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Chair

Mr. Ed Komarnicki

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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• (1535)

[English]

The Chair (Mr. Ed Komarnicki (Souris—Moose Mountain, CPC)): We'll call the meeting to order.

I'd like to thank our two witnesses for attending in order to represent the Canadian Association of Elizabeth Fry Societies and the John Howard Society of Canada.

As you are aware, you will be presenting to us with respect to the private member's bill, and then we will have some questions flowing from that. When we're through with the questions and the time is up, we'll then suspend for the next panel.

We'll start now with Catherine.

Ms. Catherine Latimer (Executive Director, John Howard Society of Canada): Thank you very much. It's a great pleasure to be here this afternoon.

The John Howard Society of Canada is celebrating its 50th year as a community-based charity in Canada with a mission to support effective, just, and humane responses to the causes and consequences of crime. The society has more than 60 front-line offices across the country, with many programs and services to support the safe reintegration of offenders into their communities and to prevent crime. Our work helps make communities safe, and we're happy about that. We recognize that employment is one of the key factors in supporting the successful reintegration of offenders back into the community, and that's why I'm pleased to speak to you today about Bill C-316.

That bill proposes, as I understand it, amendments to the Employment Insurance Act to remove provisions allowing for qualifying periods and benefit periods to be extended as a result of time spent by the claimant in a jail, penitentiary, or similar institution. These changes would prevent people from obtaining the benefits of an insurance scheme to which they and their employers had contributed when the legislation allowed these extensions. The proposed amendments raise concerns about fairness and effectiveness, and there are five things to which I really want to draw your attention.

First of all, as an insurance scheme, contributors should receive the benefits that were consistent with the terms in place at the time of the contribution. Both employers and employees paid into this insurance scheme while the extensions were part of the legislative framework, so they should be allowed to have the benefits that were

in place when they made their contributions. This is not a government program; this is an insurance program. These people are beneficiaries, having paid into it.

Secondly, the concept of "confined in a jail, penitentiary or other similar institution" is an overly broad concept. More than half of the people behind bars in Canada have not been convicted, nor sentenced for an offence, and thus are presumed innocent in law. This would mean that more than half of the people who lose their current statutory right to an extension are not at fault. Further, the term "other similar institution" is quite broad and could include internment camps, preventive detention, and other detentions that are not necessarily related to wrongdoing on the part of the contributor. I understand that the author of the bill is open to some amendments that would allow the extension to apply only for those held in pre-trial facilities.

The third point is connected with the legitimacy of civil penalties on top of criminal convictions. If those friendly amendments were made, it would make it very clear that the disqualification was not directed at those who are simply incapable of working due to their involvement with the justice system, but targeted at those who were convicted of a crime. It would be a civil disability that would be added to what the criminal courts have determined is a fair and proportionate penalty for that crime. This further penalization is inconsistent with the evolution of the common law and the understanding of those in custody as being citizen-prisoners. Those under sentence retain all legal rights and responsibilities, except for the rights and responsibilities that are implicated in the carrying out of the sentence imposed by the criminal courts. The concept of outlawry, or a person being outside the scope and protections of the law because of a criminal conviction, is an antiquated notion that is subtly being reintroduced. The punishment for a criminal offence should be the sentence imposed by the criminal courts as the full and fair measure of accountability for the crime committed.

The fourth issue I'd like to raise is the impact on the criminal justice system. If Bill C-316 were amended to limit the disqualification of employment insurance extensions to post-sentence incarceration, the implications for the criminal justice system would be quite serious. A person detained in custody prior to conviction and sentencing generally gets credit for the time served prior to the conviction and sentencing. If the pre-trial period in detention, when the accused is presumed innocent, does not limit the employment insurance extension periods but the post-conviction period does, then delays in the trial processing could result.

Bill C-316, as amended, might motivate the accused to delay the trial to accumulate pre-trial custody, which would offset the sentence imposed. While these delays would protect the claimant's employment insurance entitlements, they would exacerbate a pre-trial detention crisis in our country.

The last point I would like to make has to do with a loss of important reintegration support. One of the groups in society that have most difficulty finding employment is those who have been criminalized. Having access to employment insurance assists a highly disadvantaged group in finding employment. This proposed amendment will hinder the policy objective of promoting community safety by jeopardizing employment prospects and compromising efforts to reduce recidivism.

In conclusion, Bill C-316 would disentitle people to the benefits of an insurance scheme to which they and their employers had contributed. It would create unfairness for claimants and particularly for those who are innocent and detained. For those convicted and sentenced in the criminal court, it would amount to an additional *ex post facto* penalty to a criminal sentence that is dubious in law and could lead to a disproportionate penalty. Efforts to narrow the effect of this bill on post-sentence restrictions on employment insurance extension periods would lead to delays in a criminal justice system that is already in crisis. It would also undermine public safety by jeopardizing employment prospects and denying insurance payments to a vulnerable group as they seek to successfully reintegrate into the community. For these reasons, the John Howard Society of Canada urges you to oppose Bill C-316.

Thank you very much.

● (1540)

The Chair: Thanks for that presentation.

We'll now turn to the next presenter.

Go ahead.

Ms. Kim Pate (Executive Director, Canadian Association of Elizabeth Fry Societies): Thank you.

My name is Kim Pate. I'm with the Canadian Association of Elizabeth Fry Societies, and I thank you for inviting us on behalf of the membership board and the clientele we work with. I appreciate the opportunity to speak to Bill C-316, an act to amend the Employment Insurance Act.

As you may or may not be aware, our organization has a membership of 26 local community-based organizations, all of which are governed by boards of directors who are volunteers. Many of our local societies also provide services on the basis of voluntary service, as well as contracts with corrections and other services. What you may not be aware of is that our organization works not just with those who are in the criminal justice system, having been criminalized and imprisoned, but also works with the most marginalized and victimized—women and girls. Those of you who are from the western part of the nation will know that in some areas, Elizabeth Fry Societies provide the only victim services to some communities. It is in this context that we add our submissions.

The main concern we have—and we share the concerns of the John Howard Society of Canada, so I won't repeat all of those—is

that the Employment Insurance Act provides an insurance scheme for those who have paid into it and invested in it. It's a federally administered insurance scheme, and only those who have paid into it are eligible at all to even apply for it.

The fact that individuals who are disadvantaged or marginalized or are incarcerated for all kinds of reasons, some of which are more or less within their control.... Certainly as we see some of the changes that are happening now, we're seeing it's becoming more difficult for people to survive in the community, particularly many of the women we work with. Not surprisingly, some of them end up criminalized and sometimes for fairly minor things. Those who have been hardworking, productive members of our working communities before going to prison should not be denied the benefit of the insurance that has been paid into on their behalf by them and their employers when they exit prison, if they can be found eligible.

Delaying eligibility only does that: delay an entitlement that they already have.

As Ms. Latimer has pointed out, to add a civil penalty to a criminal penalty is to actually violate the Canadian Charter of Rights and Freedoms and to go completely against all of the principles upon which our criminal justice system is based—that the penalty is the punishment and that we should not be racking up more in addition.

The friendly amendment certainly improves on some of that. The fact that we know that anywhere from 70% to 90% of the women in provincial and territorial custody, which is where this bill will most impact individuals, are awaiting trial and may not ever be convicted makes this an even more egregious penalty and civil penalty on top of the non-criminal penalty that may result. We have concerns about that.

We also have concerns that clawing back these sorts of benefits, which are entitlements that people have paid into as an insurance scheme, actually participates in a further off-loading to provinces and territories of the cost of individuals, who might otherwise be eligible for employment insurance while they are looking for employment after they exit prison but then are unable to obtain that employment and will need to possibly avail themselves of the social assistance schemes that are provincially and territorially run. So that will add to the cost to the provinces and territories.

In summary, we're extremely concerned that this bill not pass. We think that there are already checks and balances in place to ensure that there is accountability, and that it seems to be merely an attempt to further punish individuals who, for all kinds of reasons, may find themselves in a situation of being criminalized and imprisoned. We urge the committee to recommend that this bill not be passed.

Thank you.

● (1545)

The Chair: Thank you very much. I gather that you've concluded your presentation.

I had a couple of questions for Ms. Latimer. I'm not sure if you had the opportunity to have a look at the proposed friendly amendment, but it talks about taking the benefit away from those who were confined in a jail, penitentiary, or other similar institution and were not found guilty. In other words, it only proposes to give the extension to those who were confined—if we may say that—and not found guilty.

Given that—I'm not sure if you had a look at it—do you still believe that there would be some people attempting to prolong the pre-trial stay, in light of the fact that if they were convicted, they would not have the benefit of that extension?

