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Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

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• (1530)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good afternoon, everyone. This is meeting number 42 of the Standing Committee on Public Safety and National Security, on Wednesday, November 24, 2010.

Today we are continuing our study of Bill C-23B, an act to amend the Criminal Records Act and to make consequential amendments to other acts, and also reviewing the Criminal Records Act pursuant to private member's Motion No. 514 sponsored by the member for Surrey North, Dona Cadman.

Appearing before us today we have Sheldon Kennedy, the co-founder of Respect Group Inc. We welcome you to our committee today.

From the National Pardon Centre, we have Michael Ashby, communications director, and Nicole Levesque, program director.

From the Association des services de réhabilitation sociale du Québec, we have François Bérard, policy committee representative.

From The Seventh Step Society of Canada, we have George Myette, executive director.

Appearing as an individual, we welcome back Mr. Lorne Waldman. It seems like it was only a week ago that you were here, sir.

We also have a letter of regret from Ms. Rosenfeldt, who is with Victims of Violence.

An hon. member: No, she's right here.

The Chair: I'm sorry. The letter is from Krista Gray-Donald, director of advocacy and awareness with Canadian Resource Centre for Victims of Crime, who is unable to be with us today because of an illness. She had hoped that she would be able to attend. She is not here.

I apologize to Ms. Rosenfeldt, who is the president of Victims of Violence. She is sitting off to the side here. We certainly do welcome you again here to the Hill and to our committee.

Many of you are aware of how we conduct business in this committee. We will give each of you time for an opening statement and then we will move into the first round of questioning, which is a seven-minute round. All subsequent rounds after that are five-minute rounds.

Perhaps we'll just work our way across. Maybe, Ms. Rosenfeldt, we'll start with you and work our way this way, if that's all right.

Ms. Rosenfeldt.

Ms. Sharon Rosenfeldt (President, Victims of Violence): Thank you very much.

Good afternoon. My name is Sharon Rosenfeldt, and I'm president of Victims of Violence.

Victims of Violence is a national organization that was started 26 years ago by my late husband Gary, me, and a number of other individuals who had a loved one murdered. We found there were not any services for people like us in our situation. We were all thrust into a justice system we did not understand. The organization grew and grew due to other individuals contacting us from across Canada looking for answers in their particular set of circumstances regarding their victimization. We did not have those answers, but we did our utmost to help them find out, and most of the time it resulted in changes having to be made to legislation, mostly to the Criminal Code.

Needless to say, criminal justice issues are many and for the most part very complex. A significant observation we found was that the issues we were addressing and asking to have changed were always controversial and sometimes emotional, simply because they are usually affecting the lives of human beings—the lives of the offenders and the lives of the innocent victims of crime.

On behalf of our membership, I would like to thank you for this opportunity to present to this committee on the importance of Bill C-23B and on motion 514. Our presentation will not be long, since we are appearing here today in support of the proposed amendments to the Criminal Records Act as well as in support to motion 514.

The original Bill C-23 was split in two, and Bill C-23A has already been passed and received royal assent on June 29 of this year. However, there are some changes or amendments in the new Bill C-23A that follow into the Bill C-23B, and thus our organization would like to comment on just a few of the proposed changes.

Clause 3 will substitute the term “record suspension” for the term “pardon”. The amendments will rename the term “pardon” as “record suspension”. The term “pardon” will no longer be used. We agree with this amendment. We believe the law was not put in place as an act of forgiveness, as the term pardon seems to suggest, but rather put in place as a way of helping individuals with a criminal record reduce the stigma associated with a criminal record. The new term or name is now clear as to the intent of this law. We agree with Mr. Bill Siksay, NDP member of Parliament for Burnaby—Douglas, who, during debate in the House of Commons, said that he thinks “this is a very significant action in the bill”. He said he knows “there has been some opinion and debate already that it may be an inconsequential change”, but he believes “it is an extremely serious change in the legislation and in our overall perspective of what the pardon system is about”.

Clause 4 in motion 514: the current wording of section 2.1 of the Criminal Records Act states that the National Parole Board “has exclusive jurisdiction to grant or refuse to grant or to revoke a pardon”. Clause 4 of this bill will amend this section to specify that the board will also have “absolute discretion to order, refuse to order or revoke a record suspension”. This change of wording places a greater emphasis on the decision-making role of the board and the fact that the grant of a record suspension is not automatic. This discretion as to whether a record suspension is merited rests with the board. Our organization agrees with that. We feel the National Parole Board needs these changes since it seems they have been somewhat hampered by the wording of the current legislation, and thus it appears that the pardon system has become a rubber stamp.

While there may be a case for review of the Criminal Records Act, and we agree that the pardon system needs looking into, we agree with an Edmonton journalist who said there should not be a rush to judgment without scrutiny. We agree and thus we are in full support of member of Parliament for Surrey North Dona Cadman's motion 514. Motion 514 states:

That the Standing Committee on Public Safety and National Security be instructed to undertake a review of the Criminal Records Act and report to the House within three months on how it could be strengthened to ensure that the National Parole Board puts the public's safety first in all its decisions.

Pardons were looked at in 2006, and there were a couple of important amendments made at that time. However, we think this issue now deserves time and attention, which we believe motion 514 may bring. Motion 514 is good, in that it may end an era of mere automatic forgiveness.

● (1535)

Regarding clause 9, the head of the National Parole Board has stated that the pardon system has a dual benefit: to assist the individual with a criminal record in moving forward in his or her rehabilitation, and to enhance the safety of communities by motivating the individual to remain crime-free and maintain good conduct.

Increasing the time a criminal must be of good behaviour is just common sense. The old system prior to Bill C-23A that permitted pardons for serious offences after five years did not provide a long enough waiting period to determine if a person has shed his or her old ways. Longer wait times will be more meaningful and would ensure a commitment to obeying the law in the long term.

Continuing on clause 9, we believe that pardons may not be appropriate for some offenders. In the last two years since sexual offences have been tracked as a separate category, 1,530 of all offences pardoned fit into this category, including offences such as sexual assault, sexual interference, rape, incest, child pornography, and gross indecency.

The changes should take into consideration the fact that some people have committed acts that should not be forgiven. The current Criminal Records Act does not distinguish between indictable offences of varying severity and outrageousness. No crime is considered unpardonable.

In a recent *Maclean's* magazine article, the writer cited the Minister of Public Safety, Vic Toews, as saying, “Pedophiles are especially difficult to rehabilitate, if ever”. The minister seemed to imply that the government might extend wait times for pardons in particularly outrageous offences, which I believe has already been done. The reporter further quoted Minister Toews as saying, “I think there is a distinction to be made between a break and enter and a rape”.

The reporter then wrote on his own part that “This is precisely the sort of political question we elect, and expect, legislators to settle. It may well be time, after 40 years of criminological experience and social change, for them to get involved with fine-tuning the system.”

We agree wholeheartedly.

Furthermore, we do think it is unrealistic to place the onus on offenders to show why a suspended record would contribute to their rehabilitation, or to refuse to grant this privilege to those who have been convicted of more than three serious indictable offences, or who have sexually assaulted children.

Lastly, Victims of Violence is of the view that the proposed new amendments to the Criminal Records Act do not go far enough and should not be limited just to children; rather, they should include all victims of crime who have been harmed and hurt by sex offenders.

Thank you.

● (1540)

The Chair: Thank you very much, Ms. Rosenfeldt.

I'm sure our guests, together with our committee members, have recognized that the lights are flashing and bells are ringing. Unfortunately, when that happens it means there is a vote coming, so we will have to disrupt this meeting.

The vote is at four o'clock, and I'm just wondering what the will of the committee is. Would it be all right to go until five minutes to four? It's just down the hallway here.

If that is all right, I will do that.

I see that we have some witnesses from Ottawa or this area, and others from different places. Maybe then we should hear another witness before suspending. Would it be all right if we went to Mr. Kennedy, and then we'll break and come back later?

Okay. Mr. Kennedy, if you wouldn't mind, please go ahead.

