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**Chair**

**Ms. Anita Neville**

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• (1535)

[English]

**The Vice-Chair (Mrs. Nina Grewal (Fleetwood—Port Kells, CPC)):** We would like to start our meeting by welcoming Beth Bilson. She's the former chair of the Pay Equity Task Force. We welcome her.

Please start with your presentation.

Thank you.

**Ms. Beth Bilson (Former Chair, Pay Equity Task Force, As an Individual):** Well, a little over a year ago the Pay Equity Task Force issued its final report, which you probably have seen. It's a rather complicated document, so I won't try to summarize it, but I would like to make a couple of brief comments about it and direct your attention to a couple of things in particular about the report. Then I'd certainly be happy to answer any questions you might have.

The three members of the task force were me, a law professor from the University of Saskatchewan; Professor Marie-Thérèse Chicha from the University of Montreal, who's a professor of industrial relations; and Scott MacCrimmon, who lives in Ottawa and is a pay equity consultant.

The two parts of the report I'd like to mention to you specifically really form I think the basis for all of the recommendations in the report. The first is a description at the beginning of the report of what we did, of how we carried out our mandate, which was to examine section 11 of the Canadian Human Rights Act and to consider options for more effective regulation of pay equity.

In carrying out our mandate, we really had two basic parts to our activities. The first was consultation. We had public hearings. We had meetings with a lot of stakeholders. We had a number of round tables at which employees, organizations, and employers from the federally regulated sector met and engaged in a discussion of the issues that were in our consultation agenda.

The second part of our activities was the research program. I think all of the research papers are now available. They've been translated and are available for reference. We commissioned a total of 28 research papers, which were on a wide variety of topics. We drafted a research agenda early in our deliberations, we invited input from our mailing list on the research agenda, and we altered the research agenda and then proceeded to seek out experts on the topics that were covered by the agenda. We succeeded in having a fairly wide variety of those topics covered by people with expertise in a number of areas.

The other part of the report I want particularly to mention at this point is the part of the introduction that comes under the heading "Common Ground". In our discussion, particularly with federally regulated employers and with organizations representing employees as well as with advocacy groups, we identified a number of points of consensus, that is, points on which all of these parties could agree. Now, they didn't necessarily agree on the strategies for achieving these objectives, but I think it's fair to say they all agreed on certain points, and I just want to summarize those for you.

The first one was that we really found no one who was not committed to the principle of pay equity. There was a recognition that the differential payment of employees on the basis of gender is not acceptable and is something that should be eliminated. The second point they agreed on was that pay equity is a human right.

Now, that's not to say that there wasn't some disagreement about what kind of legislation would be the best way of dealing with it. There were other people who argued pay equity should be covered under labour legislation, administered by the labour program. There were other people who argued it should be in human rights legislation, as it now is, in the Canadian Human Rights Act.

But whatever the legislative framework they preferred, they really were in agreement that the principle of equal pay for work of equal value is a human rights principle. That seemed to us to have certain implications in terms of its being founded in a lot of international commitments on the part of Canada, in the Charter of Rights, and in provincial human rights legislation.

The third point they all agreed on—and this included the employer representatives—was that employers have a positive obligation to take steps to eliminate wage discrimination. One of the things in our consultations that was universally the subject of criticism was the complaint basis of the current section of the Canadian Human Rights Act, the fact that employees have to initiate a complaint in order to raise the issue of equal pay for work of equal value. Everyone we talked to, including employers, agreed that whatever form the legislation takes, there ought to be a recognition that there is an obligation on employers to take positive steps towards eliminating discrimination.

Again, that's not to say they would always agree about particular obligations or the forms the obligation might take, but the basic idea that there is a positive obligation of employers was something they were in agreement with.

The fourth point they were in agreement with was the importance of making whatever framework is put in place equally accessible to unionized and non-unionized employees. Again, one of the complaints about the current situation was that for all intents and purposes, because of the complexity of making complaints under the pay equity section of the Human Rights Act, the system is inaccessible to people who are not represented by unions. This was something all of the people we consulted with agreed should be changed.

A fifth point was that there was agreement that the legislation should provide more guidance on the standards that are to be met. Section 11 of the Canadian Human Rights Act is what you might call 1970s human rights legislation. It was based on the idea that if you stated a general human rights principle, people would figure out how to comply with it. Well, in the case of pay equity, that's really asking a lot. Even people who are committed to the idea find it difficult to figure out what it is they're actually supposed to do or what will meet the standard. So all of the parties we talked to asked for more elaboration of the standard they're expected to meet. What is it they're actually expected to do?

The sixth point was the expression of a wish for a neutral source of assistance, information, and support. A lot of people said they couldn't really hope to meet the requirements of eliminating wage discrimination without some kind of assistance. One of the models a lot of people pointed to was Ontario. When Ontario first passed its legislation, the Ontario Pay Equity Commission had a lot of capacity to provide technical assistance, educational programs, and support. They would answer questions, assist employers in figuring out compensation comparisons, and all that sort of thing. A lot of the people we spoke to said it's important those kinds of resources be available.