Ms. Catherine Latimer: The pre-trial detention issue is a very serious one. I think many of us are watching to see what the implications of that are. Many people are held in detention longer, perhaps, than the sentence they would have received would have imposed upon them, and then the charges against them are dismissed without a conviction being registered. The fact that there's been no conviction for the sentence doesn't necessarily mean what you're suggesting it means.

The other point I would make is that you're into a very challenging calculation issue as to what the implications would be. Let's just make the assumption.... I guess it would be a day-for-day calculation if the person is subsequently acquitted, but what if the charges are simply stayed or withdrawn?

The Chair: Then they wouldn't be convicted, so—

Ms. Catherine Latimer: What was the wording of the amendment? Was it “found not guilty” or “convicted”?

The Chair: Those that would get the extension would be those that were confined in a jail, penitentiary, or similar institution, and were not found guilty of the offence. Those would get an extension.

Ms. Catherine Latimer: My issue would still be that it would address some of my concerns about pre-trial detention but not necessarily some of my concerns about other people who are detained. For example, let's say that they're detained under preventive detention under security watch. It is not supposed to be understood as a penalty, but they would certainly be detained and then they wouldn't.... It's hard to know how the implications would apply to that.

The Chair: The other point, and then I'll turn it over.... I don't usually intervene, but it's a question of interest.

In the first case, with the act as it were, it provided entitlement, both to those who were found not guilty and those who were found guilty. But because now you're taking away that benefit, so to speak, it is important to exclude those who were found not guilty.

Ms. Catherine Latimer: My second level of concern is that it's a civil penalty on top of a criminal conviction. You're losing something. The state is taking away a benefit that you previously had. Where other people who might be equally at fault may be in the first category—maybe it was a self-induced injury, or something like that where there was an element of fault—they would be entitled to the deferment, and the other people would not.

What you're doing is you're looking behind the reason for the incapacity and you're heaping on another penalty on top of the conviction, which amounts to a deprivation of liberties in association

with a conviction. The entire deprivation of liberties should be the penalty that is imposed by the sentencing judge in connection with the offence that's committed. Otherwise, you get a very uneven and unfair problem.

•(1550)

The Chair: Fair enough. I would just maybe add that it is important to remove those who are not found guilty from the private member's bill.

Ms. Catherine Latimer: You would have an extremely serious charter issue if you did not—if the presumption of innocence was, yes, violated in that way.

The Chair: All right. Having said all of that, we'll go over to Ms. Hughes. I didn't mean to get into that much detail, but it is a matter of interest.

Go ahead.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapuskaing, NDP): Thank you.

Happy 50th anniversary to the John Howard Society. It's great to have you here. I think it's extremely important that we hear from those who are so close to the people who are either found guilty or not guilty with respect to this bill, because of the impact this would have. Having worked in probation and parole for 13 years, I certainly understand the good work you do on the ground and the services you provide. I'm sure I will agree with you that most criminals can be rehabilitated. So I appreciate you being here.

You talked about fairness and effectiveness, and I think this is extremely important. The argument that had been made when previous changes had been made was exactly that: it was about fairness and effectiveness. The fact of the matter, as you mentioned, is that the government would be imposing another charge on what somebody's already had.

I'm just trying to put this together. We have a government that says they're tough on crime, and my view is that we need to rehabilitate people. Maybe you could talk about the statistics of how many people, when they come out, do go on the straight and narrow.

The impact of this bill, to me, is going to be very problematic for people who are trying to make a living and trying to go out there and find a job at the end of the day.

Ms. Catherine Latimer: Some of the studies I read over the summer indicated to me—because I was looking at social enterprise and ways of trying to encourage employment for people who were leaving periods of custody—that offenders or ex-offenders are 11 to 13 times less likely to reoffend if they have employment. I can try to dig those studies up for you. But having access to revenue, having some stability, having all of those important social connections and economic connections make a startling and profound difference in terms of the likelihood of successful pro-social reintegration. So it's hugely important that people get access to employment, and it's particularly difficult and becoming more difficult with changes to the pardon provisions and other kinds of disabilities that are being imposed on offenders.

Certainly it's extremely expensive to the state in terms of both economic costs and human resources costs not to have this potential labour force working. Estimates are that 10% of Canadians have criminal records, and we want those people to be viable contributors to the workforce. If you break that down on gender lines—and there are a lot of unique and very special concerns about women—17% of the men in this country may well have a criminal record. You can't afford to run a decent economy if 17% of the males are facing significant handicaps in terms of employment and employment opportunities.

Mrs. Carol Hughes: Again, going back to their ability to find work or their ability to even get themselves an apartment after they've been in for a long period of time—because a lot of them do lose their accommodation in the process—it bothers me a lot to see a government that, over and over again.... We see that even a pardon will be very hard for somebody to get.

Do you think this would be something that would prevent someone from being able to move forward, so that they would continue down the road of crime, given the fact that they would have that financial instability? Even the way the pardons are right now, it's going to be so hard to get a pardon that it's going to be a criminal is a criminal. I just wonder if you would respond to that.

•(1555)

Mr. Phil McColeman (Brant, CPC): Mr. Chair, on a point of order, I don't know whether we should be talking to these witnesses about pardons and what their opinions are about pardons, and mixing that in with the discussion today.

Mrs. Carol Hughes: I didn't ask them about their opinions on pardons.

Mr. Phil McColeman: That's exactly what you're asking them to do. You mixed your question with the fact that this government's heading down the wrong way.

Mr. Chair, please, can we stay on the discussion? These witnesses are not here to talk about their views on pardons and how those affect criminals as they leave jails.

The Chair: It's a fair point.

Your comments should be directed to the bill and the issues that flow from the bill. If you can establish that pardons somehow relate to that, fair enough, but if you can't, you should probably restrict your comments to the bill itself.

Mrs. Carol Hughes: I'll just make a quick comment on that. I'm indicating that there are a variety of things being put in place that actually lead to the fact of the matter, which is whether or not we can rehabilitate a criminal or how this will actually keep the criminal from continuing down that path. So this is exactly what I'm asking.

The Chair: Just a moment.

Go ahead.

Ms. Kellie Leitch (Simcoe—Grey, CPC): On a point of order, I think we should be very clear that Bill C-316 focuses on the Employment Insurance Act and modifications to that act with respect to who is eligible for it or not. That is how the questions should be directed.

My general impression is that questions are being formulated and the general discussion is about a much broader area than that covered by this bill, which specifically speaks to changes to the Employment Insurance Act.

The Chair: I'll rule on this point, and I expect my ruling to be respected.

There is the point that if you don't give the entitlement for the extension to some who would otherwise be entitled to employment insurance benefits, that would result in their not having those benefits when they leave the point of incarceration. That might impinge upon their rehabilitation or their ability to reintegrate into society. So in that fashion, there is some basis for questioning along that specific line. But this questioning is beyond that, and to that extent it would be out of order.

If you want to narrow it to what I have indicated, then you can go forward. If not, I would rule the question out of order.

Mrs. Carol Hughes: Okay, I guess I will shorten it.

Based on the fact that people won't have access to employment insurance, would you consider the recidivism rate to be higher?

Ms. Catherine Latimer: I would consider the absence of employment insurance—something that people feel they have paid into and previously would have had access to and now don't—would be another hurdle to cross in terms of cultivating a belief in pro-social attitudes, a belief that people can be redeemed, have gainful employment, and not recommit offences. Yes, I think it will make it more difficult.

The Chair: Okay, your time is up.

Ms. Pate, if you have a comment you want to make in that regard, go ahead.

Ms. Kim Pate: I would underscore that. One of the challenges we have with people coming out of prison is the incentive to continue on and believe they can make it. We certainly see that with women coming out, especially if they're single moms wondering how they're going to manage. To rack up more and more disincentives makes it a much more difficult path.

We also want people to respect the law. There's a presumption that people who have broken the law don't respect the law. That's certainly not true from where we sit. Yet if we have more and more measures like this, where someone has paid into an insurance scheme and then is disentitled after paying his or her debt to society, it will not encourage a faith that the justice system is fair and there is any interest in people being able to get out and move on.

I think there are many reasons why the rest of the public should be extremely concerned about this as well. We want young people who are learning about this, and all of us, to respect that the system is going to be fair. I know it has been suggested that perhaps this will assist victims. There will be very few victims who would say this would assist them.

Certainly when you're in the throes of dealing with an offence, as many of us know—just because we do the work we do doesn't mean we haven't experienced other things—often you do get very angry. Laws are made by people to have a sober reflection on the law, not to be taking a vengeful response. This seems like a vengeful response, and I think most people hearing it hear it as a vengeful response.

Some might support that for all kinds of reasons, but certainly that's not the fundamental basis of our criminal law.

• (1600)

The Chair: Thank you, Ms. Pate. We've gone well over the time.

We'll move now to the next questioner, Mr. Daniel.