Mr. Sheldon Kennedy (Co-Founder, Respect Group Inc.): I'm a bit of a rookie here. I'm Sheldon Kennedy, co-founder of Respect Group Inc.

I'm standing in front of you today not as a victim looking for justice but as a person who understands the commitment needed on a daily basis to continually stay willing to change. My flag was raised when I learned that immediately after release from prison, Graham James, my abuser, was in another country running the whole hockey program, coming in contact with kids from six years old to young men on their national team. That was before he ever received a pardon. That calls for change.

He was banned from hockey all over the world by the International Ice Hockey Federation, but as perpetrators do best, he sought out the unaware and manipulated his way into the organization. There he was again in a position of power over youth. He was back in the same situation he is in jail for today, 12 years later.

I think it is clear, as demonstrated by the outrage that Canadians felt when the pardon issue was raised, that the vast majority of people in this country want to know, and have a right to know, their neighbour, their child's teacher, their child's coach, etc. I'm here today as a concerned parent, neighbour, youth advocate, co-worker, and most of all, the voice of all citizens who share these same feelings.

When I finally filed a report of sexual abuse against my junior coach in 1997, as an adult and a professional hockey player, there were people in the media, hockey, and the town where it happened who didn't believe me. On top of having to battle with the fear and shame that abuse brings, I had to deal with disbelievers. Children who are victimized spend a lifetime trying to explain what happened to them and working to restore their emotional well-being. Meanwhile, perpetrators get pardoned.

Victims often struggle with emotional issues, alcohol, drug dependency, and suicide. They have to seek out their own forms of rehabilitation. Perpetrators typically get forced treatment and many get rehabilitated, on paper. However, research shows that pedophiles can rarely be rehabilitated. Interesting. So how can they be pardoned?

My abuser got three and a half years for his crimes and was released after only 18 months. Then he got a rubber-stamp pardon and took off to Mexico, where he had a clean record, a name change, and a chance to start offending yet again. Is there a parent in this country who would have an issue with protecting their children from this animal and others like him? He and other perpetrators should never be allowed to get a pardon, period.

In the 13 years that I've worked on these issues, I've learned that child victims of sexual abuse are scarred for life. They are not rehabilitated in 18 months. Police, social services, and victim-assistance organizations view it every day. They have to work with these victims and they see first-hand the horrific short-term and long-term effects and outcomes. I don't know a single professional who works with these victims who can see any logic or rationale in pardoning child sex offenders, and I admire those professionals deeply.

On the term "pardoning", well, that bothers me too. It implies that perpetrators of these horrific crimes have been forgiven. The laws that govern Canada don't have the power to forgive. To me, that's up to the victims and their families. "Record suspension" seems a more reasonable term to me. Of course, no convicted child sex offender should ever be afforded a record suspension, but for the other crimes considered in the study of this bill, the term "record suspension" seems to fit.

To me, the fundamental reason we don't want pardons for child sex offenders is simple: we can't let these perpetrators walk freely among our youth organizations, our schools, our neighbourhoods, and our workplaces. These individuals need to be clearly identified so the risk can be managed and our society can be better protected from future crimes against our children. In my mind, child protection is paramount.

On behalf of all concerned adults and our most vulnerable and trusting commodity, Canadian youth, I fully support Bill C-23B, which eliminates the possibility of those convicted of sexual activity with a minor of any possibility of ever getting a pardon or record suspension.

Thank you.

● (1545)

The Chair: Thank you, Mr. Kennedy.

Mr. Waldman.

Mr. Lorne Waldman (Lawyer, As an Individual): Thank you for inviting me again. I appreciate having a second opportunity, and I appreciate what I have just heard.

I'm an immigration lawyer, and I come because I have a particular concern, as an immigration lawyer, with how this will affect my clients. But I want to make it clear that as a lawyer who deals with refugees, many of whom are victims of the most horrible types of crimes that you can possibly imagine, I certainly understand the perspective of the victims, and I think it's important that we do. But I also deal with many people who have committed crimes, and I can tell you that when we consider this legislation, we have to consider not only the impact on the victims but also the impact on the people who have committed the crimes. And we have to be sure that what we are doing in the end is going to enhance public safety.

I have some very serious concerns about this legislation, because I believe there are aspects of it that will not increase public safety at all. The first speaker talked about clause 4 of the bill and section 2.1 of the Criminal Records Act. The clause replaces the discretion of the parole board with absolute discretion. And it's clear—and we saw this happening last week in the other legislation—that there seems to be a desire to remove the judicial authorities from any review of decisions by the parole board, or the minister in the case of the transfer legislation. I think that's not appropriate.

In our constitutional system, the courts, the Parliament, and the executive all have an important role to play. And the courts have an important supervisory role in making sure that the National Parole Board, in this case, acts appropriately and that they take into account the proper considerations when they render their decisions. I don't agree that the current legislation doesn't give the parole board sufficient discretion. Making it an absolute discretion is an attempt to insulate the decisions from any kind of judicial review, and is contrary to the rule of law. That's the first concern I have.

When you consider rehabilitation and you consider the persons who have committed criminal offences—and I don't necessarily disagree with the second speaker—there may well be offences for which pardons should not be available. I would say they would have to be very exceptional, but clearly the types of offences that the previous speaker was talking about would probably fit that mould.

But generally speaking, my experience with offenders is that they need to have an incentive to reform. One of the most important incentives that I can offer my clients who come in and who are at risk of being deported is that if they get a pardon that will clear their record and it will make it easier for them to get a job and more difficult for them to be deported.

You have to understand that at the present time, because of the length of time that it takes to get a pardon, and because of the time between the commission of the crime and the sentencing, and then the serving of the sentence, if it's an indictable offence we have to wait five years. There is usually a one- or two-year period in which the person is waiting for his trial and has pleaded guilty. And then if you add on top of that the sentence, be it probation or a term of imprisonment or both, by the time the person is eligible to apply for the pardon, he's been free of any criminal activity for seven, eight, or nine years. And then the processing time for the pardon itself usually takes a year to two years on top of that. So by the time the pardon has been granted, in most cases you're probably talking about a minimum of eight to ten years between the commission of the offence and the granting of the pardon.

Personally, my experience over many years of dealing with many people confirms that if a person is able to have a clean record for that many years, the likelihood of reoffending is extremely small. I think all the statistical studies will support that.

So I don't see any support for increasing the period of time beyond the five-year time period that currently exists. On the other hand, if you do increase it, you're removing an important incentive that people who have committed offences have, that they look at as a goal in order to effect their rehabilitation. I think it would be a serious mistake to make a pardon something that is unattainable.

●(1550)

In consideration of what the previous speaker said, I don't disagree; I think this exercise is helpful, in the sense that I think many people took the pardon system for granted. I think it's important that we acknowledge that as a society we want to make sure that a person who gets a pardon is deserving of getting a pardon. I don't disagree with the idea that the National Parole Board should be encouraged to very carefully scrutinize applications, and I don't disagree that it shouldn't just be a rubber stamp.

Having said that, I think it's important that if we are going to engage in that type of policy and make the National Parole Board more accountable, encourage them to be more careful in their scrutinizing, we have to ensure we give the parole board sufficient resources to do that. Given the process we go through now—and some would argue there isn't an effective enough screening process—the lack of resources means the process takes far, far too long already.

The one other point I want to emphasize is that I think a criminal record is a very serious thing for many people. At least once a month I get people in my office, some very prominent people sometimes, who had a transgression 20 or 30 years ago. They were trying to get into the United States for some important board meeting and they were turned around at the border because now, with the information sharing, the U.S. authorities are discovering they have criminal records.

I don't think we can minimize the importance of having a balanced approach. On the one hand, we have to acknowledge the right of victims; on the other hand, we have to make sure we don't make obtaining a pardon so difficult that it penalizes people who have rehabilitated themselves.

I think it's really important to make pardons accessible. There are a lot of people who have blemishes on their record. The consequences today of a criminal record in a society where we have so much information sharing between countries.... I mean, I could tell you stories you wouldn't believe about the way information is shared. I saw a person yesterday who was pulled off a plane in Toronto based on information that was sent from London, and it turned out to be all misinformation.

