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## Standing Committee on the Status of Women

Monday, November 21, 2005

• (1635)

[English]

**The Chair (Mrs. Susan Kadis (Thornhill, Lib.)):** Good afternoon. Welcome to our meeting today. We'll get started, as we have a limited timeline.

It's my pleasure to introduce and welcome our ministers here today: the Honourable Irwin Cotler, Minister of Justice, and the Honourable Joe Fontana, Minister of Labour and Housing. They are here to discuss with us the report that our committee tabled on pay equity, a report arising out of the task force and recommendations on pay equity.

I believe the ministers will introduce their staff members who are with them. We'll hear first from Minister Cotler, for a maximum of ten minutes, for opening remarks. We'll then have a seven-minute round, including questions and answers, following that.

Welcome.

**Hon. Irwin Cotler (Minister of Justice):** Thank you, Madam Chair.

I'm accompanied here today by Donna Miller, associate deputy minister, and Joan Remsu, the general counsel in the public law policy section. They both bring a repository of expertise and experience to an issue that is compelling for all of us, but which requires that kind of expertise and institutional memory for appreciating both the compellability and complexity of the issue. I will turn to them where appropriate in the question and answer period as well.

[Translation]

Madam Chair and members of the committee, I am happy to accept your invitation to speak to you today about the government's response to your fourth report and to explain our approach to pay equity reform.

[English]

Before starting, Madam Chair, I would like to congratulate you on being elected chair of this very important committee.

You may recall, colleagues, that in its response to this committee dated October 7, 2005, the government affirmed its commitment to pay equity reform and, in particular, the principle that pay equity is a fundamental human right. I'd like to briefly focus on the nature of pay equity as a human right at the federal level, but I want to say at the beginning that in affirming the notion of pay equity as a fundamental human right, it is clear this is already a matter of law at both the domestic and international levels. Indeed, it has been

entrenched as a matter of constitutional law through the Charter of Rights and Freedoms.

[Translation]

Canada is a nation that firmly believes in fundamental rights, equality and non-discrimination. The Canadian Charter of Rights and Freedoms, which is part of our supreme law, guarantees the right to equality without discrimination based on gender. It also stipulates that all rights and freedoms must apply in equal measure to everyone, regardless of gender.

[English]

It's sometimes forgotten that in addition to the constitutional protection for equality in section 15 of the charter, section 28 of the charter begins—and it's the only section in the entire charter that begins with these words: notwithstanding anything in this act, men and women are equal in all respects. So the gender equality principle has been entrenched as a matter of law. It's in section 15 and also in the sometimes forgotten—with its specificity—section 28.

The Canadian Human Rights Act, a quasi-constitutional statute, as the Supreme Court has stated, prohibits discrimination on the basis of sex and employment. More particularly and for our purposes, it explicitly enshrines the principle of equal pay for work of equal value. This is not just a matter of a slogan; it is enshrined in the Canadian Human Rights Act, in a quasi-constitutional statute, in that regard.

In addition to these domestic obligations, Canada has ratified major international covenants, such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women, which guarantee the right to equality. And as the Supreme Court has said, our international obligations are relevant and persuasive authorities with respect to the interpretation and application of the charter.

In a word, the right to equal pay for work of equal value flows from these fundamental human rights, and pay equity must be seen primarily through a human rights lens. It is a lens through which I was working before ever becoming a minister or even a member of Parliament. My credo has been clear, and I adopted it, frankly, from the World Conference on Human Rights held in Vienna in June 1993. The slogan that emerged at the conference, energized by the women at that conference, was that women's rights are human rights and there are no human rights that do not include the rights of women. Since I became minister, that has become a priority on our Justice agenda.

In a word, this is not just a matter of rhetoric, this is a matter of principle and policy for us. It finds expression through the mainstreaming of gender equality, through the combating of violence against women, through the combating of trafficking, through gender equity, judicial appointments, and the like. This is, as I reaffirm, not just a matter of rhetoric but a matter of principle and policy for us.

[*Translation*]

There is a risk that disillusionment will increase with respect to our pay equity model based on these plans. The lack of direction and clarity in the essential concepts and methodologies in our current pay equity legislation have resulted in conflicting labour relations and lengthy, costly trials that have sometimes dragged on for over 20 years. In some cases, the employers were faced with hefty retroactive increases and interest payments. The employees in female-dominated sectors were forced to wait for years before seeing a successful outcome to their claims.

• (1640)

[*English*]

That is why the Minister of Justice and Minister of Labour appointed the Pay Equity Task Force in 2001 to conduct a comprehensive review of the federal pay equity legislation and report back to government with recommendations and options for improving the current legislation.

[*Translation*]

After a lengthy research and consultation period, the task force submitted its report in May 2004.

[*English*]

The task force report proposed moving to a proactive model of pay equity, as you know. It made 113 recommendations to modernize and reform the present system.

The Bilson report highlights seven points of consensus that were reached during the task force consultations with key stakeholder groups. Dr. Bilson identified these seven points at her appearance before you in May, and they are worth very quickly reaffirming. I'm talking about common ground that was reached in all the consultations in this regard and that found expression in Professor Bilson's appearance before you.

One, all stakeholders were committed to the principle of pay equity. Two, all agreed that the principle for equal pay for work of equal value is a human rights principle. Three, all agreed that employers have a positive obligation to take steps to eliminate wage discrimination. Four, all agreed that any new pay equity regime should be equally accessible to unionized and non-unionized employees. Five, all stakeholders agreed that any new pay equity regime should provide more guidance on how the pay equity standards should be met. Six, all stakeholders agreed that there should be a neutral source of assistance, information, or respect. And finally, all the stakeholders agreed that there should be an independent adjudicative body with expertise to deal with pay equity issues.

These were the common points of agreement found by Dr. Bilson's task force amongst all key stakeholder groups. I want to say

that I agree with this common ground, with the fundamental human rights principles laid down in the task force report. We need to look, as Dr. Bilson did, at this issue through that human rights lens.

I also agree with Dr. Bilson's conclusion that although all key stakeholders agreed on the seven key points of common ground, there remain differences on implementation issues. Stakeholders have repeated these concerns to us over the last year. In fact, Dr. Bilson has confirmed that there was no consensus on how to achieve the implementation of pay equity reform, both at her appearance at this committee and during a recent discussion I had with her in Saskatchewan.

[*Translation*]

It is obvious that this report goes a long way in helping us to better understand the complexities related to the effectiveness of pay equity in the modern workplace.

However, as I said earlier, it did not settle certain major issues relating to the implementation and confirms the challenges that the government must face in choosing the fairest way to reform the federal pay equity program.

[*English*]

On the matter of stakeholder engagement, based on reactions from stakeholders there appears to be broad support for a proactive model of pay equity, which, as I said, we share. As I mentioned previously, however, there is a difference of opinion among stakeholders on how to best implement pay equity in the workplace.

Let the issue be clear: it's not whether we want to implement pay equity—we do—but only how to implement pay equity. This is now the issue to which I will turn.

Since the release of the task force report, stakeholders have voiced concerns about key policy and implementation issues that remain outstanding and require further discussion. As mentioned in the government's response, these issues involve, one, the relationship between pay equity and collective bargaining; two, the obligations of employers and unions; three, the establishment of pay equity committees to manage the pay equity process and the authority vested in them; and finally, the definition of establishment.

Addressing these complex issues and developing substantive proposals for reform will require further work and further engagement with our stakeholders. This is why the government will be appointing a facilitator to assist stakeholders in finding common ground on the implementation of pay equity. At the end of the day, we do not want legislation that suffers from the same challenges as the current legislation. We want legislation that will implement not only a consensus or common ground on principles but also common ground on the nature of the implementation of those principles.