Mr. Joe Daniel (Don Valley East, CPC): Thank you, Chair.

Thank you, witnesses, for being here. I appreciate your thoughts.

Let me follow up on some of the things you've said with regard to fairness.

The employment insurance system is basically there to support you if you lose your job, whatever it is, and the loss is beyond your control. Clearly criminals who have actually been convicted have offended by choice. Is it your position that convicted felons should have a greater access to employment insurance than law-abiding Canadians?

In fact there are some \$400 million worth of services provided for people who are in the prisons, who are already in the system, etc.

Ms. Kim Pate: Not in the provincial and territorial systems. There are very few programs in the provincial and territorial systems.

I certainly would like to hear where it says you have to be seen as deserving of the benefit. There are people who are—

Mr. Joe Daniel: I didn't say “deserving”; I said “that is out of your control”.

Ms. Kim Pate: Where does it say that it's out of your control, even? I don't believe that's in the legislation.

Mr. Joe Daniel: It's in the qualifying criteria.

Ms. Kim Pate: But people who have injured themselves because they have been negligent or not worn safety equipment are not necessarily disentitled, and some would argue that would be a similar situation to someone who—

Mr. Joe Daniel: I think you're mixing federal and provincial on that one, but certainly if people take time off to re-educate themselves, they don't get employment insurance after the period that's defined in the Employment Insurance Act.

Ms. Kim Pate: No, but there are other benefits they are entitled to, such as student loans and grants, and some of those are federally—

Mr. Joe Daniel: That's no different from any person who has been convicted, I would suggest.

Ms. Kim Pate: That's right.

Mr. Joe Daniel: So there's no difference from that, but the fairness and the equity of somebody who has by choice committed a crime and been convicted to have an entitlement beyond that of people who are not normally in that situation seems somewhat unfair.

Ms. Catherine Latimer: You raise a very interesting point. I think the position of the John Howard Society is that people who have paid into the scheme should stand as equals to one another. If someone else has done something that disentitles them to get to work or incapacitates them to get to work, whether by their choice or not by their choice, then they should stand equal to the offender who has committed an offence.

I can guarantee you that he would prefer being at work to being behind bars, so his decision, his volition, is not connected to not wanting to be at work. It's not squarely connected with the basis for employment or employment insurance.

Mr. Joe Daniel: I think it is, because the employment insurance is based on your reasonableness in terms of being fired or something like that out of your control. If you actually resign, then the rules are different.

Ms. Catherine Latimer: These people are not interested in resigning. They would prefer to be at work, but they're facing an incapacity in the same way that somebody who has a broken leg—

Mr. Joe Daniel: I'm trying to explain to you what the actual employment insurance rules say. That isn't debatable, in a sense. Regular law-abiding Canadians—

The Chair: I think you asked the question. Give the witness an opportunity to answer it, and then ask another question. If the answer is particularly long, you can interrupt. I think we need to have one person talking at a time if we can help it. I appreciate that's not always possible.

Go ahead and ask your question, and give the witness an opportunity to answer your question.

Mr. Joe Daniel: I will ask my question again.

Is it your position that convicted felons should have greater access to employment insurance than should law-abiding Canadians?

• (1605)

Ms. Catherine Latimer: My answer was that convicted felons should have the same entitlements to employment insurance as others have.

Mr. Joe Daniel: That's what this law advocates, that they not get it, just as any other Canadian.

Ms. Catherine Latimer: That's not entirely true, because there are areas where those entitlement periods are deferred. You're just excluding this group from what had been their entitlement to a deferral. You're dropping those sections that allow those who are behind bars to defer their option. You're changing a law to take away a benefit that they now enjoy.

Mr. Joe Daniel: No, I don't think they enjoy it, because they should be entitled to it, whereas other Canadians who don't break the law are not entitled to it. I think that's the point of the fairness aspect.

Ms. Catherine Latimer: Well, if they did break the law, they would be entitled to it. It's available to anybody.

Ms. Kim Pate: There are other people who are entitled to it: if you're hospitalized.... There are other circumstances in which you're entitled to it. I think the bigger question is that this seems to be a punitive move, and certainly the presumption that it doesn't impact or victimize anyone else is certainly not correct. It will victimize the families of those individuals who are trying to get back to work to support themselves.

It does victimize the families, and to take it away is to presume then that the person can manage. I think one of the things that need to be looked at by this committee is who will pay for the absence of the insurance policy this person has paid into. Who will then be left with it? It will be the provinces and territories left to ante up social assistance resources if a person can't get employment when they get out.

I suggest to you that you also take that into account when you're looking at this bill and look at the notion that we're going to continually develop more and more penalties. There are places in the United States where they have gone down that path. They're now retreating from it, because they have masses of people, huge unemployment, and huge problems with the type of poverty and degradation that it has created in their cities, and that kind of philosophy is absolutely wiping out the ability of people to be civically involved in their communities.

I suggest that's not the Canada we want.

The Chair: If you have a short question, go ahead.

Mr. Joe Daniel: Basically you're equating people who have been injured or anything else with felons?

Ms. Kim Pate: No. You're putting words in my mouth. I'm saying that people who have paid into that benefit, just as other individuals who have paid into it and for other reasons can't access it, are entitled to—

Mr. Joe Daniel: But they paid into it to be a temporary measure while they were unemployed through no fault of their own.

Anyway, that's it.

The Chair: Maybe we could have a short response to that, because you're also well over your time.

Ms. Kim Pate: Part of the challenge, of course, is that we know who is in the system, and we know how many people get involved in the system. There are circumstances. I'm always reminded of the Anatole France quote that the rich and the poor are jailed just as frequently for stealing a loaf of bread and sleeping under bridges. Some people are more likely to be in a situation of doing something for which they could be criminalized.

Look at our aboriginal population. Look at the racialized population. Look at women. I could mention mental health issues—

The Chair: Thank you, Ms. Pate. Perhaps you could wind up.

Ms. Kim Pate: Thank you.

The Chair: Madame Perreault, go ahead.

[Translation]

Ms. Manon Perreault (Montcalm, NDP): Good afternoon. Thank you for joining us today.

My question is for Ms. Pate.

Your presentation is quite consistent with the study done by the Canadian Women's Health Network. The study shows that criminalized women are one of the most marginalized groups of society. They often come from a challenging socio-economic environment, they have unstable jobs and they are often dealing with addiction and mental health issues. As you said, a number of studies have shown that many prisoners—both men and women—with mental illness were sent to prison for minor crimes, such as shoplifting or non-violent offences.

Could you tell us about the impact of Bill C-316 on this group of people? Could you also tell us how they will be rehabilitated and reintegrated into society if they don't have a right to an extension of the qualifying or benefit period?

• (1610)

[English]

Ms. Kim Pate: It was Ms. Latimer, as well, who raised those issues, so I'll share this time with her.

[Translation]

And I apologize for not being able to answer in French.

Ms. Manon Perreault: That's fine.

[English]

Ms. Kim Pate: We know, in fact, that the individuals coming out, particularly women.... But men also come from some of the marginalized groups. People who are in prison tend not to be the most privileged. People coming out, often our first try.... The three basic things people need to succeed, which corrections has found—our correctional services provincially, federally, and territorially—are a means of supporting themselves, a place to live, and a community of support.

Oftentimes employment can provide all of these. Obviously if you've got employment, you have the resources to be able to get accommodation, presumably. If you don't have a family, then you'd have a community of support or at least co-workers. So most people working in the system know that one of the most important things is to try to get people employed. Employment is an important issue.

In terms of those coming out, we have asked for some numbers; I understand the committee has, as well. The only number I'm aware of is that one of the reporters who did an access request received information that 1,500 people, I believe, released during one year—I believe it was 2006-2007—would have been potentially impacted by this provision.

If you consider the 1,500 people who might otherwise have been eligible for the unemployment insurance, which they paid into, while they were looking for work, it's a pretty significant cost that's going to be borne by another part somewhere. The only place we can see where it would be borne is social services. It could be by the health care system, as well. As you indicated, as we see more people coming out with fewer opportunities, the health care system, particularly the mental health care system, is overtaxed. We're seeing prisons increasingly being the default for all of these systems not working. If people have addictions—and they may be criminalized because of the impact of that on them—and if they're poor, we know that about—

[Translation]

Ms. Manon Perreault: So if these people had stable employment, then they would have more stable lives, and their rehabilitation would be much easier.

I am now going to yield the floor to Ms. Crowder.

[English]

The Chair: You have a minute and a half.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Just really quickly, it seems to me that when we hear people talking choice... What we know is that there are some Canadians who are not eligible for an extension of either the benefit period or qualifying period because of the way the current rules are. It seems the approach has been that we've got this other population that is eligible for the extension of the qualifying period or the benefit period because of the current legislation. But the response is that rather than improving the legislation for those who currently don't have access, let's take something away for somebody who does have access.