The fact that people have criminal records and they have no effective way of clearing themselves is extremely significant, and it is a huge handicap in today's global village.

●(1555)

The Chair: Thank you very much.

With that, we will suspend for a few moments, and it may end up being closer to half an hour. I apologize to our guests.

I would let our guests know that there is coffee and tea available. There are cookies up here, and I can guarantee it's much better that you take them than that members of Parliament do. I'll only speak for myself.

We will suspend, and then we will come back immediately following the votes.

To the committee, I would ask that immediately upon the end of the votes you make your way back here. We would love to hear from the rest of the guests and then go into the first round of questioning.

We are suspended.

- _____ (Pause) _____
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- (1615)

The Chair: We will welcome everyone back to meeting number 42 of the Standing Committee on Public Safety and National Security.

We just had a bit of a recess for a vote that was taken. Now we'll reconvene our meeting.

We have already heard from a number of our guests today. Next I would like to welcome Mr. Myette here from Alberta—a fellow Albertan.

Welcome here, and we look forward to what you have to say.

- (1620)

Mr. George Myette (Executive Director, The Seventh Step Society of Canada): Thank you, Mr. Chairman.

And thank you, members of the committee, for inviting me.

I'll read from my text a bit, and I may depart occasionally. I believe you've all received it.

I appear before you today as a representative of the Seventh Step Society of Canada and also as a person who has received a pardon for criminal offences. The Seventh Step Society is a self-help, ex-offender-based organization that is active in the criminal justice system in Canada. The society and its provincial affiliates have been providing services in the form of community residential centres, self-help groups, public education, and volunteer training since the early 1970s in Canada. It started originally in the United States in the 1960s.

The organization is governed by volunteer boards of directors, many of whom are ex-offenders who have made a successful transition from their former lifestyle into the mainstream of society. Our current national board has a majority of ex-offenders as its membership and our constitution requires that the president and executive director be ex-offenders.

The Seventh Step Society does not represent all ex-offenders, and in fact we don't represent sex offenders, because we don't feel qualified to work with people of that particular background and with the issues they represent. But we do represent many other offenders who have offences ranging from break and enter to murder. These are people who have made a positive change in their lives and are dedicated to assisting others who are willing to make that change. This is done in concert with non-offenders who act as volunteers and staff of the organization.

In 1969, as a 16-year-old, and in 1971, just before I turned 18, and as a 17-year-old, I was convicted of a total of three criminal offences—property offences. While serving the sentence for my final offence I realized this was not a path I wanted to follow for the rest of my life and I was able to make a successful transition back into society, eventually graduating from Mount Royal College, now Mount Royal University, in 1975. I then went on to assist in the initial development of the Alberta Seventh Step Society and the Seventh Step Society of Canada. I applied for and received a pardon

in 1980, so I have been through that process, thus taking one more important step in my personal journey. I left the organization as paid staff and merged into the mainstream of the oil and gas business in 1982, and I've been a volunteer since then. In fact, as of this year I've been a correctional volunteer for 37 years, so it does cover a few cycles in the justice system. Since entering the oil and gas business, I've held various management positions, including the president and general manager of a service company I was a shareholder in. Currently, I'm a senior management consultant with a well-recognized engineering firm and I'm responsible for worldwide business development.

I can say, from personal experience, that receiving a pardon was an important part of feeling that I had been accepted back into society and had regained a measure of credibility that I had lost when I was convicted of my offences. The current Minister of Public Safety had made a public statement last summer that it was not the responsibility of the state to forgive when it comes to criminal offences, but rather the responsibility of society to do so. I disagree with this statement, and I said so in an e-mail that I sent to the minister shortly after this statement was reported. I believe the state represents society and must take a responsible leadership role with regard to public safety. I believe the public looks to the state for the administration of justice, and that includes exoneration for positive deeds as well as punishment for negative ones. Society places its trust in the state for its safety and also trusts the state to advise us when we feel someone is no longer a threat.

It is important that offenders who apply for a pardon be fully screened and assessed prior to a pardon being granted. I believe the National Parole Board has done an excellent job over the years in this regard. The reoffending rate of persons granted pardons is minuscule compared to those granted, and should not override the tremendous records of those persons who have successfully moved on with their lives. It is unfortunate that a few exceptional and sensational cases have had such a strong impact on the current pardons process, and I don't feel it is necessary to completely revamp the process and set up a system that might be discouraging to many ex-offenders who rightly deserve the benefits of the current structure.

- (1625)

Although I don't have scientific evidence to present, I do have anecdotal information from my many years as a correctional volunteer and many firsthand accounts of how a pardon has re-instilled confidence in an offender's rehabilitation journey and provided practical support when applying for a job, crossing a border, or gaining a sense of accomplishment.

I can say that I know from personal experience about crossing the border. I was asked about having a criminal record. The question usually comes out as "Have you ever been arrested by a police force anywhere in the world?" That's a pretty broad question, so it's hard not to say yes. I said yes and told them that I had a pardon, and I was allowed to cross the border. In fact, I had an L1A, which is a work visa in the United States, so it didn't totally deter me, but whether they let someone cross with that background is at the discretion of the Department of Homeland Security.

Conviction and incarceration is a humiliating and degrading experience. I can tell you that from personal experience. I was a young person; under today's legislation, I wouldn't have been sentenced in an adult situation for minor property offences and I wouldn't have been put into a maximum security holding wing in the Fort Saskatchewan institution. It would have been handled differently, but I can guarantee it probably isn't that much different for an 18-year-old from what it is for a 16-year-old.

That process removes a lot of your self-confidence and your self-worth, regardless of what you've done at the time, so it's really important for those offenders who take the necessary steps to correct their behaviour to receive a pardon. A pardon is a stamp of approval that helps to remove some of that stigma. Again, in my own personal experience it was a feeling that somehow I had been, if not exonerated, at least accepted back as an important member of society.

In speaking directly to the proposed changes in Bill C-23B, I have the following comments: first, the new language being proposed, "record suspension", to me is weak and ambiguous and does not afford the benefit that the word "pardon" carries. It is an administrative term that could be easily misconstrued or misinterpreted. "Pardon" has a powerful meaning to the individual who receives it and, I believe, to the society that perceives it.

Second, changing the waiting period for summary convictions from three years after completion of sentence to five years and to five to ten years for indictable offences is to me both unreasonable and unnecessary. With rare exceptions, the current program has proven to be highly successful and appropriate.

I understand that there need to be some changes for certain types of offences and certain types of offenders. I don't have an argument with that, but one can only imagine the additional burden that will be placed on individuals who have to wait that much longer for the benefits that a pardon currently provides with relation to employment and other necessary aspects of a person's life. I feel this extended waiting period would have a very detrimental effect on people who have made a positive change in their lives and are ready to move on. As I said, I don't disagree that certain types of offenders may need to be restricted and require extra scrutiny by the Parole Board, but I believe there has already been a caveat placed into the act in Bill C-23A. To make wholesale change for a few exceptional cases is to me, again, both unreasonable and unnecessary.

In conclusion, I would ask that the standing committee seriously consider putting this information forward, because there are thousands of lives affected by this bill, and I believe the benefits under the current legislation far outweigh any perceived risk to society.

Thank you.

The Chair: Thank you very much, Mr. Myette.

We'll now proceed to Monsieur Bérard.

[*Translation*]

You have 10 minutes.

Mr. François Bérard (Policy Committee Representative, Association des services de réhabilitation sociale du Québec): Thank you, Mr. Chairman.

This afternoon, I am representing the Association des services de réhabilitation sociale du Québec, which represents some 60 Quebec community-based organizations that work, in particular, in the social reintegration of adult offenders. Our members work mainly with an adult clientele and serve approximately 35,000 clients every year.

At the outset, I must tell you that ASRS is opposed to Bill C-23 in its entirety, both Bill C-23A and Bill C-23B. We cannot endorse the approach taken by the first government in over 100 years in their apparently resolute opposition to pardoning offenders.