•(1645)

[Translation]

We understand that the committee would like to see pay equity reform. However, that is not something that we are in a position to do at this time. We must first deal with a number of outstanding issues, something that my colleague and I will be doing in the months to come.

[English]

The involvement of the Minister of Labour, my colleague Minister Fontana, is important as the government develops effective pay equity reform. As Minister of Justice, I will remain involved to ensure that pay equity continues to be protected as a human right and that this human right is not diluted.

I am sure you will also agree that sustainable legislation requires stakeholder input and informed policy development. I have no doubt that we all want the same outcome—namely, pay legislation that is clear, effective, proactive, and protective of equality rights. Let me now move to our strategy with regard to how we will move forward to meet these objectives.

We have a strategy that will allow us to move forward with an approach to achieve pay equity reform that is effective, efficient, sustainable, and informed by stakeholder input, as they asked for, as well as appreciating the reality of different workplaces. I reaffirm as a matter of principle and process that we are committed to recognizing pay equity as a human right, replacing the current complaints-based process with a proactive model; implementing a process that includes stakeholder discussions aimed at resolving specific issues in key areas; developing plain-language draft legislation for that purpose early in the new year; and appointing an impartial third party to facilitate discussions around the complexities of implementing pay equity, the whole for the purpose of giving effective implementation to our principles.

[Translation]

We have a timetable for these objectives. The next stage involves the preparation of simple language legislative texts, which will be done early next year. The proposals will be used in discussions to be held with all of the stakeholders, with the help of an independent facilitator.

[English]

The government has much work to do in order to develop these legislative proposals that are flexible and recognize the needs of a broad range of employers, employees, and employee representatives. I want to emphasize that this proactive pay equity legislation, to which we are committed, must be drafted carefully in order to avoid the types of pitfalls that have continued to plague us under the current system. This will not be an easy task, given the need to determine the methodologies, the ways and means that are required for implementation of pay equity in a workplace.

[Translation]

This act cannot be drafted in one day. We can't simply copy a provincial statute. Of course, we can take advantage of certain provincial systems, particularly those in Quebec, Manitoba and

Ontario, but we must proceed with care when we import the legislative framework of another level of government.

[English]

The federal government has some of the largest and most diverse employers within its jurisdiction. For this reason, any new legislation must appropriately be flexible enough to meet the needs of unique and diverse workplaces. If the legislation is not drafted carefully, if it does not consider the flexibility required for all workplaces, if it does not take into account those concerns raised by the Bilson task force report with respect to the issues of implementation—not the common ground on the matter of the principles themselves—we can expect a repeat of the many challenges and court cases that have plagued our current legislation.

To sum up, in our next immediate step, the government will begin discussions with stakeholders in the new year on draft legislative proposals. I'll be working closely with my colleague the Minister of Labour as we strive together toward the implementation of a new pay equity regime through a legislative framework founded on the seven principles, the common ground that I earlier referred to.

I want to congratulate the committee for its valuable contribution to the advancement of pay equity. We will be pleased to continue to keep the committee informed of our progress as we move toward implementation.

I would now like to turn to my colleague the Minister of Labour and Housing for his remarks.

•(1650)

**Hon. Joe Fontana (Minister of Labour and Housing):** Thank you, and congratulations, Madam Chair and colleagues.

I'll be brief, because I know Minister Cotler has covered most of the ground. I just want to reinforce the fact that this is a total government commitment, and you know that our colleague Minister Frulla has been very much engaged as Minister responsible for the Status of Women.

As Minister of Labour, let me also indicate that since the Government of Canada, as Minister Cotler has indicated, is totally and absolutely committed to pay equity and recognizes it as a human right, the issue is not whether to implement this human right but how we do that.

The causes for the delay in drafting new legislation are the implementation and machinery issues that must be resolved in order to ensure that this right is embedded in legislation in a way that is effective, efficient, and sustainable.

In implementing, the government wants to achieve two objectives simultaneously: get the pay equity legislation right, and get it as quickly as possible.

The government agrees with the task force view that the new legislative regime for pay equity must be proactive. We also fully agree that any reform should be about implementing the human rights legislation. We cannot accept an outcome where the current human rights protections are knowingly diluted.

All federally regulated employers in both the public and private sectors need to ensure compensation practices are gender neutral.

The government agrees with the task force that adequate levels of human and financial resources are required to ensure appropriate monitoring and enforcement of rights and obligations under a new proactive regime. This is absolutely essential, as we've seen even in our provincial regimes that exist today. Again, monitoring enforcement of rights and obligations is absolutely essential.

And we agree with the task force that there must be clear standards and criteria for the achievement of pay equity, with tools and methods that are free of gender bias.

Unfortunately, despite its great strength in all these areas, the task force report does not provide an adequate framework for the implementation of pay equity in the federal jurisdiction, and even Madam Bilson agrees with this. Let me explain.

Federally regulated employers vary greatly in size and in the geographic scope of their operations. At one extreme, banks and airlines have thousands of employees spread throughout Canada, and at the other end of the spectrum, a small radio station may have just a few local employees.

The legislation would also apply to the federal government as an employer. This, in and of itself, presents implementation challenges because of the size of the employer and the large number of different job classifications that would need to be evaluated. As committee members know, much of the federal jurisdiction is highly unionized. Wages are determined by collective bargaining rather than unilaterally by employers. As a result, implementation of an effective pay equity regime presents a policy challenge, as it requires that we reconcile two fundamental freedoms, both of which are core values for this government: the right to organize and bargain collectively, and the right to receive equal pay for work of equal value.

These are both fundamental rights of employees, recognized by Parliament. The right to receive equal compensation for work of equal value is recognized in the Canadian Human Rights Act. The right to organize and bargain collectively is firmly entrenched in the Canada Labour Code. Canada is also a signatory to international legal instruments that oblige us to recognize and implement both of these fundamental rights.

Unfortunately, the task force report does not provide an adequate road map as to how these two fundamental rights can be made to work in harmony. Indeed, in the absence of a resolution of this challenge, we would be setting up a regime that guarantees conflict between these two values, both of which are important to the prosperity of Canada and the fair treatment of our citizens.

It would be irresponsible from a public policy perspective, in my view, to deliberately adopt an approach to pay equity that ignored the existence of other federal statutes or the constraints that other legislation, such as the Canada Labour Code, places on employers and unions operating in the federal jurisdiction.

It is essential to get the legislation right. An inappropriate solution that gets the wage rate wrong—I repeat, that gets the wage rate wrong—would create employment loss for the disadvantaged group,

those we are trying to help. Any appropriate solution must also take into account automatically the ongoing evolution of the labour market and what it means for pay equity gaps. An inappropriate solution that is static and does not keep pace with changing times could result in compensation levels that do not accurately reflect value added. The consequence of this again would be job losses for the group that we are trying to assist, sending work offshore and outside of our jurisdiction.

As Minister of Labour, I want to ensure that government policies affecting the workplace are integrated and consistent and that they do not operate in silos. In this regard, I must ensure that our approach on pay equity is consistent with other government policies. Thus, a wrong solution would be at odds with our collective bargaining and employment equity laws.

Pay equity is a very difficult and complex issue that cuts across human rights, human resource management practices, collective bargaining, and labour market conditions, and it would be irresponsible to enact legislation without assessing all of the implications it could have on the employers and employees subject to those laws.

Having emphasized the need to get the pay equity legislation right, let me now emphasize the need to get this legislation as quickly as possible. This issue has been with us for a long time—way too long. We presently have a system that is complaint driven and costly. Such a system means one thing: the status quo is simply not an option. We are totally committed to proposing a new regime in the shortest time possible. In that context, let me assure the committee that we are already working on developing our implementation ideas.