Do you have some comment about this? You clearly articulated why it's an advantage to continue to allow that extension of either the benefit or the qualifying period for people who are incarcerated. There is a cost to society if you don't allow that extension. Is that correct?

Ms. Kim Pate: Yes.

Ms. Jean Crowder: Do you have any information on how this would impact people who may have been eligible for other EI programs—training for example—because they're EI-eligible? Have you looked at any of these potential impacts?

Ms. Kim Pate: As concerns the Elizabeth Fry Society, we haven't looked at that specifically with respect to this bill, but we certainly look at it all the time, and some of those areas have already been previously cut. Both our organizations have previously benefited from investment from unemployment insurance—as it was then called—through schemes to set up work and reintegration programs. Most of them were three-year programs, which were not funded beyond that. Most of them stopped operating, at the very least, within the past several decades. All of those programs had huge success rates. We saw people who were deemed untrainable and unable to work who benefited from those. That has been changed. But we also saw people who had come out of prison who, yes, would have had perhaps more marginal employment, received some vocational training in the federal system, who might be eligible for a program after they work for a short period, and develop some benefit entitlement while they're out.

I don't know of any specific studies that would look at that. I think that some of those cuts have occurred. Certainly our organization would agree that it would be beneficial, particularly given that we understand that the money is available within the employment insurance scheme to make them more available to more people. I can see people who have been victimized... We have women sometimes seen as contributing to their situation, who end up responding to violence. I'm thinking of the double-charging that happens when women are in situations of violence and they call the police. They may end up charged, and they may end up ineligible through something like that. Yes, arguably, they have committed a criminal offence or they're convicted. They usually plead guilty to a criminal

offence, but it doesn't mean they should be disentitled, I would think, from being able to be supported with something in the future.

• (1615)

The Chair: Thank you, Ms. Pate. You tend to prolong your answers and cover many areas to the question, but time has run out, for sure.

We'll move to the next questioner, who will be Mr. Shory.

Mr. Devinder Shory (Calgary Northeast, CPC): Thank you, Mr. Chair.

Thanks to the witnesses as well.

It's interesting to hear two different views today. I have heard about rehabilitation from the witnesses today. Of course we all believe in it. We all want the criminals to be rehabilitated. But before that, we like them to pay for their crime as well. That's why they are convicted.

We all know one thing: they have numerous federal rehabilitation programs during the time they are in jail, and also after they pay for their crime. But the way I look at it, the truth of the fact is that the victims of the crime sometimes have to take time off as well. Their families have to take time off to deal with the lengthy court process or some emotional issues.

When this bill was tabled, the way I looked at this issue was that the thrust of this bill is the fairness. We all talk about the fairness. If you pay EI, then you should be entitled to that, even though you make some choices you should not make, as a law-abiding Canadian. That's where I think we are going.

I believe that there is no reason—this is my belief, and that's why I support this bill—that convicted felons should receive greater latitude in EI benefits. First of all, I have to admit that, before this bill was introduced, I had no idea that we had this exception in our EI system. Then I started to share this view with my constituents. Believe me, I haven't found one single constituent so far who didn't say “You must be joking”. That's the kind of feedback I get from my constituents.

How do you feel the public views the current system? If you bring it out, would the public feel that convicted felons have greater access to employment insurance this way, whatever way we have right now? What do you think the public will say about it?

Both of you can answer, because you have been working in societies helping victims and marginalized women, and other criminals as well.

Ms. Catherine Latimer: First of all, I'd like to say I don't think we are offside in terms of believing that there should be fair and proportionate accountability when there is criminal wrongdoing. I think we all would know that justice requires that fair and proportionate penalties be imposed.

I think the question is whether you can add on to what the criminal courts are imposing as a fair and proportionate penalty an enhanced civil disability that's coming through other statutes.

You're asking me whether there is a fairness issue here. I would assume that the periods with which others who are now benefiting by this provision under, for example, subsection 8(2) and are getting a deferral of the eligibility periods—that the quantum of deferral available to them is the same as the quantum of deferral that's available to offenders.

Is it not that the clock just stops ticking while this period is in place and then resumes—that the same period resumes after the clock starts ticking again? Obviously they can't be looking for jobs, and they can't be contributing to their qualifying periods when they're behind bars. The idea, if I understand this exemption correctly, is that the deferral for all of those who are eligible for a deferred period is the same, that there's no preferential treatment there among those who are eligible for deferral.

• (1620)

Ms. Kim Pate: I would add that if you are instead suggesting that we extend so that those who have been victimized who might not otherwise be institutionalized in a hospital also be eligible, we would certainly support that. That's not what's in the bill, though, and in fact it doesn't aid victims any more by providing additional supports in that manner.

The other thing I think you need to be aware of is that the federal programs wouldn't necessarily be impacted. One, I think you might want to visit some of the federal institutions to see how limited the programming is as the numbers are going up, particularly in the women's prisons, where there's massive overcrowding. But this would impact the provincial and territorial jails mostly, and there isn't the vocational training or employment training or the sorts of programs you talked about. Go into any of the provincial and territorial jails in your area, and you will not see much programming. In fact, you'll see mostly warehousing. I think you need to address that issue, and to be aware of it.

If you want to have a friendly amendment to extend this to victims who might otherwise not be eligible, we would certainly support that.

Mr. Devinder Shory: I believe the basic difference we are making—why we are on two different pages—is because we are comparing the criminals with the law-abiding Canadians. And whereas the law-abiding Canadians will claim EI because they are unable for reasons beyond their control, here the criminal had made a choice to basically act in the way they acted.

I want to correct this also about the programs. I found that in the prisons we have living skills for men and women as well.

Ms. Kim Pate: In the provincial and territorial? Where?

Mr. Devinder Shory: I'm talking about federal.

The Chair: Hold on a second. We'll let Mr. Shory ask the question. I believe he asked a question.

Make it a short question, because your time is up, and I'd appreciate a very short response if you could.

Mr. Shory, did you have a question?

Mr. Devinder Shory: Yes, please. I did not get the answer to my question when I asked for the public view of the current system, about whether the public has been made aware of it.

Ms. Catherine Latimer: I think the public attitudes on offenders have been harsh and are mellowing. I think they are starting to get better information about what the fiscal and economic and social costs are of a punishment agenda, as opposed to one that actually is guided by rehabilitation and reintegration. There should be accountability, for sure, but it should also include strong efforts to get people who have served time back into the communities in a constructive, safe way.

I think once the information is made available—

The Chair: Thank you, Ms. Latimer. We'll move on to Mr. Cuzner. Perhaps you might amplify what you wanted to finish in speaking to him, but we're well over our time.

Go ahead.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Thank you, Mr. Chair, for that advice to ask for some amplification. I'm willing to get a little bit more on that.

Thank you, witnesses, very much for being here today. I appreciate it and the work that you do.

It's been said that there are ample supports out there for those being released from prisons, but for the most part they focus on federal convicts, and the EI legislation only being two years out, it would really have more impact on provincial and territorial. That's what you're trying to say here, and those supports are not there.

Ms. Kim Pate: As someone who has been doing this work for the last 28 years, first with young people, then with men, and then with women, I have yet to see the adequacy of programs that are being described. Most people in corrections will agree. I was just in Moncton with Ashley Smith's family doing a fundraiser. A whole bunch of corrections people came up afterwards and thanked me for speaking out because they can't. There are virtually no supports and programs now. We're going to end up with more Ashleys if we don't start changing what's happening and making sure people understand what's happening.

The reality is that despite the best efforts of many people in corrections to do the best they can, both in the community and in prison, the mounting numbers and the more limited resources for actual programs and services and more for security and those sorts of measures mean there aren't as many programs, even in the federal system. There are virtually none in the provincial and territorial, and none in local lockups.

• (1625)

Mr. Rodger Cuzner: Give me the profile of the typical client you would deal with. Certainly I would think the vast majority are not hardened criminals, but persons.... Maybe it was out of their control: an abusive, estranged spouse came home and gave the kids the round of the kitchen, and they were forced into a situation that was beyond their control and they were forced to defend their kids and ended up being incarcerated.

Who are you dealing with? Are they single? Are they educated? Have some of the problems stemmed from poverty issues? If you have statistics, please share them—if not, anecdotally, please.

Ms. Kim Pate: We certainly have fact sheets on our website that you are welcome to use that are researched every year by the wonderful volunteers and students who work with us. Both Catherine and I teach at the law school as well, and have the benefit of law students to assist with that process, to shore up our limited resources.