• (1540)

The final point they were in agreement on was that they accepted and recognized that there needs to be some kind of independent adjudicative body to deal with pay equity issues and that it should be an adjudicative body that has some expertise. Of the people we spoke to, one of their concerns, and one of the things they traced the length and the protracted nature of litigation under the Canadian Human Rights Act to, was the fact that the members of the Canadian Human Rights tribunal who have been asked to adjudicate these issues really have to start from scratch every time. Because the hearings have been 300 to 400 days long, it's not really feasible to ask the same people to sit on more than one complaint. Therefore, there really is never any kind of accretion of expertise on pay equity issues, which have a lot of technical complexity.

There was some suggestion, and we indicate this in the report, that it might be possible to establish this kind of expertise in the context of an existing adjudicative body. Whether it's a separate body to deal with pay equity, which is actually what our report recommends, or whether it is an existing adjudicative body, there does need to be some kind of independent body to hear pay equity complaints.

What people wanted to concentrate on, by and large, was the front end. That is, they wanted to see a system where they could receive assistance, receive guidance, approach these obligations in a positive way, and one would hope that there wouldn't be any complaints or

that there would be fewer complaints. But they all recognized that there are bound to be disputes, there are bound to be differences of opinion, there are bound to be employers who don't live up to their obligations, or situations where there are questions raised that the parties themselves are unable to answer. In those circumstances, they recognize there needs to be an independent adjudicative body.

I've laid out those seven points, which were the points of common agreement among the parties we spoke to, because they really form the foundation for the model we set out in the report and the conclusions we drew, which were based on a lot of different sources of information. In drawing those conclusions and in making our recommendations, we often referred to these points of consensus, because it seemed to me, and it seemed to us, to be an important indication of the willingness of federally regulated employers and their employee organizations and their employees to work towards the objective of eliminating wage discrimination.

So with those comments, I'd be happy to answer any questions you may have.

• (1545)

**The Vice-Chair (Mrs. Nina Grewal):** Thank you, Madam Bilson.

Now we'll start with the first round of questions. First we have the Conservatives.

Madam Smith.

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

I know in my province of Manitoba we have pay equity legislation. To have legislation at the federal level, have you looked at how this is going to coordinate in terms of making sure that what we have federally supports what's happening in the home province?

**Ms. Beth Bilson:** When we looked at the picture across the country—as you would know, there is a real variety of situations—in some provinces there's no legislation, although there is in a couple of places. In Saskatchewan, for example, there is a sort of agreement between the government and public sector employees. There's a framework rather than legislation.

I think what we were trying to do was to recommend what we saw as a workable system for federally regulated employers. I'm not sure why it wouldn't be compatible with provincial legislation. It covers different sets of employees.

**Mrs. Joy Smith:** Thank you.

I know that in Manitoba—I'm talking Manitoba, not Saskatchewan—there is legislation that has been implemented and utilized. I'm just wondering whether there has been any concerted effort to sit down with the provinces that have it. I believe New Brunswick has it, and there are a couple of other provinces that do have it. You are correct: I know some do not have it. That's for sure, but I'm wondering if there's some way the legislation can build on what some of the provinces already have—

**Ms. Beth Bilson:** Well, I think it's fair to say that the recommendations we're making actually do build on the legislation. We did review all of the legislative arrangements, and there is discussion in our report of various aspects. I think Manitoba was the first to implement a proactive approach, which set the stage for later developments in Ontario and Quebec, for example, which went further and extended it to private sector employers. We did look at all of that legislation, and we did try to draw from it what we thought were useful principles.

• (1550)

**Ms. Joy Smith:** I have another question. You might have a situation at a provincial level—and I know I've dealt with some of the situations—in which an employee has a problem with being paid according to gender. It's sometimes hard for employees to bring up a situation like that because they might win the point without winning the war. It might reflect on their jobs. It seems to me you said something about being concerned about employers bringing up the situation.

Is there anything that's put into that proposed legislation or proposed suggestions for legislation that would protect the employees who are not paid properly, in terms of pay equity, so that complaining about it won't infringe on their jobs? I think that's a really critical point.

**Ms. Beth Bilson:** Yes, and it certainly was one of our concerns. I think the major way our recommendations propose to deal with that is really by trying to institutionalize the whole system, that is, by creating a system in which the employer and representatives of both unionized and non-unionized employees are required to discuss the wage patterns of all employees and to examine them with a view to removing anything that is discriminatory. I think that really has the effect of taking the spotlight off the individual employee.

That's not to say there might not be situations in which individual employees still have concerns and want to raise them and are uncomfortable about doing that. I think the experience in Ontario, and to some extent in Quebec—although the experience in Quebec is newer, so it's harder to assess—has been that when there's a neutral adjudicative agency that has a fairly high profile, employees actually do feel they can ask for information or ask how they can have their issues addressed. But it is an ongoing concern. What do you do about employees who are in a vulnerable position and are intimidated about raising those kinds of issues with employers?

**The Vice-Chair (Mrs. Nina Grewal):** Madam Brunelle, go ahead, please.

[Translation]

**Ms. Paule Brunelle (Trois-Rivières, BQ):** Good afternoon.

The Bloc Québécois caucus has been visited by members of the Canadian Labour Congress, women from the QFL and women from the National Association of Women and the Law. We were told a year ago that this report on pay equity had been tabled. There is now a legislation and we were trying to understand that delay. Do you think that it is just a matter of political will or is it that it was difficult to reach a consensus on this report? Was it a dissenting report in some respects, which makes that pay equity legislation difficult to implement?

