyone here who is not a member of EIAC, that the

experts that we retained, although they believe that this current iteration couldn't be published for reasons including that the data is stale, were supportive of a process where the Law Society collects and publishes data. So I just want to make that very, very clear. Thank you.

TREASURER HORVAT: Thank you. I have Mr. Graham next and then Mr. Lesage. But I ask the next speakers to please focus your comments on the motion that's before us. I'm not planning on calling on speakers during Mr. Fagan's motion who have spoken to that motion during this round. Mr. Graham.

MR. GRAHAM: Yes, we're asked to authorize the same people that were responsible for what was described by the chair as the first iteration of the inclusion index not working out to give them another shot at it. I would invite them to consider the principle of accountability and ask themselves whether or not somebody else should be given an opportunity to do it, and I'll just say that about that.

My concern is a governance one this morning, and that is why was it, and this I guess through you, Madam Treasurer, is a question for the committee chair. Why was there a press release issued

by the committee in advance of this meeting advocating for the motion and not speaking to the other side of the story? Were there discussions with select groups about what was to be put before us this morning to get them ready for the revelation that there have been problems with the inclusion index?

It just -- it looks to me like the committee leads feel accountable to outside groups more than they feel accountable to Convocation, and those outside groups, of course, do not have any accountability to the profession or under the Law Society Act.

And I will be voting against the decision to give the inclusion index a second chance. I don't think that it is proper for the Law Society, which operates within the legislative framework of the provincial legislature, the supreme law of which is the Human Rights Code, which tells us that we are all to be treated equally before the law, and yet we are, as the Law Society, expressing an intention to embark on a naming and shaming expedition which is in aid of pressuring firms to discriminate against some groups in favour of other groups, and I cannot support that.

TREASURER HORVAT: Thank you, Mr. Graham. Mr. Lesage.

MR. LESAGE: Yes, thank you, Madam
Treasurer, and, once more, congratulations.

So initially, as many of you know, I like the idea of data collection. I think we should do more of it at the Law Society, but so that the committee is aware, I do object to the public ranking of large law firms or the naming and shaming that Mr. Graham just mentioned, and I believe it represents a conflict of interest for us as a regulator to both regulate licensees and then also to rank them and, in effect, take and use money from small firms and solo practitioners and many minority licensees to subsidize the advertising of the biggest firms in the province, and specifically those who ranked highest on the purported index.

Many large corporations will use such a ranking by the Law Society in their selection of legal counsel, so what the Law Society would, in effect, be doing is transferring business or potential business from small and mid-sized firms, including many minority licensees, to the biggest firms in the province, and I will fight that as best I can. Thank you.

TREASURER HORVAT: Thank you. Mr. Lyon.

MR. LYON: Thank you, Treasurer, and preliminarily, congratulations from me on your election

as Treasurer and keeping that hundred percent batting average going for women. Well done.

My comments relate to clarity around this motion. It seems that the motion is to not publish the inclusion index, but in the report we see as stated, and another bencher mentioned this as a matter of fact, that they will take another kick at the can.

I can't, with those two intertwined as they are, support the motion, per se. I'm quite happy to support the motion for not including -- or not publishing the index, but until we get a handle on the gobsmackingly huge amounts of money that have already been wasted, allowed to -- and I will challenge the narrative that this was stale dated. So far as I know, COVID did not impact EIAC and they could have and ought to have continued and discharged their duties. In any event, the reality is that they have allowed this to happen.

I adopt Bencher Klippenstein's comments with respect to what the many faults are with respect to the first iteration, and until we can find out exactly what happened and what went wrong, and they're obviously very confused about that, which underscores the fact that no one knows exactly, we can't and ought

not to spend another dime of member's money towards this effort.

So I'm seeking some clarity with respect to it. If the motion as it's presently instantiated means that the EIAC is then impliedly given permission to have another kick at the can, then I can't support the motion. If it's just a motion not to support the inclusion index, or not to publish the inclusion index, and to put a stop to EIAC having another kick at the can until we can get to the bottom of it, then I'm okay to support it. Thank you.

TREASURER HORVAT: So, Mr. Lyon, as I said, there's one motion before us right now, and that's whether or not to publicize the 2009 data. So if -- regardless of whether that passes or not, the work would continue but for Mr. Fagan's motion, which we'll deal with that next. And if I've got that wrong, Ms. Corbiere, please jump in.

MR. LYON: Well, with the greatest of respect, Treasurer, just for clarity, EIAC was given authorization to have one kick at the can and they have had that. So what we're now hearing, and this is a substantive matter, what we're now hearing is they're going to spend untold amounts of money to do it again, and I can't do that until I find out what went wrong,

so I can't support it. Thank you.

TREASURER HORVAT: So you're opposing the committee's motion, correct?

MR. LYON: Well, I'm opposing it on the basis that I've just laid out in, I think, clear and crystal terms.

TREASURER HORVAT: Okay, thank you, Mr. Lyon. I have Mr. Desgranges and then Mr. Wellman.

SECRETARY: Treasurer, sorry for interrupting. Sorry, Mr. Desgranges, if you can just hold on a moment, we still have a couple of speakers in the room, Treasurer; Mr. Troister and Mr. Falconer.

MR. TROISTER: Thank you, Mr. Varro, thank you, Treasurer. I am a simple person. I read a recommendation and I say that's what we're voting on.

I'm also a practical person, and what I see is this. A motion that simply says we will not publish the report, period. That's the motion that is on the table. I have heard arguments for a motion that is not on the table.

Mr. Klippenstein made a very detailed submission on a motion that essentially says repeal the recommendation to have a diversity inclusion index. That's not on the table today, and others have simply said in other ways the same thing.