For women, we are dealing predominantly with poor women. The last time statistics were looked at, about 80% of the women in prison have essentially been living in poverty and attempting to deal with that. The majority are mothers, many of them employed or underemployed, more often in seasonal or low-wage work. Before they go to prison, most of them are sole supporters of their children. In the federal system about a third are indigenous women. It ranges as high as 75% to 80% in some provinces. About half are racialized. Just last week I was with the Native Women's Association talking about the impact of residential schools on the long-term social deprivation of the number of indigenous women and girls ending up in the system.

We have a high proportion with mental health issues. With the evisceration of social programs and health care, particularly for women but also for men and young people, we've seen increasing numbers of people with mental health issues. Also, for women, the last time the federal government looked at this issue, 91% of indigenous women and 82% of women overall had histories of abuse, much of it stemming from childhood abuse, but also extending into adulthood. For many of them, the treatment they had received, if any, would involve medication. They often also will anesthetize themselves to that reality, so the issue of addictions that was raised earlier also comes up for many prisoners. My experience with men is very similar, although I'll let Ms. Latimer add to that.

Ms. Catherine Latimer: The profile is very similar. It draws from those who have been marginalized for various reasons: lower socio-economic status, high levels of brain injury, fetal alcohol spectrum disorder, and more and more mental health issues being presented in the federal system. I'm sure you've seen that a lot. There are some significant challenges, but I will say this anecdotally. I sit with a social enterprise group at the John Howard Society of Ottawa. They are excellent workers. They are hard-working and diligent. They show up on time. They work really hard.

Mr. Rodger Cuzner: I'm surprised at the rate—only 10% to 13% are able to secure employment. You had stated—did you say 13% or 13 times?

Ms. Catherine Latimer: I said 13 times. It's huge.

Mr. Rodger Cuzner: Yes, that is significant, then.

The Chair: Your time is up. If someone wants to make a brief comment, then we'll move to the next question.

Ms. Kim Pate: Since I was invited to comment by Mr. Cuzner, and I thank you for this comment, one of the things is there is a presumption, when we talk about who is eligible and who has been criminalized. We know that self-report studies in this country show there is virtually nobody in this country who has not done something in their lives for which they could have been criminalized. The fact

that we ignore that reality and we only talk about those who have been detained or monitored is significant as well. I think that's another important piece to think about. Certainly my son, who is 21 now, raised that recently. He said I used to quote that it was no excuse for them to do anything. Certainly—

• (1630)

Ms. Kellie Leitch: May I make a point of order, Chair? I'll just ask the witness—

The Chair: You don't ask the witness. Just raise your point of order.

Ms. Kellie Leitch: My point of order is that I would just ask that the witness stay on point with respect to the Employment Insurance Act.

The Chair: Your time is pretty much up, and I won't rule on that point of order. I'll move on to Mr. Mayes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you for taking the time to be here.

I think I can say that everyone appreciates the work you do, and the work your organizations do.

This issue has to do with definitions. It's not an unemployment benefit. It's unemployment or employment insurance. When people insure, it's because there's a risk of losing their job or having their house burn down. But if you go and burn your own house down, you're not going to collect the insurance, right? Therefore, they're not eligible. They're entitled to the benefit, but there is some eligibility for the benefit, and this is strictly stated in the act. You have to be available for employment. It's basic. Unfortunately, they're not available for employment.

People talk about somebody collecting employment insurance from down in Mexico on holidays, and they're cheating the system. They are—they're not available for employment. That's how they're cheating the system. Those who are incarcerated, unfortunately, have made a decision and they have ended up not being available for employment.

I see where you're coming from—you're compassionate about the people. You want to make sure that they have the ability, when they leave, to have some dollars to take care of themselves, and I understand that. But this is a system called “insurance”, and we must respect that.

The Chair: Hold on, Mr. Mayes, there's a point of order.

Go ahead.

Mr. Rodger Cuzner: I don't know if it's a point of order or not, but I know it's the second time I've heard the government stating that the EI applicant has to be available for work. Now, after the jail term, after their incarceration is up, and they renew their opportunity to draw that benefit, yes, they have to be available for work. But the legislation is not looking at that aspect of the program. This is just a waiting period, a buffer period, until the incarceration is up. I've heard that twice from the government now.

The Chair: Hold on. You've made your point and it's not a point of order.

Mr. Rodger Cuzner: Okay, I'm sorry, then.

The Chair: Carry on.

Mr. Colin Mayes: Could you comment on what I said about the system, as an insurance system?

Ms. Catherine Latimer: I think you raise a very interesting point. We are talking about availability for work, but what this legislation is doing is removing an exemption, under which the clock would stop ticking on that period of availability until the person was available for work, until he would no longer be behind bars. You have a certain logic there, but you are disintitling a group that now has a benefit under the legislation—they stop the clock from running when they're behind bars.

Now, they didn't choose to stop work. They may have chosen to do an act that led them to be—

An hon. member: To be not able to work.

Ms. Catherine Latimer: I beg your pardon?

They didn't choose to stop work. They are incapacitated by the state. They've been subjected to a penalty, which precludes them from having access to their place of employment. But these people and their employers have both paid into an insurance scheme. So what happens to those resources that they have paid in, on the understanding that they would get those benefits at the end of the incarceration period?

The Chair: Thank you, Ms. Latimer.

Do you have a question to her? If not, Ms. Pate wanted to say something.

Ms. Pate, did you have something you wanted to say?

Ms. Kim Pate: No. I would say the same thing, that I think it's—

The Chair: Okay. All right, go ahead, Mr. Mayes.

Mr. Colin Mayes: It's an insurance policy that you pay into, but that doesn't necessarily mean you're going to collect. You've almost presented this as an entitlement, and it's not an entitlement. It's something that's paid if you have fallen into a certain condition set out by the act; namely, that you're unable to work owing to circumstances that were out of your control.

There have to be consequences for making bad decisions. That's the way life is. There must be consequences, and this is a consequence of making a bad decision. You may think they're entitled to it, but I say they're not. They're not eligible, because they made that decision when they committed their crime.

•(1635)

Ms. Kim Pate: Right now they are entitled by law to that benefit. The proposed legislation would remove that entitlement, but right now they're entitled.

If you were looking at extending it to others who you believe deserve it—because it's unfair—we would certainly support that. However, that's not what you're talking about. You're talking about removing it, and doing it in a way that enhances a penalty when they are already being held accountable, criminally, in terms of the prison sentence they're serving. You're adding, now, a civil penalty as well.

I would go back to the point that if it is the desire to penalize everybody who does something wrong, instead of encouraging

different behaviour, then we're going down a path that instead is likely to encourage the opposite.

I think we raise our children from a very different perspective.

The Chair: Thank you for that response.

We've now concluded the five minutes, although almost everybody has gone over five minutes. I appreciate that you have some very passionate views on the subject, either side, so I've allowed some extra time for each.

Having said that, I'd like to thank you for your presentation, for answering the questions.

We'll suspend for ten minutes, and then we'll resume.

•(1635)

(Pause)

•(1645)

The Chair: I call the meeting back to order.

Before we begin, I had mentioned at one of the previous meetings that one of the members of the Canadian Nuclear Association wanted to present evidence at our February 29 meeting, dealing with rural and remote community report recommendations, which is kind of out of sequence. My thinking is that we could allow for one presenter to make a short presentation if there weren't any strong objections. They may have something to add to the witnesses who were here, but if someone felt strongly about that, we would just say that it's too late in the game. But it's probably not; we could accommodate them if we want to.

Are there any views on that? Any objections? If not, then I think we will give them the opportunity to make a short presentation at that meeting.

Yes, Ms. Crowder?

Ms. Jean Crowder: You said that was February 29, and not February 27?

The Chair: Apparently they can't be here on February 27 and prefer February 29, which is sort of out of sequence but we can probably accommodate them.

Okay, with that we'll resume.

Pardon, Ms. Leitch?

Ms. Kellie Leitch: Anything for Jean.

The Chair: Okay, sure.

With that, Louis Beauséjour will make a presentation on behalf of the Department of Human Resources and Skills Development, and then we may have some pointed questions that he'll answer shortly after that.

Go ahead, Louis.

[Translation]

Mr. Louis Beauséjour (Associate Assistant Deputy Minister, Skills and Employment Branch, Department of Human Resources and Skills Development): Good afternoon, Mr. Chair and distinguished members of this committee.

It is a pleasure to be here today to speak to you about Private Member's Bill C-316, An Act to amend the Employment Insurance Act (incarceration), sponsored by Mr. Richard Harris, MP, and to provide you with information on the proposed amendments that the government plans to table at the clause-by-clause analysis.

But first, let me begin by talking about the EI program in general terms.

The EI program is designed to provide temporary income support to replace lost employment income to persons who become unemployed or are off work temporarily because of pregnancy and childbirth, parenting, sickness or compassionate care.

