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**EVIDENCE**

**Wednesday, February 8, 2012**

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**Chair**

**Mr. Ed Komarnicki**



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

Wednesday, February 8, 2012

• (1540)

[English]

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

Before we get to the clause-by-clause consideration, during the last meeting there was a question to HRSD. The question was, how many people have applied for the extension of the qualifying period, and how many of those were actually incarcerated? HRSDC has advised the clerk that they were not able to provide an answer to the question that was asked on Monday, February 6. I want to bring that to your attention.

I want to get into the clause-by-clause consideration of Bill C-316, pursuant to the order of the day, which reads as follows: pursuant to the order of reference of Wednesday, November 30, 2011, Bill C-316, an Act to amend the Employment Insurance Act (incarceration), was referred to us.

I will go through each of the clauses of the bill.

(On clause 1)

**The Chair:** Clause 1 reads as follows:

Paragraph 8(2)(b) of the *Employment Insurance Act* is repealed.

Is there any discussion on clause 1?

I understand there may be an amendment to clause 1.

Does someone wish to move the amendment to clause 1?

Yes, Ms. Leitch.

**Ms. Kellie Leitch (Simcoe—Grey, CPC):** I think the amendments have been pre-circulated. I'm happy to read them into the record, but I think they have been pre-circulated.

Would you like me to read them?

**The Chair:** If you would, maybe read the first, on clause 1. We're dealing with clause 1; this would be an amendment to it.

**Ms. Kellie Leitch:** Sure, that's no problem. It is that Bill C-316, in clause 1, be amended by replacing line 5 on page 1 with the following:

*Insurance Act* is replaced by the following:

(b) confined in a jail, penitentiary or other similar institution and was not found guilty of the offence for which the person was being held or any other offence arising out of the same transaction;

**The Chair:** Thank you.

The amendment has been moved. We're open to receiving any comments you may have with respect to that amendment. Or if others have comments, just indicate so, and we'll put you on the speaking list and go from there.

Is there anything to add on that amendment?

**Ms. Kellie Leitch:** No. The only comment I'll make is that our moving forward with this bill, Bill C-316, has been moved forward by the Conservative member in an effort to create fairness amongst all Canadians with respect to this portion of the Employment Insurance Act.

**The Chair:** Okay.

Ms. Crowder.

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

With respect to creating fairness in the Employment Insurance Act, I would suggest that if the government were actually interested in creating fairness, what it would have done is look at the cases in which people didn't qualify for an extension of the qualifying period or benefit period and make changes there. The case that the proposer of the bill brought forward would have been a really good example of changes to the Employment Insurance Act that would have benefited that particular person.

Of course, I'm not going to go over the extensive testimony that we heard from Elizabeth Fry and John Howard about why it's important to maintain this section of the act.

Despite the fact that this amendment would actually change an oversight in the initially proposed legislation, the NDP will not be supporting the amendment because we do not support the principles of the bill.

So although this would correct an error in the bill, we will not be supporting the amendment.

**The Chair:** All right.

Ms. Hughes.

**Mrs. Carol Hughes (Algoma—Manitoulin—Kapusksing, NDP):** I want to echo what my colleague just indicated and remind the members here of what we heard in the testimony, that this basically creates a civil penalty in addition to one that was provided by the courts. Again, I'll reiterate that if there is equality to be had—which we think there is—we need to look at the circumstances in which people were denied. And rightly so; people have paid into this. In the event that they find themselves in a situation wherein they're not employed, they should rightly have access to it.

Thank you.

**The Chair:** Are there any...?

Yes, Mr. Cuzner.

**Mr. Rodger Cuzner (Cape Breton—Canso, Lib.):** I don't know if it goes specifically at this clause, but just in general terms, 80% of the incarcerated women in this country are in because of poverty-related crimes, 39% because they had no ability to pay a fine.