Right now where we're at is we've got a recommendation from the Challenges Report that delegates to EIAC to come up with an index. That is still a live issue. The only issue today is whether or not the report that they have -- the index that was prepared gets dumped, frankly. Whether or not any of the benchers in this room want to bring a motion that's been argued but not on the table with respect to the continuity of the recommendation is another story and that's for another day.

I would be grateful if we could stick to the motion, which is simple, and EIAC still has the recommendation from the Challenges Report to deal with, and that's for another day.

If someone wants to bring a motion to repeal that like they did with the statement of principles, that's wide open for this bench to deal with, but, please, let's deal with the motion. Everybody seems to say let's pass it, we approve it, no qualifications. Let's get on with the motion, and I would love to call the question. Thank you.

TREASURER HORVAT: Thank you, Mr. Troister. I called on Mr. Desgranges before you spoke, so I'll let him have the floor.

MR. DESGRANGES: Thank you, Treasurer,

and congratulations as well on your election.

Wonderful.

The first thing I would like to mention is that the Treasurer suggested that when we will have Mr. Fagan's motion, those who have spoken will not be allowed to speak. I think this is a very good reason why it's now time to speak, if not to Fagan's motion itself, it's probably time to give at least a few arguments.

Now, I'm not going to go there, I want to be very brief here. I'm of the view, the same view pretty well as my colleague, Lyon, except that I will abstain on this motion because I'm very much concerned about the fact, the reported fact, I have to say, from our colleague Klippenstein that this report is not quite complete. There are many details missing that would help me very much in understanding what the situation is.

So without a full report of what's actually happened from the -- from the EIAC as we show up here in this Convocation, I don't feel I'm ready to actually accept the motion for which substantively I agree, except for the last paragraph, but for that reason I will abstain.

Yes, and on another very quick matter,

we keep referring to COVID-19 being the culprit for doing everything. I would like to be very clear about that, is that I think in true meaning what we're saying is that it's the measures that were actually imposed at the time that caused everything. But in this case here, of course, it doesn't matter, as was raised by other benchers. Thank you very much for allowing me to speak, Ms. Horvat.

TREASURER HORVAT: Thank you. I've got Mr. Falconer and Mr. Wellman and Mr. Burd and then we're calling the vote. So Mr. Falconer.

MR. FALCONER: Treasurer, I have never experienced what I'm experiencing right now in my entire twelve years as a bencher, but I am stuck. Because of Bencher Goldstein's remarks that there is no Jew on EIAC, I have to actually respond on who I am because if I let my sons or my family hear that somehow who I am doesn't exist anymore, then that pretty well feeds into the over 90 percent of my mother's family, my family, that died in the holocaust.

So I want the record to reflect that I sit on EIAC, that I am Jewish, and that I don't have to justify who I am, how Jewish I am, how black I am, to anybody in this world, but specifically Bencher Goldstein. So I just want to be clear to my sons and

my family who I am. Sorry, just give me a second.

So I want to speak to the EIAC motion, not Mr. Fagan's motion. The EIAC motion refers to a peer review that is incomplete; it refers to experts that people are starting to cherry pick from. I want to be crystal clear that I supported bringing in these experts because they were -- are the top class in their field. I'm not going to cherry pick, because what I know is their work continues.

This is not rocket science. Let's let them finish their work and get things right and, oh, my God, what a shock, mistakes were made in respect of the inclusion index or items haven't worked out as planned. Oh, my God, what a shock.

We tried and are continuing to regulate in the public interest, including ensuring a measure of transparency, with how we are proceeding on issues of equity and, oh, my God, what a shock, all that we ambitiously sought to accomplish in respect of the Challenges Report has hiccups.

We have been lauded historically as being at the forefront on these issues because of the stance Convocation, a courageous Convocation, took through the Challenges Report. Some of it has hiccups. That's okay, be honest, be transparent, hire experts to

do a peer review, which is what we've done, and the work continues.

Now, on the one hand I hear from Bencher Goldstein that encouraging equity diversity hirings is laudatory, that's his word, laudatory; on the other hand, we don't ask how it's going.

Now, in the U.S. I want to be crystal clear that they are leagues ahead of us. There is something called the National Association for Law Placement. They are a directory that advises law students, lawyers, law offices and law schools across North America that participate voluntarily in the demographics and cultures of their firms with a view to creating transparency in hirings. In other words, the NALP collection represents the vast majority of law firms that do hirings. So candidates can know the firms they're applying to, and they do it because they recognize it's in the public interest to be straight on who you are.

What I noticed, and this is a perfect example of alignment of interest, is that the Bay Street firms, when the issue of an inclusion index was raised, and it's very interesting because none of the people that are opposing this are from these large firms, right? They actually cooperated, more than

cooperated, they welcomed it. They have been supportive of the initiatives.

Now, if we're making mistakes and there's hiccups and we don't get it right, you hire experts to help you get it right. That's what we're doing under the leadership of Chair Corbiere. And while we're all congratulating people, that Chair Corbiere managed us through EIAC, and because we're at the conclusion of this committee that's why I'm putting this on the record, that she managed us and navigated what is a derisive atmosphere, a very unfortunate and difficult atmosphere, and she did it with dignity and strength.

I just want to acknowledge that her leadership up to and including today has just been exemplary and people should make sure they congratulate her for her work.

Now, we need to continue the work. We need to be accountable. And if we spent money that we wasted, in answer to Bencher Shi, we've got to be accountable for that, too. We did a certified specialist program. Let's talk about how much money we spent and recognize it didn't work. We will continue to make mistakes and spend money and have to be honest with members about it. That's how people with dignity

operate. I don't have an issue with that. But I agree with Bencher Shi, there should be transparency about all of that.