We are recommending to bringing forward a draft legislative proposal by March 2006, four months from now. The draft legislative proposal is essentially the plain-language document used to draft legislation. This document will be shared with all stakeholders, and a facilitator will be named to manage stakeholder input into this document. Once the consultations are complete, we plan to start drafting actual legislation to bring before the House.

To conclude, Madam Chair, as the minister indicated, this is not a question of if; it's a question of when, and it's a question of getting it right. We believe that with your help as a committee, with the stakeholders who have been fully engaged in this process over the past number of months, we in fact can and will lead the world in terms of enacting pay equity legislation that fully recognizes the true spirit of our human rights, our collective bargaining, and the fact that we want to ensure that equal opportunity is available for both men and women.

Thank you, Madam Chair.

• (1655)

**The Chair:** Thank you to both ministers for your presentations.

We'll now move to questions by members of the committee.

We have Ms. Yelich.

**Mrs. Lynne Yelich (Blackstrap, CPC):** Thank you.

Given the complexities, it sounds like the implementation is perhaps going to be a very difficult part of it, so I would be very interested in how you are going to develop these substantive proposals. Whom are you going to consult, and who will the stakeholders be? I'll ask both of you if you consulted with some of the stakeholders. Would the Status of Women be involved at all in the process of recommending stakeholders? Also, who will the impartial facilitator be?

Those are the questions I have for both ministers.

**Hon. Joe Fontana:** Those are very good questions.

As you know, I think we can start from the premise of those 113 recommendations put forward by Bilson. As Minister Cotler said, for the most part they are all supportable, or most are supportable, but the road map of how to take that foundation and implement it, or actually it put into practice, is obviously our greatest challenge in making sure that we do it.

The facilitator we would want to name would obviously be fully engaged with the stakeholders, including Status of Women and employers, for the purposes of taking the draft legislative proposals and being able to work with the stakeholder community to build on those draft legislative proposals, so that we can in fact come to Parliament with the legislation that is required.

So yes, we need to work towards implementation. This is not a question of trying to decide if we are going to have pay equity legislation. We've already decided that, yes, we want pay equity legislation. The point is, how do we get to most of those recommendations that Bilson has put forward? I know we've been criticized for not moving quickly enough, for not having the legislation in place, which is why we are determined to show that....

In fact, Madam Chair, I believe that in response to the report, we gave a letter to the committee, and the committee, I have to say, was not entirely happy with the response, because we didn't make a commitment to legislation. But both Mr. Cotler and I are here today to tell you that we will in fact put draft legislative proposals before the public by March 6 of next year, which is a far cry from what we had indicated in our letter, which was to have put forward legislation by the end of 2006 and the beginning of 2007.

• (1700)

**Hon. Irwin Cotler:** If I can answer, just very quickly, on the particular matter as to who was consulted or what stakeholder groups were consulted in that regard, the Bilson task force worked at arm's length from government, looking at pay equity in both the public/federal and private sectors. The stakeholders that were consulted included the Canadian Bankers Association; FETCO, known as the Federally Regulated Employers—Transportation and Communications; the Canadian Labour Congress, including the Public Service Alliance of Canada; la Confédération des syndicats nationaux; the National Association of Women and the Law; the National Action Committee on the Status of Women; the Treasury Board Secretariat; and separate public sector employers. The task force also met with representatives from the provincial and territorial governments, particularly those that had pay equity models that were of interest, such as Quebec, Ontario, and Manitoba.

In addition, and this is sometimes forgotten, the task force conducted a Canada-wide consultation process that included open public hearings in seven major cities—Vancouver, Edmonton, Yellowknife, Toronto, Ottawa, Montreal, and Halifax—as well as a series of round tables with other stakeholder groups, including employers.

I mention this because that underscores the importance of the seven principles upon which all these stakeholders that I've just referred to found common ground, and underscores as well that we share those seven same principles on which there was common ground.

So we've moved a long way. We now have a shared understanding and support for the seven fundamental principles, which begin, of course, with a constitutional right to pay equity as a fundamental human right, respecting equal pay for work of equal value. We move now from the acceptance of those seven common ground principles to implementation.

With respect to implementation, my colleague Joe Fontana has laid out the process that we intend to follow for that purpose, which includes moving quickly to have plain-language draft legislative proposals already prepared early in the new year, and then to engage those stakeholders with respect to those draft legislative proposals with a facilitator for that purpose. That ought to lead us to the actual legislative initiative, as we said we would do, with, we hope, the support of all stakeholders by the end of 2006-07.

That is a timeline we believe is reasonable. That is a timeline we would hope to meet. We would welcome your input, of course, throughout that timeline, just as we would report back to you on the progress during that timeline.

**Mrs. Lynne Yelich:** In terms of the recommendations you said you had from these consultations, are they recorded, or documented, or formed up into recommendations just as our committee has made recommendations, so now there is something to compare? I'm talking about the stakeholders.

**Hon. Irwin Cotler:** Their recommendations are identified in the Bilson report. You have them, I believe. They're identified under each of the particular intervenors to whom I've made reference.

**Mrs. Lynne Yelich:** You mentioned that there were many court cases and challenges. Can you tell us how many, perhaps, or what some of these challenges are that you referred to in your opening remarks?

• (1705)

**Hon. Irwin Cotler:** There are a number of significant cases. I would be happy to share that inventory of case law with you.

Very quickly, there is the Newfoundland Treasury Board and the Newfoundland Association of Public Employees. It's a 2002 case in that regard. In Ontario there's the Ferrell case.

I could go through them, but if I were talking about major cases, I would say that right now there are 10 major cases in respect to these matters. There are a few things that are common with regard to all these cases—the protracted nature of the litigation; the fact that when redress is secured it may take some 20 years; the cost when that redress is secured, because of the retroactivity involved; and the uncertainty throughout the process with regard to both employers and employees and the like.

The Bilson report makes specific reference to the importance of having clarity and direction with respect to our draft legislative proposals so that we don't once again get into that kind of litigious morass that has characterized pay equity up to now. It is a litigious morass, and we want to protect employers, employees, the public, women, and all stakeholders in that regard.

**The Chair:** Thank you very much, Minister.

Madam Gagnon.

[*Translation*]

**Ms. Christiane Gagnon (Québec, BQ):** Thank you, Ministers.

I heard Minister Cotler's description of the relationship between human rights and pay equity. However, his lack of speed in tabling a pay equity bill will not make his comments on equity and justice a reality any time soon.

A task force was struck to prepare recommendations, but I wonder if this was done with any serious intentions. If I understand what you say in your report, there is not enough money to implement a pay equity bill. You say there is no road map. Why did you not give one to the people who worked on the pay equity committee?

Today you have told us that there will be no act or that it will be delayed because there is still work to be done and there is no clear direction. There are recommendations, but the task force did not provide any further details on certain aspects of the implementation of this bill. It is obvious that a pay equity bill requires political will. Not everyone is likely to be happy about it. Look at what happened at Canada Post. The decision is under appeal. Canada Post was asked to come up with \$150 million to give their female employees pay equity. That represents 6,000 people who were not fairly compensated.

Moreover, in your report you say that this also represents an irritant for some federal employers. Is that what you are referring to when you say that the implementation of a pay equity law is the type of irritant that you would like to deal with later? This type of bill requires political conviction. You say that there is legislation in other provinces, including Quebec. You don't want to make too much use of it, but it does already exist. They pieces of legislation may not be the be-all and the end-all, but they do represent guidelines that would help you to ensure the implementation of a bill.

