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Mr. Massimo Pacetti

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•(1535)

[English]

The Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): Good afternoon. I'm sorry for being late, but we all have responsibilities in this place.

Welcome, Mr. Anderson, Mr. Short, and Mr. Lalonde. We're here pursuant to the order of reference of Thursday, April 14, 2005, on Bill C-285,

[Translation]

An Act to amend the Income Tax Act (exclusion of income received by an athlete from a non-profit club, society or association)

[English]

Mr. Anderson, I understand you have an opening statement.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): I do. Thank you, Mr. Chair.

I want to thank the committee for hearing me today and taking the time to do this. I also want to extend some thank yous to people who have seen the bill to this point. I think particularly of Mr. Roy Bailey, who's no longer a member of Parliament. Mr. Fitzpatrick has been involved, Mr. Ritz from our party, and Brad Trost from Saskatoon—Humboldt as well. I want to thank the Bloc and the NDP for their support in the House on the bill. I think hopefully we'll have an interesting time discussing it today.

The motivating force for this bill is hockey. I guess we see hockey as a unifying force in this country. It's our national sport; I think it's obviously part of our culture, and we try to promote it as often as we can as a positive in this country.

In my part of the world, in Saskatchewan, winters are spent on hockey rinks. In a lot of the small towns, hockey rinks are absolutely essential to the survival of the communities, and everybody gathers there. Whether you're a farmer, a business person, or a professional, and whether you're high income or low income makes no difference. Our seniors come out to watch their families as well. As with many of the rest of you, hockey is a very important part of our lives. When we mess with hockey, it riles up Canadians.

In our country we have varying levels of hockey. This bill is concerned with junior A hockey players. Junior A indicates, of course, that the players are elite athletes in a junior age group, and that age group is 16 to 21 years of age. Within the junior A classification there are two levels or tiers of hockey. The tier one hockey teams are the major junior hockey teams that you're familiar with. These would be teams in the Ontario Hockey League, the

Quebec Major Junior Hockey League, and the Western Hockey League in western Canada.

There are also tier two teams that are considered to be junior hockey teams, and these are the next level down, basically. They compete in smaller leagues, generally segregated by provincial boundaries.

Tier one athletes, or the junior A—the major junior league teams—are athletes who receive a salary from the team. They are considered to be employees of the team and do not retain the status of amateur athletes. But tier two hockey players do not receive a specified salary. They've always been considered to be amateur athletes in the past. These leagues are mainly seen as developmental leagues. I guess you could even say there's an educational component. A lot of the students are in school; they're learning their sport as well as going to school while they're on these teams.

These athletes receive room and board as well as a very small monthly allowance. This allowance is generally in the range.... I have \$160 to \$600, but that is not accurate; it's usually in the range of \$100 to \$300. The \$600 is more in the range of the major junior A teams. They have a small allowance, and then room and board as well is provided to them. Until a couple of years ago, neither that allowance nor the room and board have ever been considered to be taxable.

There are approximately 130 junior A tier two teams in this country. The Saskatchewan Junior Hockey League is the 12 teams located in the various regions of Saskatchewan. Their goal is to provide Saskatchewan junior hockey players with the opportunity to compete at an elite level while striving to achieve these educational and career goals that they have in mind.

I just want to point out again that the level of allowance is in the \$50 to \$200 to \$300 range; that's all they receive.

There's a history involving this bill. I'd like to quickly go over it. From 1969 until 2001, these athletes were not considered to be employed by the teams. There were no taxable consequences of their playing for the teams. In 2001 the federal government came to Saskatchewan and selectively targeted tier two junior hockey teams in our province. They decided for the first time that they were making the argument that these young players were employees of the teams.

As a consequence of that decision by the government, by the CRA, an audit was performed, and the players and teams were assessed on the value of the accommodation. They said the players are employees: we've decided they're employees of the team; we're going to assess the value of the billeting expenses and the allowances that are being provided. So by October 2003 teams had been audited. It was determined the players were employees, teams were reassessed, and Saskatchewan's 12 teams were charged, on average, \$8,000 to \$12,000 per team in back EI and CPP. These are teams that are non-profit, community-owned teams that don't have extra money, because most of them are in very small communities of 4,000 or 5,000 people, and they're basically the heart of the community.

They were forced to backpay EI and CPP premiums as if they had been employed by the teams from when they'd started serving with the hockey team.

● (1540)

The CRA justified its audit by claiming the value of accommodations was a taxable benefit and that amateur hockey players are considered to be employees of the team.

I want to point out that this audit occurred only in Saskatchewan. It didn't take place in any other province, and as far as I know, it hasn't yet. The CRA communicated the directive to the other teams across Canada, but no other province was audited. The government has recently reasserted—last spring—that it intends to consider all the players as employees and will be pursuing teams and players nationwide.

There were some CRA criteria used that are not in your brochure, in the handout I gave you, but I just want to go over them. CRA said there are four criteria they use to determine whether there's an employer-employee relationship. First, there needs to be control from one of the parties. Secondly, there needs to be an ownership of tools. I don't know if that applies to hockey sticks or not, but I guess it did in this situation. Thirdly, there needs to be a chance of profit or risk of loss and the employee cannot suffer that risk of loss. Fourthly, there needs to be an integration between the commercial activities and the worker and the person who's paying the bills.

I would like to make an argument that there should be another criterion used there—that is, that there needs to be a substantive commercial relationship between the parties. I would say clearly there is not one here. These young guys—and girls, if they're involved—are playing for six months of the year, receiving an allowance of about \$200 and room and board. The government has decided to go after them for that.

If you want to overapply these rules, you could get to the ridiculous position, I guess, where you could take it right into a parent-child relationship. Parents meet those four requirements as well. I don't think anyone is suggesting that, but obviously it's not just those four requirements; there are also some financial perspectives that need to be taken into account, and I think the government lost those in this situation.

So we need a balanced approach. What we would have liked from the CRA is for them to just back off to their previous position. That would have been reasonable, and that was what was asked, but they have not chosen to do that.

We bring forward Bill C-285. I think it's important legislation. I want to give you a couple of reasons why I think it's important.

First, it's focused on a non-profit organization and amateur athletes, and we think that's a good place to be putting the focus. The organizations for these teams are basically non-profit organizations, in small towns, that do not ever expect to be making money.

Secondly, these young people are definitely amateur athletes. If they don't fit the definition of an amateur athlete, I don't know who would. How can we call them professional in any sense of the word when they're making \$50 to \$200 a month from these clubs?

There's another question here, too, when they've been spending money on audits and those kinds of things: how much does it cost to administer this and actually get the premiums out of these teams?

I would argue that the players clearly are not employees. They're spending far more money to play hockey in the wintertime than they're ever making out of it. Parents are taking them around the country. They've had to leave home and go live with billets. They're spending their own money as they're trying to get through these hockey seasons. So I would argue that they are not employees of the company.

Bill C-285 is an act to amend the Income Tax Act. It's a very short bill. It would allow amateur hockey players—or amateur athletes, actually—to receive benefits not in excess of \$8,000 per year, without taxation, for purposes such as billeting expenses, equipment, and those kinds of things. The bill is intended to be retroactive to the year 2000, which would basically go back before the time of these audits. This income must be received from a non-profit club, society, or association that's operated exclusively for the purpose of improving athletic performances and promoting amateur athletes.

In the handout, you have the full copy of the bill in front of you.

The rationale for amending the Income Tax Act basically was twofold. One is that the CRA would not back off on this issue; and secondly, we think amateur hockey players in Saskatchewan and across Canada are being taxed unfairly, if they are going to tax them on these billeting expenses and these small monthly allowances.

CRA's decision to consider them as receiving taxable income is unfair on two grounds.

One, I've made the argument that they are not employees. They receive only a small monthly expense allowance. They're billeted, and the billets receive a payment for providing room and board, which in most cases doesn't even accommodate the amount of food these young guys eat. Players are not employees. I don't think they should be treated as such.

Two, the decision was made to audit teams in only one area of this country. The federal government focused the audits only on Saskatchewan. It stated its intention to expand the audit trail to all tier two teams across the country, but to this point they've only conducted them in Saskatchewan.

I would argue also that this bill serves to provide necessary assistance to amateur athletes and will strengthen amateur sport in Canada. Actually, we'd probably get into this a little bit later, but amateur athletes in other sports, such as Olympic athletes, do receive tax-free stipends from the federal government through the athlete assistance program. They are not subject to the same form of taxation. The tax laws are not being applied evenly across the country in each of the situations regarding amateur athletes.

• (1545)

To conclude, I would ask that we work together. I would ask you to work to improve the bill, not to destroy it, not to wreck it. I just ask that we work together for our amateur athletes.

The Chair: Thank you, Mr. Anderson.

We're here just to try to take a look at this bill and see what the consensus is around the table. What I would like to do is have the members ask you questions, Mr. Anderson, and then we'll have the finance officials speak. Is that okay with you, Mr. Anderson? Okay.