[English]

**Ms. Beth Bilson:** That's a number of questions.

Of course, I can't really speak with much knowledge of exactly who wants to do what, who needs to be talked to, or who needs to take the initiative in this. My role ceased with the issuing of our report.

What I can say is our impression was that among the parties, that is to say federally regulated employers and employees of federally regulated employers, there was a fair degree of consensus that they want change. I am optimistic that it would be possible to implement legislation, or introduce legislation, because I think the people who are most affected by it, that is employers and employees, are not happy with the current system and would prefer to see something different.

That's not to say there was total agreement on every issue, or every detail, of the recommendations we made, but I'm confident that we heard from both sides, or from many sides. The task force itself was in agreement on nearly everything. There are a couple of places where there are dissenting recommendations, but they're on fairly detailed issues and not on the general approach. I'm not sure whether it's just that people in Ottawa have been busy in the last year, which I think is probably true, but there have been what you might call human rights or equality priorities that had a high profile in the past year.

My sense from the people who are involved in the system is that they would be willing to engage in discussions of how to move this forward. I know that's particularly true for the organizations representing employees, but I think that on the employers side too there's some interest in bringing about change. I hope it may move forward a little faster than it has, in the future.

• (1555)

[Translation]

**Ms. Paule Brunelle:** You could certainly say that some employers are reluctant to go along with pay equity. I have seen what happened in Quebec and I understand that comparing tasks and work stations is a fairly complex process, and this may sometimes account for some delays. Nevertheless, until we have a pay equity legislation, no one can be forced to undertake that process.

In the recommendations of your Pay Equity Task Force, are there any priority which could be identified and used to start focussing the attention of decision-makers on the implementation of a pay equity legislation?

[English]

**Ms. Beth Bilson:** The first part of your comment I think is quite right. I'm not suggesting there aren't employers who resist the idea, and I suppose, to be cynical, there probably are employers who find the current system fine because they're really protected from having to do anything. They can wait until employees complain, and if no employees do complain, then they can continue doing what they're doing.

But I think, as I say, the experience in Quebec has been newer and there hasn't been a lot of research done on it. The research that was done in Ontario suggested that although there were a lot of employers who were very resistant to start with, generally speaking, a lot of employers found it to be a positive experience; that is, actually investigating what they were asking people to do and how they valued the tasks they were getting people to do actually was quite a good process, from the point of view just of managing their own businesses.

I think that goes back to the question of providing sufficient assistance to employers; that is, to helping them if they find it difficult. I think it's particularly difficult for small employers because they say, "I can't afford to hire some pay equity expert to come and spend two years in my business, trying to analyze my pay patterns". But if you have some more generic assistance, say the technical assistance from a commission or an agency that can reassure employers that it is possible to do it and that there are now many kinds of examples of how to structure a pay system so that it isn't discriminatory....

In terms of a public campaign, the basic form that our recommendations take is that the legislation should move to a proactive model, that it should place a positive obligation on employers to engage their employees in discussion of compensation practices, that this should be a general obligation that applies to all employers who are federally regulated. And we've put forward a kind of system that will help them to do that.

I think in terms of public discussion, I'm not sure what to suggest. I'm not in a position to initiate public discussion, but I know that NAWL, the National Association of Women and the Law, has taken this up and is making representations about it. I know it has been part of the public campaign of employee organizations as well.

• (1600)

**The Vice-Chair (Mrs. Nina Grewal):** Did you have a question, Susan? No. Paddy?

**Hon. Paddy Torsney (Burlington, Lib.):** Thank you.

Certainly from your presentation so far, I'm really glad you were on this task, because I think part of the challenge is people needing to understand the rules. It's not just that Russ and I get paid the same salary for doing the same job, but it's employee groups that are dominated by men versus women, so it's the school cleaning staff, which is male dominated, getting paid the same as the female-dominated school secretaries.

In Ontario it was pretty contentious when it came in. I was in the provincial government as an employee at the time.

Madame Brunelle has talked about how to take some of the heat out of it, and you've given some examples of helping smaller employers work through the system, but in general, is this one of those areas where we can do more to educate through chambers of commerce, through different organizations through ad campaigns, to explain why people deserve the same pay?

**Ms. Beth Bilson:** I know the legislation in Ontario was very contentious when it was started, and it possibly still is in some quarters. Going on what we were told by a number of observers in Ontario, after the first few years of the Pay Equity Commission, they

had been able to engage in quite a lot of public education. The sense people had was that it was starting to have an effect.

Subsequently, there were some reductions in the resources to that commission. They had to cut back on a lot of what they had been doing in terms of holding workshops for employers and the general educational activities that you talk about, but I think they made a difference by reassuring people that you're not proposing to turn their lives upside down.

It seems to me, at least, that it's a difficult proposition to argue with. You're willing to pay people to do this, but you're not willing to pay them if they're women. That seems a little difficult to defend.

Certainly, I think one of the things that came through was the need for more public information. It should be like a lot of other human rights issues. There needs to be a large educational component to emphasize that it's a positive thing to try to create a fair situation in workplaces.

• (1605)

**Hon. Paddy Torsney:** How small does most of the legislation go in terms of the workplace? Clearly, I would think it's easier when you have a larger workplace. You may have more HR support, for instance, if you have 150 employees than you would with five employees.