It is very disappointing for the people who worked on the committee, particularly since you will have another group with a facilitator to ensure that people will work together. These people will then be consulted. Have you given any thought to including the people who have already taken part in this work instead of simply consulting with them, as if they were no longer part of another step that will eventually lead to the drafting of a bill? I am very disappointed today. I was expecting some type of outline of a bill.

You tell us it will take four months, but we know full well that it takes two years to adopt a bill.

I would like to hear what you have to say.

● (1710)

[*English*]

**The Chair:** If we could have a question posed, it would be appreciated.

[*Translation*]

**Ms. Christiane Gagnon:** I want to hear the minister. I was reacting to his musings on human rights. I share his concerns about human rights. However, this is not a file or a concern which... The Canada Post employees have been demanding pay equity for 23 years. You have had a lot of time to think about drafting a bill. However, today, you tell us that you have nothing to offer, except the creation of another committee.

I was the critic for the status of women in 1993, and we were already discussing pay equity at the time. At some point you have to stand up and say that the time has come and tell employers who may not like it that a pay equity bill is in the works.

Thank you.

[*English*]

**The Chair:** There's a question, Mr. Minister.

[*Translation*]

**Hon. Irwin Cotler:** Thank you Madam Chair.

I started by telling you about our political will. There is no doubt that we are committed to implementing what you have spoken about. This is not partisan talk. We are here today to share a common cause that brings us together. When we talk about the common cause, this is not partisan talk. The political will is clear and strong: there is no doubt on that score.

Secondly, as I stated, we intend to table a bill that will be anchored by the seven basic principles as expressed by the Bilson task force. This task force undertook plenty of research and consultations. The report was submitted in May 2004, after three years of work.

We will now draft a bill that takes into account the seven basic principles that I have already listed. We don't need to decide whether or not we should draft a bill, or what basic principles we should follow, since these are already clear. What we must determine is how to implement these basic principles, something that the Bilson task force believes could be a problem. All of the stakeholders accept the seven principles. However, they do not all agree on the best way to go about implementing them.

I explained some of these problems. First, as was pointed out by the Bilson task force, there is a lack of direction and clarity as to the concepts and methodologies that are part of our current pay equity laws. That is one of the issues raised by the task force: we need more clarity in the direction that should be taken. This does not involve the matter of principles. Secondly, the lack of direction and clarity have caused labour relations conflicts and have resulted in lengthy and expensive trials. I mentioned some of them. Third, there are problems with the methodology, and my colleague Joe Fontana dealt with those. We must undertake consultations since the stakeholders themselves asked that this be done before a bill is introduced.

There is no doubt that we intend to table a bill as soon as possible. We have to proceed in stages. We have to define the process for the consultation that was requested by the stakeholders themselves.

• (1715)

[English]

**The Chair:** Thank you Mr. Minister.

We're moving on to Ms. Torsney.

**Hon. Paddy Torsney (Burlington, Lib.):** I think you were going to go to Ms. Neville.

**The Chair:** Ms. Neville.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** Thank you, Ministers, for coming today.

I have a number of questions.

You can certainly hear the frustration around the table from members of the committee and interested groups that this has not moved more quickly. We deliberately put it on the agenda of the committee to try to give it some impetus.

I think all committee members have received letters from the Canadian Bankers Association, which was concerned that we had not consulted them before we tabled a report in the House of Commons. I guess my first question would be, have you in turn received representations from other employee groups expressing their concerns?

Mr. Cotler, you talked about the pitfalls that plague us under the current system and that we can't model on the provincial legislation. My second question would be, is there no model in the provincial legislation that would allow us to build on and to move this along more quickly? I think the frustration is the slowness with which this has been moving along.

I've lost my third question, so if you would answer those, I'll come back to it.

**Hon. Joe Fontana:** Anita, I wonder if I could start with this point. Yes, it's been frustrating for the committee, it's been frustrating for the government, and it's been frustrating for people who have inputted into the system a good many times. But we've come a long way. The fact is that we're guided by Bilson's report, which builds upon those recommendations. The "if" has never been a question; it's "how to", and the devil is always in the detail. Even Bilson has acknowledged that she didn't have an implementation plan or a blueprint as to "how to". The problem is that it's a very complex issue, and we do want to get it right. We don't want to put a regime in

place that will fail, that will not achieve the results we want, especially for women, who are entitled to equal pay for work of equal value as a human right.

Therefore, we are determined, and the fact is that we are moving fairly quickly to an implementation strategy. This is not about more consultation; this is not about more finding out whether or not we've got it right. This is about putting in place draft legislative proposals in plain language so people can actually see where we're going and how we're going to get there.

We may put two or three examples before the draft legislative proposals. You asked about provincial models. Well, Ontario has a great model that's working really well; so does Quebec and Manitoba. Each has its own failings; each has experience we want to draw upon.

Once we put in place the draft legislative proposals, which will be the road map to implementation, I think it will be clear, and obviously then we want your committee, the stakeholders committee, to drive towards implementation to get the final legislative wording down, so we can completely implement it.

Yes, as you know, people are forever lobbying government, lobbying members of Parliament on both sides of the issue, as to how quickly or what pitfalls.... Therefore, you don't need a formula-driven model, which in fact is the Bilson approach, which means you've got one formula that's going to fit all jurisdictions, national or small in scope. We have to look at something grounded in some experience and expertise that exists with our provincial counterparts. I know it's a big issue for my provincial and territorial ministers. At the same time, I think it's very important, especially within the context of unions and collective bargaining, that we respect and perhaps use those models as a way of being able to achieve the equity we want.

Yes, we will put forward those examples, the road map, as quickly as possible in the new year.

• (1720)

**Hon. Anita Neville:** Could I follow up with two more questions?

Have you given any consideration to doing two pieces of legislation, one for unionized workers and one for non-unionized workers? Would that make the process go more quickly?

Ministers, my other question concerns timelines. You're talking about tabling legislation or legislative proposals in March 2006. Have you any idea what the process will be when a facilitator is hired? How long is the process going to be? My fear is that we're going to get tied up in another process, and it's going to be another lengthy period of time. A lot of people have been watching this and waiting for it for a very long time.

**Hon. Joe Fontana:** Anita, I think our approach would be one piece of legislation dealing with both the union and non-union, but obviously the approaches would have to be a little different. With unions, there are collective bargaining agreements one wants to recognize. Again, that's a fundamental value we believe in. Obviously in a non-union setting, we will deal with that differently. You should understand we are moving from a complaint-based system, which obviously is not working at all—hence, all the ongoing court cases—to a proactive model, which is what Quebec and Ontario have, that can be solved by virtue of looking and working through these particular things.

In terms of timing, I would hope that once we put the draft legislative proposals in plain language, the stakeholders group, working with that facilitator, can move as quickly as it possibly can. There's no reason to suggest that early in the new year, when those proposals are put forward...that we can't have legislation when we come back in September, so this committee can get on with the work of implementation. It's not us who will hold up the process by virtue of going from draft legislative proposals to legislation. The facilitator and the people we want to engage can make that process work very quickly.

**Hon. Irwin Cotler:** Perhaps I may take a moment, because this is an issue.

Anita Neville speaks about frustration and slowness. I felt this long before I became an MP. As a law professor, I was calling for this kind of legislation for years. The first speeches I made after becoming an MP were to call for legislation for equal pay for work of equal value.

Then the Bilson task force was established in 2001. It reported in 2004. I read that Bilson task force. I don't know how many of you have had a chance to read it. It's almost 600 pages and includes 113 recommendations. But if you take a look at it, you'll see it speaks about certain particular complexities that we have to appreciate. It was the Bilson task force that said you have to look at the interplay between collective bargaining and the pay equity process.