I'm going to be flexible with time, so let's say six or seven minutes. Then we'll see how many members want to speak.

Mr. Fitzpatrick.

Mr. Brian Fitzpatrick (Prince Albert, CPC): I'm personally quite knowledgeable about this situation. I have two teams in my riding, the Melfort Mustangs and the Nipawin Hawks, that are involved with this. I've lived in Nipawin since 1977. I know that community quite well. I have a good understanding of what's been going on with that hockey operation.

We are all concerned with promoting amateur athletics. This league has a terrific record of producing, through its development program and so on, some outstanding coaches and players who went on to excellence. For the Olympic program that one year, Curtis Joseph was the goaltender; Rod Brind'Amour was a forward on that team; and one of the teams that won the World Junior Hockey Championship had four or five players from Saskatchewan. There is a long history. At one time there were five coaches at the NHL level who had cut their teeth in the Saskatchewan Junior Hockey League, including Dave King, who was the coach of our Olympic program when we had one, before professional people were permitted to compete at the Olympic level.

I guess the point I would turn my mind to is that we have special incentives for the elite athletes who are in the Olympic programs, that they are tax free, even though the four-way test that you purport to apply would certainly apply to those people every bit as much as some amateur junior hockey league in Saskatchewan. I am curious. Is that in fact correct that the Olympic athletes do have a full tax exemption on their benefits and the entitlements they receive?

You're probably not in a position to answer this, but I'll state my opinion. If our sports program at the grassroots amateur level is not strong in this country, ultimately our elite athletes are not going to be producing in our Olympic programs. Really the focus of government should be where we get the most bang for our dollar if we want long-term, high-quality Olympic amateur athletes and good participation in our society and so on.

Maybe the officials from the CRA and Finance could explain to me how you can differentiate between Olympic elite athletes and some 17-year-old kid playing for the Nipawin Hawks who gets \$100 a month in expense money and they pay \$250 for room and board.

• (1550)

Mr. Edward Short (Senior Officer, Tax Policy Branch, Department of Finance): Well, first of all, we're not actually from the Canada Revenue Agency; we are from the Department of Finance.

Mr. Brian Fitzpatrick: Okay.

Mr. Edward Short: I can't speak to what Mr. Anderson has said about the conduct of the Canada Revenue Agency, although I have heard some of what's gone on.

I've also heard that the teams have settled their past cases with the Canada Revenue Agency.

On your question on whether or not the elite athletes are actually taxable on their amounts, we weren't expecting that question, so I think our thought is that the amounts are taxable. There are ways that elite athletes can defer their taxes through a trust. That's been the case in the past, and it may have been discontinued now because the international Olympic associations no longer require athletes to put their revenues into trust in order to retain their amateur status.

Mr. Brian Fitzpatrick: Incidentally, I have talked with Olympic athletes on the Hill and so on and have asked them those questions point-blank. Their room and board and stipends and so on that they receive, they indicated, are tax-free. So they're not subject to the Canada Revenue Agency. That was the last time I talked with them anyway.

I want to put this issue squarely in focus. In the fall in Nipawin, 80 to 100 kids will show up in that community. They are entrusted to that hockey organization by their parents. They expect that team to provide them room and board like they would have at home. They will give them \$100 a month in expense money. They will promote their education, develop their hockey skills, and will hopefully at the end of the day receive a tier one NCAA scholarship to a first-class American university. That's the name of the game.

There's no commercial activity really to speak of on that. Most of those teams get their money from volunteer fundraisers out in the community. They sell raffle tickets, work at bingos, and sell 50-50 tickets to raise their money.

The Chair: Mr. Fitzpatrick, I'm not going to interrupt you. I just want to have questions addressed to Mr. Anderson. It's not a complicated bill, and he spoke quite eloquently on it. I want to ask the members whether they have any questions for Mr. Anderson so that then we can hear from Finance. Then we'll go to a second round for the Finance officials.

Mr. Brian Fitzpatrick: Can I just finish this?

The Chair: No, I want questions to be addressed to Mr. Anderson so we clarify what the intent of his bill is, and then we can go around. You'll have plenty of chances after; we have plenty of time.

Mr. Brian Fitzpatrick: I'm going to ask Mr. Anderson... The provincial people on labour standards figure it would be absolute nonsense to define the relationship of these junior hockey teams as anything remotely resembling an employee relationship. There's no hassle with provincial labour standards. The parents find this amazing, because they feel they're entrusting their young people to the care of these non-profit junior hockey teams, and there really isn't any big commercial aspect to this operation. Most of these teams are fighting to get enough money to stay in....

Do you see any employee-employer relationship in this context, Mr. Anderson?

Mr. David Anderson: I would reiterate what I said before: I don't see that situation here at all, because there isn't a significant financial interaction between the two parties.

I would also like to address a couple of the other issues Mr. Fitzpatrick raised, if I can. One of them is that the past cases have been settled, but they're basically settled under the threat that the leagues could litigate forever, and the way the federal government would continue to operate would be to keep them in court until they agreed to settle. They did agree to settle and they have made an agreement, but they would have liked to have had a different resolution from the one they had. I just want to point that out.

Secondly, there is an athlete assistance program that was mentioned here, but it actually makes tax-free stipends available to any world-class athletes and the people who show any potential to reach that level. Those stipends are tax-free. The athletes with developmental cards get about \$900 a month, and athletes with the senior cards, or more senior athletes, get about \$1,500 per month. Those are tax-free stipends to them. Carded athletes at Canadian universities are eligible for up to \$10,000 in university assistance as well.

We know there are sports organizations that have charitable status, and there are other situations where grants are given to organizations that would involve amateur athletics as well. So there are a number of places where this happens, and there is an unequal application of tax law in these different situations.

I think it's important that we come back to this issue of 17-year-old hockey players living away getting \$200 a month and a living allowance. The government wants to tax them. We think that's unreasonable, and this bill would try to deal with that.

• (1555)

The Chair: Do I have any other members? Otherwise, I'll have the Finance officials go.

Yes, Mr. Penson. Do you have a question for Mr. Anderson?

Go ahead.

Mr. Charlie Penson (Peace River, CPC): Thank you, Mr. Chairman.

Mr. Anderson, when you talk about this being a widespread practice, I certainly agree; this happens all over the country. I can't understand why CCRA would want to bully their way into a productive program that provides opportunity for young children to excel and maybe develop a career in this area. Now that they've decided to do it and the outcome of the negotiations or settlement

with CCRA was not satisfactory, from what you told us, you're seeking this Bill C-285 as an alternative measure. Is that correct?

Mr. David Anderson: Yes, absolutely.

We would have preferred that the CRA just back off these teams and go back to the previous structure and the way things were. The junior A major hockey league teams are happy to have their players considered to be employees. They are paying EI and CPP; that's not an issue with them. This is the next level below that. Our response, because of the Canada Revenue Agency's reluctance to back off, was that we needed to come up with a bill that dealt with this issue, and this is the result.

Mr. Charlie Penson: It's probably too bad we don't have some of the officials from CCRA here today to tell us why they decided to pursue this in 2001 and why they've decided to pursue it in the manner they have in one part of the country. As I've said, I know it happens all across the country, including in my home province of Alberta. This is ludicrous.

Given that they're not here, I just want to say, Mr. Anderson, that I support this method. If there's already a clear trail with the Olympic athletes, concerning which you've provided information to us, hopefully this bill will provide an avenue to resolve what I see as an unfair practice by CCRA.

The Chair: Thank you, Mr. Penson.

I think the answer is that it's confidential. That's why they wouldn't be able to answer you

Mr. McKay.

Mr. Charlie Penson: It's just like the use of your own garden is taxable when you have a farm. That's how silly some of this gets, and maybe we'll get to that later.

The Chair: Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): Let me just go back to first principles on your bill. Are you adding \$8,000 onto the basic personal exemption, which is now around \$8,500?

Mr. David Anderson: Yes.

Hon. John McKay: So an amateur athlete—the person you're targeting for this bill—really would be able to earn from any source at least \$16,000 tax-free?

Mr. David Anderson: As I said originally, the intent was if the CRA had backed off on this, it would have allowed these 16- to 21-year-old players to continue to play without being targeted in this way. When you begin to write a bill, it encompasses a bigger picture than just that one example. What we wanted to try to do was to set it up so they were not going to be hit with EI and CPP calculations on the money they were receiving. This was the way legislative services said we could do that. You're right, it is \$16,000, and this is the way we would try to go about doing that.

Hon. John McKay: So on the face of it, these individuals are given a preference of twice what any other Canadian would be entitled to?

Mr. David Anderson: Actually, not. If you compare them to amateur athletes who are on the athletic assistance program, the top level would be getting \$18,000 tax-free already, and I assume they have their personal exemption on top of that. One of the problems is that we've got an unequal system across Canada in dealing with this issue. We're just trying to make it fair for these young hockey players.