According to figures published by the Parole Board of Canada, 3.8 million Canadians had a criminal record in 2009-2010. However, it is estimated that fewer than 11% of people who have been convicted have obtained a pardon. Pardon is thus something that applies to a minority of individuals.

The figures also show that the Parole Board of Canada received 32,105 pardon applications in 2009-2010. It agreed to consider 24,000 of that number, 77% of applications received. In the same year, the board considered 24,559 applications, granted 16,247 pardons and issued 7,887 pardons. There were therefore 24,134 favourable decisions by the board. In other words, 98% of all decisions made by the board were in favour of pardon.

In addition, for individuals who have received a pardon since 1970, 97% have not since been revoked or cancelled by the board. Over the last 10 years, out of 9,171 pardons granted in sexual offence cases, 268 have been revoked for various reasons, not necessarily for subsequent offences of the same type. Here we're talking about 2.9% of all pardons granted in sex offence cases. We wonder what the problem is and why, despite such a high success rate for pardons in particular, we are now being presented with a bill under which we would have to go back and adopt an orientation different from the one that has been followed for very many years.

The government advances two arguments to justify its bill. First, it argues that it is not the job of governments to forgive; that that is for the victims to do. We would note that, in the realm of criminal law, our society has given the government responsibility for dealing with crimes. The idea is to assign the matter to a more neutral entity than victims and offenders. Following the same logic, we could go back to a system under which victims and offenders resolve their case between themselves. In the Middle Ages, Western societies chose to allow government, as a more neutral entity, to resolve conflicts between victims and offenders when a criminal act had been committed. To our mind, saying that it is for victims to pardon is mere sophistry.

The second argument advanced is that we have to put victims first. This argument suggests that there is a conflict between the rights of victims and those of offenders. However, nothing could be further from the truth. Reducing the rights of one will not enhance the rights of the other. We also believe that nothing in this bill meets the actual needs of victims. Pardoning is one of the most common unofficial practices in society. In certain situations, people say "Pardon me," "I'm sorry," and so on. That is simply part of living together.

Forgiveness may become much more formal in situations that are considered to be more problematic. That was the case, for example, in 2008, when Prime Minister Harper offered the most sincere official apology by Canadian society to the First Nations concerning the Indian residential schools. It is also in that more formal context that pardons for crimes committed must be understood.

• (1630)

The question of pardons fundamentally offers us a choice: do we opt for revenge or do we choose the path of reconciliation. Unfortunately, the language used by the government fuels the conflict between victim and offender. That is why we cannot support the approaches proposed in this bill. Instead, we urge parliamentarians to find other avenues for reforming the pardon system so that it will be better able to restore the social bonds that are broken when an offence is committed.

Thank you very much.

• (1635)

[English]

The Chair: Thank you very much.

We'll now move to Madame Levesque or Monsieur Ashby.

Mr. Michael Ashby (Communications Director, National Pardon Centre): Good afternoon, everyone. I'd like to thank you for having Nicole and me here today. I hope that our expertise can be of some assistance.

Before I get started on comments on Bill C-23B, perhaps a brief explanation of who we are is appropriate.

Nicole and I founded the National Pardon Centre together in September 2002. Just so you know, we're not just business partners, we're also married, which I think you'll agree means that she's in charge. For that reason, the job of presenting today has been delegated to me. More than that, Nicole has a much more in-depth knowledge of the intricacies involved in the pardon program. So if you have any questions concerning that area, I perhaps might be handing off some questions to her.

Our company processes approximately 2,000 to 3,000 applications per year, so I think we have a pretty good idea of the kind of people we're dealing with and who the clients for pardons are.

I'm hoping to be able to perhaps put a different face on the pardon program for you today, because I think it's unfortunate that this legislation and the media discussion that has surrounded it, for understandable reasons, has put a rather sinister face on this program.

I think it's worth repeating the numbers now: of that 400,000 or so applications, we've had exactly two sensational cases that were in the media. In my opinion, those two cases really had much more to do with sentencing procedures and the justice system than they perhaps had to do with the pardon program itself.

Again, I hope we can put a different face on the pardon program, because for us it is really the face of everyday Canadians, such as Mr. Myette, who are taking the opportunity to clear a criminal record.

The first item I'd like to comment on was not in the bill itself. It was in the legislative summary I read, and it involved increasing the fee for a pardon from \$50 to \$500. I assume that this is a procedural change being proposed at the National Parole Board rather than a legislative change. I hope, because it's not in the legislation, that it's okay that I comment on it today.

I think there is a case to be made for increasing the fee for a pardon, because as long as we've been in business, it's been \$50. However, when considering a measure like this, I hope you'll keep in mind that a pardon always costs more than \$50 to process. It's something I outlined in my brief and that I don't think I need to go into too much. The point is that for many people, the fee increase is already an insurmountable barrier, and I don't think it's in the best interests of society to price this program out of the reach of those who need it most. Furthermore, I think that when you consider the residual benefits to people of obtaining a pardon, what we find very often is that after they've obtained a pardon, they've obtained employment. Of course, with obtaining employment comes paying taxes. So from a purely fiscal perspective, I think it perhaps makes sense to subsidize the pardon program, at least a little bit.

I think a fee increase of this magnitude would make it very difficult for those struggling with employment and finances to apply, and I feel that it would be like raising taxes for the unemployed and the lowest income earners only. If you are considering that matter, I urge the committee to use caution when doing this.

The next thing I have to discuss is the waiting period, which is a widely discussed aspect of this legislation. I think that regarding the waiting period, Bill C-23A really struck a better balance than C-23B. I haven't heard anyone complaining that a three-year waiting period is inappropriate for summary convictions. On the other hand, increasing the waiting times for serious personal injury offences and sexual offences from five to ten years I think is a difficult measure to oppose. I think that increase to ten years for certain offences does a very good job of addressing the fact that the indictable category represents a very large array of offences of different levels of severity.

I'd also like to point out something we heard Mr. Waldman say, which is that three-, five-, and ten-year waiting periods for eligibility can be misleading, because there hasn't been a lot of discussion throughout about how sentencing affects eligibility for a pardon.

I think this is a situation I can best illustrate with a case study. There was a young man I spoke to not too long ago who was an engineering student at McGill. The young man had a criminal record. As the story went, during his first year of university, during frosh week, he was out, and you might find this part hard to believe, and they were drinking too much. In the course of the evening, the young man found himself in a fight in a bar over something of very little importance but of obviously great consequence, because he ended up with a criminal record for a simple assault, and, as it turns out, a possession charge, as he had been carrying a small amount of marijuana.

• (1640)

Now, I don't want to give the impression that I consider violence or drugs a small matter, but I think we need to be practical when we're considering these waiting periods.

What we have here is not a case of a young man who was arrested and three years later will be able to get a pardon and be ready to move into the workforce when he's done university. What we have is a young man who was arrested, waited 12 months to go through court, received two years of probation, and then once those three years had expired has another three years before he is even able to make the application for a pardon.

Just to sum up, I think the waiting periods as they are in Bill C-23A were a better measure, although 10 years perhaps might go too far. So I would urge you to just leave the waiting periods as they are and strike out what's in Bill C-23B.

The next item I would like to comment on is the issue of ineligibility. This is the issue that really goes to the heart of this debate. We heard some very passionate testimony from Mr. Kennedy. I have to tell you that as a father myself, it was very hard to disagree with what Mr. Kennedy was saying today. However, there is a reason, when we're creating legislation, to remain dispassionate.

Beyond this issue of ineligibility, there's also the "three strikes" law, which would create a blanket disqualification for anyone who hasn't turned their life around quite as quickly as perhaps we would like them to. The thing I find odd about this proposal of ineligibility is that it again seems to disregard the issue of sentencing in criminal behaviour. The fact is that we already have a criterion for denying pardons, and it's called a lifetime sentence.

I guess my feeling in this matter is that if a court of a law has not determined an offender to be beyond redemption at the time of sentencing, the possibility, at the very least, of an application for a pardon is warranted.