**Ms. Beth Bilson:** I think there are three levels in the Quebec legislation and there are different kinds of obligations. We've suggested that every employer who has 15 or more employees should have an obligation to develop a plan. With employers who have fewer than 15 employees, it's still illegal for them to discriminate. Although they're free of the obligation to have an actual pay equity plan, we're recommending that they be given assistance to work out how to eliminate discrimination.

We had an interesting paper on how you might deal with really small employers and how they can compare wages.

The Quebec legislation is also interesting in that respect, and it's one of the things we suggest might be tried. For example, they have created sector plans for small employers in tourism. Instead of each of these little hotels needing to have a pay equity consultant, the organization can have a plan. The obligation is the obligation of each individual employer, but I think there are ways of solving some of the resource issues and making it less burdensome for a smaller employer.

**Hon. Paddy Torsney:** In Lydia Scratch's analysis, I was surprised that British Columbia, Alberta, and Newfoundland don't have pay equity legislation. It seems shocking in the year 2005. Of course, the answer is usually that they can't afford to implement this or pay women equally because they can't afford it right now.

I always ask this question. How much longer do women have to support the economy before they get their fair share? Doesn't it seem logical that we should be paid for work of the same value? Perhaps that's too logical, or I graduated to a workplace in Ontario that already had it.

In terms of implementation on moving forward and encouraging the government to get the legislation up and running, you've given some concrete examples. I think there are 113 recommendations in your report. You've highlighted a few that you want us to focus on more clearly. Is it your expectation that this could be up and running fairly quickly if there was a push?

**Ms. Beth Bilson:** We've tried to deal with most issues you would have to deal with—if you take our word for it. There is a fair amount of detail in this report about specific issues. We're not just saying it should be proactive, with employee committees. We're talking about what proportion of employees should be on these committees, what you should do about small employers, and so on. We've tried to provide a framework that we think would be effective.

**Hon. Paddy Torsney:** I have one more question. Implementing your plan is probably the best proposal. But in respect of the provincial legislations, is there one that stands out as being more magnificent?

**Ms. Beth Bilson:** We followed the course of legislation in various jurisdictions, and it has been a learning process. It started with equal pay for equal work provisions, which are in force in most provinces. We then looked at Manitoba's public sector, their proactive approach for public sector employees, which was then taken up in Atlantic Canada. In Ontario, it was extended to the private sector. Then Quebec took it further by creating these employee-employer committee structures, which we thought was a good idea. I think Quebec is probably the farthest along, according to our conclusion.

• (1610)

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Crowder, please.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you, Madam Chair. I want to thank you for your presentation and for an excellent report.

I want to talk a bit about the history of this before I ask my question. I had the staff pull some timelines for pay equity. It was shocking to me to see how long we've been talking about pay equity in Canada. In 1951, there was the United Nations Convention No. 100, the Equal Remuneration Convention. There was the Canadian Human Rights Act in 1997. In 1986, the Canadian Human Rights Commission issued equal wage guidelines. In 1995, the Beijing Platform for Action talked about equal pay.

You referenced the shocking amount of time it has taken to settle some of these disputes and how some of them, 20 years later, are still ongoing. So I really appreciated the thoughtfulness and the clear recommendations in this document.

March 4, 2005, a letter came to the committee from the Department of Justice. It says:

Over the next few months, Justice officials will be continuing our analysis of the recommendations and other approaches, with a view to developing options for legislative reform. This will necessitate further consultations.

When I looked at your report, I saw pages and pages of people who were consulted. So when I hear things like “further consultation”, it sends a red flag up the flagpole. How many years before we actually implement these concrete recommendations? My question to you is, are there further consultations required? And if they are, what would they look like? How extensive do they need to be? I would like to see Justice come back to us with a timeframe for

developing legislation and carrying it into effect. That's what I would like to see, because I think women in Canada have waited long enough.

**Ms. Beth Bilson:** This is another thing I don't have any input into. It died on May 4, 2004, or whenever it was that we presented this report. We tried to consult as thoroughly as we could. We also tried to get a sense of where the participants might be willing to go, which is perhaps what the Department of Justice means when they talk about further consultations.

**Ms. Jean Crowder:** When you're talking about participants, do you mean employers?

**Ms. Beth Bilson:** The federally regulated employers and employees.

**Ms. Jean Crowder:** Maybe we should ask the women who work for these companies where they're comfortable about going.

**Ms. Beth Bilson:** Well, yes.

**Ms. Jean Crowder:** They should be leading the front then.

**Ms. Beth Bilson:** I think realistically you do have to have something people will pay attention to and be able to comply with. I think one of their complaints about the current system is that even if they want to it's hard for them to comply with it.

We tried to do what we could to find out what people thought and to make a set of recommendations that we thought were realistic and, we hoped, slightly visionary and that would move things forward. What's necessary beyond that, I can't really say. I agree with you. One of the things I think that really impressed us when we started doing this—and this didn't come as a surprise to people who have been doing research in this area specifically—was the stubbornness of that wage gap and the differential between men and women. We've also talked a bit about the differential that varies with other disadvantaged groups as well, although we weren't really directly able to deal with it.