Hon. John McKay: I assume that's what you're comparing this to, an elite athlete, an Olympic-streamed athlete. Is that who you're trying to compare these individuals to?

Mr. David Anderson: That's what that program applies to, yes.

Hon. John McKay: Presumably, that is a public policy exception for the purposes of national goals, I suppose is a way of putting it. Pretty well everyone else in Canada is going to have to earn in effect, well, probably in the order of \$20,000 or \$22,000 in order to be able to get the equivalent treatment of one of the athletes you're targeting in this bill, because they would have to earn, first of all, the \$8,000, which is the basic exemption, and then the balance of the money would be taxed. They would have to earn a fair bit more money in order to be able to have effectively \$16,000-plus in their jeans. Is that a fair statement?

• (1600)

Mr. David Anderson: I guess it could be. Again, I come back to the fact that we were trying to provide or make sure that these young gentlemen were not being targeted by the Canada Revenue Agency and that they had the exemption that would then allow them to receive the allowance—

Hon. John McKay: I understand where you're going. I'm just trying to compare apples to apples. The Income Tax Act in Canada has some flaws in it. Even the people who are experts say it has flaws in it, but you try not to create new inequities in order to deal with other inequities.

If in fact—

Mr. David Anderson: Can I just suggest a way of dealing with that inequity would be to have the CRA back off on this. That would be a very simple solution to this. They will not, apparently, do that.

Hon. John McKay: You'd be prepared to withdraw your bill if in fact you had that undertaking from CRA?

Mr. David Anderson: I'd certainly take a good look at it.

Hon. John McKay: Right now we're faced with a bill.

If in fact—

Mr. David Anderson: Can I just point out as well that this income has to be received from a non-profit club, society, or an association that's focused on amateur athletes. It's not as if they can just run around and get \$16,000 of income and be tax-free on it.

Hon. John McKay: Would all \$16,000 have to be received from the club?

Mr. David Anderson: No, this deals with the \$8,000.

Hon. John McKay: So if I'm an amateur athlete, I can get \$8,000 from the club, and if I have a summer job, I can get another \$8,000?

Mr. David Anderson: I don't know all the workings of the Income Tax Act, but this is on top of the personal deduction.

Hon. John McKay: But that makes sense, doesn't it? So a student who's an athlete gets a \$16,000 exemption; a student who's not an athlete gets an \$8,000 exemption.

Mr. David Anderson: That's as long as they get their \$8,000 from an athletic club that's not set up for the purpose of profit.

Hon. John McKay: One of the concerns I think you mentioned was the EI and CPP deductions. You were concerned about them. I appreciate that they are deductions. Are you saying they shouldn't have these deductions but should still get the benefits?

Mr. David Anderson: If they're not considered employees, they don't get the benefits—

Hon. John McKay: Of what?

Mr. David Anderson: —of leaving the team and then trying to apply for EI and CPP because they played for a team.

Hon. John McKay: Why wouldn't they? If you're an employee on the one side, you have to receive benefits from the other.

Mr. David Anderson: If they're considered to be employees, they should be able to receive benefits. Our argument is that they are not employees and don't fit the criteria for being employees; they shouldn't be employees. I guess, as a consequence of that, they would not be able to apply for EI and CP based on the fact that they're not playing hockey in May of the year.

An hon. member: [*Inaudible—Editor*]

Hon. John McKay: I'm going to risk not providing any clarification to Mr. Pallister. As amazing as that may seem, I'm going to take that chance.

The Chair: Okay. Thank you, Mr. McKay.

Mr. Fitzpatrick.

Mr. Brian Fitzpatrick: I just want to clear a couple of things up with Mr. Anderson. For most of these players—let's look at this—there's \$300 room and board, \$100 expense money, and really the issues are the EI deductions and the Canada Pension thing. Quite literally, I think it's hard to envision where those players will ever receive any real benefits out of those programs. It's such a negligible amount of money that it's really more of a cash grab than it is anything else.

The second point I want to raise is that the teams are very concerned. How far do you go with this taxable benefit concept? The teams bus their kids on the road to away games. They put them up for room and board when they're on the road and they feed them. They provide them with equipment and support.

To follow the logic, if the team is going to provide room and board, why aren't all the rest of these things considered taxable benefits as well? If they really want to do that, they will kill 11 good, solid, community, not-for-profit organizations in rural Saskatchewan and really take a lot of heritage away from rural Saskatchewan.

Mr. Anderson, is there anything, in your view, stopping the CRA, using their logic, from deeming bus transportation “room and board on the road”, or hotel accommodations, hockey sticks, equipment and so on, and food that they give them on the road as also being taxable benefits?

• (1605)

Mr. David Anderson: I don't know the entire Income Tax Act, obviously. If you apply these principles across the board, it seems to me you start to bring in a whole lot of other things as well.

The point is well made that in terms of the players' contribution to CPP and EI, it's going to be minuscule through that winter, at a \$200 allowance and \$300 board and room for six months of the year. But it is significant to the teams. Some of them have been back-taxed on this, one of them for \$60,000, I understand, but the audited teams average \$10,000 to \$12,000 in Saskatchewan.

These teams don't have that kind of money. In the end, this may be finishing off teams that are on the edge. They're community-owned teams. These people are not running them for profit. They also need to break even to be able to continue.

The Chair: Okay.

I'm going to try.... I really want to get the Finance officials....

A voice: You have to balance out the time, I believe.

The Chair: There is no balance of time. At first, everybody was shy to speak, and now everybody's over.... There are people who want to ask questions directly to you, Mr. Anderson.

Mr. Carrier, Mr. Holland, and then Mr. Pallister. I'm going to limit time. I'm going to give you three minutes, because then I want to get the Finance officials in.

Monsieur Carrier, Mr. Holland, and Mr. Pallister. Thank you.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you.

Good day, Mr. Anderson.

The aim of the bill is laudable, and for that reason, the Bloc has already stated its intention of supporting it. Since we're here to get more information, are you in fact proposing in the bill that income under \$8,000 be exempted? Thus, the year-end statement of earnings of an athlete who has earned less than \$8,000 would show zero income. Would this athlete still be considered an employee? I see that your bill initially provided for payment of CPP and EI premiums. Was this viewed as a problem, or does payment of EI premiums present an advantage for these athletes?

Could you clarify this for me?

[*English*]

Mr. David Anderson: Probably the officials would have a better understanding of those details than I have. But my understanding of the bill is that yes, you would have to be seen as having zero income. That \$8,000 would be an income deduction.

In terms of whether having EI and CPP would be an advantage or not, I guess you'd have to make that decision at the committee here. But the reality is that those athletes are going to be contributing

almost nothing to them, and it's inconveniencing both them and their teams in a major way.

The Chair: Mr. Holland, and then Mr. Pallister.

We want questions for Mr. Anderson, please.

Mr. Mark Holland (Ajax—Pickering, Lib.): Sure. Thank you very much, Mr. Chair, and through you, thanks to Mr. Anderson for the deputation.

I understand the concern. I guess the issue I'm having with it is that right now we provide support to those athletes who are training for the Olympics, which would include amateur athletes who are training to be Olympians in the area of hockey.

So there are already, for those who are training to be...well, Olympians for hockey.... Admittedly, most of the hockey players now who go into the Olympics are not amateur athletes, but if we're essentially saying to one field of sports beyond any other that we're going to give preferential treatment.... For example, if you look at similar leagues in women's sports—such as gymnastics, which is more dominated by women—these same benefits aren't available for those who aren't, for example, training for the Olympics.

Furthermore, I think we recognize that the Olympics are a unique circumstance; somebody is training towards something that's national. But I think we also have to take a look at how I answer people in my riding who are, for example, young artists, who say, “I'm trying to struggle as an artist to make a go of it here, and what I'm doing is making an important contribution to the cultural fabric of Canada; I don't get a \$16,000 tax-free exemption in order to pursue what I'm doing and yet somebody who is playing hockey does.”

How do I reconcile that to them? Or how do I reconcile it to other young people who are choosing to embark upon other fields and endeavours, saying that they shouldn't get \$16,000 and somebody for hockey should?

Olympians I can understand; we do it across the board for all sports. But why just hockey, and how are we going to reconcile this to all the other people in other sectors who are going to ask why their area isn't as important as hockey?

• (1610)

Mr. David Anderson: As I said, the intention of the bill is to deal with the hockey situation. The way the bill is written, it covers all athletes. So it would cover all athletes who receive that \$8,000 from a non-profit club, society, or association, including your gymnastics club or whatever.

I guess the definition of “athlete” from Sports Canada—I had it here somewhere—is basically a person who's involved in competitive sport.

Mr. Mark Holland: But how would you answer somebody—for example, an artist—who says they should receive the same exemption? Or do you then extend it to the artists and then say to somebody who's engaged in another field who says what they're doing is making an equal contribution...? Aren't we opening a Pandora's box a little bit by doing this, by specifically recognizing that particular area?