But what I do tell people is the National Association for Law Placement, they call it NALP, in the U.S. got way past this. And what a shame that Bencher Goldstein didn't come to me and say the magic words, which were I think you need to have a component that identifies as Jewish to recognize that, just as you have a component that recognizes gender and others, because I agree that there should be an opportunity for people who self identify in a certain cultural, racial or demographic way to do so, and we shouldn't deny anybody's identity.

So at the end of the day, if the inclusion index isn't inclusive enough, these are great things to change. Let's go do it, let's make it better.

But here's the thing, and I'm concluding, Treasurer, here's the thing. There's something we call slate, because they operate on a slate against the statement of principles. It's a group of benchers who have voted against every single equity measure that the Law Society has been involved in from the day it arrived in Convocation. And today

on this motion, so I'm speaking to this motion, you will see comments made by the members of slate all directed against equity initiatives. They speak to what is quote, unquote, laudatory, but not once in the three years that they have been benchers in this Convocation have they come forward with one suggestion positive on how to enhance equity or accountability for equity. Every single suggestion made has been about dismantling.

That's the evidence, that's the smoking gun that proves what I raised from day one. This isn't about advancing the profession. This is about blocking the ability of people to progress, and I, for one, will continue to protect equity at each and every stage. I will be there waiting for you each and every time because you are not about --

MR. BROWN: Point of order, Treasurer.

Point of order. Point of order.

MR. FALCONER: Thank you so much. Have a great day, everybody. Thank you, Treasurer.

TREASURER HORVAT: I've got Mr. Wellman and Mr. Burd, and I'd ask you both to try to keep your comments focused on the motion before us.

MR. BROWN: Treasurer, point of privilege. Benchers are not to impugn the motives of

other benchers, and I studiously adhere to that, but I note that Bencher Falconer seems to have some difficulty with that. So I would at least ask that the Treasurer make a ruling that he was contravening that, I'll call it, etiquette.

Candidly, let's release this turd to the public. Let's show them what you guys have been working on. That's transparent.

MR. FALCONER: Turd, that's a good, classy word, Bencher Brown. Good job, good job. Very eloquent.

TREASURER HORVAT: Mr. Falconer, please. Mr. Wellman.

MR. WELLMAN: I've taken my hand down, Madam Treasurer.

TREASURER HORVAT: Mr. Burd, do you have any last comments before we vote?

MR. BURD: I won't reiterate the points that have been made, but what I will conclude is that I think unanimously we can say that this report, the index report, should not be released and that many of my colleagues have made suggestions of things that needed to be included, both slate and non-slate, and I think that should be acknowledged.

And I think what that does tell us is

that more works needs to be done, which is exactly what the motion is alluding to, that we park the current version of the index and then rework it with the professionals that we have available to us and then provide insights that have been overlooked or that data that was not properly collected as claimed.

But more importantly, the one other reason, thing I wanted to highlight was part of the reason for the delay and parking this is that many of the law firms in question have been progressive in changing the makeup of their law firms, and we need to give them an opportunity with old data to show that they have made those advancements, and that's why we as a committee decided to park it in respect to those law firms that have made progressive changes in the last three years. So for us to report data that was not accurate was not prudent.

So it's best that we give them the opportunity to show the advancements that they have done in EDI initiatives and that we then report more accurately the current status of those firms.

So I encourage you all to support this motion and that we can continue with whatever committee members that our new treasurer puts together and allows that committee to, as the next steps say, make

considerations.

So I encourage you all not to get too anxious about what that entails, because it does say consider. And those are my submissions. Thank you, Treasurer, and congratulations.

MR. KLIPPENSTEIN: Point of order.

TREASURER HORVAT: Thank you, Mr. Burd.

MR. KLIPPENSTEIN: Point of order.

TREASURER HORVAT: Who is speaking?

MR. KLIPPENSTEIN: It's Bencher Klippenstein.

TREASURER HORVAT: Yes?

MR. KLIPPENSTEIN: This is about clarification of the actual motion. Several people had tried to clarify specifically what this motion is about, and I understand the issue. But my colleague, Mr. Burd, just said that more work should be done, that's what the motion is alluding to.

To my mind there is still confusion about what this motion is actually about. I thought it was clear, but appears not to be. I'm going to abstain, but there still seems to be unclarity about what the motion is about. Thank you.

TREASURER HORVAT: Well, the motion is clear to me, we've gone through it a few times. It's

laid out pretty clearly in BoardBooks. If it passes or if it fails, the work will continue. Regardless of what happens with this motion, we'll deal with Mr. Fagan's motion.

Mr. Varro, do we need a roll call? I leave it up to you whether we do a roll call.

MR. FALCONER: I call for a roll call vote, Treasurer.

SECRETARY: So as a bencher has called for a roll call, Treasurer, you can agree to that, if that's okay with you.

TREASURER HORVAT: Yes.

SECRETARY: Thank you.

TREASURER HORVAT: Go ahead.

SECRETARY: Thank you. Mr. Adourian?

MR. ADOURIAN: Yes.

SECRETARY: Professor Alford?

PROFESSOR ALFORD: Abstain.

SECRETARY: Ms. Banning?

MS. BANNING: Yes.

SECRETARY: Mr. Braithwaite?

MR. BRAITHWAITE: Yes.

SECRETARY: Mr. Brown?

MR. BROWN: No.

SECRETARY: Mr. Burd?

MR. BURD: Yes.

SECRETARY: Mr. Charette?

MR. CHARETTE: No.

SECRETARY: Mr. Chiumminto?

MR. CHIUMMIENTO: Yes.

SECRETARY: Ms. Corbiere?

MS. CORBIERE: Yes.

SECRETARY: Ms. Corsetti?

MS. CORSETTI: Yes.

SECRETARY: Mr. Desgranges?

MR. DESGRANGES: As stated, abstain.

SECRETARY: Mr. Epstein?