[*English*]

To establish a claim, an individual must have paid EI premiums and meet the eligibility requirements in the region where he or she resides. The number of hours that an individual will require to establish a claim for regular benefits is determined by the variable entrance requirements and is equal to 600 hours for special benefits. Generally, these hours must have been worked in the 52 weeks preceding the interruption of earnings, a period that we refer to as the qualifying period.

If the person meets the entrance requirements, a 52-week benefit period is established, during which that person may collect the benefit for which he or she is entitled. These two 52-week periods, the qualifying and the benefit periods, can be extended under special circumstances, but never beyond a maximum of 104 weeks.

The EI Act contains provisions that outline circumstances under which the extensions are granted. These extensions all have a common policy rationale—they relate to situations where the claimant is not available for work or entitled to benefits “through external circumstances beyond his or her control”. As such, extensions are available to individuals for situations such as being incapable of work because of illness, injury, or pregnancy; receiving assistance under EI benefits; receiving payments under a provincial law on the basis that continuing to work would have resulted in danger to them, their unborn child, or a child whom they are breastfeeding; or receiving worker's compensation payments for an illness or injury.

• (1650)

[*Translation*]

Under the current legislation, claimants may also have their qualifying or benefit period extended, beyond the usual 52 weeks, for each week they are confined in a jail, penitentiary or similar institution. This extension of the qualifying period for inmates has been in force since 1959, while the extension of the benefit period has been in force since 1977, and both apply to regular and special benefits.

Bill C-316, sponsored by Mr. Harris, proposes to remove the extension of the qualifying and benefit periods for inmates, regardless of the reason for their incarceration. The bill as proposed would mean that any period of time that a person is detained, whether in remand, waiting for his/her trial or sentence, or after being convicted of an offence, could no longer be considered to extend either the qualifying and/or benefit period.

To ensure that those who ultimately are not found guilty of the offence for which they are being charged can still benefit from the extension currently in the EI Act, amendments will be proposed during the clause-by-clause stage. These amendments seek to ensure that the repeal of the extensions only targets those who were convicted. In other words, the proposed amendments limit the extension provisions for inmates to claimants who have been detained and are later not found guilty on all counts, including for any other charges arising out of the same incident for which they had been held.

[*English*]

This means that by default, any person spending time in jail or in other similar institutions would not receive any extensions. The extension of the qualifying or benefit period for a claimant who has been detained would be granted only when the person made a request to Service Canada, supported by evidence that he or she was detained or incarcerated and was later not found guilty.

Two additional clauses are also being proposed. The inclusion of a coming-into-force clause will ensure that the amendments to the act will come into force on the first Sunday following royal assent, while a transitional clause will provide for greater certainty as to how the change will be applied.

Let me describe concretely the application of these clauses. The amendments will apply to any qualifying or benefit periods established on or after the day the act comes into force. This means that only claimants whose claims are established after the coming into force and who are not found guilty of an offence or offences for which they were detained will be eligible for an extension of the qualifying and/or benefit period.

[*Translation*]

When a claim has been established before the coming into force, current provisions will apply. Therefore, claimants, regardless of their culpability, would continue to be eligible for an extension of their qualifying and/or benefit periods. However, for claimants who have been found guilty, extensions would be provided only for the weeks that fall before the date the act came into force, but not for the weeks after that date.

Given that qualifying and benefit periods can only be extended up to a maximum of 104 weeks, only those who are incarcerated for less than two years can currently benefit from these extensions. Claimants who have been incarcerated more than a year cannot have an extension equivalent to their full period of detention.

Adult criminal court statistics collected by Statistics Canada show that, in 2008-2009, 66% of accused individuals were found guilty, a proportion that has been stable over the last few years. The remaining one third of persons being charged, and possibly being detained, were not found guilty due to their acquittal (3%) or because the cases were resolved by being stayed, withdrawn or dismissed (30%).

•(1655)

[English]

Out of those 260,000 individuals who were found guilty, around 90,000 received some form of prison sentence, which means that custodial sentences were imposed in 34% of the cases of guilty verdicts. Approximately 96% of these custodial sentences were imposed for periods under two years: 55% were one month or less; 31% were greater than one month, up to six months; 6% were greater than six months but less than a year; and 4% were greater than a year, up to two years.

With respect to the number of inmates expected to be impacted by this new measure, it is important to note that not everyone who is eligible for an extension of his or her qualifying or benefit period does benefit from it. As an example, an inmate who lost his job when he was arrested and has been incarcerated for 30 weeks could, under the current legislation, extend his benefit period to 82 weeks. However, he may find work 10 weeks after being released from jail and be able to collect his EI benefits within the usual 52-week benefit period.

The department does not collect information on the number of people who receive and benefit from such extensions. To assess the impact of this bill and amendments, an extensive manual review of past EI claims and an analysis of extensions to the EI qualification and/or benefit periods granted to individuals who were incarcerated was performed.

Based on this review, it is estimated that approximately 1,500 EI claimants benefited from a qualifying and/or benefit period extension as a result of being incarcerated, which means that these claimants were entitled to additional EI benefits that they would not otherwise have been entitled to receive. It was further estimated that repealing the current provision for anyone who is detained would have impacted about 700 of those claimants, of which 10% would have been significantly impacted, as they would no longer have been able to establish a claim.

Based on this estimate of 700 claimants who would have been affected, the proposed changes under Bill C-316 would result in estimated annual savings of approximately \$3 million to the EI operating account.

[Translation]

Let me conclude by thanking you again for the opportunity to contribute to your study. Bill C-316 would eliminate inmates' extensions of qualifying and benefit periods that are not available to most claimants while ensuring that those who are detained but have done nothing wrong will not be penalized, as this would be considered as circumstances over which they had no control.

[English]

The Chair: Thank you for that presentation.

I have just one quick question. I take it from what you've said that the bill deals prospectively and does not affect the rights of any... whether they were incarcerated because they were found guilty or incarcerated and found not guilty, because it doesn't have any retroactive effect. Am I right in that?

Mr. Louis Beauséjour: Those who have already established the benefit period before the coming into force will not be impacted because it will all be taken into account. It would be established for all the new people who will have a new benefit period.

The Chair: Okay. Following the coming into force...?

Mr. Louis Beauséjour: Following the coming into force.

The Chair: Okay. Good.

Monsieur Patry, go ahead.

[Translation]

Mr. Claude Patry (Jonquière—Alma, NDP): Thank you, Mr. Chair.

Mr. Beauséjour, you know that the system was established in 1959 by the Progressive Conservatives. They must have had a reason for setting the extension to 104 weeks. Do you know why?

•(1700)

Mr. Louis Beauséjour: No, I don't know why the system was implemented.

Mr. Claude Patry: The system was implemented to help rehabilitate prisoners. When we talk about prisoners, we have to be careful because we are talking about prisoners serving a sentence of two years less a day, not hardened criminals. We are talking about crimes related to fragile mental health, addiction, poverty, theft, and so on.

Mr. Beauséjour, my question has to do with our rehabilitation-related obligations to workers sentenced to at least a year in jail. In your view, is that fair?

Mr. Louis Beauséjour: I am not here to give you my opinion on whether that is fair or not. I am here to answer your technical questions on what the bill seeks to accomplish and on what the EI program does.

Mr. Claude Patry: Let me rephrase my question. In your view, what can we do to make the situation fairer and more equitable for people?

Mr. Louis Beauséjour: Could you repeat the question, please?

Mr. Claude Patry: What can society and the government do to make the situation fairer and more equitable for everyone?

Mr. Louis Beauséjour: As I explained, Bill C-316 seeks to...

At the moment, the measures under the Employment Insurance Act provide for very limited circumstances in which the benefit and qualifying periods can be extended. The extensions are for people who cannot have access to the benefits or who cannot work and stay on the labour market.

Mr. Claude Patry: Okay.

Manon, did you want us to share the time? You can go ahead.

Ms. Manon Perreault: I just want to understand one thing.

At the end of your presentation, you said that the estimated annual savings for 700 claimants were approximately \$3 million. As a result, the people getting out of prison don't have access to that amount. This means that those people will have to go on welfare. So those expenses are being transferred to the provinces.

Mr. Louis Beauséjour: It means that they will no longer have access to EI benefits. The impact on the provinces might actually be minimal, depending on whether those people get social assistance or not. That's one of the potential consequences.

In broad terms, we must also remember that the federal government transfers a certain amount of money to provincial governments through labour market agreements in order to assist with the training of individuals who qualify or not for employment insurance.

Ms. Manon Perreault: So this gets dumped on the provinces.

Mr. Louis Beauséjour: The government actually wants to make sure the act is amended so that it applies to all Canadians consistently.

Ms. Manon Perreault: Thank you.

I will give the floor back to Mr. Patry.

Mr. Claude Patry: I have another question, Mr. Beauséjour.

We are told we can go back 104 weeks. That is very important for us.