• (1615)

**Ms. Jean Crowder:** I know in the report on page 173 NAWL clearly talks about the fact that equal pay for work of equal value can't stand in isolation. This committee has been working hard around gender-based analysis and around core funding for women's groups, so their point that employment wage equity is only part of that picture and that it's critical that we put it in that context is well taken. When you talk about the stubbornness, about the lack of progress around women getting paid for work of equal value, I think that speaks to that stubbornness, and unless we have a multi-faceted approach, it's going to be very difficult to make that kind of progress.

**Ms. Beth Bilson:** Yes, and we do make the point that we're just talking about one issue and one sort of strategy that we think would address that issue. We didn't purport to take on all the rest of it, but we do say that it has to be seen in that context.

**The Vice-Chair (Mrs. Nina Grewal):** You still have some time.

**Ms. Jean Crowder:** Oh, I do? Good.

One of the things that I think is important is that you reference the fact that this report really deals only with federally regulated employers, so there's still a significant percentage of women who are left out of the equation. That's correct, isn't it? Do you have any sense of what percentage of the workforce we're dealing with?

**Ms. Beth Bilson:** Well, that was actually one of our frustrations. Obviously, they're covered either by federal legislation or by provincial legislation.

**Ms. Jean Crowder:** And there are some provinces that don't have—

**Ms. Beth Bilson:** And there are some provinces, Alberta or British Columbia, that don't have any legislation at all.

One of the things we found surprising and somewhat frustrating from our point of view is that there really is no reliable information about who is federally regulated. The statistics aren't organized that way. You can draw some inferences from adding up particular industrial sectors like financial institutions, but even there, provincial financial institutions like credit unions, wouldn't be, so their employees are included in that group.

We did what we could. There's a description of how we came out on that, on how many we think there are. There are about 700,000 federally regulated employees and something like 6,000 federally regulated employers, but we're really not sure because, as I say, the statistics aren't organized that way so you can't actually find out who's in the federal sector very easily. You have to draw some inferences from the existing statistics and do your best, but there really isn't a way of finding that out.

**The Vice-Chair (Mrs. Nina Grewal):** Madam Kadis, go ahead, please.

**Mrs. Susan Kadis (Thornhill, Lib.):** Thank you very much. It's been very enlightening and very empowering I think for us to go forward as a committee with some very important information. Now, I know these recommendations are all very worthy. I'd just like to ask you, if you had to prioritize, which recommendation would you pick out as something extremely critical to move on in an expeditious way here?

**Ms. Beth Bilson:** Although there are a lot of recommendations, a lot of them are the sequel to major recommendations, so it's not as intimidating as it seems. A lot of the detail you probably can do more than one way. I think the important thing really is to move in the direction of placing a positive obligation on employers, that is, of saying it's not a matter of employees having to complain to somebody about not being paid properly. Employers have to take steps to examine how they're paying people—and they have to go on doing that and make sure they are not discriminating. Provide them with some help to do that, some guidance on how to do that.

One of the things that made these pieces of litigation take so long—the Public Service Alliance case, for example, went on for 14 or 15 years—was that there was no authoritative answer to the question, what's a non-discriminatory wage system? Everyone had their own candidate and their own experts, including the Human Rights Commission. For months and months you would have expert

witnesses in front of the Canadian Human Rights Tribunal talking about different frameworks for analyzing pay systems.

If you can move in the direction of providing some structure to that and some guidance to that, and have somebody who can say no, this is the kind of thing you have to have, these are the characteristics of a pay system that's non-discriminatory, then I think you can move things forward.

● (1620)

**Mrs. Susan Kadis:** Could you also identify any leaders among the federally regulated employers? I know you said there were several thousand whom you could think of that come to mind, who are really leading the way.

**Ms. Beth Bilson:** Although there are 6,000 employers, a lot of them are very small businesses. There are a lot of radio stations and trucking companies that have very few employees and who are probably under the radar for this whole discussion, although they are members of organizations that we met with. I think it has to be the large employers—Treasury Board, the banks, Canada Post, and the airlines.

**Mrs. Susan Kadis:** How are you going to do that? Where are they in terms of progress?

**Ms. Beth Bilson:** I think you'd have to say that under the current system there's been an incentive for them to just do what someone orders them to do. It takes a long time to order them to do it. So I wouldn't say that any of them have actually taken the bit between their teeth and turned into proactive employers.

That's not to say that there aren't a few. I think there have been efforts among some employers to try to do that, but what you might call the leading employers have been engaged mostly in this sort of litigation process as a way of defining what they're obliged to do.

**Mrs. Susan Kadis:** So I guess you could say that legislation is very essential.

**Ms. Beth Bilson:** I guess our conclusion would be that the alternative doesn't seem to have worked. Expecting people to initiate it in the current context doesn't seem to have been a successful strategy.

**Mrs. Susan Kadis:** Thank you, and thank you, Madam Chair.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Smith.

**Mrs. Joy Smith:** Thank you.

It's very insightful to listen to your comments. As you were talking, another question came to my mind. In particular, it has to do with what you would think the legislation should contain. You talk about smaller companies and larger companies, and it's all over the map, isn't it? Obviously, pay equity is the same pay for the same job being done. Would that marry in with the same qualifications, and things like that? To my way of thinking, that would be a very straightforward way to do it. For instance, if you have a degree and you have two years' experience in the field of endeavour, whether you're male or female, the pay should be the same. Is that the kind of thing that would be in the legislation, that would be helpful to employers, whether they are small or large?