The bill impacts on a fairly significant small number of people anyway. I'm not seeing the huge saving to the public coffers, but it would allow some source of income for these people once they're released. I agree with Carol with regard to the testimony given that this looks like another civil action past the criminal penalty they've just worked off.

**The Chair:** All right, your point is noted.

Mr. McColeman.

**Mr. Phil McColeman (Brant, CPC):** I point out to my colleagues on both sides of the table that those were the witnesses' opinions and nothing more than their opinions.

**The Chair:** It's a fair point.

I'll go to Mr. Cuzner first and after that Monsieur Patry.

**Mr. Rodger Cuzner:** The facts are facts. The statistics are facts that we all have access to.

**The Chair:** We'll deal with Mr. Patry, and we'll come back for you to respond to that.

Monsieur Patry.

[*Translation*]

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

The only thing I want to say is that we are going to cause even more damage.

This measure was put in place to help people being released from prison to rehabilitate, to find a job, and so on. We are still going to adopt legislation that will cause more difficulties for these people. We aren't going to lift them out of misery; we're going to give them even more misery.

I believe in rehabilitation. But with this measure, there is going to be less of it.

That's all I wanted to say, Mr. Chair.

[*English*]

**The Chair:** Mr. McColeman responds to Mr. Cuzner.

•(1545)

**Mr. Phil McColeman:** Through you, Mr. Chair, I wasn't disputing the numbers, the statistics, that Mr. Cuzner presented. I was talking about Ms. Hughes' comment and his comment that it added to the penalty, that it added a new civil penalty. That was their opinion. There are no statistics around that.

**The Chair:** I'll just maybe clarify that point. I think my recollection of the witness was that if those who came out of custody did not have the extension, which would provide to them the benefits under the Employment Insurance Act, that would have an impact upon them. It's maybe in that light that they were discussing it.

In any event, go ahead.

**Ms. Jean Crowder:** Mr. Chair, thank you for that clarification. I believe what the witnesses were indicating is that people who have been convicted of a crime serve a sentence, and therefore they have been punished for that crime.

I think the witnesses were trying to make the case that by adding another punishment on top of the time they'd spent in jail, in fact there was now a criminal penalty and a civil penalty.

**The Chair:** Right, and I should clarify that. The witnesses said that given that they were already sentenced and everything was taken into consideration on top of that, they would lose the extension.

The other side of that argument was that persons weren't necessarily entitled to that extension except that it was provided for by statute. So the policy could be to take that extension or the type of people who were allowed to have that extension away, I suppose on the basis that they had some control over their actions by committing the crime and therefore placed themselves outside of the position of work.

Those are kinds of arguments, but I don't think we want to get into the essence of it. You've both made a good point. Do you want to clarify that further?

**Ms. Jean Crowder:** I have just two quick points on that, Mr. Chair.

First of all, much has been made about choice, and many other people who are eligible for an extension, I would argue, don't always end up in those circumstances where it's a choice, where it's collecting WCB, worker's compensation, at the provincial level. I hardly think that people who get injured on the job have chosen to get injured on the job. So some of the other extensions to the benefit period and qualifying period equally are not choice.

The other point—

**The Chair:** Of course, if you're injured, you don't do that by choice, but you might commit a crime by choice.

**Ms. Jean Crowder:** But there are circumstances where people may end up—

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

**Mr. Colin Mayes (Okanagan—Shuswap, CPC):** I thought we were dealing with one clause of this act. We seem to be discussing the whole act and the purpose and the intent of that act. Stick to one clause. This is the clause we're dealing with, and it's pretty straightforward.

**The Chair:** I appreciate that point, but usually when we get past the first clause it moves pretty quickly. In this case, I'm going to allow the member to finish her comment. Then I think we should put it to a vote.

The point is made, but go ahead and finish.

**Ms. Jean Crowder:** I appreciate that point of order. We will not be belabouring this throughout every clause that comes forward. We're laying the groundwork for how we're going to vote on the amendments and the bill, and once we've done that, I don't think we need to reiterate it at every amendment. Our intent is not to filibuster this particular piece of legislation, even though we don't agree with it.