Then, are we doing it only to promote sports, when there are lots of people who are pursuing cultural endeavours, as an example? And what are the implications there? How do we answer and reconcile this to people who are pursuing other careers that are equally worthy and equally worthy of our support? How do we reconcile that to them?

Mr. David Anderson: Well, I wouldn't argue that they're not equally worthy. I would argue that I've brought this bill forward specifically to deal with sport. If other people want to bring forward bills to deal with those other areas, that would be up to them, and I guess they'd be decided on their merit as well.

But this was set up to deal with the situation we found in athletics. If people want to extend it beyond that, it would certainly be their prerogative as members of Parliament to do that.

Mr. Mark Holland: Mr. Chair, I raise the point because if we're going to extend this kind of benefit, then I think we have to be cognizant of the fact that there are lots of other people in other areas who may be equally worthy. I'm very cautious about passing something that would give preferential treatment to one group.

Mr. David Anderson: Let me make one point on that as well.

What we're talking about here is an employment situation. When you talk about artists and that kind of thing, they often find themselves in situations where they're trying to make it on their own. What we have here, I would contend, is an artificial employment situation created by the government. That's what has created the problem, and this is the way we feel we can deal with it.

A lot of those people don't find themselves in the same situation, where they're getting a minuscule allowance and room and board and then being expected to pay CPP and EI on that.

The Chair: Thank you, Mr. Anderson.

I want to go to Mr. Pallister for three minutes. Then I want the Finance officials. It's only a 16-line bill and already we've taken 45 minutes.

Mr. Pallister, go ahead.

Mr. Brian Pallister (Portage—Lisgar, CPC): I think Mr. Holland makes some excellent points. I'd like to respond to them by saying that I think perhaps we're missing the point here.

Mr. Anderson's bill is a result of a Canada Revenue Agency audit. There isn't one that's been done on your local gymnastics club, but there has been one done on these hockey teams. So let's deal with the bill in its context.

The Canada Revenue Agency is proposing to make taxable the expenses people incur in providing billeting to young people who have to move away from home. If you understand tier two hockey, they have to move away from home for the bulk of the year, in some cases—at least seven or eight months, if they don't make the playoffs. I know there are other circumstances, Mr. Holland, as well, but I think we have to put it in that fair context.

The young men who initially started this case are people who, for the most part, do not live at home, obviously, or they wouldn't need billeting. They are leaving their homes in rural parts, in this case, of Saskatchewan. I speak also with some authority on Manitoba's tier

two junior program. They leave their homes because they love the game of hockey. They are now being asked to become taxed.

Most of these teams operate on shoestring budgets, with volunteers and donated money from small businesses in their communities. That's how they survive.

You spoke in defence of the support we offer Olympic athletes, and I agree with you on that. But I also think you should understand that there is this level below. A lot of these young men choose tier two hockey because they want to pursue their education after. That's why they don't go major junior; they are playing tier two so they can go play hockey at college.

A couple of players from my community played with the Portage Terriers junior hockey team. Junior Lessard last year won the Hobie Baker Award as the top player in U.S. college hockey. He's playing with Dallas now. If it weren't for the tier two junior club in Portage la Prairie, Manitoba, he wouldn't have had that opportunity. J.P. Vigier is another player who plays in the NHL right now. He wouldn't have had the opportunity if it weren't for these small town hockey teams.

I am a little troubled, as I am often, I suppose, by Mr. McKay's rhetoric about privilege and so on, from a party that gives bags of money to people to vote for it. It's a little bit specious, I think, to argue about fairness and disclosure and openness and a level playing field, coming from that source.

Revenue Canada either should or should not tax the hell out of junior hockey teams. Really, that's what we're debating today. I think it's important that we make the case that the benefits are very much there for rural Canadian youth to play hockey. If the government wants to try doing away with that by opposing this motion, it's well within their right to do that.

• (1615)

The Chair: Let's get this show on the road.

Mr. Short and Mr. Lalonde, if we could have an opening statement or some type of direction that—

Mr. David Anderson: My intention was never to create a line brawl.

Mr. Gérard Lalonde (Senior Chief, Tax Policy Branch, Department of Finance): I don't think we're going to have a line brawl. At least, I hope not.

I have just a couple of opening comments. Ed Short is much more familiar with this file.

There were a couple of comments being made in the course of some of the questions and answers that bear clarification. I think one of them is that the CCRA has decided on its own volition to enter into a project to tax a whole bunch of junior hockey players.

My understanding is that in fact the government argued originally that these people were not employees. They argued that in the case of an individual hockey player who claimed employment insurance benefits after having left a team. It wasn't considered that these people were employees, but the courts told the CCRA that in fact they were.

So it's not the CCRA running off and deciding that these people are employees. They're placed in a very difficult position; they have a court that tells them, for EI purposes these people qualify. They can't very well just ignore that. They're still going to qualify, and there's nothing in this bill that stops the qualification for EI.

In fact, it's a fairly expensive way, if you were to consider what Mr. McKay has said about increasing effectively the basic personal amount to in excess of \$16,000, to waive away an income tax liability in order to lift EI premiums from a group. I'm not arguing whether that's good policy or bad policy. That's not up to us; it's the government's prerogative. But this is a very expensive way to do it: to exempt \$8,000 from income tax in order, effectively, to try to exempt that amount from EI premiums.

I think that's probably the major thing. We're here to answer questions, so I don't propose to take up much more time.

Ed, is there anything you'd like to add to that?

Mr. Edward Short: Yes, I have some specific comments on the bill itself.

One thing I'd like to mention is that this is not just for employment income. It could apply to income that's earned by an independent contractor working for a non-profit society or association. The bill doesn't deem that anybody who is an employee under the common law, because these are common law principles, is not going to be an employee. As such, the teams would still be subject to EI premiums regardless of this bill.

It is true that by making the \$8,000 exempt under the Income Tax Act, the teams would not be liable to premiums for CPP. But EI premiums still start from the first dollar somebody earns, and it doesn't matter if they earn \$1,000 or \$2,000 or \$8,000 or \$24,000. It starts from the first dollar. So the teams, even if this bill were to pass, would still be liable for EI premiums.

It was noted that this bill doesn't apply just to hockey teams or hockey players.

I'd note that somebody asked the question about busing and travel. In the case of employees, there are provisions in the Income Tax Act. If a person is an employee, travel paid for by the employer, which is for the purpose of the employment, is not a taxable benefit, so that would not be included in any event. That doesn't apply to the room and board.

• (1620)

Mr. Gérard Lalonde: It would apply to the travel expenses while you're on the road.

If as an employee I get sent to Vancouver to go to a meeting and I stay in a hotel, I'm not taxable on—

Mr. Edward Short: That's what I mean. Yes, that's right.

There is something else about this. Just to give you an idea of how this would apply, my own daughters are referees for a local soccer association here. They are athletes—they play soccer—but it happens that they are referees and they earn income as referees. That income would be exempt under this bill. That's because it doesn't say that the athlete has to earn the income as an athlete working for the non-profit organization.

On somebody else who might qualify, I've heard that the Winnipeg Blue Bombers are a non-profit association. So the football players for the Winnipeg Blue Bombers would be exempt on \$8,000 of their income under this bill. It's anecdotal, but that's what I've been told. I'm just saying this to give you an idea of what the implications are.

I guess that's it.

The Chair: Thank you, Mr. Short.

Can we go to members, and then, Mr. Anderson, I'll have you conclude it at the end? Okay?

I have Mr. Fitzpatrick and then I have Mr. Penson, for five minutes, and then Ms. Minna.

Mr. Brian Fitzpatrick: Actually, gentlemen, some of your points are valid, but a little bit of it is far-fetched. A player with the Winnipeg Blue Bombers who makes \$300,000 a year—i.e., a quarterback—would not, under anybody's definition, be defined as an amateur athlete.

If you look at the provisions, the very last thing—“promoting amateur athletics”—that's professional sports.

• (1625)

Mr. Edward Short: I'm going to dispute that basis.

Mr. Brian Fitzpatrick: That example I think leaves something to be desired here. I just want to raise that point.

Maybe some of your comments are right, but one of the purposes of government is to promote a healthy lifestyle in our society. I've heard government people talk about obesity. Our level of participation in this society starts at the grassroots level, at the true amateur level. I know amateur when I see it. This is amateur. It's not professional; it's not the Winnipeg Blue Bombers. It's a bunch of people scraping a bunch of money together to try to keep a community thing alive. It's part of rural Saskatchewan. It's as much rural Saskatchewan as Gordie Howe is Saskatchewan.

I think it's really bad policy when the bureaucrats and the government-to-be cannot find public policies that encourage this stuff, instead of slamming them over the head.

The next thing I know, they'll be trucking to Ottawa—and they don't want to do it—with lobbyists trying to find grants to support their teams and keep them in power. Maybe they'll find another sponsorship program from some government that takes money out of here.

