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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (0915)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order.

This is meeting number 84 of the Standing Committee on Finance. Pursuant to the order of reference of Monday, May 25, 2015, we are continuing our study of Bill C-59, an Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures.

Colleagues, we're very pleased to have with us here this morning a number of guests. First of all, from the Canadian Alliance of Student Associations we have their executive director, Mr. Jonathan Champagne. From the Canadian Intern Association we have their president, Ms. Claire Seaborn. From Dewart Gleason LLP we have a partner, Mr. Tim Gleason. From the Federally Regulated Employers—Transportation and Communications we have the executive director, Mr. John Farrell. From Music Canada we have the president and CEO, Mr. Graham Henderson. And from the Office of the Information Commissioner of Canada we have two guests, the information commissioner herself, Madame Suzanne Legault. *Je vous souhaite la bienvenue au comité.* And we have the general counsel, Madame Nancy Bélanger. *Je vous souhaite également la bienvenue.*

You will each have five minutes for your opening statement. Then we'll have questions from members.

We'll begin with Mr. Champagne, please.

Mr. Jonathan Champagne (Executive Director, Canadian Alliance of Student Associations): Thank you.

Good morning, Mr. Chair, honourable committee members, fellow witnesses, and members of the gallery.

The educational landscape in Canada has changed significantly over the last number of years. Students and employers may differ in their expectations of post-secondary education, but both agree on employability as an increasingly important outcome.

In response to these changes, students and institutions are making work-integrated learning an integral part of their educational experience. The expansive sphere of co-ops, internships, job placements, and so forth are indicative of changes that are occurring in the post-secondary sector. Students and young people today want the opportunity to graduate not only with knowledge from the classroom, but also experience in the field. Both students and

employers recognize the value in having this experience, as it eases the transition into the workforce.

The Canadian Alliance of Student Associations is an advocate for ensuring that students and young people are protected and treated fairly in the workplace. We have been active on this file for some time, but most recently with Ms. Laurin Liu's private member's bill, and we were vocal opponents of the ill-advised remarks by Bank of Canada Governor Poloz.

CASA has worked with both the government and the opposition to support the protection of young Canadians. That is why we are pleased to see the government take action in Budget 2015 with a proposal to amend the Canada Labour Code to better protect interns. This and the additional budgetary measure of eliminating income tax on money earned in-study as part of the Canada student loans assessment are steps that demonstrate that the government sees supporting young people in work and study as a priority.

Certainly we can all agree on the importance of ensuring that students and young people are protected from abuse and exploitation while in the workplace. They must be treated fairly and, in the case of interns, be able to gain necessary experience to use in a future career.

With that said, CASA believes that the proposed amendment to the Canada Labour Code being put forward lacks clarity and still leaves interns vulnerable to exploitation and possible abuse. Requiring that interns be protected with basic health and safety standards goes without question. These changes alone, though, do not go far enough, and further steps are required to ensure that all interns are sufficiently protected. The proposed amendments do not provide interns with the same rights and protections as other federally regulated employees. Recognizing that interns have unique needs that would require exceptions, we believe that the greatest level of protection would be achieved by classifying them in the Canada Labour Code as employees.

Looking through the lens of public policy, the proposed amendments fall short of achieving the comprehensive protection that interns require. If the goal is to protect interns, then we should give them the same rights as employees under the labour code while carefully recognizing the exceptions that are unique to these internships. Why create more ambiguity and confusion when a simple alternative is available?

Without additional provisions, there are a number of areas under the proposed legislation in which interns may be vulnerable to exploitation from employers.

There is potential for interns and federally regulated industries to be in the position of having their work not be recognized or compensated, whether in the form of pay, academic credit, or some sort of certification. Instead, interns may be left with nothing to show for their time.

Secondly, with no limits on the number of consecutive internships, there's a concern that students or young people may find themselves in cycles of internships of either unpaid or low-paid work.

Thirdly, while the number of hours per work period is limited, because interns are not employees there is no limit to the number of hours in a day or week that an intern may have to work, and no overtime compensation if they do work additional hours.

• (0920)

The Chair: You have one minute left.

Mr. Jonathan Champagne: I want to make clear that for CASA and our members, this is not a partisan issue but a matter of good policy and fairness.

Some actors in the private sector have shown their willingness to take advantage of current regulatory ambiguity and to create positions that are dangerous, exploitative, or not beneficial to youth.

While some progress has been made in improving conditions, there is a strong case for government intervention to put an end to these practices. We are pleased that this issue is being discussed and believe it is an indication of how important students and young people are in today's workforce. We believe it is possible to find the right balance between protecting interns and ensuring that we don't limit valuable learning opportunities.

Thank you for your time, and I look forward to your questions.

The Chair: Thank you for your presentation.

We'll now hear from Ms. Seaborn please.

Ms. Claire Seaborn (President, Canadian Intern Association): Good morning.