MR. EPSTEIN: Yes.

SECRETARY: Mr. Esquega?

MR. ESQUEGA: Yes.

SECRETARY: Mr. Fagan?

MR. FAGAN: Yes.

SECRETARY: Mr. Falconer?

MR. FALCONER: Yes.

SECRETARY: Mr. Goldstein? Mr. Graham?

MR. GRAHAM: Abstain.

SECRETARY: Mr. Groia?

MR. GROIA: Yes.

SECRETARY: Mr. Horgan?

MR. HORGAN: Yes.

SECRETARY: Mr. Klippenstein?

MR. KLIPPENSTEIN: Abstain.

SECRETARY: Ms. Lalji?

MS. LALJI: Yes.

SECRETARY: Dr. Lau?

DR. LAU: Yes.

SECRETARY: Ms. Lean?

MS. LEAN: Abstain.

SECRETARY: Mr. Lesage?

MR. LESAGE: Yes.

SECRETARY: Ms. Lewis?

MS. LEWIS: Yes.

SECRETARY: Ms. Lippa? 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: Abstain.

SECRETARY: Mr. Pineda?

MR. PINEDA: Yes.

SECRETARY: Mr. Poliacik?

MR. POLIACIK: Yes.

SECRETARY: Mr. Pollock? Mr. Prill?

MR. PRILL: Yes.

SECRETARY: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

SECRETARY: Mr. Ross?

MR. ROSS: Yes.

SECRETARY: Ms. Sellers?

MS. SELLERS: Yes.

SECRETARY: Mr. Sheff?

MR. SHEFF: Yes.

SECRETARY: Ms. Shi?

MS. SHI: Yes.

SECRETARY: Ms. Shin-Doi?

MS. SHIN DOI: Yes.

SECRETARY: Ms. Shortreed?

MS. SHORTREED: Yes.

SECRETARY: Ms. Siran?

MS. SIRAN: 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. Wright?

MR. WRIGHT: Yes.

SECRETARY: I don't believe Ms.

Lockhart, Mr. Goldstein or Ms. Lipka are in the meeting
any further, Treasurer.

The motion carries, 40 for, 2 against,
and 7 abstentions.

TREASURER HORVAT: Thank you. We spent
90 minutes this morning debating a motion that
overwhelmingly passed. Beginning -- I'm just letting
everybody know, everybody is getting a heads up today.
Beginning in September I will be imposing time limits
on speakers, on movers and seconders, and on those
speaking to motions.

So moving on to Mr. Fagan's motion,

which was e-mailed to everyone in advance, I believe.

Mr. Fagan.

MR. FAGAN: Thank you, Treasurer. I move the following motion: Be it resolved that Convocation directs that no further Law Society of Ontario work shall be done on any sort of inclusion index or protocol for data collection and publication of data pertaining to equity, diversity and inclusion in legal workplaces until Convocation has had the opportunity to consider further the questions of whether any sort of inclusion index or any such protocol should be the subject of any such work and, if so, how such work should proceed. I move that motion, Treasurer.

TREASURER HORVAT: Thank you. Who is seconding the motion?

MR. FAGAN: My seconder, Treasurer, will be Bencher Klippenstein.

TREASURER HORVAT: And, Bencher Klippenstein, you already spoke to part of this motion. Did you plan on adding anything either now or at the end of the speakers' list?

MR. KLIPPENSTEIN: Treasurer, I promised that I would only say ditto in response to this motion, whether I say it now or later, I may as well say it

now. Ditto to what I said before. Thank you. That's it.

TREASURER HORVAT: Thank you. Now, Mr. Fagan --

MR. TROISTER: Treasurer, I would like to move to table this motion. This is Mr. Troister speaking. I would like to move to table this motion.

TREASURER HORVAT: Thank you, Mr. Troister.

MR. FALCONER: I'll second that motion to table, Treasurer. Julian Falconer here.

PROFESSOR ALFORD: Point of order, Treasurer. A motion to table cannot be made before it's debated, and I would just like to say, as a process concern, I did not speak to the first motion because of your comments that those speaking to the first motion would not be allowed to speak to the second motion.

MR. FALCONER: Point of order, Treasurer. It's the exact opposite of what my friend just said. A motion to table, as you know, Treasurer, has to be dealt with without debate as soon as it's brought, respectfully.

MR. FAGAN: Treasurer, does the mover not at least get a chance to say why he has brought the

motion before the vote on the tabling? Thank you.

MR. FALCONER: That would be debate.

TREASURER HORVAT: Yes. Let's just pause for a minute, or let's take the morning break. Let's take fifteen minutes at this point in time and come back then to deal with the motion to table.

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

--- On resuming at 11:31 a.m.

SECRETARY: Convocation will resume now, benchers.

TREASURER HORVAT: Thank you, Mr. Varro. So Mr. Fagan -- just to recap, Mr. Fagan moved his motion and it was seconded by Mr. Klippenstein and then Mr. Troister brought a motion to table the Fagan motion and, Mr. Troister, who was your seconder?

MR. TROISTER: Mr. Falconer.

TREASURER HORVAT: Mr. Falconer. Now, I've taken a look, you guys have given me a lot of things to look up in the by-laws. I've now taken a look and under 97, section 97 of by-law 3, there is no debate on a motion to table or a motion to adjourn Convocation, and a motion to table may be brought at any time that a motion is moved without debate on the first motion, including without debate on the first motion.

So the first order of business is to
vote on the motion to table that was brought by
Mr. Troister and seconded by Mr. Falconer.

MR. CHARETTE: Madam Treasurer --

TREASURER HORVAT: I propose -- who is
speaking?

MR. CHARETTE: I took your comments to
imply that we would have an opportunity to speak on Mr.
Fagan's motion --

TREASURER HORVAT: Sorry, who is
speaking?