More than that, I also think it's an obvious mistake to assume that this kind of measure can make the public any safer. It seems to me that if you have a certain category of offender about whom you're worried they might reoffend, then allowing them the opportunity to at least apply for a pardon provides an opportunity to learn something about the behaviour of these offenders.

The fact is that the parole board is no longer under any obligation to issue a pardon. If we want to refuse a pardon, why don't we learn something about the offender in the process? If we're going to refuse the pardon, I think requiring a very clear justification showing why the pardon is being refused makes more sense than just saying an outright no.

The idea of blanket disqualifications is for me a kind of flawed solution that wants to sweep the problem under the rug and pretend it doesn't exist. It's a measure that I feel is not just unfair and unjustified, but one that I sincerely believe has negative effects on public safety.

As we've heard from one of the other speakers today, this idea of being able to get a pardon is a clear motivator for ex-offenders to live a life free of crime. Once you take that opportunity away, you have obviously removed that motivation as well.

The final item I would like to comment on today is the term "record suspension". If the purpose of this committee is to make the public safer, then I have a hard time imagining a more ineffectual

measure than the one that would swap the term "pardon" for "record suspension".

This is not to say that I don't think record suspension is a very good name. I think it is. My objection is that I don't think it's a term that is going to be adopted by the public. Frankly, I don't believe that changing the name will have any effect at all and I think I can offer some proof to support that.

It's possible that not everyone here is aware that this experiment with changing the name has actually been done before—perhaps not changing the name, but having a different name. The fact is that in French a pardon is not a *demande de pardon*, but a *demande de réhabilitation*. However, in reality French Canadians, from our experience, are largely unaware of the correct term and instead opt to use the popular term *demande de pardon* instead.

In my brief I included some website statistics. Our company website, nationalpardon.org, is a very good indicator of the terms people, including French Canadians, are using to gather information on pardons. We rank number one for both *demande de pardon* and *demande de réhabilitation*.

● (1645)

Just to put into perspective this idea of changing the name and thinking that people are going to start using it, we receive 12,000-plus visits annually from people who have searched for *demande de pardon*; whereas in comparison, for *demande de réhabilitation*—the correct government term—we receive about 77 visits per year, which amounts to approximately 0.05%.

The Chair: Mr. Ashby, may I ask whether you have much more? We're well over ten minutes now.

Mr. Michael Ashby: I apologize. I have two more paragraphs, actually.

The Chair: Go very quickly, please.

Mr. Michael Ashby: So my advice is to abandon the term "record suspension", just because I don't think it's an effective measure.

That's it, actually. I want to thank you for having me here today. I hope I've been of some help.

The Chair: Thank you very much.

We'll go into the first round of questions.

Mr. Holland, please.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you very much, Mr. Chair, and thank you to the witnesses.

In particular, thank you, Mr. Kennedy. I know this is not easy for you. You have led a charge to shine light on areas in which there does legitimately need to be change.

In that regard, I think we have to separate this debate into two parts. It's been portrayed, frankly, disgustingly dishonestly. When we began deliberating over this matter, we started talking about very heinous offences, offences of an extreme nature, particularly of violence, sexual violence against a child. We stated at the onset that we feel—and I heard many of the witnesses say—that there are instances in which there shouldn't be eligibility for a pardon. But that's one side of it.

The other side of it is, as we heard from Mr. Myette and as we also heard from three witnesses the other day, that a good number of people would be locked into this new regime whom I don't think even Conservative members intended to be in it. In their testimony a couple of days ago they expressed sympathy and concern and said these weren't the type of people they were going after. Of course the next day in the House of Commons they attacked me for standing with convicts.

But here's the question, to Mr. Myette. You described a situation in which, when you were younger, you committed a number of property offences. If you throw yourself back to that point in time, if this legislation had been in place and you were 18 years old and had committed three property offences that turned out to be three indictable offences, and it turned out that this bill was in place and you never had the opportunity to apply for a pardon, what impact would it have on your life, if it were something that was never granted to you, if this bill had been there and that chance had been taken from you?

Mr. George Myette: It's a hard question to answer. I certainly think it would have been more difficult for me, maybe in a personal sense and in my own view of what I had accomplished. I would have been very close under this new proposed change, because I had three indictable offences. Two happened in one lump and one separately from them, so I would have been on the cusp.

Again, I can't honestly answer that question, but I would say it would have been a lot more difficult, because the pardon meant a lot to me. I really felt that it had helped me make the transition back into some form of acceptance.

And I believe it has helped me in other ways, as I mentioned earlier, probably in terms of both employment and in terms of travel. I was able to obtain a visa in 1982 to work in South America, upon a police records check which showed that I didn't have a criminal record, because it had been set aside and therefore my criminal records check was acceptable for the visa that I obtained. In that sense, the pardon was a very big part of my employment development, etc.

So in a general sense, I can answer that question and say that I think it would have made a difference and I believe it would have.

Mr. Mark Holland: Earlier today in the House, Mr. Norlock quoted me as saying that this bill could endanger public safety. I want to expand on that, and maybe I'll turn particularly to Mr. Ashby.

Let's take a scenario in which somebody who is 18 years old has one bad evening and has three offences that can happen in one evening, in one event, and then under this bill is forever barred from the ability to get—

The Chair: On that—and I will give you more time—I think the bill does specifically say “more than three offences”. So concerning three offences, and this relates to the past testimony as well, the bill does specify “more than three”.

Mr. Mark Holland: Okay. I thought it was three or more. I apologize.

But the point remains that if you have.... We had a gentleman who had five in one evening. Take it that it's four, then. You're 18 years old; you have four offences. Some of them can be a hybrid and some

of them could be as simple as possession of marijuana, which could in fact be an indictable offence. The assault while the person was intoxicated that you mentioned could be one.

So the person makes some bad decisions in one night and now is forever barred from the opportunity of being able to get a pardon. Can you speak—because you work with a lot of people who seek pardons and hear the reasons why.... If somebody in that situation is denied the opportunity to get a pardon, obviously it would have a tremendous financial impact on the individual. Can you also indicate what impact it might have on recidivism? Right now we know that 96% of people who get pardons don't recidivate. What kind of impact would taking away an opportunity for somebody like that mean?

• (1650)

Mr. Michael Ashby: I can only offer you my own personal thoughts on this question. I don't know that I have any actual experience to back this up, because once we're done with the application for a pardon, we don't see the person any more.

My feeling is that whenever you marginalize someone in society and take an opportunity away from them, you're creating a situation in which it's much more plausible to assume that they're going to return to a life of crime. Beyond that, my objection to the three strikes rule is that it just seems like an arbitrary number. I have a very tough time supporting legislation that's built around a baseball metaphor. Why three? Why not four, or whatever?

As I said in my presentation, I think affording someone at least the opportunity to apply for a pardon when we're under no obligation to grant it is really the more sensible way to go.

Mr. Mark Holland: You mentioned the issue of cost. It could be a significant factor for somebody trying to get back on their feet. Even the cost of trying to apply for a pardon could be difficult, so it might take somebody a long time.

Can you talk to the fact that if somebody had even three summary offences, if enough time goes by and the records of the case are tossed out, the process then treats it as an indictable offence? Therefore, if enough time passes—maybe because they didn't have the money to be able to apply—people who have, say, three summary offences could now suddenly find themselves not ever being able to apply for a pardon in their lives, even though they had summary offences.

Mr. Michael Ashby: I'm not really sure. Nicole, do you...?

Ms. Nicole Levesque (Program Director, National Pardon Centre): I can hazard a guess on this one.

We often have situations like that when people have summary offences. They come to us at the point that they need the pardon. Unfortunately, a lot of people aren't proactive when they try to get a pardon; some of our clients have been eligible for 10 to 20 years and just didn't know the program was in existence.

At lot of the time, through processing the paperwork, we find people have outstanding fines. That fact prevents them from getting the pardon for another three, five, or possibly ten years, so people who have been marginalized already for lack of being able to afford things are then held back for that much longer as well, because everything has to be done under the completion of the sentence. If you have an outstanding fine, you haven't completed your sentence, and therefore your timeframes haven't started. We have seen some people in lower socio-economic circumstances held back for that much longer.