**Ms. Beth Bilson:** The components contained in the current equal wages guidelines, and that we suggest ought to be considered, are qualifications, experience, and working conditions. Those are the qualities that are supposed to be guiding the process now, and we think those are fine.

Pay equity is a kind of complicated thing. The actual analysis of what a job consists of, and the value of certain aspects of it, is quite complicated, but there's quite a lot of expertise around that now. There are a lot of people who are making their living assisting employers with analyzing their pay structures in this framework. Qualifications and experience and that kind of thing are certainly important aspects of that.

• (1625)

**Mrs. Joy Smith:** How would this impact...? For instance, you have the police union, you have the teachers' union. I used to be a teacher and you were paid according to your education. In the police sector, there are years of experience, and it has to do somewhat with the type of job you're doing. Would this legislation ensure that both unionized and non-unionized places of work are taken into consideration?

Pay equity really is making sure that, particularly for women who.... It always amazes me how much less women are paid—or even receive offers of pay—for the very same jobs that men do. For instance, if a male comes into an office, he might be offered a higher wage because, I don't know, I guess it's tradition. In actual fact, a lot of women support their families. Is that being taken into consideration as well? Is there something that will address that?

**Ms. Beth Bilson:** I think the whole scheme we've laid out here is intended to address that. That is, it's meant to look at jobs, whether they're occupied by people who are represented by unions or not, and to look carefully at what they're doing—the components of their jobs—and whether the employer is attaching the same value to those components when they're done by a man as when they're done by a woman.

The idea is to overcome some of the things you suggest, such as higher starting pay, or having situations where merit pay is only paid to predominantly male classifications, or those sorts of things. It would include all of those issues.

**Mrs. Joy Smith:** You answered my second question.

Thank you.

**The Vice-Chair (Mrs. Nina Grewal):** You still have more time left.

**Mrs. Joy Smith:** I'm fine. As I said, Ms. Bilson just answered my second question. I think we need to move on this rather rapidly. I think in this day and age, in the year 2005, it's appalling, isn't it, to find out that this kind of thing still exists?

**Ms. Beth Bilson:** Another thing we discovered, which was kind of interesting, was that in the 1980s I think when the equal wages guidelines were issued, there used to be an equal pay for equal work section in the Canada Labour Code. It was taken out with the idea that if you have equal pay for work of equal value, you don't need equal pay for equal work. But our view is that equal pay for equal work is still an issue, and it's an issue particularly in the skilled trades, for example, and in executive positions, where the kind of

thing you were talking about earlier occurs. So we're recommending that they put back equal pay for equal work provisions as well.

**Mrs. Joy Smith:** Thank you.

[Translation]

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Bonsant.

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

I'm wondering if pay equity can be achieved more easily when employees are represented by unions.

[English]

**Ms. Beth Bilson:** I think the research we had access to demonstrated that the single biggest factor that eliminated wage discrimination or lessened the wage gap was representation by a union. There's no question that the position of women in unionized workplaces is better, in relation to their male colleagues, than in non-unionized workplaces.

• (1630)

[Translation]

**Ms. France Bonsant:** I remember that when I arrived last October, I met a young reporter from Radio-Canada. I suppose the employees of that corporation are unionized since technically they come under the federal government. A man and a woman had the same job, but the woman was paid a lot less than the man. Did you get any complaints about that? Do you know if the issue has been dealt with or is it still the same situation? In other words, are they negotiating, examining, studying the matter and doing nothing?

[English]

**Ms. Beth Bilson:** I'm certainly not suggesting that unions are perfect or that there is no discrimination in unionized workplaces. There have been collective bargaining relationships where there were differences between male and female wages and the same kind of inequity. But overall, representation by a union does seem to have a positive influence on raising women's wages relative to those of men in the same workplace. But there are specific examples, and quite a lot of them, where unions themselves have not really placed a high priority on equality as a value.

**The Vice-Chair (Mrs. Nina Grewal):** Now we'll go to Madam Crowder.

**Ms. Jean Crowder:** In Newfoundland, a pay equity agreement was signed in 1988. I guess the agreement was actually reached in 1991. Then the government had wage restraint legislation that in effect denied those women the pay equity agreement. When it went to the Supreme Court, they upheld the government not paying these women because of a fiscal crisis. I guess in my mind that points to a societal problem that when it comes to things like fiscal crunches, the women's agenda just gets pushed off the table.

I want to come back again to my question in that context, around the fact that what we've heard from Justice is more consultation, in view of an extensive report. When I look at your conclusions in chapter 5, you talk about setting out the main features of pay equity—a regimen that would characterize pay equity as a fundamental human right. The regimen would be based on proactive legislation and administered by specialized bodies dedicated exclusively to the pursuit of the goal of pay equity.

So we've got the Supreme Court, which says it's okay to not pay women. We've got a very detailed report that lays out a program. We've had a year now for Justice to respond. Their response now, because the committee pushed it, is they are going to do more consultation. I honestly don't see what is getting in the way of us moving forward.

You've got the information. I know you said that employers need to be consulted. Well, that's not good enough.

**Ms. Beth Bilson:** Maybe they are. I don't know.

**Ms. Jean Crowder:** So you haven't been consulted in this past year?

**Ms. Beth Bilson:** No. As I said, I kind of came to an end a year ago. This is sort of the first I've heard of anyone being.... I heard initially there were people who were reading it, and so on, but this committee is the first that I've heard anyone actively....