I made a summary, just on that issue alone, of the concerns they raised. I think it would behoove this committee to appreciate them: What safeguards could be put in place that would be satisfactory for all workplace partners? Should unions be made jointly liable with employers for the implementation and maintenance of pay equity? What mechanisms should be put in place that would permit either the employer or the union to contest the failure of the other party to carry out its obligations in a manner consistent with the objective of pay equity? Should wage and salary comparisons with the external market be avoided, since these comparisons import gender bias—the very issue pay equity policy addresses? How does one avoid wage spirals after pay equity has been implemented? What types of constraints or changes are required to collective bargaining to avoid wage spirals? What about non-unionized settings? And these are only partial questions about the issue of collective bargaining and pay equity.

Now, I could go on with regard to a number of others. I'm not going to do it, Madam Chair. I only want to make the point that we have to do our homework carefully so that we don't set in place a system that is going to once again—because it's not clear, because

the directions are not known, because we don't have the clarity—get us involved in protracted, costly litigation, where we won't resolve the problem and it will lead to even greater frustration after all these years.

I gave you an appreciation of one of the issues, collective bargaining and pay equity, that we identified. I could have gone on to talk about others. I think you get the sense of what I'm trying to share with you.

**The Chair:** Thank you, Mr. Minister.

We'll move on to Ms. Crowder.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you.

I want to thank both ministers for coming today. As you can tell, there's a lot of passion and heat behind this issue. You'll forgive much of our cynicism.

I'm going to read a quote from the *Toronto Star*, July 4, 2004. The headline is “Pay inequity cries out for new legislation”. It says, “Released, as it was, in the fevered run-up to the spring election call, the federal report of the pay equity task force caused a small news ripple, and then sank like a stone”. Then it goes on to talk about the fact that once the election was over, the pay equity report, subheaded *A New Approach to a Fundamental Right*, would find its way onto the legislative agenda.

Well, here we are, a year and a half later, and it's still not on the legislative agenda. I brought forward a motion in May asking for pay equity legislation. I would argue that if this committee hadn't been in effect and hadn't done its work, we still wouldn't be having a conversation around pay equity legislation, despite all the good intentions.

This is a paraphrase, but I think there's a quote out there. Minister Cotler, I'm sure you're aware of this quote, that justice delayed is justice denied.

We have Justice Abella in 1984 talking about employment equity, but she's talking about pay equity as a fundamental human right. I've heard you both loudly and clearly talk about it as a fundamental human right, yet we still have....

Ms. Yelich talked about the companies—I have lists of them as well—and we're talking about 20 years. We're talking about women who are being denied the fundamental human right to pay equity. What we have been asking for is legislation. We don't want more consultation. In fact, I'm aware of a couple of letters that went to Minister Fontana from the National Association of Women and the Law and the Canadian Labour Congress, saying enough consultation, they want draft legislation.

**A voice:** [*Inaudible—Editor*]

**Ms. Jean Crowder:** We don't have it. Because if we had it, we would look at it today.

If you could, just let me finish.

What I specifically want you to respond to is why we can't have draft legislation now to drive the consultation process.

The health committee last week was dealing with reproductive technology, and people are fed up to the teeth with these kinds of delays. Draft legislation would give our communities an opportunity to consult.

Before you answer that, I specifically want to mention that on page 453 it talks specifically about the collective bargaining process and the fact that the primary obligations set out in human rights legislation rest on the employer, not the union. This document did extensive work around collective bargaining. It did extensive work around small business and small employers. Why do we have to start that process all over again?

So could you tell me why we can't have specific legislation now, and what do you think will be different in terms of achieving consensus?

• (1725)

**The Chair:** Thank you, Ms. Crowder.

Mr. Minister, please.

**Hon. Joe Fontana:** Had we been able to just throw out a piece of legislation to say here's your legislation—you surely know, because you've been around this place a long time—we would have been criticized that we hadn't done it right. This is not a question of more consultation; this is a question of implementation. I think you will all agree that it's a complex issue. If it was so simple, somebody could have put a piece of paper out by now.

The fact, too, is that some people believe there are other events that are more important than some pieces of legislation. If in fact this Parliament wanted to work, it could continue to work for the next two or three months—without getting sidetracked on doing something else—to deal with the issues such as pay equity.

You asked whether this is more consultation. It is not. We're putting forward draft legislative proposals in plain language so that we can actually get on with the implementation. We would agree there are a lot of recommendations within that complement of 113 that will be no-brainers, that everybody in fact agrees to, but there are some complex issues, which I think Minister Cotler and I tried to address.

We want to get it right. To simply put out a piece of paper and say here's your legislation and think that's going to satisfy people.... You would have been the first one to criticize us if in fact we were to put out some poor legislation just for the sake of us saying that we now have legislation.

**Ms. Jean Crowder:** Minister, you've got a huge brain trust working for you, and surely they can take a look at the legislation that's already out there. Surely all the work that's been done in terms of the Ontario and the Quebec legislation could be used.

**Hon. Joe Fontana:** Well, let me ask you this. You also have an opportunity to give us some advice, so which model would you pick in order to put forward?

**Ms. Jean Crowder:** Ontario.

**Hon. Joe Fontana:** Not a problem.

**Hon. Irwin Cotler:** Perhaps I could just respond, because I want to agree with the honourable—

• (1730)

**Ms. Jean Crowder:** Listen, you can't hold me responsible for B. C.'s lack of legislation. Give me a break.

**Hon. Irwin Cotler:** I would just agree with the honourable member. I think this committee has acted as a catalyst, and it's welcome.

You've been an important *animatrice* with regard to moving this thing forward. We welcome that.

If you want to talk about frustration, I appeared before that Abella committee; I acted as a consultant. The record will show that I called then—25 years ago—for equal pay for work of equal value. So I'm on record on that issue.

I'm just saying that when it comes to this point, we agree with regard to the draft legislation, so that the stakeholders can have an opportunity to consult. We're not talking about principles. We're not talking about generalities. We're talking about putting forward plain-language draft legislative proposals early in the new year and, as I say, moving forward *aussi rapide que possible*.

I want to comment and close on this point. You mentioned the Ontario model. I've looked at the Ontario model. Right now, I can cite to you 15 problems with the Ontario model. I'm saying I think we need to move forward. The Minister of Justice is not here to put up roadblocks but to follow a road map to get this thing done. At the same time, you've got to do your homework; you've got to take a look at the models. If you bring forward a model, then be held accountable for that model.

I'm going to tell you the answers to these questions with regard to the Ontario model: it does not apply to all employers regardless of size, it does not have enough flexibility with regard to smaller employers, and it does not provide guidance with respect to gender neutrality.

**Ms. Jean Crowder:** Excuse me, Minister Cotler, if you're aware of the problems, then your draft legislation can deal with those issues. I am not a legislative counsel.

**Hon. Irwin Cotler:** But all I'm saying is that you come forward with a kind of quick fix—

**Ms. Jean Crowder:** It's not my responsibility to write the bill.

**Hon. Irwin Cotler:** When you throw out a quick fix—

**The Chair:** Order. Could everyone please keep the discourse—

**Hon. Irwin Cotler:** I'll just close.

We've looked at those models that are thrown forward as a kind of quick fix thing. We want to move forward; we don't want a quick fix in place of something that can work for the benefit of all concerned. So we're looking at the Quebec model, we're looking at the Ontario model, and we're looking at the Manitoba model.

But in answering here quickly, most importantly, we've instructed our officials—exactly what you said—to go forward and draft those legislative proposals in plain language and have them ready in the new year so that the consultations can begin.

