

1 Falconer.

2 MR. FALCONER: Treasurer.

3 TREASURER CONWAY: I'm sorry.

4 MR. FALCONER: Treasurer, I want to  
5 speak in support of the motion. I want to speak to,  
6 first of all, that not just this room, but as I  
7 understand it quite a number of members of the Criminal  
8 Lawyers Association are in the overflow room. You have  
9 different people attempting to access this process  
10 because what we have learned in the last month is that  
11 there is a virtually competitive interest in the PLAP  
12 issue as there was in the articling debate. We have  
13 all been treated to the letters and communications  
14 coming from across the province.

15 It appears that we have a true tiger by  
16 the tail or, as I wrote in an e-mail recently, a real  
17 flap over PLAP.

18 Treasurer, I don't think it should be  
19 surprising to any of us the buttons that have been  
20 pushed over this. Why? Because we as a Law Society  
21 have committed ourselves to the objective of the  
22 retention of women in law and when the rubber finally  
23 met the road and we started spending money on it, it  
24 was something to be proud of. It came as a result of  
25 some consultation, but also it should be acknowledged

1 that great work by former Treasurer Pawlitzka and her  
2 crew led to a series of important recommendations.

3 And to deal with one of my colleague's  
4 questions before, when I look at the different programs  
5 in place, it is hard to find something as concrete in  
6 terms of the retention of women in the profession as  
7 PLAP; that is, it goes directly to the issue of a woman  
8 being able to sustain her practice.

9 I was able to dig up a few statistics  
10 that I found very impressive, Treasurer, and I start  
11 with what the criminal lawyers' realities are in terms  
12 of their retention of women.

13 It will come as a surprise to no one  
14 that, as an example, 61 percent of the new members in  
15 2011 of the Criminal Lawyers Association are women, 61  
16 percent in their first year. By the five-year mark,  
17 that number drops to 30 percent. Something happens to  
18 women in their practice in the first five years that  
19 doesn't happen to men. And we know that.

20 The real issue is are there now other  
21 measures in place that are designed to assist and  
22 ameliorate the disadvantage that is naturally created  
23 by women having a personal and professional role. The  
24 arguments goes that the presence of unemployment  
25 insurance, the special EI benefits, is the answer.

1                   I found very impressive one of the  
2 written submission that I assume we all got and many  
3 probably read with great interest. There is a young  
4 lawyer by the name of Moreau, Stephen Moreau, from  
5 Cavaluzzo Hayes. When I dug up information about it,  
6 it was pretty emasculating. The guy is not just a gold  
7 medallist, he was a clerk with Madam Justice Deschamps  
8 of the Supreme Court of Canada, he is a partner and his  
9 specialty is employment law, and he has recently  
10 appeared in front of the Parliamentary Standing  
11 Committee --

12                   TREASURER CONWAY: All right, fine, Mr.  
13 Falconer, we can move on.

14                   MR. FALCONER: Well, I say this because  
15 his opinion provided to us as Benchers warrants some  
16 consideration. It's his opinion, as a specialist in  
17 this area, that no woman reasonably in the sole and  
18 small firm environment acting reasonably would commit  
19 to the unemployment insurance scheme for a number of  
20 reasons.

21                   He quotes the applicable provisions and  
22 points out, first of all, there is a twelve-month  
23 notice period you have to give ahead of time. So I  
24 guess your family planning has to be twelve months  
25 ahead, and I'm not that great a mathematician, but

1 something tells me that the nine months is different  
2 than the twelve months.

3           Secondly -- and we have to all think  
4 about this -- as a sole practitioner or small firm  
5 lawyer, you are required to commit in your  
6 contributions for life of the running of your business.  
7 So that means for the purposes of protecting your  
8 business for three months or four months, because the  
9 average is three months, you have to commit to your  
10 contributions for life.

11           Now, frankly, that is simply  
12 inconceivable in terms of agreeing to make payments to  
13 the government for life in exchange of a three-month  
14 leave period. It's not an equivalent, it's not  
15 accessible, and we shouldn't see unemployment insurance  
16 as the answer.

17           That's one of the reasons it's so  
18 important, and I say in support of the friendly  
19 amendment, because what the friendly amendment is  
20 really saying is, look, we had confidential committee  
21 meetings, by nature they have to be confidential -- and  
22 I'm wrapping up, Treasurer -- we had confidential  
23 committee meetings, and by nature they have to be  
24 confidential, so there's nothing wrong with that.  
25 Those meetings only ended in the last thirty days. The

1 gap between the decision and recommendations of those  
2 confidential committees and today's public Convocation  
3 is simply insufficient, I say, Treasurer, to actually  
4 assess and process the amount of input we have received  
5 from the profession.

6           We have to be fair to those who have a  
7 strong interest in this, we have to show we are capable  
8 of listening to people, and I say with this friendly  
9 amendment what we're really doing is saying that we  
10 understand that there is an overriding interest in this  
11 issue, not just amongst the profession, but as a  
12 public.

13           When you look at British Columbia as a  
14 perfect example, they have opted to have a similar  
15 program with EI. It's obvious that this is not an  
16 issue, it's a simple no-brainer.

17           In all the circumstances, I'm advocating  
18 strongly, Treasurer, that we give this pilot program  
19 the appropriate opportunity to be assessed, we give the  
20 means issue an appropriate chance to be assessed.  
21 Keep in mind, the criticisms made ultimate sense that  
22 former Treasurer Pawlitzka made. The criticisms that  
23 people may have been using it and shouldn't be, but  
24 that's why you have a means test and we figure out what  
25 the number is correctly.

1                   But I do say this, in case anybody  
2 wonders, the statistics tell us that two-thirds,  
3 two-thirds, of the women --

4                   TREASURER CONWAY: Mr. Falconer --

5                   MR. FALCONER: I'm finishing.

6                   TREASURER CONWAY: -- could you please  
7 sum up.

8                   MR. FALCONER: Yes.

9                   TREASURER CONWAY: We still have the  
10 budget to do and I have a list of about nine people who  
11 want to speak and it's four-thirty.

12                   MR. FALCONER: Fair enough. Two-thirds  
13 of the women --

14                   TREASURER CONWAY: In fairness to  
15 everyone here, we have had a long, long day. I think  
16 you've made it quite clear what your position is.  
17 Thank you very much.

18                   MR. FALCONER: All right. Two-thirds of  
19 the women would still qualify for PLAP, even if --

20                   TREASURER CONWAY: Mr. Falconer, thank  
21 you very much. Thank you very much, Mr. Falconer.

22                   Mr. Copeland.

23                   MR. COPELAND: Thank you, Treasurer.  
24 I'll start speaking as I'm walking down to the podium.  
25 I'll try to be quite brief.