As for a summary offence turning into an indictable offence, that's not my area of expertise.

The Chair: Thank you very much, Madame Levesque.

[Translation]

Ms. Mourani, you have seven minutes.

Mrs. Maria Mourani (Ahuntsic, BQ): Thank you, Mr. Chairman.

Thank you all for being here today.

Mr. Kennedy, I would like to thank you for your evidence and your courage in coming to talk about it. I also know that you work with youths to help them and make them aware of this phenomenon so that they are not victims. I very much believe in prevention. I think what you're doing is extraordinary and I encourage you to continue.

I was listening to your testimony a little earlier. Unless I'm mistaken, you said we shouldn't grant a criminal record suspension to pedophiles. In other cases, however, if persons are rehabilitated and the board appears to be able to grant them a pardon, you don't see any problem in doing so. More specifically, you said there shouldn't be record suspensions in the cases of pedophiles. Did I correctly understand you or am I mistaken?

[English]

Mr. Sheldon Kennedy: Thank you for the comments.

What I was saying was that I believe that sex offenders against children should not be granted pardons. The reason is that we work with the organizations that allow adults to work in positions of trust with youth across this country and abroad; right now there are 400 youth organizations in Calgary alone, only 200 of which use the red flag background check, so the other 200 are pretty vulnerable.

For me, it really needs to be very clear for these organizations. They need to know who's in front of them. We have a right to know. It's already been identified that obviously these individuals need special treatment. If there's a red flag there, it needs to be brought to the forefront. It needs to be very clear. The way these people work is to befriend a co-worker, and the next thing you know, they're babysitting their kids.

•(1655)

[Translation]

Mrs. Maria Mourani: In other cases, that is in the cases of non-sex offenders—we're not talking about pedophiles—such as fraud artists, drug dealers and so on, you are in favour of granting a record suspension if those people have been rehabilitated.

[English]

Mr. Sheldon Kennedy: I'm all about change. It's my understanding that it would be up to the parole board to use their discretion.

We talk about it in here. I've heard lots about criminals trying to reintegrate into society. I can tell you we work with a lot of victims, and they need to reintegrate into society too. A lot of work has to happen there.

I've been in prisons, I've spoken to criminals who are in jail as lifers, and most of them were victims of abuse of their own sort. So to me it's not only integrating the criminal, but it's reintegrating the victims into society as well.

[Translation]

Mrs. Maria Mourani: Thank you very much.

I would like to come back to you, Mr. Myette. Mr. Bérard, you could also enlighten us on this subject. It must be understood that Bill C-23 has been divided in two. In Bill C-23A, the provision that also concerns pedophiles has been discussed and adopted. In the case of Bill C-23B, that indirectly and non-exclusively concerns pedophiles; it also concerns a range of offences.

Let's take Schedule 1, for example. It states that all persons convicted of Schedule 1 offences are no longer entitled to a record suspension. That concerns arson, assault, aggravated assault, mischief and so on. There are all kinds of offences.

So if we wanted to amend this bill in accordance with Mr. Kennedy's remarks so as to target only child sex offenders, we would have to state specifically that child sex offenders are not entitled to a record suspension, period.

As it takes three offences, this could be a person who has previously been caught shoplifting and who is subsequently caught selling drugs once or twice. Then it would be over for that person, even if he or she wanted to rehabilitate.

[English]

The Chair: Thank you, Madame Mourani.

We have about 40 seconds.

Mr. Myette.

Mr. George Myette: I'd just like to comment on Sheldon's comment that a lot of people who are perpetrators are also victims and have many other underlying reasons for why they committed offences.

In response to that, yes, I think it's important to separate the number of offences. Three is such an arbitrary number. It could be 15. I've known people who have committed many offences who rehabilitated and became useful members of society. I think it is important to separate the type of offence. It isn't necessarily just a personal violence offence; it depends on the degree and the nature of it.

Thank you.

•(1700)

The Chair: Thank you very much, Mr. Myette.

We'll now move to Mr. Davies. Mr. Davies, you have seven minutes.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you, Mr. Chairman.

I'd like to thank all the witnesses for coming and giving what I think is really helpful evidence as we consider some of these important issues. And I want to particularly thank you, Mr. Kennedy, for coming, for your courage and honesty in bringing your personal experience to bear on this.

Yesterday I met with the new victims ombudswoman, Sue O'Sullivan, and we had a good discussion. She told me about the broad needs of victims. She said that victims need to be listened to; they need to be heard; they want to participate in the process, where appropriate; they want to feel as if they matter; and they need to be informed.

I think all Canadians were quite rightly shocked when they heard the Graham James story, and how he had systematically violated the trust and physical and sexual integrity of many young men under his charge, boys under his charge, really. I think a secondary shock was that we found out accidentally about Mr. James being pardoned. And I wanted to ask you first, Mr. Kennedy, were you aware of Mr. James being pardoned, or did it come as a surprise to you that he had received that pardon?

Mr. Sheldon Kennedy: Graham James had received the pardon. I had found out after he had received it, and it really gave me time to reflect and understand and take a look at the whole pardon system around sex offenders. That's really where my mind is here. We talk about victims, and yes, there are victims. But I look at this as the Graham Jameses of the world—and it seems to be that every day we pick up the paper and there's a case happening somewhere of child abuse. I believe that by not allowing the Graham Jameses of the world the ability to get a pardon, it's preventing us and our youth from having more victims.

Mr. Don Davies: I want to stop there. Where I want to hold you on is in terms of the informants. So you found out after. Nobody informed you that he was getting a pardon before he got it, right?

Mr. Sheldon Kennedy: No, I had no idea.

Mr. Don Davies: So you would agree with me, and all witnesses, I guess, that there's nothing in this bill, nothing whatsoever that the government has drafted that would further the ability of a victim to either be informed of a pardon process or participate in any way. That's correct, isn't it? There's nothing in this bill that does that.

Mr. Sheldon Kennedy: No.

Mr. Don Davies: Okay.

Now I want to move to a different area, and that's the “three strikes and you're out”. I think all Canadians want to find a way to prevent those who don't deserve a pardon from getting one, while still making sure that those who have legitimately rehabilitated themselves, and demonstrated that, to get one.

As we all know, last June all parties cooperated together and passed Bill C-23A, which does a number of things. It raised from five years to ten years the waiting period for people convicted of an indictable sexual offence against children, ten years for manslaughter, and ten years for a major physical injury. And it raised from three

years to five years summary conviction sexual offences against children. But it also did something else important. It gave the National Parole Board for the first time the clear discretion to deny a pardon in any case—Mr. James, Karla Homolka, any case—where it would bring the administration of justice into disrepute.

One of the concerns is that we fixed the problems that may have been in the National Parole Board before, but now we're talking about prohibiting anybody from getting a pardon at all who has more than three indictable offences. I believe Ms. Rosenfeldt—if I heard right—said “three serious indictable offences”. It's not “serious”; it's “three indictable offences”.

Where I want to go is, on Monday we heard three offenders testify. One of them had 24 indictable offences. That sounds really bad until you delve into the facts. We found out that he's now an executive; he works in the media. He sold steroids. He told me that after his wife died of cancer he was grieving, he had financial problems, and in one transaction of selling steroids he had multiple indictable convictions. I think he said seven. So this is a person who would be prohibited from getting a pardon under this legislation.

So I want to hear from the witnesses and find out about this. In your experience, have you met people who have successfully rehabilitated themselves who have more than three indictable offences, who you think have deserved a pardon and who have successfully rehabilitated themselves?

• (1705)

[*Translation*]

Mr. François Bérard: Yes. The vast majority of individuals with whom the members of our association work have committed at least three offences for which charges have been laid against them.

I'm going to cite the example of break and enter offences. Under the Criminal Code, persons who commit those offences are liable to life imprisonment. An individual who committed four thefts or break and enter offences would no longer be eligible for pardon in the context of a sentence. A large number of individuals usually receive a suspended prison sentence or a term of imprisonment at a provincial detention centre. In itself, this is not considered an extremely serious crime. We're not talking about murder, rape or sadism, but rather about breaking and entering.