**Ms. Jean Crowder:** That's really disappointing.

**Ms. Beth Bilson:** I know a couple of our staff members went back to their jobs in policy at the Department of Justice, and they have been monitoring this. But I don't think anything has been happening.

**Ms. Jean Crowder:** One of the things this committee heard from witnesses was not specifically around pay equity, but it was that women in Canada are really tired of reports that don't get acted on. I would really be disappointed if this was another report that didn't get acted on.

When I came to the committee, I read Justice Abella's report from 1984 on employment equity, and it was really disappointing for me when I pulled that report out and read a number of the recommendations. We could rewrite those recommendations today, because nothing has changed. Certainly, there's been some progress; I'm not saying there hasn't been. But that very good report couldn't get implemented, and 20 years later we can dust it off and say, oops, there are all these recommendations. I would hate to be having this discussion around this report in 20 years' time.

What do you think this committee could do to move it forward?

• (1635)

**Ms. Beth Bilson:** My feeling is that there is an interest in the Department of Justice. As I say, it may just be that they had other fish to fry; there were other high-priority issues for them in the last year, and maybe the timing was off.

There was another report on the Human Rights Act that predated ours. They were headed by Mr. Justice La Forest; their report had come out before we started. As far as I know, those recommendations haven't been implemented either, and there may be some plan to deal with them together. If you're going to open up the Human Rights Act, open it up all at once and deal with all of it. I don't know.

What we tried to do was give people a basis for moving forward and some kind of concrete suggestions as to what the legislation might look like and what it would have to take into account.

I don't know the answer to the question. You're the politicians. You're supposed to know how to do this.

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

**Ms. Jean Crowder:** Oh, we do.

**Ms. Beth Bilson:** I'm just one of those experts you called in.

**The Vice-Chair (Mrs. Nina Grewal):** There are a few moments left.

**Ms. Jean Crowder:** I'm actually almost done. I just have a comment.

Part of what we're seeing right now is some pressure from the women's movement to have something happen. I think it would be incumbent upon Justice to present this committee with a plan that lays out a timeframe and some concrete steps. That would certainly put my mind at ease that the report wasn't just being considered.

It would be a shame to lose all of this very good work. The detail and the scope of this report are mind-boggling because it has covered so many eventualities, and the amount of consultation that happened is impressive. I would really urge Justice to build on this very good foundation.

**Ms. Beth Bilson:** If you do have a chance to get hold of the research papers.... I think you can get them from the Department of Justice; they're on a CD and they may be online too, but there were a lot of very good things in them.

**The Vice-Chair (Mrs. Nina Grewal):** Thank you.

Mr. Powers, please.

**Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.):** I'll start off by thanking the staff. We had asked them to do an analysis for us of what took place in the provinces, and they provided that and put that into perspective. To the staff, thank you very much.

Welcome, Dr. Bilson.

Like yourself, I come from a university setting in Ontario. I was in Ontario in a university setting when the pay equity legislation was introduced in Ontario, and I can tell you, it was a total nightmare. The rationale behind it was correct, but the legislation was rushed through with timelines for implementation. I'm just conveying the historical perspective of it. Though they were pleased with the gist of the legislation, nobody was pleased with how it was played out in order to become reality. What happened was that in the rush to implement the legislation, a lot of major problems were created.

Mine is a small university with about 7,500 employees involved full-time and part-time. A lot of the women were adversely affected by the haste to implement the legislation. Basically, that legislation was introduced, and correspondingly the university came into compliance with it by around 1993 or 1994. It was corrected just a year ago, so it took 10 years. It went through the Hay method of evaluation and there were challenges and all those things, but I think things are now as good as they can be with respect to compliance with the particular legislation.

I certainly support the focus of this committee to encourage Justice to move forward in a meaningful, productive manner. At the same time, experience supports the old saying that haste makes waste. That was clearly indicated by this particular perspective.

You've alluded to there being over a hundred recommendations contained in your report. I have not had a chance to go through your report in the detail it deserves. Are there some things you would urge us to move forward on in the short and medium terms?

• (1640)

**Ms. Beth Bilson:** What we were asked to look at was whether there should be some change from the current system under section 11 of the Canadian Human Rights Act. Our conclusion was that the main problem with that section, as seen by the people who had experience under it, was the complaint basis. That is, you really do need to find a way of making employers undertake some kind of positive examination of their wage patterns. As you say, you need to do this in a realistic kind of way.

A lot of things were learned from the Ontario experience in terms of trying to do things too rapidly and without sufficient resources or sufficient assistance to employers. On the other hand, in Quebec one of the issues was that the legislation was put in place and then really nothing happened for quite a while. There were some other lessons from that experience.

We tried to take that all into account and build in some realistic time targets and that sort of thing. The main issue is trying to figure out legislation that would place an obligation on employers and then give them enough help that they can actually accomplish what you've asked them to accomplish.

There actually is, as a result of the Ontario, Manitoba, and Quebec experience, quite a lot of expertise around now. There are people who know how to lay out pay equity plans, and there's a lot more consensus on what constitutes a pay equity plan that would meet the objective of eliminating discrimination. The kind of problem you had with the challenge to the Hay method and so on, where every consultant had their proprietary plan and some employer was going to try that, and then someone was going to complain that it didn't really do the trick....