I have just two other quick points around the choice.

The point I was attempting to make was that I'm not sure choice or no choice is really the fundamental argument around this particular piece of legislation. There are times when people end up committing crimes, and I think there are probably circumstances that would say there was no choice involved. I think somebody mentioned the self-defence argument—and people do end up in jail as a result of self-defence—saying that women who have been subjected to violence then commit a crime. I would argue that there is not a lot of choice in that.

I think the other piece of this is that this is a longstanding piece of legislation, or a part of the Employment Insurance Act, and it's interesting that, for example, the qualifying period was extended in 1959 and then the benefit period in 1971, and that was under Conservative and Liberal governments. This is a longstanding practice, and to change it now for reasons that don't seem clear...and in fact the Progressive Conservative minister—and we all had this information—just talked about the fact that there is an issue around rehabilitation, and it's unfortunate enough to have punishment imposed by the courts. So parties of both political stripes have supported this in the past. I think it's unfathomable that we change this at this point.

• (1550)

**The Chair:** Not to add further to a whole lot of debate, but under this legislation, with the amendment, if people actually were acting in self-defence, they would be acquitted and—

**Ms. Jean Crowder:** Not necessarily.

**The Chair:** Well, in law if you acted in self-defence, you would be acquitted and this section would apply. It's not germane to what we're discussing; it's just a passing thought I had.

Go ahead, Ms. Leitch.

**Ms. Kellie Leitch:** I thought you were going to call the question, sir, so I guess my only closing comment would be two items.

One is that I'm hard-pressed as a physician not to state that an individual who is injured on the job shouldn't be equated with someone who has actually committed a crime against a victim. I

think the victims of crime would feel quite strongly about that, as would the patients who are being equated to that.

The second is that this is an insurance program—employment insurance. This is not a benefit, so I think we do need to stay focused on the fact that this is the Employment Insurance Act.

Thank you very much.

**The Chair:** Now we're about to call the question, so with your indulgence we'll allow Ms. Crowder to finish her point. I think she will be the last speaker, because I think everybody has made their points and we need to get on with it.

**Ms. Jean Crowder:** Just to absolutely clarify the record, I was not equating somebody who had been injured on the job with somebody in the courts. I was simply pointing out the fact that under the legislation, both parties are entitled to an extension. I'm not equating anybody with anybody. That's what the legislation says. It's in there, black and white, passed by Parliament. So don't try to pin that kind of language on me, because it's simply not true.

The second item is that I also thank the parliamentary secretary for pointing out that this is an insurance scheme, and that's exactly why we're opposing this particular piece of legislation. We are talking about people who have paid their premiums. The workers and their employers have paid their premiums, so what they're actually going to be entitled to, if this legislation were defeated, is continuing to collect benefits for which they have paid into under the insurance scheme. That's all I have to say.

**The Chair:** Your point is made. All right. I won't add any more fuel to the fire.

I'll call the question.

(Amendment agreed to)

(Clause 1 as amended agreed to)

**Ms. Jean Crowder:** We're opposed.

**The Chair:** Okay. The same number are for it as amended and the same number are opposed.

(On clause 2)

**The Chair:** Let's go to clause 2. I understand there is an amendment to clause 2, if you'd like to propose it.

**Ms. Kellie Leitch:** Thank you very much, Mr. Chair.

The proposal is that Bill C-316 in clause 2 be amended by replacing line 7 on page 1 with the following:

(a) confined in a jail, a penitentiary or other similar institution and was not found guilty of the offence for which the claimant was being held or any other offence arising out of the same transaction;

**The Chair:** All right. Now obviously the essence of the amendment is similar in nature, but I will leave it open for anyone who wanted to add a point. If no one wishes to speak, we'll call for the vote.