We need to make a distinction. Someone in a federal penitentiary, where sentences are two years plus a day, is not entitled to that. However, that is important for someone who is in a provincial institution for two years less a day. It is important because there are no provincial programs to reintegrate those people into society, to reach out to them and help them overcome their addiction problems. For us, it is important that they at least have access to EI and that they look for a job.

As you know, these are not hardened criminals. Just now, the members opposite said that people are criminals by choice. That is not necessarily true. Some people cannot afford to pay for their fines. Some people might have had the bad luck to have one too many beers, to drive home and to be caught at a police checkpoint. With no money, they end up in jail.

Just having this money and the 104 weeks, or at least the fact of looking for a job, is quite significant for us. When someone is in jail, their continuous employment stops after five days. That is how it is under most collective agreements. It is even stricter than that for most people without a union.

I would like us to agree on that, because the 104-week period is important for us and for rehabilitating people.

• (1705)

[English]

The Chair: Make a very short comment if you can, because your time is up.

[Translation]

Mr. Louis Beauséjour: Let me say this again.

The EI program has a rather restricted mandate. It provides income support for finding a job and for other circumstances as well. The eligibility criteria are quite strict. I think that the qualifying and benefit periods can only be extended under very special circumstances.

The question is whether the bridging provisions for rehabilitation should fall under EI or under other programs.

[English]

The Chair: Thank you. Your time is up.

We'll move to Ms. Leitch. Go ahead.

Ms. Kellie Leitch: Thank you very much.

Thank you for being here today to take some time to answer our questions.

Under the current legislation, convicted felons essentially have greater access to employment insurance benefits than law-abiding citizens. I think that Bill C-316 is really moving forward to make sure that criminals are not getting preferential treatment, that hard-working Canadians are being provided equal treatment, and that everyone is being treated on an equal playing field. You suggested that the government is trying to create that degree of consistency by implementing this new piece of legislation.

On that issue of fairness, maybe you can provide to us, in general, what sort of clear timeline you see. I know you say it in your notes, but I just want everyone to be very clear about employment insurance.

What is that timeline on the implementation and impact for an individual who may be affected by this legislation? How does that compare to the law-abiding Canadian who receives employment insurance when they lose their job through no fault of their own?

Mr. Louis Beauséjour: First of all, I would say that most Canadians don't receive any extension to their benefit period or their qualifying period. They have to have been working during the 52-week qualifying period to be able to qualify for EI, and they have to meet the eligibility criteria.

In terms of how we will apply it when it comes into force, it will apply to all those who are establishing a new benefit period. If they were in prison before it came into force, they would obtain an extension on their benefit period for the number of weeks they were in prison before the coming into force, but not for the weeks after the coming into force. All new potential claimants or inmates who received a sentence after it came into force would not receive extension except if they are found not guilty.

Ms. Kellie Leitch: Thank you.

One thing I wanted to reiterate, if you could speak to it a little bit, is on this issue of extensions. You stated earlier that very few individuals in Canada ever have an opportunity for an extension. What we are removing here is an extension to EI; at least that's what I'm interpreting from your comments.

What I'm looking for is clarity with regard to the fact that what we are removing is just an extension that the majority of Canadians do not have, so that we can make it very clear to all those individuals who are victims of crime out there that we're trying to create equity and some degree of consistency in the legislation for all Canadians.

Mr. Louis Beauséjour: Yes, I did mention that these extensions are limited to a number of circumstances. By default, the benefit period is 52 weeks and the qualifying period is also 52 weeks. I did mention when I was doing my introductory remarks that people who are incapable of work because of illness and during pregnancy can receive the extension.

People receiving assistance under EI benefits.... It seems to me that people who were, let's say, receiving any part two or training can receive extension for the qualifying period for the time they were in training. People receiving payments under a provincial law on the basis that continuing to work would result in danger to them, their unborn child, or a child whom they are breastfeeding would also receive an extension, as well as people receiving workers' compensation. Those are the elements under which people receive an extension now.

• (1710)

The Chair: We'll move to the next questioner.

Ms. Hughes.

Mrs. Carol Hughes: Thank you very much.

Thanks for your presentation.

Throughout today what we've been hearing about are law-abiding citizens, the victims, the offenders. What we heard from the previous witnesses was basically the fact that if there's an inequity in the system right now, why not fix it to bring people up, as opposed to reducing access to employment insurance, which would actually create a civil penalty. I agree with that.

My concern as I'm hearing what's been going on today is.... I'm just trying to get some sense of this. If someone is held in remand—and maybe you'd be able to clarify that for me—and then gets sentenced and is found guilty, from the time they're being held in remand, they wouldn't be able to apply for that extension. However, if someone is not held in remand and is waiting for their court date, and then gets sentenced, they won't be able to ask for that extension there, but there will be some discriminatory practices based on the fact that it depends on what the length of time is. You indicated that if they go back to work for a certain period of time they would be able to apply for their EI after that. So if they work a little bit more after, they would be able to go back on that claim.

I'm looking at the remand part, because you will have people who are held in remand and people who are not in remand. At the end of the day, both of these people may be found guilty or not guilty, but if they're found guilty, the person who is in remand will get a longer period of civil penalty, I guess we would call it.

The Chair: Did you get the question?

Mr. Louis Beauséjour: I'm trying to figure it out.

Mrs. Carol Hughes: We have to be cognizant of the fact that there are people being held in remand while they're waiting to go to jail who are then found not guilty or are found guilty. There are

others who will have access to their EI, maybe while they're not in remand and are in the community.

I think this is something that has not been thought about and needs to be thought about in deciding on this bill. There will be people who will have access to their EI before they're found guilty.

Mr. Louis Beauséjour: The law, as it is applied now, says that if people qualify for benefits, they will be able to get their benefits for the period for which they qualify. If they are not in remand and they lose their jobs and are looking for work, they will be able to qualify for EI. Clearly, if they are in remand, for the period they are in remand they will not be able to collect benefits, because they will not, obviously, be working. The way the law will apply in the future is that if they are found guilty, they will not be able to get an extension for the weeks they were in remand. In the end, it will always depend on how long it takes for a decision and on how much time they will be on EI.

The Chair: With the amendment to the bill that amends the sections in the act, those who are in pre-trial custody who are found not guilty will have their period extended.

Mr. Louis Beauséjour: They will have their period extended, yes, if found not guilty.

The Chair: Carry on from that, if you wish.

Mrs. Carol Hughes: Still, at the end of the day, there will be some discriminatory law in place. People will have access or will not have access. I just wanted that to be clear. If someone is in jail for a certain period of time while in remand, and that person is found guilty, during the length of time the person is in jail, he or she will not have access to EI.

Mr. Louis Beauséjour: No, because the person will not be available for work, which is a prerequisite to having access to EI.

Mrs. Carol Hughes: On the extension part, I'm just saying that this is something that needs to be looked at more carefully.

The only other comment I wanted to make was with respect to offenders charged because of self-defence. It was not really a choice they made. They were still charged, even though they were acting in self-defence. It wasn't a choice they made. That's what we hear over and over again.

• (1715)

The Chair: Of course, if they were charged and they were found to have been acting in self-defence, they would be acquitted, and those acquitted would not be affected.

Anyhow, you can answer if you wish, and if not, we'll move on.

Mr. Louis Beauséjour: As you mentioned, people who are not found guilty will get the extension period. That becomes a decision on the part of the criminal system as to whether they are found guilty or not guilty.

The Chair: Mr. Butt.

Mr. Brad Butt (Mississauga—Streetsville, CPC): Thank you very much, Mr. Chair.

Thank you, Monsieur Beauséjour, for being here today.

Not all Canadians who pay into EI are eligible to collect it. Is that correct? There are people who pay in, many people who pay in, who are not eligible to collect, because there is an eligibility rule; there is an issue with respect to their claims and they don't qualify. So we already have Canadians, many Canadians, who pay in but due to the eligibility rules are not able to claim back when they are no longer employed. Is that not correct?

Mr. Louis Beauséjour: That's correct.

Mr. Brad Butt: Give me an example of some of those eligibility rules whereby an individual is not permitted to collect, even though he or she is no longer working.

Mr. Louis Beauséjour: It would be a person who decides to quit work and be unemployed for the period during which he or she is looking for new work. In a lot of cases, students will not be eligible for that reason. They will quit their jobs to return to university or school. All those individuals who do not meet the number-of-hours requirement to qualify for EI, all those individuals who have worked, let's say, fewer than 600 hours over the last 52 weeks, would not qualify for EI. A person who has worked 500 hours and has been paying into EI will not receive any benefit until he or she has reached the number-of-hours threshold.

Mr. Brad Butt: If you're fired with cause—dismissed from your employment with cause—you're not eligible to collect EI, is that correct?