I want to tell you something else. Those stakeholder groups who reacted to the Bilson report came before us and said, we are experts and we need more time to respond to the report. These are not things that can just have a quick fixing.

We will move forward, because we are committed to getting these things done. We share this commitment with you. We understand the frustration. We don't want a go-slow process; we want to get it done. That's why we will move forward with all deliberate speed.

**The Chair:** Thank you very much.

We'll move on to Ms. Guergis, but before we do, I just want the committee to take note that we'll be somewhat strict now, because we want everyone to have an opportunity to speak.

Ms. Guergis.

**Ms. Helena Guergis (Simcoe—Grey, CPC):** Thank you, Madam Chair.

Thank you to both ministers for being here today.

Minister Cotler, I will agree with you in that I don't think you can simply clone provincial legislation, and I also agree that you can't draft it overnight, but the task force began in 2001, and we're talking about completion in 2007. I believe my Bloc colleague went back to 1993, and my NDP colleague went back even further. So that's a really long time.

But I do thank both of you very much for addressing the very obvious question as to why it has taken so long. I think you've been asked that many times, so that's not going to be my question.

Perhaps one of you can tell us what stakeholders the task force on pay equity perhaps did not meet with. Are there others that maybe the new impartial facilitator will meet with?

**A voice:** I didn't hear the question.

**Ms. Helena Guergis:** The question was, could you tell us who or which stakeholders the task force on pay equity didn't meet with during their four-year consultation? Are there some different ones that the impartial facilitator will perhaps meet with?

I'm also curious as to why the mandate of the task force didn't have an implementation strategy of some sort.

Judging by what I've heard today and by what I've read, I'm assuming that the facilitator's role will be an extremely important one. I'm curious if you can give us some advice on how important you think the facilitator's role will be.

Are either of you aware of any strong differences of opinion between any of the stakeholders as to how to implement pay equity? Is a strong difference of opinion maybe one of the reasons why it is taking so long?

How can we as a committee assist you in helping to reach a consensus?

• (1735)

**Hon. Joe Fontana:** Can I just answer the last part of your question?

Of course, this committee will be very instrumental and very constructive and helpful as those draft legislative proposals are brought forward. We hope you will get fully engaged, not only at that stage but also when the final legislation gets put on the table.

I think the role of the facilitator is going to be extremely difficult, because there are wide differences of opinion as to how one can get pay equity. If it were so easy, I'm sure it could have been done way before this, but there are some differences of opinion from employers to employee groups, and so on. I think the role of the government.... Let's face it, we all know there are vested interest here and there, but one of the two founding principles is that it's a human right, and we want to be very respectful of the collective bargaining.

The models and the role of the facilitator are going to be extremely helpful and constructive in helping to bridge the differences that exist, which you will hear—especially when we table those draft legislative proposals.

**Ms. Helena Guergis:** Do we have an idea or a list of exactly what the role of the facilitator is? You just talked a little more in depth about the role of the facilitator. Do you have something like that for us to see here?

**Hon. Joe Fontana:** We could put something before the committee to show you the role of the facilitator, and the interaction with the stakeholders and the timelines, showing that we are trying to move as quickly as possible to get the best possible legislation, which I think Canada will be able to hold up to the world.

**Ms. Helena Guergis:** I appreciate that.

I'm thinking that understanding the role of the facilitator will really be helpful to us in helping the government reach consensus on this tricky issue.

I'm finished with my questions.

**Hon. Irwin Cotler:** I think your question is an important one, so I'll try to summarize it as briefly as possible.

The National Association of Women and the Law, the CLC, FETCO, and the Canadian Bankers Association supported the setting up of a stakeholders committee to discuss outstanding issues, with a view to reaching some form of consensus. Private sector employers made it clear that they strongly support this initiative but object to any government action on pay equity reform before stakeholders have the opportunity to further discuss outstanding issues. And Treasury Board weighed in.

There were unresolved employer issues, and there were the four that we set before you on which there was no common agreement: the interplay between pay equity and collective bargaining; the role and obligations of employers and unions in implementing and maintaining pay equity; the role and authority of workplace committees in developing and implementing pay equity; and the definition of the term "establishment". I could go on, but we highlighted those four. I would bore and burden you to death if I started to give you an inventory of all the things on which they didn't agree. They were able to agree on the matter of the principles. They didn't agree on the matter of implementation, and that's part of the problem.

I should say that we sent letters to all key departments, because that's another issue. The recommendations here have a cross-cutting impact on a variety of government departments. We're talking about Human Resources and Skills Development, Status of Women, Treasury Board, the Canadian Human Rights Commission, the Canadian Human Rights Tribunal, Finance, and the like. We sent letters to all of them with regard to getting their input on all the recommendations.

To conclude, I think your point is well taken. We will need to have the kind of consultation that works toward identifying the specific issues on which there was no agreement, with a range of options that were set forth to achieve agreement with an effective facilitator. I hope we can, because we will give them a framework. We are going to provide them with plain-language draft legislative proposals, to the extent that we can forge a consensus from the competing things they said. We will try to put that consensus forward, with a view to getting an agreement.

I can tell you that just on the definition of the term "establishment", there was a whole set of competing considerations. So it isn't, as I said, a quick fix, but I hope we'll be able to move forward effectively.

Again, as my colleague said, any assistance you can give us on any stage of the work is welcome. We'd like to work with you. We're not working in a silo here.

**The Chair:** Thank you very much, Mr. Minister.

We're moving on to Ms. Torsney.

**Hon. Paddy Torsney:** One of the challenges with this issue is that while we've been discussing getting legislation at the federal level for federally regulated employees and setting up a proactive system, there seems to be an impression that there isn't pay equity now. The more this gets debated and this meeting is televised, I think it's important to say there is pay equity. It's just an extraordinarily litigious situation that perhaps for many employee groups means there isn't pay equity in the end.

In certain provinces, there are workers who are governed by pay equity legislation for their provincially regulated employees. However, we're talking about setting up a new regime that's proactive for federally regulated employees, whether they're working in Ontario or Quebec or British Columbia or the north.

It seems that as we go through this issue, there is intransigence on the part of, I would imagine, employer groups. They're perhaps happy with the current state of affairs in terms of continuing to fight in the courts, with everybody getting involved and every case dependent on another case. They all have to get in there and fight on the definitions.

As a federal employer, we had our own pay equity debate and fight that went almost all the way to the Supreme Court until members of this caucus made sure we got it resolved.

We want to set up a new regime, so how can people feel that this process that you're undertaking and the report that has already been done by the task force are somehow an achievement and that you have at least agreed on principles? How can we be clear about when the facilitator is going to be appointed, what exactly is their job, and

what is the timeframe that's given to them that says to employee groups and employer groups that this is it, we're not going to debate until September, we're not going to debate until next year, we're not going to continue to go to the courts? We have a timeframe. They've agreed on some principles by and large, although there may be some disagreement still, but enough already. Get the legislation. They either agree or don't agree, but we're coming forward. Is such an instruction going to be given to this facilitator so that we have a new regime?

• (1740)

**Hon. Joe Fontana:** Yes, yes, and yes.

First of all, to draft legislative proposals is absolutely crucial, and that is to set the framework so there can be, as Mr. Cotler said, a framework of consensus that we can best put out there. We know there are going to be differences of opinion. You hear it all the time. The fact that there are differences is because...look at how many courts are out there. Right now we have a complaint-based system, based on the Canadian Human Rights Act. If an employer does something and someone doesn't agree to it, guess what, you're off to the Human Rights Commission, and if you don't like what they say, then you're off to the courts. That's essentially because we have no system other than the complaint-based system.