Another point I'd raise here on this whole issue is that the Auditor General today still reiterated that there's a \$46 billion surplus in the EI account, and here you're squeezing a non-profit corporation—volunteers trying to keep their teams alive—and trying to justify it with some very technical, narrow arguments that I think are a little bit far-fetched.

And to equate the Nipawin Hawks to the Winnipeg Blue Bombers is total nonsense.

The way this is drafted, it says “amateur athletics”. Maybe we have to do some work in defining what amateur is, but I certainly do not see Milt Stegall with the Winnipeg Blue Bombers being amateur athletics, or Nelson Greene with the Saskatchewan Roughriders. It's just total, absolute nonsense. I have a whole lot of difficulty with your interpretation on that.

I think the people in CRA could have used a little bit of common sense. There's nothing commercial about these operations. If they had just applied some common sense on the whole front, we would have avoided this whole hassle and we wouldn't be in this problem.

You say the courts have made a ruling on the EI case. I'm not exactly sure about that. I think it got to an administrative tribunal level, which in my view isn't a court. It may be some quasi-court, but as a lawyer I see a big difference between some government-appointed quasi-appeal board and a real federal court where you have real, independent judges and so on.

I wish in a lot of ways this case had gone to the real courts to let the real courts decide it, because I think the CRA should have been blown out of the water on this issue.

Mr. Edward Short: As a comment on the final point, we're not here to try to justify Revenue Canada's position, other than to say that—

Mr. Brian Fitzpatrick: Don't bring up the Winnipeg Blue Bombers then, if that's the case.

Mr. Edward Short: Well, the point to be made is that there is no definition of what an athlete is under this bill. This bill as drafted... As you can imagine, we see situations fairly regularly where people try to take advantage of the words that are used in the Income Tax Act, which are very prescriptive, in order to achieve objectives that maybe were not intended.

So it would not be impossible for somebody who has a commercial business to create a non-profit organization that could promote athletics, and the athletes involved in those activities could be the employees of that company and could receive some kind of income from that non-profit organization.

As I say, it doesn't say the athlete has to be earning that income as an athlete from the organization. It can be somebody who is a trainer or a maintenance person.

I'm only commenting on the way the provision has been drafted.

The Chair: Thank you, Mr. Fitzpatrick.

We'll go to Ms. Minna, Mr. Penson, and then Mr. Holland, for five minutes.

Hon. Maria Minna (Beaches—East York, Lib.): Thank you, Mr. Chairman.

I know it was raised earlier, Mr. Anderson, but I wanted to ask about the \$8,000 on top of the \$8,500 personal exemption, which makes it about \$16,500. Some of us, myself and others, have been talking about the possibility of a personal exemption of \$15,000 before anyone can pay taxes, to address the issue of poverty. I'm concerned that...

Perhaps you could explain to me how this works. Are we setting up a special situation for a group of people as opposed to any other

group? Are we saying that this group doesn't pay taxes until after they've earned \$16,500, as opposed to any other group? Poverty in Canada is a major problem, and a lot of other groups would be looking at that as well. So I'm trying to understand how you can rationalize that, how you can set that up and ignore other interests, other needs.

Mr. David Anderson: I'd just make a couple of points here.

My preference would be that the CRA just back off on this and leave these young folks alone. I would concur with Mr. Fitzpatrick that—

Hon. Maria Minna: I'm going to let you finish, but after that I want to ask the officials, can CRA back off? And if they can't, why not?

Go ahead.

Mr. David Anderson: As far as I know, it did not get to a court. I know there was an application for EI, but I haven't ever heard that it got to a court.

Secondly, there already is an imbalance in athletics in Canada. We give \$18,000 to elite athletes. We give \$12,000 to our second-level athletes. So there already are groups of people who are receiving tax-free stipends and large amounts on top of their \$8,000. It's not a case that everyone in Canada is equal already. And yes, this would add \$8,000 on top of the \$8,000 that's there.

Hon. Maria Minna: You see, I'd like to give \$8,000 to single mothers. I'm not suggesting this isn't a legitimate cause, but we're going down a road where...and I would like to give it to single mothers. There are a lot of people in this country who shouldn't be paying taxes at \$16,000, and they are. I think that's an issue. My concern is that this is getting at something that is a bit broader than a specific thing.

Has CRA backed off? Has it dealt with it? What about appeals? Perhaps Mr. Short can answer that.

● (1630)

Mr. David Anderson: I can answer that. There was an agreement reached between the leagues and the CRA. But the leagues do not feel they have the ability to continue, so that agreement was reached, in my opinion, under duress. They were basically told, “We can continue to litigate forever”. These are non-profit teams, and they were going broke trying to deal with the government in court. They could not afford to continue, so they made the agreement.

The agreement is confidential. I don't know what it is, but I think they would have preferred to have had the change that I'm suggesting, to back off and not to be charging EI and CPP on these young players.

Hon. Maria Minna: I'm going to ask Mr. Short in a minute why the CRA could not back off so that I can understand what that interplay is.

First, I want to ask you, Mr. Anderson, what specific age group is impacted here? I don't think the bill specifies.

Mr. David Anderson: The bill does not specify an age group. The age group of hockey players was 17 to 21, but the legislation does not specify any age group.

Hon. Maria Minna: So my nephew who works full-time, who belongs to a local league part-time and is now 40-something, could benefit from this?

Mr. David Anderson: If he's an amateur athlete being paid by a non-profit club or organization.

Hon. Maria Minna: But he would be amateur part-time. I'm just trying to get at the possible problems that could come up. If he's an amateur athlete part of the time, not full-time, and he's working somewhere else, can he also benefit from this?

I'm not trying to attack; I'm just trying to understand what the different parts of the bill address, that's all.

Mr. David Anderson: Okay. I haven't thought of that option, so I don't know. If he fits within the criteria of the legislation, then I guess it would apply to him.

Hon. Maria Minna: I'm just asking because I do have a nephew who does in fact play.

Mr. David Anderson: That association is supposed to be dedicated exclusively to promoting amateur athletics, so they would have to convince someone that they're doing that if anyone is going to hold them responsible for what they're claiming on income tax.

Hon. Maria Minna: He plays, but he can also coach. If he were coaching, the same thing would apply, would it not, if it were a not-for-profit organization?

Mr. David Anderson: My definition of athlete, from Sport Canada, is used to describe people involved in competitive sport. I guess I assumed that "involved" means they're the ones who are playing, the participants of the sport.

Hon. Maria Minna: Mr. Short, I wonder if you could explain to us why the CRA was not able to deal with the issue so that we're now faced with a bill. I'm just trying to understand what specifically is in the current legislation. Is there a definition of what an employee is?

Mr. Edward Short: There's not a definition in a statute as to what an employee is. There are common law principles developed by the courts, and they have general application to everybody. In the case of hockey players, as Mr. Lalonde suggested, there was a case that went forward. Revenue initially took the position that a hockey player was not an employee, applying those principles.

There are some other circumstances that aren't public regarding the teams. They may have some relevance to the particular cases, but I can't really discuss them.

As far as the settlement goes, to my understanding, with all these cases there's always some uncertainty as to how a court is going to apply these principles in any given case. Mr. Anderson outlined some of the principles that apply. Basically, it's a determination of whether or not there's a master-servant relationship. As he suggested, often there is a master-servant relationship in the case of a sports team, which kind of muddies the waters when it comes to the application of those principles.

In that particular case, there was an appeal filed to the court. Maybe we would have had some better direction from the court on how the principles should be applied in a circumstance like this. However, in the meantime, the parties decided it was worth their while to settle the case.

• (1635)

The Chair: If you have the court decision....

Mr. Edward Short: My understanding is that it was not at the Tax Court. There was an appeal filed on an original decision made by the Minister of National Revenue—that is, the CRA. There is a review process run within CRA. They call it a rulings process, and it's done on behalf of, I believe, HRDC.

Mr. Charlie Penson: So it wasn't the Tax Court.

Mr. Edward Short: My understanding is that it was not the Tax Court in this situation. In the case of the teams, however, the teams did file appeals to the Tax Court on the assessments against them. So they were looking for—

Mr. Brian Fitzpatrick: But there were never any determinations on those appeals. The appeals were filed, but they never went to court.

Mr. Edward Short: Because the case was settled.

Mr. Charlie Penson: This is sort of like the Winnipeg Blue Bombers example then.

Mr. Short, I think you're sort of misleading us here.

Mr. Gérard Lalonde: No, it was I who was in error. I had said that it was a court decision, and I stand corrected. It's not something Ed had said; there was no intention to mislead the committee.

The Chair: I don't think there was any intention there from the witnesses.

Mr. Penson.

Mr. Charlie Penson: Maybe not, Mr. Chairman, but that was going to be the impression that was left unless there was a correction made by Mr. Pallister, and that would be unfortunate, because it certainly puts a different spin on things.

To Mr. Short and Mr. Lalonde, the Income Tax Act already has all kinds of provisions for special privileges, for special provisions for different groups. Our committee has been travelling. We heard the arts community that wants increased tax credits. We've heard it for months.