(Amendment agreed to)

(Clause 2 as amended agreed to)

(On clause 3)

**The Chair:** I suppose if you wanted to move clause 3 in the form circulated, you wouldn't necessarily have to read it, but you can if you wish.

I'm just seeing that we're getting to some lengthier clauses, but if you wish to read it, you can. You don't have to.

**Ms. Kellie Leitch:** I'm happy to read them if you like.

**The Chair:** Okay, sure. Go ahead.

**Ms. Kellie Leitch:** I move that Bill C-316 in clause 3 be amended by replacing line 9 on page 1 with the following:

(a) confined in a jail, penitentiary or other similar institution and were not found guilty of the offence for which they were being held or any other offence arising out of the same transaction;

(Amendment agreed to)

(Clause 3 as amended agreed to)

•(1555)

**The Chair:** We will proceed to clause 4, which is a new clause being added. That means that the same arguments wouldn't apply with respect to clause 4 that applied to the other clauses, for the reasons that are stated therein.

Do you want to introduce that clause on a stand-alone basis?

**Ms. Kellie Leitch:** Sure. I move that Bill C-316 be amended by adding after line 9 on page 1 the following:

Paragraphs 10(10)(a) and 152.11(11)(a) of the *Employment Insurance Act*, as enacted by sections 2 and 3, respectively, do not apply to the benefit period of a claimant or a self-employed person, as the case may be, in respect of any week for which the claimant or the self-employed person was confined in a jail, penitentiary or other similar institution before the coming into force of this act.

**The Chair:** This would be a transitional sort of provision so that the act would apply forward and not retrospectively. That's what I would understand.

Does anybody have any questions on that or discussion?

(Amendment agreed to)

**The Chair:** There is a new clause that is presently in the circulated material as clause 4. Obviously it will now become clause 5.

Do you want to introduce that new clause, Ms. Leitch?

**Ms. Kellie Leitch:** I move that Bill C-316 be amended by adding after line 9 on page 1 the following:

5. This act comes into force on the first Sunday after the day on which it receives royal assent.

**The Chair:** We've heard testimony from an HRSD official as to why that would be. They want to basically coincide the coming into force of the act with the employment insurance period.

Are there any questions or discussion on that?

(Amendment agreed to)

**The Chair:** That brings us to the stage now where we go to the title of the bill, "An Act to amend the Employment Insurance Act (incarceration)".

Shall the title pass?

**Some hon. members:** Agreed.

**Mr. Rodger Cuzner:** We didn't win one on our side.

**The Chair:** You had one more on your side?

**Mr. Rodger Cuzner:** No, we didn't win one frigging vote.

**The Chair:** No.

**Mr. Phil McColeman:** Our shutout streak continues.

**Mr. Rodger Cuzner:** I'll have to change my strategy.

**Ms. Kellie Leitch:** Yes. If you want to win a vote, you can come and sit over here with us, Rodger.

**Mr. Rodger Cuzner:** There's three more years to go.

**Some hon. members:** Oh, oh!

**Mr. Brad Butt (Mississauga—Streetsville, CPC):** Only three?

**The Chair:** The numbers tend to speak for themselves in situations like this. It brings clarity to the situation, I guess.

We're not done yet.

Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the chair report the bill as amended to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill as amended for use of the House at report stage?

**Some hon. members:** Agreed.

**The Chair:** Oh, no opposition there.

**Mr. Devinder Shory (Calgary Northeast, CPC):** That's unanimous.

**The Chair:** That is carried and it shall be reprinted.

I think that brings us through the clause-by-clause of the bill.

I'd like to thank committee members for sometimes lively debate, but certainly it's been a pleasure to get to this point.

I guess we'll suspend as.... Sorry?

•(1600)

**Ms. Jean Crowder:** Apparently the bells are going to go at 4:07.

**The Chair:** Should we suspend until after the vote, or should we just adjourn and pick up the report on Monday?

I'm prepared to adjourn if I see general consent, because it would hardly start....

We'll adjourn until Monday of next week.









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