MR. CHARETTE: It's Mr. Charette, who is
seeking an opportunity to speak.

TREASURER HORVAT: Sorry, Mr. Charette,
what did you start to say?

MR. CHARETTE: I took your comments at
the beginning to constitute an implication, a clear
implication that we would have an opportunity to speak.
I refrained from speaking on the first motion so that I
would have an opportunity to speak on Mr. Fagan's
motion. Now the rug is being pulled out from under it.

TREASURER HORVAT: Mr. Charette, I said
that Mr. Fagan's motion would be heard after the
committee's motion and I asked all the speakers to
focus their comments on the motion that was before

them, rather than cutting ahead to Mr. Fagan's motion.

We've now got a motion to table. It was open to you to bring a motion to table the committee's report as well, Mr. Charette. Nobody did that. So let's deal with the motion to table that we have before us.

I think to make life easier for Mr. Varro it should be a roll call vote, and we'll take it from there.

SECRETARY: Thank you, Treasurer. Mr. Adourian?

MR. ADOURIAN: No.

SECRETARY: Professor Alford?

PROFESSOR ALFORD: No.

SECRETARY: Ms. Banning?

MS. BANNING: Yes.

SECRETARY: Mr. Braithwaite?

MR. BRAITHWAITE: Yes.

SECRETARY: Mr. Brown?

MR. BROWN: No.

SECRETARY: Mr. Burd?

MR. BURD: Yes.

SECRETARY: Mr. Charette?

MR. CHARETTE: No.

SECRETARY: Mr. Chiummiento?

MR. CHIUMMIENTO: No.

SECRETARY: Ms. Corbiere?

MS. CORBIERE: Yes.

SECRETARY: Ms. Corsetti?

MS. CORSETTI: Yes.

SECRETARY: Mr. Desgranges?

MR. DESGRANGES: No.

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. Graham?

MR. GRAHAM: No.

SECRETARY: Mr. Groia?

MR. GROIA: Yes.

SECRETARY: Mr. Horgan?

MR. HORGAN: No.

SECRETARY: Mr. Klippenstein?

MR. KLIPPENSTEIN: No.

SECRETARY: Ms. Lalji?

MS. LALJI: Yes.

SECRETARY: Dr. Lau?

DR. LAU: Yes.

SECRETARY: Ms. Lean?

MS. LEAN: No.

SECRETARY: Mr. Lesage?

MR. LESAGE: No.

SECRETARY: Ms. Lewis?

MS. LEWIS: Yes.

SECRETARY: Ms. Lippa? Ms. Lomazzo?

MS. LOMAZZO: Yes.

SECRETARY: Mr. Lyon?

MR. LYON: No.

SECRETARY: Mr. Marshall?

MR. MARSHALL: No.

SECRETARY: Ms. Merali? Ms. Murchie?

MS. MURCHIE: Yes.

SECRETARY: Ms. Painchaud?

MS. PAINCHAUD: Yes.

SECRETARY: Mr. Parry?

MR. PARRY: No.

SECRETARY: Mr. Pineda?

MR. PINEDA: No.

SECRETARY: Mr. Poliacik?

MR. POLIACIK: No.

SECRETARY: Mr. Pollock? Mr. Prill?

MR. PRILL: No.

SECRETARY: That was no, Mr. Prill?

MR. PRILL: Yes, it was no.

SECRETARY: Thank you. Mr. Rosenthal?

MR. ROSENTHAL: Yes.

SECRETARY: Mr. Ross?

MR. ROSS: Yes.

SECRETARY: Ms. Sellers?

MS. SELLERS: Yes.

SECRETARY: Mr. Sheff?

MR. SHEFF: Yes.

SECRETARY: Ms. Shi?

MS. SHI: No.

SECRETARY: Ms. Shin-Doi?

MS. SHIN DOI: Yes.

SECRETARY: Ms. Shortreed?

MS. SHORTREED: Yes.

SECRETARY: Ms. Siran?

MS. SIRAN: 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: No.

SECRETARY: Ms. Wilkinson?

MS. WILKINSON: Yes.

SECRETARY: Mr. Wright?

MR. WRIGHT: No.

SECRETARY: Treasurer, I'll just check to see if others are there. I think Mr. Goldstein's gone. Ms. Lippa? Ms. Merali? Mr. Pollock?

Treasurer, the motion carries, 27 for, 21 against.

TREASURER HORVAT: Thank you, Mr. Varro. We'll move down the agenda. We have a report from the Professional Regulation Committee that's being moved by Ms. Shortreed and seconded by Mr. Spurgeon, and that's at tab 2. Ms. Shortreed.

-- PROFESSIONAL REGULATION COMMITTEE REPORT:

MS. SHORTREED: Thank you, Madam Treasurer, and congratulations on your election to the role.

There is a report of the Professional Regulation Committee at tab 2.1 of today's materials,

beginning at BoardBooks, page 45. The motion itself is at BoardBooks 47. It is moved by myself and seconded by vice-chair of the committee, Andrew Spurgeon.

Convocation is asked to adopt amendments to the commentary to rule 3.1-2, competence of the Rules of Professional Conduct, to provide licensees with guidance in respect of their obligations relating to technological competence.

These amendments, which you can see redlined at tab 2.1.1, are based on amendments to the commentary to the Federation of Law Societies of Canada's Model Code of Professional Conduct, which was adopted by the Federation in October of 2019.

On May 26th, 2022, the Competence Task Force final report was approved by Convocation, including a recommendation that the Professional Regulation Committee consider amendments to the commentary regarding technological competence. So we did that at committee and it is now before you.