The act itself is a huge act. There are thousands of pages of decisions that affect the act. This is not something that is anything new. There are lots of provisions in the act for special provisions already.

There is also a precedent with Olympic athletes, and Mr. Anderson has identified that. We have this proliferation in offshore tax havens. Compare that with what Mr. Anderson is asking for here in trying to get some provisions for athletes. Let's put this into perspective, please. And this committee is going to examine that huge proliferation in offshore tax havens at some point in the future, Mr. Chairman.

So it seems to me that this is a reasonable bill. There may be some things that need to be cleaned up. Mr. Short, you've identified a few of them. It would be helpful if you could suggest some ways in which we can do that to more clearly identify what Mr. Anderson obviously wants, because that would be helpful, instead of throwing up roadblocks.

I just wanted to finish off by saying you used the example of your own daughter refereeing. Let me just say that the reason these young hockey players in Saskatchewan need to be billeted is that they are obviously away from home. It's not the same as when somebody is in their own community. These people are from a rural area, a huge expanse of land in western Canada.

We have a farm. Our community is twenty miles away. It's not like downtown Ottawa. It's different. If these athletes have to go away from home to pursue their dream, they need to have provisions to be billeted. It's a reasonable expense that I think has to be incurred. If they were living at home, they wouldn't have to do that.

So it seems to me that we should get on with the vote on this, Mr. Chairman, and see where it lies.

The Chair: Mr. Lalonde.

Mr. Gérard Lalonde: I'm not sure where the question was. It was more of a statement.

Mr. Charlie Penson: Indeed.

The Chair: Madame Boivin, Monsieur Carrier, and then Mr. Pallister.

[*Translation*]

Ms. Françoise Boivin (Gatineau, Lib.): I just want to be certain that I understood correctly. In any event, Messrs. Anderson, Short and Lalonde, I'm not convinced, when it comes to the problems you alluded to and the unique situation faced by tier two junior "A" hockey teams in Saskatchewan, that this bill will solve the problem that you're trying to resolve. In my view, the committee needs to ask the following question: are we prepared to grant a \$16,5000 exemption to athletes who receive an salary from a non-profit association the sole aim of which is to improve the athlete's performance and promote amateur sport? In my opinion, the legislation is clearly worded in that it refers to income.

The situation you've described is unfortunate and I don't think the people testifying here are in the best position to answer our questions. Personally, like several other people seated at this table, I don't understand why the allowance these athletes receive is deemed to be a salary.

I worked for a period of time in the field of labour law and I agree with you that this is a common law concept that is not defined in the Income Tax Act, an extremely complex piece of legislation from A to Z. The Act is quite voluminous and is full of exceptions.

That being said, bearing in mind jurisprudence, I cannot easily fathom young people whose main occupation is to be students who play hockey and who hope one day to contribute to amateur hockey. I may be wrong, but I don't think this bill really targets junior hockey in Saskatchewan. The real purpose of your bill is to obtain an exemption for athletes who receive a salary in the true sense of the word. Obviously, if they weren't be paid a salary, this whole issue would be moot.

• (1640)

[*English*]

Mr. David Anderson: I would tend to agree with that. You're right. If there wasn't a declared income situation here, we wouldn't be sitting here discussing this today.

Coincidentally, the application of this also coincided with the hiring of a whole number of auditors from CRA. They've been aggressive in trying to find places where they can apply the tax law.

Mr. Short said the teams would continue to pay EI if this bill goes through. That's true. They actually pay now, because they have to. So my suggestion, again, is that my desire would be that they just back off on the application of this to these teams.

Ms. Françoise Boivin: But, David, they won't back off even with that law. My take is that we all assume here that it's revenues—that's all I'm hearing—so what you're trying to achieve will not solve your problem, because they'll still charge EI. To solve the problem would be to aim at the definition of "employee". And if we can make it sound like

[*Translation*]

they are not employees, this would resolve the problem better, in my view, than overhauling the taxation system would.

[*English*]

Mr. David Anderson: I would love to have that issue solved. When I went to legislative services and asked how we could address this, we spent quite a bit of time trying to put this together with some of the other MPs as well, and this is what we came up with to address the problem.

I understand what you're saying. I thought that through as well, but this is what we have to try to deal with it.

Ms. Françoise Boivin: Thanks.

[*Translation*]

The Chair: Thank you, Ms. Boivin.

Mr. Carrier.

Mr. Robert Carrier: In order to split what little time allotted to me with my colleague, I'll limit myself to one question.

Mr. Lalonde, you stated in your presentation that this bill would result in substantial costs. Are you talking about the cost of implementing the bill's provisions or the cost of enforcing these provisions once the legislation is adopted? To put it another way, is the implementation process the costly factor, or will enforcing the act's provisions be the thing that ends up being very costly?

Mr. Gérard Lalonde: I'd like to talk about the problem versus the solution, which would involve not taxing \$8,000, in addition to the standard basic exemption that applies to everyone. At this level, the federal-provincial taxation rate is either 23 or 24 per cent, which means that we're talking about an exemption of almost \$2,000 to eliminate CPP and EI premiums, which have much lower rates. Therefore, as I said earlier, it's not up to me, or to you, to say that a particular policy is wrong or to identify problems associated with this bill. The bill is intended to address a particular problem with employment insurance, but the solution that is being proposed involves taxation. That's why I said that on balance, fixing the problem would be a more costly proposition.

● (1645)

Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ): Mr. Lalonde or Mr. Short, would it not have been simpler to come up with a stricter definition of an up and coming athlete and quite simply increase federal government grants to those athletes in this category? That would avoid the taxation problem, the problem of interpreting very broadly the notion of a non-profit organization. Wouldn't that approach hold out more promise than the one set out in this bill?

Mr. Gérard Lalonde: It's a matter of opinion, but I didn't draft the bill. Since there's more than one solution to each problem, I'll not comment on your suggestion.

Mr. Yvan Loubier: I'm talking about the administration aspect, for instance, and the problems this could create in terms of taxation, employment insurance and so forth. There are current federal programs in place to assist up and coming athletes. I believe those in this category receive a monthly allowance of \$900. From an administrative standpoint, it would be simpler to increase these allowances rather than to introduce a special tax treatment or a tax credit, or to make the first \$8,000 of income tax exempt.

I'm only asking for your opinion on this possible approach, not for an opinion on the amounts the athletes receive. Don't you agree that this kind of approach would have been simpler?

Mr. Gérard Lalonde: As a public servant, it would be inappropriate for me to comment.

Mr. Yvan Loubier: The look on your face speaks volume. It would be a simpler process.

[English]

The Chair: Mr. Anderson, do you want to respond?

Mr. David Anderson: I have just a couple of comments.

One is that I would tend to agree that the solution is found in the definition of "employee" rather than the definition of "athlete".

Secondly, the people who have been involved in this are not asking for the government to get more involved in their activities. They would like to be able to keep the money they have now. They're not expecting that they would be able to come to the government and look to it for more grants and subsidies. They are breaking even doing what they're doing. They're enjoying doing that. They're doing it for the young people, and they're happy with that, but they don't want the government coming in where they think it should not be—and I would argue that it shouldn't be—taking the little bit from them that they have there.

The Chair: Thank you, Mr. Anderson.

[Translation]

Is that all, Mr. Loubier? Fine.

[English]

Mr. Pallister, Ms. Minna, and then Ms. Ambrose.

Mr. Brian Pallister: Thank you.

You mentioned that your daughters are referees. I put myself through university being a referee. One of the things I learned about refereeing is that it's more an art than a science, and many times the best referees aren't the ones who call every infraction by the book.

Last night there was an NHL game in which a player named Jiri Fischer, of the Detroit Red Wings, went down with convulsions, and it was agreed that they would stop the game. There was no rule that said they should do that. They just all agreed that it was the right thing to do.

They should stop this practice, too, of whacking with a massive hammer something that isn't really a problem. This is massive overkill, and everybody here knows it. I really, sincerely believe that if we had your daughters here, they could educate us on how proper refereeing actually could assist us in this issue.

One so-called employee makes a claim for EI and 99% of the tier two junior hockey players in the country are impacted by it. That is kind of reminiscent of that mad cow report. It has an impact beyond its significance and greatly affects a lot of other people.

If you are in possession of any information that could help me on this, I would appreciate that. I have just a couple of specific questions.

On Revenue Canada, are you aware of whether or not they plan to audit the Manitoba Junior Hockey League?

● (1650)

Mr. Edward Short: My understanding is that the Canada Revenue Agency has had discussions with the Canadian Hockey Association, and it has discussed with them what should be guidelines that could be issued to junior hockey teams as to when things like reimbursement of expenses would be taxable benefits, as to what their obligations are with respect to employment insurance or CPP, and as to, in general, when the players might be considered to be employees.