Mr. Louis Beauséjour: If you are dismissed with cause, it would be a reason for not being able to collect EI.

Mr. Brad Butt: Normally, if someone was fired with cause, there was obviously something they did. There was an action they took as an employee, which led to them being dismissed from the workplace—an action or a cause that they took upon themselves to do, much like committing a crime. They have in essence made a decision, and they have done something in the workplace to give rise to them being fired with cause. They would then also be ineligible to collect EI benefits, is that correct?

Mr. Louis Beauséjour: It's always difficult to make a comparison about both circumstances, but clearly, if an individual is dismissed with cause, they will not be eligible for EI.

Mr. Brad Butt: I believe in your opening comments you referred to EI as a temporary.... I have to look at the specific words that you used, but I believe you referred to it as a temporary income support to replace lost employment income to persons who are unemployed. And we talked about some of that.

So the principle of your right to collect EI is that you are available to work. While you are collecting, or while you're in the eligibility period, the idea of the system is that you should be available to get a new job. That's the idea, right?

Mr. Louis Beauséjour: I will comment that for regular benefits that is the case. I think for other types of benefits you do not always have to be available for work. I think there are some cases....

Mr. Brad Butt: That's the general philosophy around the program.

Mr. Louis Beauséjour: Oh, sure.

Mr. Brad Butt: So if someone's incarcerated, how are they available to work? If you're in jail, how are you available to work under this program? I realize you're not receiving EI benefits while you are incarcerated, but one of the current provisions of the act is that it allows that individual to apply for an extension for benefits once they're no longer incarcerated.

So my point—and one of the reasons why I think Mr. Harris has brought this to the attention of Parliament—is that's a very significant loophole. The people who are incarcerated are getting benefits that other Canadians are not entitled to, because we say, "Well, that's okay. You're not available to work while you're in jail for two months, but as soon as you get out, you can apply for this extension that everybody else, who was out looking for a job and working hard trying to find a job during that same two-month period, is not eligible to get."

Is that not unfair and inconsistent in the way we're currently running the system?

• (1720)

Mr. Louis Beauséjour: It's difficult to comment about what is exactly unfair and fair. Everybody has different views about what could be unfair and fair, but clearly, what I could say is that there are really limited circumstances under which the EI act provides for an extension of the benefit period and the qualifying period. I think there are a number of cases where there is no provision for an extension similar to what is provided to inmates right now.

Mr. Brad Butt: Thank you.

The Chair: Thank you, Mr. Beauséjour.

We will now move to Rodger Cuzner for five minutes.

Mr. Rodger Cuzner: Thank you, Mr. Chair.

Thank you for being with us today and helping us with this particular undertaking.

Is there an MOU? HRSDC is obviously the de facto leader of skills training in this country, so would there be a relationship? Would you have an MOU with Corrections Canada for the training, within Corrections Canada, of those who are institutionalized or in prison? Do you know if there would be an MOU for their training?

Mr. Louis Beauséjour: I'm not aware of any MOU between HRSDC and—

Mr. Rodger Cuzner: You're not familiar.

Mr. Louis Beauséjour: I'm not aware if there is one or not.

Mr. Rodger Cuzner: You would think that Corrections Canada would have their own training for any skills acquisition within—

Mr. Louis Beauséjour: I cannot speak to that. I will say that Correctional Service Canada already has a program to rehabilitate inmates, but I'm not—

Mr. Rodger Cuzner: You're not familiar with it? Okay, I appreciate that.

I'll give you an example. A young guy is out with his friends. He's a carpenter, and they're out jiggling around on their ATVs. He has an accident, shatters his leg, and is not able to go to work. He makes an application for EI sick benefits. Would that be investigated, or is just the fact that he's off with a broken leg sufficient for him to receive benefits?

Mr. Louis Beauséjour: To get access to the sick benefit, a claimant needs a medical certificate certifying that they are unable to work for that period.

The Chair: That is not the subject of this bill, but you might jump from there to something that is.

Mr. Rodger Cuzner: No, it's not far off from that. It's probably not unlike the guy who's having a lung removed, lying in the bed, and getting a sick benefit while having the lung removed. You would validate the medical certificate. You wouldn't investigate whether or not it was the responsibility of the guy getting a lung removed since a doctor told him ten years ago that he should quit smoking. You wouldn't investigate that.

Mr. Louis Beauséjour: No, I think we'd just ask the individual to provide medical certificates.

Mr. Rodger Cuzner: Yes, but for the guy who shatters his leg and who is not able to go to work, as long as he's not able to go to work and the medical certificate is there, you investigate nothing beyond.... You don't try to determine whether or not it was beyond his control.

Mr. Louis Beauséjour: When we apply the sickness benefit, the only requirement is for the claimant to provide proof that they have.... We receive certificates.

Mr. Rodger Cuzner: If he makes a mistake, if he's screwing around and does something wrong that probably could have been avoided and it's not beyond his control, that's still not investigated.

• (1725)

Mr. Louis Beauséjour: That's not investigated.

The Chair: I wonder then about the relevancy of the point you make to this bill.

Mr. Rodger Cuzner: It's been said on the government's side all day that these people are incarcerated, and that that was not beyond their control. We're being judgmental about what put them behind bars. So is there an inconsistency here?

Do you get my link there, Mr. Chair?

The Chair: Okay, fair enough.

We'll move to the next round.

Is there somebody from the Conservative side who wishes to ask any questions of this witness?

Seeing none, we'll move to Ms. Crowder.

Ms. Jean Crowder: To pick up on Mr. Cuzner's point, the point has been made that people who are incarcerated have made a choice, whereas some of these other extensions actually do apply to people who have not made a choice. They may be ill. There may be some complications with pregnancy. So there are other people who are eligible for extensions.

I don't need you to respond to that, but I think it's just important to lay that out.

I wanted to come to your calculations around the \$3 million that you referenced. Can you tell us how you got there—the average benefit rate, the average length of claim—because that's going to affect that \$3 million.

Mr. Louis Beauséjour: My understanding is that it's based on their review of the file for a specific year, and we look at the real savings that would be associated with those specific cases and the payments that are being made during the extended period.

Ms. Jean Crowder: Do you know what year they did the calculations for?

Mr. Louis Beauséjour: I think it was 2006-2007.

Ms. Jean Crowder: Okay, so they're based on just one time.

Mr. Louis Beauséjour: It's a snapshot based on one year looking at the files, and an estimate based on the review of the file.

Ms. Jean Crowder: You have no data from 2006-2007 on?

Mr. Louis Beauséjour: Since we had to do a manual review, we did it for one year to get the sense of the cost. Doing it for all the years would have been extensive work, and we didn't do it. We thought that having that one year would give us a good approximation and good estimate of the potential savings associated with these—

Ms. Jean Crowder: Was there any reason in particular you picked those years?

Mr. Louis Beauséjour: I'm not aware why they picked those specific years.

Ms. Jean Crowder: I'll let Carol finish.

Mrs. Carol Hughes: Have you done an assessment as to how many people have actually taken advantage of the extension of the qualifying periods across the board?

Mr. Louis Beauséjour: I don't have that information here. We may have it, but I don't have it here. I don't know if that work has been done. I don't remember seeing that kind of work.

Mrs. Carol Hughes: Would you be able to table that? And maybe you could block off any of them who may have been incarcerated.

Thank you.

The Chair: Could I get a sense of exactly what it is you want, just to be sure, Ms. Hughes?

Mrs. Carol Hughes: Yes, I'm just wondering if we could get a more recent update than the ones that have been given to us, as to how many people have actually applied for the extension of the qualifying period and how many of those were actually incarcerated.

Mr. Louis Beauséjour: I think we did it for one year because this was an intensive fall review. We don't have the information for all the other years. We will have it for one year, in terms of how many people. The 1,500 and the 700...it was coming for one specific year.

I don't know to what extent we have the actual information you request, which is, in total, how many claimants did benefit from the qualifying period extension for all the other reasons. I'm not sure that we have that. We can get back to you.

The Chair: Did you want to get at those who are incarcerated, or other categories of people?

Mr. Louis Beauséjour: I think they were asking for both.

The Chair: Do you want to find out if it's easy to access or not? Because I'm not sure at this stage whether we want you to be getting information on all categories when we're dealing just with this category. So I think that, at most, I would say that if you can easily

get that information, then I would order it so. And if not, just indicate that to this committee—

• (1730)

Mr. Louis Beauséjour: I can do that.

The Chair: —before we go out on an expedition that might be beyond our clause-by-clause, which will be next week, on Wednesday. So if the information is easily available and you can get it to us, get it to us quickly, and if it's not, let us know that. Okay?

[*Translation*]

Mr. Louis Beauséjour: Yes.

[*English*]

The Chair: Your time is up and it's 5:30, so we'll adjourn.

Thank you very much.

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