My name is Claire Seaborn and I'm the president of the Canadian Intern Association and a recent graduate of University of Ottawa law school. We're here to discuss the amendments to the Canada Labour Code proposed in division 7 of the budget bill.

First of all, I would like to congratulate the government on the amendment that would provide unpaid workers, including students, with occupational health and safety protections under part II of the code. This is an important advance for young and other vulnerable workers who currently do not receive these protections.

Today I will focus on two issues.

First, the proposed amendments do not cover unpaid workers under several Canada Labour Code provisions, including protections related to hours of work, work-related illness or injury, sexual harassment, and the filing of complaints. We recommend some very straightforward amendments to provide basic workplace protections for unpaid interns and students.

Second, the proposed amendments create an exception that allows federally regulated employers to take on workers for four to 12 months without pay, even where the position is not associated with a

school program. We recommend that unpaid internships in the federal sector should be allowed only if they're associated with an accredited educational institution. I'll take the next few minutes to expand on these recommendations, and I'm also happy to elaborate during questions.

Division 7 of the budget bill seeks to regulate unpaid interns and students in the federal sector. The proposed amendments use selective exceptions that target Canada's most vulnerable, precarious, and marginalized workers. While the proposed amendments provide health and safety protections, they fail to include unpaid workers in protections under part 3 of the code, including those related to hours of work under division I, work-related illness and injury under division XIII, sexual harassment under division XV.1, and the filing of Canada labour program complaints under division XVI. A simple modification to the existing bill would extend these protections to unpaid interns and students. In particular, things like the tragic deaths of Andy Ferguson in Alberta and Aaron Murray in Ontario would be directly addressed by the hours-of-work protections.

Our second recommendation is that allowing four- to 12-month unpaid internships not associated with educational institutions is the wrong approach. The result is that a university student could work a summer job for a courier company without pay followed the next summer by working for a national news organization without pay only to graduate and find themselves working for one of Canada's banks or airlines, again, for several months without pay. This exemption creates an endless cycle of unpaid labour in which employers are able to extract work from young people while providing little training and no remuneration.

Further, interns are not just young Canadians; they're also immigrants, mothers re-entering the workforce, and workers trying to find a new career after an injury. Currently, interns are considered employees under the code, even if they are receiving some training. These exemptions would legalize unpaid work for the first time for Canada's largest and often most profitable employers and undermine the minimum wage. The exemption is also couched in a set of conditions that are vague and unenforceable, which will lead to inconsistent employer compliance.

Tim Gleason will be expanding on the common-law definition of employees and why interns are in fact considered to be employees.

Educational institutions such as high schools, colleges, universities, and professional programs are in the best position to ensure that interns and students receive beneficial training, to make sure they have avenues for complaints, to ensure that they will not replace entry-level employees, and to make sure they can access student loan programs.

We recommend that the exemption for four- to 12-month unpaid internships be removed and the exemption for internships associated with educational institutions be maintained.

• (0925)

The Chair: You have one minute left.

Ms. Claire Seaborn: Finally, I'll reiterate two points that I've made before this committee in the past. First, there's a huge lack of data on the prevalence of internships and the characteristics of interns in Canada, which is a barrier to effective policy-making. The Canada labour program, Statistics Canada, and the Canada Revenue Agency should begin collecting data. To address illegal unpaid work, these departments also need to adopt proactive enforcement strategies.

Thank you for inviting us to appear before the committee.

The Chair: Thank you for your presentation.

We'll now hear from Mr. Gleason, please.

Mr. Tim Gleason (Partner, Dewart Gleason LLP): Thank you.

This is a debate about who should and should not be paid for their work. It's in the context of a statute intended to protect the rights of employees, especially the most vulnerable workers in Canada. It's a debate that affects mostly young people and people who, for whatever reason, are compelled to offer their services free to employers. These are workers. That's not part of the debate.

The legal definition of employee is rooted in control. This is the justification for the protection of employees in law. Law always seeks to be justified and you must justify what you do with this statute. Because employers control the working lives of people, and because working people are dependent and vulnerable in that relationship, the law provides for the protection of basic rights of employees.

If the justification for protection is control and vulnerability, what are the justifications for being excluded from these protections? Independent contractors are the most common exclusion in law. The common law excludes them from the definition of employee because there is no control and no dependence. Therefore, in theory, there is no need for protection.

On the other hand, we accept that interns, for example, should be protected from unsafe work places in part 3 of the code. Why is that? It's because the employer controls the work place and because interns are dependent and vulnerable. These are the justifications for the legal protections of employees and the same justification is applied in part 3 of the code.

The statute you are considering today does two significant things for our group of young people. It expressly includes them as employees for purposes of health and safety protections, and it expressly excludes them for purposes of other basic protections. We need to ask ourselves why.

There's no argument that unpaid workers should be forced to tolerate unsafe workplaces. That would be an indefensible position. They're in the same relationship with employers as other workers, in that they are subject to control, vulnerable, and dependent. So what then are the justifications for excluding them from part 3 protections?