Mr. Anderson mentioned that there has been something publicly put out by Revenue Canada sometime in the past year. It provides some guidelines, but my understanding is that it is something separate and apart from the discussions that have taken place with the Canadian Hockey Association. I'm not aware of whether or not the Canadian Hockey Association has actually distributed some kind of a guideline to junior hockey teams.

Mr. Brian Pallister: So you're not aware of any. You're saying that as far as you are aware, there are discussions under way with the Canadian Amateur Hockey Association and CRA, but you're not aware of where those discussions are right now.

Mr. Edward Short: Maybe it's not fair for me to speak on the CRA's behalf, but I think what I heard was that they've completed their discussions. Whether or not there's an agreement, I don't know, but my impression was that there's some kind of a meeting of minds as to how the law should be applied in various situations.

Mr. Brian Pallister: It's too bad we couldn't be made aware of what the results of those discussions were. Obviously it would facilitate our discussions somewhat, I suppose.

You mentioned the Canadian Amateur Hockey Association, but are you aware of any specific discussions that the CRA has had with—and I know I've put you in an unfair position, but I have no choice because there's nobody from CRA here, so I'll ask you while you're here.... You know, there's nothing fair about this. There's nothing fair about the tax act either, really, to be frank.

Mr. Holland mentioned that we opened a Pandora's box, but you can open the tax act to any page you want and there's a Pandora's box waiting to be opened right there. So I don't think we're exclusively dealing with fairness issues here.

So apart from the Saskatchewan situation, let me ask you if you are aware of any negotiated agreements that the CRA has entered into with any other junior hockey league or provincial junior hockey association.

Mr. Edward Short: No, I'm not, and I'm not aware of any other tax assessments. That's not to say there couldn't be some, but I'm not aware of any.

Mr. Brian Pallister: My last question is perhaps more for Mr. Anderson, if he could answer this.

One of the concerns communicated to me by parents, organizers, and players at what I call the tier two level in junior hockey, because of their concerns about post-secondary educational opportunities and being labelled as professional and so on, was the potential for interfering with their ability to obtain scholarships, for example, in U.S. colleges because of the U.S. rules. Perhaps that's not a concern now, but if it is, I'd like to hear from you on the nature of the concerns, Mr. Anderson.

Mr. David Anderson: Basically, in terms of that, my impression was that the less we talked about it, probably the better. We were told they would not likely see their status affected, although in order to go down to the United States, as you know, the major junior A hockey players are not allowed to accept scholarships in the States because they are considered not to be amateur athletes because they receive a salary. The tier two juniors are still considered to be amateur athletes, so hopefully that will continue.

• (1655)

Mr. Brian Pallister: There's a long-standing, shallowly guarded secret about hockey in this country that says if you want to play major junior or tier one junior hockey, you can put your education on the back burner. Many of the players who play at that level know that's the choice they're making when they play, in the hopes of big NHL contracts or whatever.

The tier two players, those you are trying to address with your bill, have made a conscious choice to try to keep their education at a higher priority level. Some of them arguably could play tier one in western Canada or in Ontario Hockey League hockey, but they're

trying to keep education as a priority in their lives and they hope to play college hockey. Because of the skills they'll develop at this so-called lower level, they hope to be able to have some help in pursuing their post-secondary education. This is something that is a major concern to me if the CRA, in its efforts to swat a mosquito with a bazooka, is jeopardizing the future of several thousand young Canadians in the sense of their ability to pursue post-secondary education.

At a time when we're all concerned about any impediments that are put in the way of any young Canadian in terms of their ability to pursue post-secondary education, it would seem to me to be very important that we make decisions here that reflect that concern and that understanding.

Mr. David Anderson: We hope this change does not affect their amateur status.

To refer to your earlier question, you asked if CRA had any information out. Actually, there was a document sent to us last spring. I think all MPs received it, but it basically reaffirmed that they are going to apply this across the country. At one point it says, "In the case of hockey players at the junior level, the CRA has found that employee-employer relationships exist", and then they list the criteria for why they believe that's true.

This is a bit later:

What this means is that players are generally found to be "employees". As a result, money they have received in the course of playing hockey has been taxable. In some cases it may also have been "pensionable" and "insurable", meaning that deductions must have been made for Canada Pension Plan ("CPP") and Employment Insurance ("EI")

I think that answers your question.

The Chair: Thank you, Mr. Pallister.

Ms. Minna, and then Ms. Ambrose, because I want to get to the other business we have.

Hon. Maria Minna: Mr. Chairman, I'll be very quick. I just want to make a couple of comments.

I think Mr. Loubier put it correctly. There must be another way of addressing this problem without dealing with the blunt tax structure. I don't have a problem with assisting amateur sport in this country. In fact, I think we need to be doing something, but maybe in a more comprehensive way in all sports and not just hockey. But my concern is the blunt instrument of income tax.

I spend a good deal of time trying to help women, single mothers. I would love to be able to guarantee a working mother that she doesn't have to pay taxes at \$16,500, which is the case here, because this is on top of the \$8,000 personal exemption. So I have some real problems with this, because we're dealing with one sector of society. That's one issue.

The other is that if the CRA has had a meeting of the minds, could we not have them come to the committee so we can hear what they have to say? Maybe there's a way around it by which they've resolved the issue, or maybe there is a way of resolving it without having the blunt instrument of a bill.

The other thing with the bill, of course, would be to have some amendments even if we did go ahead with it, because the fact is that it's not clear as to which athletes it affects. That's of concern to me.

And what age group are we talking about? Quite frankly, I do have a nephew who does play. He is an amateur, but I don't think he deserves to get this kind of a break either, because he has a full-time job as well.

Mr. Brian Pallister: Christmas would be fun at your place.

Hon. Maria Minna: No, he has a full-time job. He shouldn't have this on top of that. Come on. I think we have to be realistic about what we want to do to help amateur sports, but we have to do it in such a way that we're not really establishing some other precedents and creating some other problems for ourselves. That's my problem.

Mr. Brian Pallister: Does he live at home?

Hon. Maria Minna: No, he's married and he has kids., but he would qualify.

The Chair: I really want to be done, because we have to finish by 5:30.

• (1700)

Hon. Maria Minna: Those are my points.

The Chair: Ms. Ambrose, and then Mr. Fitzpatrick and Mr. McKay.

Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC): Thank you, Mr. Chair.

There are obviously a lot of opinions on the issue, but since we have the Finance officials here, I know I'm interested in the discussion around the definition of "employee" that Madam Boivin brought up and Mr. Anderson concurred with, and this issue of exception. I think you mentioned it, Mr. Short, on EI and Canada Pension Plan deductions.

Mr. Anderson has all good intentions, and I think everyone here seems to concur that the intentions are positive for the potential policy outcomes of a bill like this. He took it to legislative services, so I wonder if you, as Finance officials, could please comment on what you think is missing from this bill or how it can be fixed. What amendments could be made so that the intentions that I think are good and positive, which most of us have referred to, could actually be dealt with or be met?

Mr. Gérard Lalonde: I said earlier that I thought they were trying to solve an EI problem with an income tax change. I think there's a fundamental problem there as to whether what we're trying to do is create an income tax exemption of \$8,000 for hockey players. If that's what the government of the day wants to do, that's fine, but that's not what was explained as being the rationale behind the bill. People who only earn \$8,000 a year in any event are below the basic personal exemption and are not taxable, so this shouldn't have a lot to do with actual tax liability.

I've not heard Mr. Anderson indicate that any of the players were significantly affected themselves by taxation; it's the teams that are affected by paying EI and CPP premiums. So first off, it strikes me that perhaps the wrong act is being amended.

That having been said, there are other difficulties. There's no definition of "athlete". Ed Short has already mentioned that. There's

a definition in some other act, but that doesn't apply for the Income Tax Act. Unfortunately, where there is an exemption from income, it seems to attract people and planners. One would expect that in the absence of a definition of what an athlete is, you might find it to be a surprisingly broad group.

It doesn't indicate that this income received by the athlete from the organization has to be received for athletic services, if you will. It just refers to income received by an athlete from one of these clubs. In that case, I'm an athlete and I work in the tuck shop. Is that exempt? On a strict reading of this, I think it would be, and I don't have to go into an overly broad example like the Blue Bombers, although I take Mr. Fitzpatrick's point on that one.

The Chair: Thank you.

Mr. Fitzpatrick, I'm going to allow you sixty seconds, and I'm going to cut you off if there's no question.

Mr. McKay, it's the same with you.

I have to wrap it up, because we have votes. At 5:15 we'll hear the bells, and we have two more pieces of business to take care of.

Mr. Brian Fitzpatrick: I want to take issue with the referee example too. A referee is a paid person in the Saskatchewan Junior Hockey League. That's an occupation. He's not a participant. If you're going to follow your logic, the janitor who is in that hockey rink and the person who goes out on the ice in between periods and scrapes the ice as a paid employee of the community are employees. The referee is too. To mix the referee in with the participants in this context is really mixing apples with oranges and is quite a stretch. For a lot of these people, it's a full-time occupation.