Putting in place a proactive system is very much like an employment equity piece of legislation that allows employers and employees to work together in a proactive way to make sure there are opportunities, in the same way as we would want proactive pay equity committees or mechanisms by which we can make sure those gaps or the disparities between men and women for work of equal value are closed off so that there is absolutely no difference.

In terms of timelines, we have come a long way, with incredible input, from the agreement on the principles, to some recommendations now that we will put in legislative proposals.

As for the facilitator, we are looking for qualified candidates who can take on this job very quickly, who will take these legislative proposals, start working with the stakeholder groups, and then move toward the final resolution of these particular issues in legislation that we would hope to bring in as quickly as possible in 2006, not 2007 as we previously indicated. That's why the draft legislative proposal, which wasn't in our letter in response to this committee's request, is definitive. We want to put out the draft legislative proposals as early as possible in the new year. We've said probably March; if we can get it done more quickly, fine. If we can appoint the facilitator very quickly and start to do this engagement...I think those are the timelines, with the instructions to the facilitator of what is expected of him or her in order to do it.

• (1745)

**The Chair:** Thank you.

**Hon. Irwin Cotler:** May I...?

**The Chair:** Yes, very briefly. We need to know about the—

**Hon. Irwin Cotler:** With regard to the question, there have been a number of important achievements, not in any self-serving way. It would be with the collective involvement of everyone here.

The first important achievement was to endorse the seven major principles of the Bilson report that have been agreed to by stakeholders, and this is the first time we have said publicly that we endorse the seven major principles. Two, a second major achievement: this is the first time that we've said we will move forward with regard to plain-language draft legislative proposals, asked for also by the stakeholders, as quickly as possible. Number three is the timeline that Joe Fontana spoke of, which will also involve the facilitator. And finally, we have as our objective to table legislation with those timelines by the end of 2006 and 2007.

I just want to close with one thing, and I invite your assistance in this. I have looked at all these things, and frankly, sometimes I wake up at night and say I'm not sure it's going to work. I'll tell you why. When I look at all the things—and I'll close with this—in order to ensure that pay equity reform will address the issues associated with the present pay equity regime, we're going to need clear definitions of equal value, of job classes, of occupational groups, of comparative groups, of employer, and establish agreed-upon definitions. We'll need clear direction on what entails a gender-neutral job evaluation plan, what type of wage methodology should be used to determine the pay equity wage gap, what factors would justify gender compensation differences, and how maintenance of pay equity can be ensured over the long run once it is effectively implemented.

I say that not to put any obstacles in the road; I say that because we're going to have to address those issues, and let's address them together. If you have any ideas on these issues that I've just put before you that are going to be part of the consultation, then give them to us and we'll work together. Sometimes I feel I'd love to just give you the whole thing. You work with all the groups, you write the proposals, and get it done.

**The Chair:** Alternatively, Mr. Minister, we'll move on to more questions by our committee.

**Hon. Irwin Cotler:** I'm just telling you that my officials know they are to move forward with this as quickly as possible.

**The Chair:** Okay. We'll move on to Madam Bonsant.

[*Translation*]

**Ms. France Bonsant (Compton—Stanstead, BQ):** Good evening, Minister.

You said that pay equity already existed in some provinces. In the places I worked, the issue of pay equity was settled more than 10 years ago. We also settled the issue of job description. The company I used to work for came under federal jurisdiction and did business in Quebec and Ontario. If you're looking for a model, I can give you the name of the company's director. I'm sure he'd be pleased to assist you.

Secondly, one of my sisters worked in the area of, what we used to call, unemployment insurance. That issue has already been settled in some areas of government. I don't understand why you don't operate the way employment insurance does. The whole issue of the young Radio-Canada journalists still hasn't been resolved, even today, and yet this comes under your purview. Perhaps, the government should be leading by example.

You are delaying the introduction of a bill. You seem to be expecting the legislation to be perfect. I think that that is a good

excuse for never tabling any new legislation. Women have been fighting for 20 years. This isn't about politics. All those people fighting in British Columbia, in Nova Scotia and elsewhere aren't all sovereignists. These are single-parent mothers, women living below the poverty line. They don't care whether the legislation is perfect or not. All that they want is for things to be settled.

I want you to give me your assurance—in writing if necessary—that this bill will be introduced very soon, so that things don't drag on for another 20 years. I have models that you can use, if you want. Go and check out Bell Canada: they'll look after you.

[*English*]

**Hon. Joe Fontana:** First of all, let me suggest...I would hope there are examples of companies working with their employees where in fact they don't need legislation in order to recognize the basic fundamental human rights. Equal pay for work of equal value as done by both a man and a woman should be respected—I would hope. Unfortunately, I'm not sure the system works so perfectly as to leave it to someone else or employers and employees to figure out. I would think creative companies that value employees and the work they do, especially that of women, would in fact have done this.

But recognizing, as you've indicated, that in Quebec there's a good model...is the Quebec model a model for the total federal national jurisdiction? Perhaps you can tell us, knowing the model as you do, whether or not that's workable. In the same case, Jean suggested that the Ontario model might very well be the model to incorporate. Both have great positives and great strengths, and some have weaknesses.

I think what we want to try to do by having the facilitator work with our stakeholders, especially in the federal jurisdiction, is to come as close as we possibly can to a perfect piece of legislation and a perfect model. I would agree with you. I believe once we get to the final legislation people will not be entirely satisfied—that's the nature of what will happen—but I think we need to look towards experience and where there are models that are working.

Now, finally, in terms of legislation, or getting it in place, you said to put it in writing. Well, I think we're saying it publicly. I don't know whether or not a signature would make you that much more comfortable than Irwin and I saying that we in fact want to put out the draft legislative proposals early in the new year. I indicated March because we've asked our officials to work like the dickens to get these draft legislative proposals out there. If we can get it done more quickly, we will.

Once those proposals are out there for the public, the facilitator will be in place, the stakeholder groups can start to work on building that implementation model, and the sooner they can get to work. And if you can give us some assistance, the sooner we can have legislation before this Parliament and get it enacted in law and be able to show working Canadians, especially women, that in fact we believe in the principles of human rights and the principles of collective bargaining and gender equality.

• (1750)

**The Chair:** Okay, thank you. We've used our time.

We have Ms. Crowder now.

**Hon. Irwin Cotler:** Madam Chair, I have one problem. I regret that I have to leave for the operations committee of cabinet, for which I'm 20 minutes overdue already. My officials will remain, but I will just answer the question, because it's an important question, very quickly.

[Translation]

First, I want to state very clearly that we don't want to delay the tabling of this bill. Second, we have reviewed all the provincial models. Third, we have reviewed and compared provincial and federal bills.

Today, pay equity is recognized worldwide as a necessity. We also believe this. We don't want to delay the tabling of a bill. As I said earlier, we have looked at every provincial model and compared them to our bill. We want to move ahead as soon as possible.

I'm sorry, but I have to leave. My officials will be here to...

[English]

**The Chair:** Perhaps I could ask the honourable minister to stay for one moment for a brief question by Ms. Smith. Ms. Crowder has kindly let her go first. It's a very brief question. We'd appreciate it if you could entertain that.

**Mrs. Joy Smith (Kildonan—St. Paul, CPC):** Thank you, Madam Chair.

Thank you, Minister Cotler and Minister Fontana, for your presentations.

I'm a little puzzled about a couple of things, because in June 2001 the Pay Equity Task Force was established, and between 2001 and 2004 it commissioned independent research on a wide range of issues to be of help to you. There was a report, *Pay Equity: A New Approach to Fundamental Rights*, to the Ministers of Justice and Labour in May 2004.