The PRC recommends that Convocation adopt these amendments as a means of acknowledging technological competence as an element of the general duty of competence, and to ensure that lawyers are aware that the duty of competence includes understanding and using technology that is necessary to

the nature and area of their practice and responsibilities.

These amendments will align Ontario with five other provinces and two territories which have adopted the Federation's model code commentary, as well as jurisdictions in the United States that have similar provisions.

The Paralegal Standing Committee has also now approved companion amendments to the paralegal professional conduct guidelines. As such, adopting these amendments today will create a uniform standard for all licensees in this province. Thank you.

TREASURER HORVAT: Thank you, Ms. Shortreed. Mr. Spurgeon, would you like to speak to the motion now?

MR. SPURGEON: I'll defer.

TREASURER HORVAT: Thank you. I don't see any hands up on the Zoom. Mr. Varro, are there any hands up in the room?

SECRETARY: Mr. Burd would like to speak, Treasurer.

TREASURER HORVAT: Thank you. Mr. Burd.

MR. BURD: Thank you. I just wanted to reiterate what Ms. Shortreed had indicated, that because the paralegal guidelines are subject only to

the Paralegal Standing Committee and don't need Convocation approval that we adopted those unanimously at PSC. Thank you.

TREASURER HORVAT: Thank you. Is anyone opposed in the room? Mr. Varro.

SECRETARY: No hands are raised, Treasurer.

TREASURER HORVAT: Is anyone opposed on the Zoom? I see no hands. So the motion passes. Thank you, Ms. Shortreed and Mr. Spurgeon, who I didn't give an opportunity to speak. Sorry about that.

The last matter on our agenda is from the Human Rights Monitoring Group, a request for intervention. Mr. Falconer, you're speaking to this matter?

MR. FALCONER: I'm hoping Ms. Walker, as my co-chair, will be correcting you on that, Treasurer, and that Ms. Walker is speaking to it.

TREASURER HORVAT: Oh, apologies, Ms. Walker.

MS. WALKER: I'm happy to speak to it.

TREASURER HORVAT: Ms. Walker then.

[-- HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTION:](#)

MS. WALKER: And, Mr. Falconer, as my

co-chair are you seconding this motion?

MR. FALCONER: I am.

MS. WALKER: Thank you. So may I deliver my remarks, Madam Treasurer?

TREASURER HORVAT: Please go ahead, thank you.

MS. WALKER: Good morning, everyone. As co-chair of the Human Rights Monitoring Group, I'm pleased to speak to the motion before Convocation today, seeking intervention on behalf of Hong Kong lawyer, Dr. Margaret Ng, and human rights defenders Cyd Ho, Cardinal Joseph Zen, Dr. Hiu and Denise Ho.

The motion is found at tab 3 of the materials, with the proposed letter and public statement in the sub tabs below. The item before Convocation today has the unanimous support of the monitoring group.

Dr. Margaret Ng is a barrister, former legislator and prominent pro-democracy figure in Hong Kong. Dr. Ng has dedicated much of her career to the protection of human rights and free speech in Hong Kong and in 2019 was the co-winner of the International Bar Association Human Rights and Pro Bono Award.

Dr. Ng's name should be familiar to many of you as the Law Society intervened on her behalf in

May 2021, condemning her conviction and sentencing for organizing and participating in the 2019 pro-democracy protests.

On May the 11th, 2022, Dr. Ng and four human rights defenders, including 90 year old Catholic Cardinal Zen and Canadian national Denise Ho were arrested under Hong Kong's repressive national security law. They are alleged to have colluded with foreign forces to endanger their national security due to their role as trustees for a humanitarian and legal defence fund created in response to the 2019 pro-democracy protests in Hong Kong.

The 612 Humanitarian Relief Fund provided financial assistance to thousands of peaceful protesters for legal advice, bail money and medical aid. Relying on the National Security Law, the Hong Kong police launched an investigation into the fund in 2021 and ordered that it produce its operational information, which would identify the fund's donors, as well as the lawyers who received money from it. The fund subsequently ceased operating.

The National Law enacted in 2020 has been the subject of international condemnation. It criminalizes acts that it deems challenging to its authority, including collusion with foreign forces. It

has been used to restrict freedom of expression, peaceful assembly, association and liberty and to repress dissent and political opposition.

The arbitrary nature of the law and its imprecise criminal definitions make it impossible to know how and when it will be deemed as violated, which has resulted in the arbitrary or politically motivated persecution of human rights defenders and lawyers in Hong Kong.

The trustees were arrested on May the 11th, 2022, for allegedly colluding with foreign forces, contrary to National Security Law. It is reported that the trustees have been accused of funding lobbying trips and activist meetings with British lawmakers, providing financial aid to Hong Kong rioters who have fled to Canada and Taiwan, and accepting donations from overseas.

Amnesty International has called these arrests a shocking escalation of the repression of human rights in Hong Kong, arguing that in attempting to criminalize the provision of legal, economic and medical aid to those in need, the authorities are undermining their rights to a fair trial and other human rights of all people in Hong Kong.

After considering the above facts,

including the mandate of the group, we ask that the proposed letter of intervention and public statement be supported by this Convocation so we can continue to stand up for members of the legal professions when they are persecuted for defending some of the world's most vulnerable people. Thank you, Treasurer.

TREASURER HORVAT: Thank you, Ms.

Walker. Mr. Falconer --

BENCHER: I would ask for a roll call vote.

TREASURER HORVAT: Mr. Falconer, would you like to speak now.

MR. FALCONER: I would ask to defer my remarks.

TREASURER HORVAT: Okay. And somebody asked for a roll call vote? Mr. Alford has his hand up, or, sorry, Professor Alford.

PROFESSOR ALFORD: Thank you, Treasurer. I would like to speak to this, please.

TREASURER HORVAT: Sure, go ahead.