The problem with regard to this provision of the bill is that it is so wide in scope that we invite you to consider the percentage of offenders who could be targeted by this kind of provision. We can't conduct that assessment, but, at a glance, we can claim that nearly all the individuals we have to work with would not be eligible. That would have the effect of marginalizing these people for life, whereas everyone here seems to want to facilitate rehabilitation for people. So we would be going exactly in the opposite direction.

[*English*]

Mr. Don Davies: Go ahead.

Ms. Nicole Levesque: I think one of the successes of the bill that was passed in June is that now anyone who has an indictable offence, or an offence that the court can't confirm was summary, has to write a personal explanation letter on why they feel they deserve a pardon. With that they can conclude any paperwork showing any rehabilitation.

So it's not a matter of three, four, or five strikes and you're out; it's based on the person, their character, where they are at that point of their life, why they feel they deserve a pardon, and evidence of rehabilitation. It's no longer a rubber stamp, but it gives people the opportunity to show they have changed.

The Chair: Thank you very much, Ms. Levesque.

We'll now go to Mr. MacKenzie, please.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Chair, and thank you to the panel for being here today.

Ms. Rosenfeldt, when this legislation was first introduced a number of victims groups were contacted. I haven't heard of a victims group that is opposed to the bill. Those folks who work with individuals who have been convicted all have a fairly strong opinion. I wonder if you can tell us if you've found victims who feel strongly about the bill and its implications.

Ms. Sharon Rosenfeldt: Victims definitely feel strongly about the bill.

I think Mr. Davies raised a really good question, in that we, as victims of crime, have come a long way in the justice system. We are kept informed, if we so choose, by the National Parole Board about offenders who are incarcerated. We are kept informed as to certain things they are doing, such as if they have any types of passes, and things like that.

However, when it comes to the pardon system as it stands today—or record suspension in the new legislation—I'm confused. I always thought a pardon was almost like a secret. I can see where Sheldon would not have been informed. There is no legislation in relation to that.

I would also like to say that I totally agree with Sheldon, and I think everybody else agrees, that victimization is almost like a circle. Where do we stop? Our organization is advocating, along with Sheldon, that sexual offences be denied. Yet I've heard others say and agree that a lot of individuals who are in our prison system and have mental health issues have been victims of crimes themselves.

So how do we stop this? How do we prevent this? I certainly can't speak for Sheldon, but I've heard what he and the victims I speak with have said. My son was murdered, but it was a total sex crime—he was abducted and raped. That's an issue that I, as a mother, after 29 years, have hardly had a chance to even deal with yet. It just seems to go on and on.

In this particular case there has to be strong opposition to people who choose to commit crimes against children. If it means that they cannot get a pardon, so be it. At certain times we have to be strong enough as a society to recognize that. That could be a possibility, among other things, in starting the prevention, stopping the circle.

• (1710)

Mr. Dave MacKenzie: Mr. Kennedy, I've heard different words used here today. I'm not being disrespectful to the person who said them, but they talked about it being degrading and humiliating, and the stigma attached to being arrested and charged, and perhaps incarcerated. Would those be similar feelings you have expressed as a result of having been a victim?

Mr. Sheldon Kennedy: Absolutely. There's the shame and the guilt. I go back to that reintegration into society for the victim as well. We look at Sharon, and 29 years later she's still trying to find a way, a place that puts her at ease when she wakes up every day.

For myself, those are feelings that are absolutely real. Being a victim and needing to change my own life, I understand the commitment it takes. It's tough. I know I couldn't just write a letter and be okay the next day. That's not the way it worked for me.

Mr. Dave MacKenzie: The other thing is my friend Mr. Davies mentioned there being nothing in this act for victims. I don't want to put words in your mouth, but it would almost seem to me that what you have indicated is that when you realized Graham James was out, it was almost like being victimized again.

Mr. Sheldon Kennedy: Yes. It was a shock. It's something I had never thought about. I was lucky I was far enough along that I didn't look at it with anger, but I looked at it as how we are best going to handle this, and how we are best going to protect our youth and organizations from it happening again. That is where my mind is at when I look at this. It is not about what has happened. It's about preventing it from happening again. That's why I sit here today.

Mr. Dave MacKenzie: Thank you.

Mr. Ashby, I think you indicated the fees had been moved to \$500. If I were to say to you that they are \$150....

Mr. Michael Ashby: The legislative summary indicated \$500. We know the parole board has been proposing....

The Chair: Would that be Parliament's legislative summary, or another group's legislative summary?

Mr. Michael Ashby: I believe it is the summary for Bill C-23B.

The Chair: I think it is \$150.

Ms. Nicole Levesque: There is a proposal where they state fees. I think what he is referring to is fees and expenses, so the total can cost someone well over \$500 when you factor in the parole board fees and the other costs of putting a pardon together.

Mr. Dave MacKenzie: Would you have a fee?

Ms. Nicole Levesque: We do have a fee, and we do two different things. We do telephone support for people who are doing their own pardons and we help people advise them there. We are also an RCMP-accredited company that does fingerprints for people who are doing their own. If someone wants to hire an accountant to do their taxes for them, they can hire us to take over the paperwork for them.

Mr. Dave MacKenzie: Okay. Thank you.

The Chair: Just for clarification, your time is up.

As a point of clarification, the only one we have record of is the Elizabeth Fry Society, which indicated that the fee for obtaining a pardon may increase to \$500 somewhere down the road. I think the summary on the legislation is \$150.

We'll now go back to the Liberal Party, Mrs. Mendes.

•(1715)

Mrs. Alexandra Mendes (Brossard—La Prairie, Lib.): Thank you very much, Mr. Chair. I will share my time with Mr. Kania.

[*Translation*]

Thanks to all participants for their presentations.

First, I would like to thank you, Mr. Bérard, for a quotation that you included in your presentation document. With your permission, I'm going to cite it because I find it very appropriate.

[*English*]

I will quote from Mr. Bérard's presentation:

We must develop and maintain the capacity to forgive. He who is devoid of the power to forgive is devoid of the power to love. There is some good in the worst of us and some evil in the best of us. When we discover this, we are less prone to hate our enemies.

Martin Luther King Junior said that.

I would say that for the purpose of our discussions here, I totally agree, Mrs. Rosenfeldt, that the person who committed the crime against your son should not get a pardon, absolutely not. But would you think that someone like Mr. Myette should be denied a pardon?

Ms. Sharon Rosenfeldt: Not at all, and I don't think that would be attempted.

Mrs. Alexandra Mendes: That is what you are also trying to bring to this, yes. That's what I'd like to be clear. We are trying to make a distinction between sexual offenders and heinous crimes, and people who sometimes commit mistakes when they are younger, but have rehabilitated themselves and have contributed enormously to society. Do they deserve a pardon?

Ms. Sharon Rosenfeldt: Yes. In fact, if I can just be quick here, a member of our board of directors—he's been a long-standing member and has numerous indictable offences—went so far as to refuse parole years ago. Once he had seen the light, he wanted to change. He said if society deemed that he serve ten years—that was the last sentence—then he wanted to serve the full ten years. He has never asked, though, for a pardon. I just spoke with him a couple of days ago on this very issue, and he said he didn't need it.

However, in answer to your question, yes, I would definitely be in agreement with Mr. Myette and the question that you asked.

It's specifically from victims groups, I think. It's specifically serious crime: sex offenders and outrageous acts. That's what we're concerned about.

[*Translation*]

Mrs. Alexandra Mendes: I'd like to ask Mr. Bérard a brief question, very quickly.

You talked about the Parole Board of Canada and the discretion that must surround the administration of an individual's criminal record. You wonder whether or not the victim will have access to the pardon application or to the pardon application request.

Could you simply clarify your view on clause 21?

Mr. François Bérard: The French wording of clause 21 gives the impression that the board could communicate information. However, the idea behind the pardon-granting process was more to take an

individual's criminal record and transfer it to another file so that the general public would not have access to it.