**Mr. Russ Powers:** Thank you.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Torsney.

**Hon. Paddy Torsney:** Right now we have legislation that governs federal employees, but it's through the Canadian Human Rights Act.

• (1645)

**Ms. Beth Bilson:** That's right.

**Hon. Paddy Torsney:** The effect is that each of the precedents has created law, so there is some system on the books. What we're talking about here is creating a cleaner law and a more proactive system, because the current one isn't serving people well.

You're agreeing? We have a written transcript.

She nodded.

As I recall, the reason it also became so litigious and so difficult for people to work through was that each of the other federally regulated employers was paying attention to each of the cases and saying, "How dare you? You can't let this be the last settlement; you have to appeal these cases."

I remember the Liberal women's caucus saying, "Don't appeal to the next level; let's settle. This is ridiculous. We really pushed to get

the last settlement for our own federal government employees and were successful at that." I remember there were other employer groups that were saying, "You can't let this stand; this isn't good for us; we're all concerned about our different little systems."

Are there other countries that can also provide examples of where things are working, or is Canada leading the way in this area, whether it's at the provincial or federal level?

**Ms. Beth Bilson:** I know it's hard to believe, but Canada actually is ahead of most other places. I think you would have to say the Quebec legislation represents the high water mark.

There are several European countries where there is something similar to it. In the Scandinavian countries—for example, Sweden—they have national kinds of arrangements or dealings between employer organizations and employee representatives. They have quite a lot of—not so much legislation, but by agreement, they have fairly advanced arrangements.

But I think Canada actually has tried more things and has progressed farther in terms of actual legislation than anywhere else.

**Hon. Paddy Torsney:** I guess the other thing hopefully we can sell to employers when we bring about the act too is that this current method.... People are spending so much money paying a bunch of lawyers—no disrespect to lawyers—instead of settling the disputes. The employees are losing out; the employers are losing out. If we can bring in a system that's much easier, it won't be so costly for them to administer, and that money can go to their employees rather than to fighting with their employees.

**Ms. Beth Bilson:** I think that's right. One of the things you've seen with section 11 is that because so many questions are left unresolved by it there is a kind of incentive for employers to resist. Look at the history of all of the applications by employers involved in that litigation: do unions have standing to bring a complaint? Is the Canadian Human Rights Tribunal sufficiently independent from the Canadian Human Rights Commission?

In the Bell Canada case there were something like 15 of those kinds of applications, just because the legislation doesn't really tell you the answers to a lot of those things. There's no real incentive for an employer not to raise those questions. As you say, all employers feel they want to know the answers to those questions, so there is a kind of disincentive to skip over them and do it some other way.

**Hon. Paddy Torsney:** Is there enough work in the rest of employment law for the lawyers to keep busy so that they won't resist the legislation? It sounds like a whole industry around this act so far.

**Ms. Beth Bilson:** I'm sure that for some lawyers it's been a good run. I'm not sure that's a good enough reason to retain the legislation in its current form.

**Hon. Paddy Torsney:** Okay. I think now that we've had this on the books.... As Russ was saying, Ontario's was extraordinarily difficult. It was the biggest province; it was one of the first ones. Quebec's had the benefit of all that experience to do something better. Hopefully we can move forward quickly with cleaning up the system by being proactive in getting legislation that serves people, rather than continue to drag through it. I know we'll be encouraging the ministers to act forthwith.

Concerning consultation, you still need a bit of consultation in terms of clauses of a bill—that's not so bad—to try to nail down those pieces, unless your report actually—

• (1650)

**Ms. Beth Bilson:** No, we didn't actually include a draft act or anything. Obviously, there would need to be some test of the reaction to—

**Hon. Paddy Torsney:** Specific clauses.

**Ms. Beth Bilson:** Yes—a specific form of legislation. I can understand that.

**Hon. Paddy Torsney:** Let's hope that's just the kind of consultation they're doing, and not other foot-dragging.

I know we'll all be speaking to the minister, and hopefully this committee can recommend that they act forthwith.

Thanks.

**The Vice-Chair (Mrs. Nina Grewal):** Madam Guergis.

**Ms. Helena Guergis (Simcoe—Grey, CPC):** Thank you very much, Ms. Bilson, for being here. I really appreciate the work you have done in the past on this issue. We really appreciate it.

I'm sorry I missed a lot of your good comments and a lot of the good discussion. I had some phone calls to take care of. My apologies for that.

Basically, I have a comment. I find it very much a matter for concern that, as I think I have heard around the table, it's taken so long. After your spending so much time in a committee and a task force, spending how many years travelling across the country, working to gather the information, and even having it be presented to the minister, I have some concerns that it's still been a year as of that date. I share the concerns of, I'm sure, many around the table, as I have said. Maybe we should stop dragging our feet and just start implementing some of these.

Thanks very much.

**The Vice-Chair (Mrs. Nina Grewal):** Thank you, Madam Bilson, for your time and your presentation. Certainly all of us learned a lot from you. Once again, thank you.

**Ms. Beth Bilson:** Thank you for the invitation.

**The Vice-Chair (Mrs. Nina Grewal):** The meeting is suspended.

*[Proceedings continue in camera]*

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