PROFESSOR ALFORD: Thank you very much, Treasurer, Convocation. I would just like to draw your attention and underline a few of the remarks made in this truly excellent report. I encourage everyone, not merely members of Convocation, but the members of the

legal profession to take the time and read it.

One thing worth mentioning is that this is addressed to Carrie Lam, who is currently the Chief Executive of Hong Kong. By the time it reaches Hong Kong it will land on someone else's desk, as the report notes, it will land on the desk of Mr. John Lee, who will become the Chief Executive of Hong Kong.

Mr. John Lee was elected Chief Executive in an election in which he was the only candidate. He was the only candidate because he was the only person approved by Beijing to run for Chief Executive of Hong Kong and he was approved in that capacity because over the last three years he has led the crackdown in Hong Kong under the National Security Law, the results of which you see detailed here. And, in particular, I think he's to be lauded for the fact, from Beijing's perspective, that he has made this show of force of arresting a Catholic Cardinal, a well-known Canadian citizen, Denise Ho, who was also a Cantopop star, well beloved in Hong Kong, and Margaret Ng, arrested in her barrister's chambers with the intention of using her privileged attorney client materials against her at her trial.

Just to think how this is being sanctioned and, indeed, approved by Beijing, on Canada

Day, July 1st, a few days from now, Xi Jinping is going to make his first trip effectively outside of Beijing since the beginning of the pandemic, in fact, since January of 2020, and he is to visit Hong Kong and he is to laud John Lee and he is to remark upon the elevation of John Lee as the turning point in the history of Hong Kong.

Now, John Lee was the person who as chief secretary in Hong Kong executed this crackdown. So it's a clear show of force to do these things. It's a slap in the face to the world's Catholics, it's a slap in the face to Canada, as Mélanie Joly has noted in her remarks about the arrest of Denise Ho, and it's a slap in the face of the legal profession.

I know that there have been some debates in the past about the utility of sending reports and I think that this report kind of highlights that concern insofar as it's landing on the desk of a hatchet man for the very crackdown that's being complained of, who is just about to receive the adulation of Xi Jinping on his first trip outside of Beijing in two years.

I think it's an excellent report and its utility for the most part is completely unchallenged with respect to what it lays forth and how well it lays

it forth.

So I would just encourage everyone, regardless of how they feel about the utility of letters like this going to John Lee or to Xi Jinping, to please take the time and read this excellent report and to reflect on how fragile the rule of law is and the heroism of these Hong Kong lawyers who have resisted it at the cost of literally everything. Thank you, Treasurer.

TREASURER HORVAT: Thank you. Mr. Lyon.

MR. LYON: Thank you, Treasurer. I echo Bencher Dr. Alford's comments about the report. It highlights the catastrophe that is Hong Kong.

Without commenting on whether or not we should have a Human Rights Monitoring Group, I have some concerns, though, about consistency coming from the Law Society and, as a governor, I feel obliged to bring them forward at this occasion.

In -- last fall Bencher Shi and I afforded Convocation the opportunity to write a letter to former Chief Justice McLachlin about her continued participation in the Hong Kong judicial process. That motion was defeated because -- well, it was defeated.

I have some concerns that this proposed intervention letter suggests that Justice McLachlin,

former Chief Justice McLachlin, is either part of an independent judiciary and, therefore, is free to continue to act, which seems to be the message from last fall, or the letter is interfering in matters that are entirely independent -- with an entirely independent judiciary and whatever machinations go on before that based on Convocation's position last fall, rest assured that Justice McLachlin and an independent judicial branch would afford the accused all the benefits of a free and democratic society. So there seems to me to be quite inconsistent messages being sent.

I also have some more picayune issues, and this relates to the reputation of the Law Society. Bencher Dr. Alford touched upon the fact that Carrie Lam is no longer the Chief Executive. As of May 8th John Lee took that position, so he's already in that position.

My concern is that the letter as drafted is replete with mistakes. It's copying Marc Garneau as the Minister of Foreign Affairs, when, in fact, he has been long succeeded by Mélanie Joly. It's also cc'd to Dominic Barton, as the ambassador, having stepped down immediately after the two Michaels were released to take a position with Rio Tinto, who does a great deal

of work with the communist regime in China.

So if there is going to be a letter sent, we need to clean it up. I'm embarrassed to have to even raise this, quite frankly. I'm shocked at the mistakes in the letter at that level, but, more importantly, it's the inconsistent message that Convocation seems to be sending, because either the judiciary in Hong Kong is independent and former Chief Justice McLachlin is entirely right in maintaining her participation in that, or it is not, in which case we should not be sending the letter. Thank you, Treasurer.

TREASURER HORVAT: Thank you, Mr. Lyon. I'd encourage you to e-mail the chairs and just lay out those errors that you found in the letter.

I understand Bencher Charette or Mr. Charette wishes to speak in the room.

MR. CHARETTE: Thank you, Treasurer. In my other life as a deacon in the Catholic Church I obviously cannot remain unconcerned. There's no doubt that the communist Chinese authorities are acting like gangsters and thugs. I'm also confident, however, that Cardinal Zen will look forward to increasingly robust support from the Vatican and perhaps even an audience with Pope Francis.

However, as I have maintained in the past, the Law Society is to regulate lawyerly practice in the Province of Ontario, not to take international, diplomatic or legal action. I accept that there are different approaches in these matters and we've heard them this morning, however, in my view, the Law Society offers a more authentic and a truer encouragement to political prisoners such as Cardinal Zen and the others by setting an example of acting within the scope of our legal authority given to us by our democratically elected legislature. In this way, I think, we offer more authentic democratic support.

I appreciate the sincere intentions of those who support the motion. I can only add my own abstention. Thank you.