It's a matter of wording. We invite parliamentarians to reword this clause to resolve any ambiguity. We need not question legislators' intent. That's why we could not take a position on the substance of that clause.

Mrs. Alexandra Mendes: Thank you, Mr. Bérard.

[*English*]

The Chair: You have one minute.

Mr. Andrew Kania (Brampton West, Lib.): Ms. Rosenfeldt, to go back to what you were saying, in those circumstances you've said that Mr. Myette should get his pardon, and that the person on your board of directors, if he wanted a pardon, should get one.

What we're really talking about—and I agree with this—is that people who have committed serious crimes, especially involving children, should not receive pardons. You agree with that. Because of the wording in this bill, it might prevent somebody like Mr. Myette or the person on your board of directors from receiving a pardon. You must agree that this bill is at least partially flawed, and you can't support all of it.

Ms. Sharon Rosenfeldt: In my opening statement I said that I was here in support of this bill.

Mr. Andrew Kania: Just to be clear, you can't support the entire contents of the bill. In circumstances where the entire contents of the bill would prevent somebody like Mr. Myette or the person on your board of directors—

•(1720)

Ms. Sharon Rosenfeldt: I think that maybe I'm answering that wrong, then. It's somewhat confusing.

I did come in and say that we support the bill in its entirety, the way it stands right now. We agree with the part on sexual offences against children, but what about all sexual offences? What I'm saying is that I agree with the ten years. I agree with the five years. So I'm not sure where the discrepancy would come in.

This would not prevent Mr. Myette from ever seeking to have his record suspension or pardon. If it's going to be more clear to society, then definitely I'm in support of it.

The Chair: Thank you, Ms. Rosenfeldt.

Ms. Sharon Rosenfeldt: I'm not too sure, did I answer that correctly?

The Chair: It sounded good to me.

Monsieur Rathgeber.

[*Translation*]

Mrs. Maria Mourani: Mr. Chairman.

[*English*]

The Chair: Go ahead, Madame Mourani.

[Translation]

Mrs. Maria Mourani: I would simply like to ask committee members something. Since we took 30 minutes to go and vote, would it be possible to hear the witnesses at least until six o'clock, to allow them those 30 lost minutes?

[English]

The Chair: Madame Mourani, the bells will begin at 5:30. We have a vote at 6 o'clock. You're right that these are somewhat different circumstances, because of the interruption we had earlier. I'm not certain if all guests would be able to stay. It would take unanimous consent from the committee in order to extend it. We wouldn't extend it until 6 o'clock, but we might extend it for the 15 minutes, or whatever, that we had before.

Are you making that motion, then?

[Translation]

Mrs. Maria Mourani: Yes.

[English]

The Chair: She makes the motion.

Are we all in favour of extending...?

Mr. MacKenzie.

Mr. Dave MacKenzie: I have a concern, Mr. Chair. In a number of other committees, we've had similar circumstances. I don't want to cut short the panel, but I think Mr. Kania has made it clear in the past, and I agree with him, that if it's scheduled at 5:30 and the bells interrupt, the committee should still end at 5:30, for consistency.

The Chair: All right. There's really no response to that.

Are you denying...?

Mr. Andrew Kania: He just said something that isn't accurate, so I think I should be able to respond.

The Chair: We aren't going to be extending anyway.

We'll go to Mr. Rathgeber.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair, and my thanks to all the witnesses.

Mr. Andrew Kania: I have a point of order.

The Chair: Mr. Kania.

Mr. Andrew Kania: If I'm misquoted and my name is used, I should be able to clear it up. What I said was that at all times we need unanimous consent to extend past the hour. There's a difference between saying we have to have unanimous consent and saying whether we would give it. In these circumstances, we would give it. If the Conservatives aren't prepared to give their consent to extend, that's a different issue.

The Chair: Thank you very much, Mr. Kania.

Mr. Rathgeber.

Mr. Brent Rathgeber: Thank you, Mr. Chair, and thank you to all the witnesses for your attendance today.

Like my colleagues on both sides of the table, I make a special acknowledgement to Mr. Kennedy for coming here and telling his story.

I was curious, with respect to your position on this bill, do you see a difference in your mind between the words "pardon" and "record suspension"?

Mr. Sheldon Kennedy: I see a difference. I think what had the hair on the back of everybody's necks standing up when they heard that Graham James received a pardon was the word "pardon". It seems like he was excused for what he had done, with that word, to me. That's my opinion.

The way that I understand it, "record suspension" seems to sit a lot better with me than the word "pardon" in these situations. When I look at sex offenders, it's never really wiped away. There is that red flag. So their record really is suspended. It's not pardoned.

Mr. Brent Rathgeber: We live in a secular society, but some people who have certain religious leanings believe that the word "pardon" somehow is synonymous with forgiveness. Is that a view that you would share?

• (1725)

Mr. Sheldon Kennedy: Well, aren't the victims supposed to be either forgiving or finding a place within themselves to move on, and not let the perpetrator have that power in their lives any more?

Mr. Brent Rathgeber: I think so, and that's why I believe that the term "record suspension", which does accommodate some perpetrators in turning their lives around and getting employment, is more appropriate terminology than "pardon". I guess I'm asking, do you agree with my assessment?

Mr. Sheldon Kennedy: Yes, I agree.

Mr. Brent Rathgeber: To Mr. Bérard, you asked a rhetorical question in your opening statement: where's the problem? What do you say to victims such as Mr. Kennedy or to Ms. Rosenfeldt? As you know, victims have spoken loudly and they have spoken clearly that there is a problem with the system. What do you say to them when you ask that rhetorical question?

[Translation]

Mr. François Bérard: I'm saying two things. For our association, an effort has to be made to support victims. Victims have a lot of needs. These people need to be treated with care and to be informed about an offender's progress. They need to be supported psychologically. There are major deficits in this regard.

Currently in Canadian society, few support activities or programs are offered to victims. There is a shortage of funding.

With regard to granting pardon, we have success rates that show that pardon is not revoked in 97% of cases. This in itself means something to us.

We wonder why this issue of rehabilitation is being put back on the table. Perhaps it's in order to rekindle a feeling of vengeance in people rather than to try to direct matters differently. It could be directed toward arrangements involving rehabilitation or a process of intervention with offenders. That would enable victims to reconcile themselves with a certain amount of supervision.

The current debate focuses more on the opposition between victim and offender. We think that's a very wrong path.

[English]

The Chair: We'll go to Madame Mourani, for one minute.

[Translation]

Mrs. Maria Mourani: Thank you, Mr. Chairman.

I would like to continue along the same lines as you, Mr. Bérard.

You say there isn't enough funding or programs for victims. What do you think about the bills that target only criminals and about the budgets cut by this government, such as that of the Office of the Federal Ombudsman for Victims of Crime? The same is true of the Victim Compensation Fund, which was partially paid in 2009-2010 because there's no one to allocate cases. What do you think about the fact that the government is voting against Bill C-343, which provides for compensation for victims for one year and maintenance of their employment relationship for two years?

What do you think about all that?

Mr. François Bérard: In our brief, we emphasize a certain contradiction between an alleged pro-victim stance and certain budget choices. We refer to the statement by Mr. Sullivan, the previous Federal Ombudsman for Victims of Crime, when he left his position. He emphasized that victim support budgets had been cut.

Those cuts amounted to 41% in the case of subsidies and 34% for contributions to programs for victims.

On the one hand, the government says it's pro-victim. There's currently a lot of publicity on TV, on posters and so on stating that the government is in favour of victims. In actual fact, however, the government is cutting funding to victim support programs, whereas that's where the problem lies in our criminal justice system. The government is making cuts to programs for victims and preparing to spend billions of dollars to build correctional facilities in a situation where crime is falling in Canada, which the government refuses to recognize. They're preparing to invest billions of dollars; that's a dead loss.

[English]

The Chair: Thank you very much.

Unfortunately, we're right out of time, the bells are sounding, the lights are blinking, and the clock says 5:30.

We want to thank all of you for coming today—those who are victims and those who were offenders. We thank you for your stories. They will all help us as we deliberate on this bill.

We are adjourned.

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