I just want to make one point that people should understand. I checked with tier two teams in Ontario to try to get an understanding of this issue. The room-and-board issue is not an issue, because most of the teams have a large base. They are in communities of 50,000 or 60,000 people. The players do not have to travel hundreds of miles to that community. They live right there, so there's no room-and-board issue.

The Nipawin Hawks get players from Alberta, B.C., Manitoba, and Saskatchewan, and even the odd time from the U.S. They are a long way away from home, and it's a necessity that the team has to provide room and board.

Maybe Mr. Lalonde is right and we should have been focusing on this whole room-and-board issue, because that's really the problem here. The players are not getting money. As for the people who put these folks up during the hockey season, almost every one of them will tell you they are losing money out of this operation. Most players eat them out of their homes, and the \$300 doesn't even come close to covering this. They're doing it as a community thing.

So just to put some understanding on this, the room-and-board thing may be where the CRA is really off base in deeming it a taxable benefit. It's not really a benefit to anybody.

• (1705)

The Chair: Thank you.

Mr. McKay.

Hon. John McKay: Maybe they should only provide room and not the board part. Then they won't go over the limit.

Mr. Brian Fitzpatrick: Room is a problem, too, unless you want

The Chair: Please go on.

Hon. John McKay: Thank you, Chair.

On a retroactive application to 2000, I would like a comment from the officials as to how that could possibly work.

Two, there doesn't seem to be any precision in the bill as to what constitutes an athlete. I am wondering whether there's any precision in the Income Tax Act itself as to what constitutes an athlete.

On the \$8,000 in income, as point number three, it doesn't seem to be income that's linked to the club or association. As I read it, there seems to be a little vagueness on that.

I would ask for three comments on those three points.

Mr. Gérard Lalonde: Leading in to the last two, the point was made that this wasn't intended to deal with referees and their income as referees or the fellow in the tuck shop, but it strikes me that if one reads this law literally, which is the way it's done, you have an exemption for your income for the year, and yes, it's income, not exceeding \$8,000—okay, it was \$7,999—received by an athlete, and this person who plays hockey every day is definitely an athlete, from a non-profit club. It might even be a soccer club, but the person was still an athlete, and as an athlete they received income from a non-profit club exclusively for these purposes.

Whether you read the “and” disjunctively or conjunctively will dictate whether you can read the Blue Bombers into it. I think the intention is to read it conjunctively, which means you can't. But there's nothing that says this has to be the income of an athlete from the services as an athlete of the type of club that the club is. It just doesn't complete the circle.

As for how to do it retroactively, again I'm gathering from the discussion whether this is more a problem of an income tax levy payable by the athletes or whether this is an EI problem. If it's not an income tax problem, but rather an EI problem, I'm not sure what the limitation periods are for EI. Whether you can go back to 2000 or not and override any sort of period, I don't know. Whether this law would have to somehow—

The Chair: Thank you, Mr. McKay.

Hon. John McKay: There's a lot of interpretation. It's a huge retroactivity problem.

The Chair: Thank you, Mr. Lalonde.

Thank you, Mr. McKay.

Mr. Anderson, I think we've heard enough. I really thought this was going to go a lot easier. Can you wrap up in a minute?

Mr. David Anderson: I have a couple of comments that I want to make that actually go back to a while ago.

Mr. Loubier, you had asked about the cost of this to taxpayers. One of your own members did some work on this prior to speaking in the House. What he said was:

At the moment, an athlete who receives contributions from his or her regional association or any other non-profit body, up to a total of \$8,000, is taxed at a rate of 16%. If this bill is passed, that athlete will have an annual tax saving of \$1,280.

That is considerably less than you heard earlier. In terms of that, if you take it back over five years, that's a total of \$6,400 of tax savings for an athlete, which I don't think would add up to the huge amount Mr. McKay thinks we would have.

In terms of a couple of issues Ms. Minna addressed, this is not going to happen comprehensively. There are not going to be changes to the EI Act and the Income Tax Act to deal with this comprehensively, so that's one of the reasons we're trying to deal with this specifically. If you bring CRA officials in here, what you will hear from those CRA officials is that there has been an agreement reached and that the agreement is confidential. I am not sure you'll get any further discussion of the issue from them.

I want to thank you for the opportunity to be here today. I also want to go over just five lines here. I have “income for the year, not exceeding \$8,000, received by an athlete”. I think I've given you an explanation of the definition of an athlete, which is someone who is involved in competitive sports. That word “involved” would, to me, imply that they are playing competitive sports.

It says that it has to come “from a non-profit club”. As I heard Mr. Lalonde speaking here, I was wondering how much we have to define “from”. We can sit here and split hairs on every single word in this. But it's coming “from a non-profit club, society or association”. That association, club, or non-profit society has to operate “exclusively for the purpose of improving athletic performances and promoting amateur athletics”. It's obviously an “and” there, not an “or”.

So I just want to point out that it's fairly straightforward. I don't think it's all that complicated. As I've said a few times, there's another alternative that I would prefer. That alternative has not been available to us in any way, shape, or form, so this is what we have presented.

When we had the debate in the House, there were actually some people who spoke on this and asked for quite a bit more. They thought this was a good start but that we could go quite a bit further than this. There were others who said this goes too far. In my opinion, we have a good balance with this bill. It gives a good opportunity for amateur athletes to be able to fairly receive some income and still move ahead with that.

On the other hand, we already have inequity in the system. There are people who are receiving far more than this in tax-free stipends, so I don't think this is an unreasonable request to make.

I think we have a balance here. I think we've generated a debate today, and we need to go further. I'm asking for your support. Let's make a difference for our young people. I'd just ask that you carry through on that.

● (1710)

The Chair: Thank you.

Mr. Anderson, with these private members' bills, it's always difficult for the committee to make the necessary amendments.

We have until December 15 to report. If anybody has amendments on this, just submit them as soon as possible. I'm not going to set a date, because who knows what's going to happen next week. If we go on, then we'll probably bring it forward, because it has to get reported back by December 15.

So thank you, Mr. Anderson, for your time.

You too, Mr. Short and Mr. Lalonde.

Mr. David Anderson: Can I ask you a question on procedure? If amendments are made, the committee votes on them and the bill comes back in an amended form....

The Chair: We'll do it clause by clause, like a normal bill.

Mr. David Anderson: That should take a while.

Thank you.

The Chair: I thought this was going to take a whole hour. Anyway, every time I'm a nice guy, I regret it.

Turning to other business, does everybody have the budget? This is the budget we had before. I'm asking the committee to approve \$130,000 for the independent forecasters. It's basically for two periods or two quarters, for \$60,000 each quarter, and we're paying each forecaster a maximum of \$15,000 per quarter.

Mr. Charlie Penson: Is the Liaison Committee meeting tomorrow?

The Chair: Not tomorrow, no; it's Thursday.

Mr. Charlie Penson: So the procedure would be that if it's approved, you would take it to them on Thursday.

The Chair: Yes, I'm going to take it to them on Thursday. I'm not sure what we're going to be meeting about or how successful that will be, but I want to be ready. I just forgot to mention it last week.

This was discussed at the steering committee, so is everybody okay with this?

Some hon. members: Yes.

The Chair: Okay, it's approved.

Does everybody have the document that we consider to be our pre-budget report? I'm not sure what you got.

[*Translation*]

What did you receive? Did you only get the list of recommendations? You have both documents.

A member: We have both documents.

[*English*]

The Chair: I'm looking for some direction from the committee.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Just as a point of clarification—

The Chair: I haven't said anything.

Ms. Judy Wasylycia-Leis: It's not on the paper. I'm just curious.

Last week, you gave us the order of work. You said we would be doing estimates this week and pre-budget next week, so what happened?

The Chair: There may be a confidence vote on Thursday, and then we're probably going to vote on Monday.

• (1715)

Ms. Judy Wasylycia-Leis: What does that have to do with estimates versus—

The Chair: I'm going to answer the question.

I think the work the committee did justifies at least presenting a report. June has done the work. I have done a little bit of work on it as well. With the consent of the committee, I would like you to consider that we do table something in an abbreviated form. I'm not sure how we're going to approach this.

The estimates are going to be on Thursday. We have the Finance officials in at 3:30, I think, so I'm asking you, with some leniency, if there's some way we can deposit or table something in the form of a report on the pre-budget consultations. The witnesses did take time out. They did appear before the committee. We owe them something.

Mr. Charlie Penson: To hold pre-budget hearings?

The Chair: It is in the Standing Orders that we do conduct pre-budget hearings, so this is an attempt; this is an effort. I don't think there are too many recommendations that are litigious or contentious. I'm looking for direction. This was sent in yesterday.

I just want to remind everybody that this is confidential. I'm trying to take a stab here. The other problem we have is that we should be in camera.

We'll move in camera.

[*Proceedings continue in camera*]

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