TREASURER HORVAT: Thank you, Mr. Charette. I see no other hands up. Mr. Falconer, did you -- did you wish to speak?

MR. FALCONER: Yes, please, Treasurer.

MS. WALKER: Sorry, sorry, Mr. Falconer.

Is there an opportunity to respond, Treasurer?

MR. FALCONER: I was going to do that, chair, if you want me to do those remarks.

MS. WALKER: Yes, sorry. Go ahead, Mr. Falconer.

MR. FALCONER: So on behalf of co-chair Walker and myself, I want to thank you, Bencher Lyon, for pointing out those typos. Surely the time of Convocation can be used better than helping us with typos in our letter. I just would have thought a quick note, we would have addressed what you referred to, and I encourage all of us to use our time wisely and I'm not sure that was a wise use of our time, but thank you for the typo corrections.

On the substantive issues, if I may speak as seconder, Treasurer, and I'll be brief, any suggestion that the work of this committee should be done by others and that we should not step up I would have thought was completely met by the human rights heroes that we have heard from over the past year.

Whether we speak the words of Professor Akhavan, whether you consider and harken back not two months ago to the head of the Commonwealth Lawyers Association, each and every time we have been told to write these letters and to send a simple signal, we're watching. We have been told by victims of human rights atrocities, human rights defenders, including from Colombia, that it helps.

So what are we to do in the face of all that, just not do it? I would respectfully suggest

that this is a perfect example and I, I thank Professor Alford, and I want to say outright that his assistance to us in respect of this particular region has been of great help because of his expertise, and we continue to need to work collaboratively. It's hard to work collaboratively, we're all used to fighting each other all the time. But it's a very good example. Professor Alford attended with the committee and educated us and we used it. So thank you.

I just want to conclude with this observation. The Human Rights Monitoring Group is a tough, difficult exercise because of the issues being faced, but also its history in terms of some of the people that oppose its existence.

The work of staff and most recently -- and ongoing, Ms. Latimer, Patti Latimer, has been extraordinary. The contribution of our now Bencher Emeritus, Donnelly, her leadership has elevated that committee. And then my co-chair, Tanya Walker, again absolutely elevated the committee.

I want to thank all the committee members, because we're done in terms of our mandate, for you staying with it. And I believe that saying we're watching and doing it responsibly and making clear to the entire province here in Ontario and then

the world that we care and that we are watching is important. So I just want to acknowledge all of the work of the folks on the Human Rights Monitoring Group. Thank you.

TREASURER HORVAT: Thank you. We can move to a vote now. Does anyone in the room --

MS. SHI: Madam Treasurer, I had my hand up.

TREASURER HORVAT: We've heard from the seconder already, Ms. Shi.

MS. SHI: I'd like to respond a short comment, I promise you, to what Bencher Falconer said.

MR. FALCONER: Point of order. The whole point is the seconder gets the last word. That's why they call it the last word, not the second to last word.

MS. SHI: All right, that's fine.

MR. CHARETTE: Could we have a roll call vote, Mr. Varro?

TREASURER HORVAT: I think somebody already called for a roll call, you're right. Mr. Varro.

SECRETARY: Thank you, Treasurer. Mr. Adourian?

MR. ADOURIAN: Yes.

SECRETARY: Professor Alford?

PROFESSOR ALFORD: Yes.

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. CHARETTE: Abstain.

SECRETARY: Mr. Chiumminto?

MR. CHIUMMIENTO: Yes.

SECRETARY: Mr. Corbiere?

MS. CORBIERE: Yes.

SECRETARY: Ms. Corsetti?

MS. CORSETTI: Yes.

SECRETARY: Mr. Desgranges?

MR. DESGRANGES: With the proper
corrections to the letter, yes.

SECRETARY: Mr. Epstein?

MR. EPSTEIN: Yes.

SECRETARY: Mr. Esquega?

MR. ESQUEGA: Yes.

SECRETARY: Mr. Fagan?
MR. FAGAN: Abstain.
SECRETARY: Mr. Falconer?
MR. FALCONER: Yes.
SECRETARY: Mr. Graham?
MR. GRAHAM: Yes.
SECRETARY: Mr. Groia?
MR. GROIA: Yes.
SECRETARY: Mr. Horgan?
MR. HORGAN: Yes.
SECRETARY: Mr. Klippenstein?
MR. KLIPPENSTEIN: Yes.
SECRETARY: Ms. Lalji?
MS. LALJI: Yes.
SECRETARY: Dr. Lau?
DR. LAU: Abstain.
SECRETARY: Ms. Lean?
MS. LEAN: Yes.
SECRETARY: Mr. Lesage?
MR. LESAGE: Yes.
SECRETARY: Ms. Lewis?
MS. LEWIS: Yes.
SECRETARY: Ms. Lomazzo?
MS. LOMAZZO: Yes.
SECRETARY: Mr. Lyon?

MR. LYON: Sorry, 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. Pineda?

MR. PINEDA: 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? Mr. Sheff?

MR. SHEFF: Yes, yes.

SECRETARY: Ms. Shi?

MS. SHI: Abstain.

SECRETARY: Ms. Shin Doi?

MS. SHIN DOI: Yes.

SECRETARY: Ms. Shortreed?

MS. SHORTREED: Yes.

SECRETARY: Ms. Siran?

MS. SIRAN: Yes.

SECRETARY: Mr. Spurgeon?

MR. SPURGEON: Yes.

SECRETARY: Mr. Troister? 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. Wright? The motion

carries, Treasurer, 42 in favour, 5 abstentions.

TREASURER HORVAT: Thank you, and that's a wrap. That's the end of the agenda. Everyone have a wonderful summer and I will be in touch soon with committee appointments and any other changes that I will be making. Thanks everyone, take care.

--- Whereupon the proceedings adjourned at 12:03 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.

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