With all due respect, this government has been in power for over a decade, and at this point in time, in November, the ministers are searching for a facilitator to get draft legislative proposals together. I have a little bit of concern about that, and I just had a question. Maybe I'm missing something here, but obviously there's been some confusion; there's been some misdirection of some sort, or maybe there have been obstacles in your way to developing this legislation, when you look at the timelines. Today, we suddenly hear that there will be draft legislation out by March.

What were the obstacles that you faced in developing—

• (1755)

**Hon. Paddy Torsney:** Excuse me, Madam Chair, but I have a point of order.

We have a certain rotation for this committee. The rotation just got changed on the basis that it was something earth-shattering that Ms. Smith had to ask. She just asked the ministers to do a summary of the entire committee meeting.

**The Chair:** No, I know. If we want to have a summary that's tied to the—

**Hon. Paddy Torsney:** That is in fact everything they have been talking about—all the obstacles, all the process, and everything.

I'm sorry if you weren't paying attention, Ms. Smith—

**The Chair:** Actually, she just came in.

**Hon. Paddy Torsney:** But it was Ms. Crowder, and then it was Mr. Powers, and then it's Ms. Smith. So I'm not sure why we're giving up committee time for a question asking for a summary of the entire meeting.

**The Chair:** We need to have the question, and the answer needs to be brief as well, as you heard.

**Mrs. Joy Smith:** With all due respect, I think it's a question that has to be asked and has to be answered.

**Hon. Paddy Torsney:** It's been answered for an hour and a half, Ms. Smith.

**The Chair:** Just be very brief, Mr. Minister, before you leave.

**Hon. Joe Fontana:** Well, can I just—

**Mrs. Joy Smith:** I just want to be assured that you can answer the question in terms of why you say it's imminent. How can we be assured of that? What obstacles have occurred that might prolong this, or might have seen this prolonged to this time?

**Hon. Joe Fontana:** Madam Chair, I'm not going to get into what we've just discussed for an hour and a half in terms of what obstacles have been in place since 2001. But let me say this, because I think you're already confused, Ms. Smith.

I think you said that the facilitator will draft the legislative proposals. That's not what is envisioned at all. In fact, our departments are drafting the legislative proposals. The facilitator will work with the stakeholders to implement it, so we're not asking the facilitator to draft these proposals; we are going to draft them and give them to a facilitator, who is going to work with stakeholder groups to protect the models and the legislation, so that we can bring them here.

But what might be helpful, too, is that if your party has anything to say on pay equity, I'd like to see it.

**Hon. Irwin Cotler:** I don't want to review any parts of my testimony. I think I indicated, by way of example only, that on collective bargaining and pay equity there was a series of questions that had to be addressed and resolved, that in the matter of the Ontario model there was a series of questions. And I might say to you that I read your questions to Professor Bilson, and you reminded her that we should look at the Manitoba model as well. I read this in the testimony before your committee. We have also looked at the Manitoba model. I could offer you a critique there too, but I won't do that.

I'm just saying that we are trying to take the best practices of all the different models—Quebec, which is a newer model, and Ontario and Manitoba, which are still the best practices—relate to the critiques that we have received, follow the principles of the Bilson task force, and work to implementation as quickly as possible.

I can continue to repeat this, but all I can say is that it's a good faith exercise. We want to work with you. We welcome any suggestions you have on any of the issues that I put forward or on any others that time did not permit. We will seek to bring this together. It's not a matter of a political party; it's a matter of legislating for the common good.

**The Chair:** Thanks very much.

Perhaps I can thank the minister.

Yes, Madame Gagnon.

[*Translation*]

**Ms. Christiane Gagnon:** Madam Chair, I haven't asked any partisan questions, I did ask the minister questions. I can see that he is more than prepared to introduce a bill. We have a job to do as members of this committee. We are now going to put pressure on the minister because of his bill. I'm sorry, this isn't political. There are people in this committee who have made recommendations to the minister who are disappointed.

**Hon. Paddy Torsney:** Madam Chair, Jean Crowder has the...

[*English*]

**The Chair:** Can we have order back, please. The points have been made. Thank you.

[*Translation*]

**Hon. Irwin Cotler:** [*Editor's Note: Inaudible*] ...of having a bill. That's right.

[*English*]

**The Chair:** Thank you. The points have been made.

Now I would like to thank the minister, who is taking his leave, and we will go on to Ms. Crowder to continue the questioning.

**Ms. Jean Crowder:** I want to thank the minister as well for coming, and I would welcome those draft legislative proposals as early as possible.

Back in May when Madame Côté came before the committee, she indicated that when Madame Abella tabled her employment equity report in 1984, Parliament acted in less than three months. So we do have a track record where Parliament can react quickly to things that are of paramount importance.

I think part of what you're hearing today is a profound sense of weariness with the fact that women, who make up a significant part of the workforce in the sectors that we're talking about, are still waiting for some sort of equity around pay equity. And because we've had such a track record...and this is not about your government. We've had a track record of aboriginal reports and royal commissions on this and reports on that that never get implemented.

So I think it's important that we demonstrate to Canadian women that there is truly a political will. Forget the partisanship around having this changed. I think the piece that gets left out of this—we have a productivity agenda right now, it's in the pre-budget consultation—is that we disregard the fact that these are productivity items for women. They are absolutely productivity items; women fuel the economy in so many ways. *The 80% Minority* by Joanne Yaccato talks about the fact that purchasing decisions are made by

women. By disregarding this fundamental human right, we are impacting on the productivity of our country.

The Canadian Labour Congress has employment equity as one of their key issues that they're working on. There's the National Association of Women and the Law. We have some experts out there who are willing to work with your department on proposed legislation.

So I would urge you to work with those groups that are out there.

• (1800)

**Hon. Joe Fontana:** With that offer, that's exactly what we would want the facilitator to do. I agree totally that this is about human rights. It is about a productivity agenda for women, but a productivity agenda in total. We would agree with you. Any help that we can give...and I think the offer has been made. That's why I don't think this is a question of political will. We have said over and over today that we are putting forward draft legislative proposals in plain language so that we can get on with the work of building that legislation as quickly as possible. We're going to need your help, and we're going to need the help of the stakeholders and CLC and other groups that have been very much involved in the preparation for some of that input that went into Bilson.

We look forward to working on it, and we'll provide the committee with the timelines or schedules that we are committed to undertake.

**Ms. Jean Crowder:** Can you respond to this, very quickly? Even if the House falls, will the people in Justice continue to work on the proposed legislation?

**Hon. Joe Fontana:** Well, of course. They will continue to work while we campaign, I guess.

**The Chair:** I'd like to thank both ministers.

I've been advised that they both need to take their leave. I want to thank them both for attending the committee today.

Obviously, this is a very strong priority, and I know your staff will stay for some final questions. This is a high priority for our committee, as you know. There is a consensus. We're looking forward to expediting the pay equity draft legislation.

Thank you very much.

We're going to adjourn. However, we do have some committee business, so could you stay for a few moments? I won't adjourn till we do it.

I just want to let the committee know that for Wednesday, we have scheduled several witnesses to resume our study of parental benefits for self-employed workers. The steering committee, comprised of the chair and three vice-chairs, has met. We determined that we would recommend to the greater committee that we take advantage of our timeline and move forward with an interim report with our recommendations on parental benefits for self-employed workers. We'd like to table that at the beginning of the next week, following the witnesses of the next committee on Wednesday this week—hopefully before Parliament's end of session.

That is the recommendation coming forward from the steering committee. Is there any input on that? Any motions?

Seeing there is approval, we'll move forward on that basis.

The meeting is adjourned.

I look forward to seeing you on Wednesday, when we have several witnesses to conclude that study, and then we will have our interim report coming forward from our Library of Parliament.

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