Part 3 protections can be grouped into four categories. The first three appear to be no brainers, and it's unclear why interns would be

excluded from them, including protection against excessive hours of work, guarantees of certain time off, protection against unjust dismissal, and protection against sexual harassment. It would be indefensible to exclude interns from these protections. Yet this statute purports to do so, unless some regulation makes those protections apply to them.

That leaves minimum wages. This is the one that causes most of the problems for us. It's because interns, by contract, have bargained to provide free work, and free work is illegal. So these amendments to the code purport to carve out interns from all of the protections I just read to you, and from protection against free work.

What justification is there for this? We do not permit other employees to bargain below minimum standards and minimum wages. We determine that a just society cannot do that, at least since the 1948 Universal Declaration of Human Rights.

Permitting employers to capitalize on the desperation of vulnerable workers is something we have rejected. When you stir into that mix unemployment, with youth unemployment at double the national average, in an economy where precarious work has become alarmingly normal, that desperation, which is the object of the code, is more ominous than ever. Our young people are more vulnerable than they've ever been. They're willing to go to work for free without basic protections of their human dignity for the slight prospect of gainful employment in the future. This is desperation, and this is what part 3 of the code exists for.

I ask you again to ask yourselves, what justification is there for excluding our young people from these protections?

If I have a moment, I would like to finish with a quote from the 2006 Arthurs Commission report titled "Fairness at Work", which examined the Canada Labour Code. In particular, in one section Professor Arthurs examined studies and arguments against minimum wages, and found those arguments to be inadequate. He nevertheless concluded:

In the end, however, the argument over a national minimum wage is not about politics or economics. It is about decency. Just as we reject most forms of child labour on ethical grounds, whatever their economic attractions, we recoil from the notion that in an affluent society like ours, good hardworking people should have to live in abject poverty.

I would say to you today, similarly, that decency should prevent us from excluding this group of vulnerable young workers from the protections we have long held to be necessary for all working people.

Thank you.

• (0930)

The Chair: Thank you for your presentation.

Mr. Farrell, please, for yours.

Mr. John Farrell (Executive Director, Federally Regulated Employers - Transportation and Communications (FETCO)): Thank you, Chair.

My name is John Farrell. I am the executive director of the Federally Regulated Employers—Transportation and Communications. FETCO represents most of the major federally regulated employers in Canada. A list of FETCO members is attached to appendix A of my written presentation, which I believe the clerk will be able to provide you with later.

We are pleased to provide our views on the provisions of the budget implementation act regarding the proposed revisions to the Canada Labour Code covering the engagement of interns by companies operating in the federal jurisdiction.

FETCO members believe internships are a very important way to improve employment prospects and outcomes for Canadians seeking employment. Internships add value by providing practical workplace experience to complement an individual's education or life and working experiences and preparedness for future employment. Internships will allow educators and companies to connect and create a better ongoing understanding of each others' requirements to improve employment prospects for Canadians. They assist persons seeking new opportunities to get valuable work experience.

FETCO members believe that interns should be treated fairly. The primary objective of engaging interns is to improve the development of the individual for the sake of the individual.

When FETCO was advised that the government was considering legislation regarding interns in January of this year, we decided to survey our members to better determine the extent to which interns are engaged by member companies.

We learned the following. About 80% of FETCO members have some form of internship programs. About 83% of FETCO members that engage interns do so through formal co-op arrangements with recognized educational institutions. About 42% of FETCO members also have ad hoc internship arrangements that are often shorter in duration and less structured than formal co-op programs. Some interns are paid and others are not. In the federal jurisdiction and the companies that participate in FETCO, most of the interns are paid.

So the arrangements that apply to interns vary from company to company, and we would agree that we don't believe there's enough data to understand the full extent to which interns are used across the country, which is why we undertook to do our own study of our own members.

Let's turn to the analysis of the proposed legislation.

The proposed amendments to part II of the Canada Labour Code provide interns with full occupational health and safety protection. FETCO fully supports this requirement. However, we believe that they already had protection, and employers already had an obligation under the general duty provisions of the code to protect the health and safety of all persons attending at the employers' premises or operations. Nevertheless, we have no objection to including specific coverage under part II of the code.

The proposed legislation also introduces provisions to clarify the circumstances when interns can be unpaid. The first case would be when the internship is part of a program provided by a recognized secondary or post-secondary educational institution or vocational school. We agree with this provision.

The second would be if the internship meets a certain set of six criteria. I won't recite the criteria—I think they're clear in the bill—but we believe these provisions make sense because they will provide an opportunity to determine with some clarity under what circumstances interns will be treated.

With respect to establishing a time limit that an internship cannot exceed, either four months of full-time employment or the equivalent over a 12-month period—

● (0935)

The Chair: You have one minute left.

Mr. John Farrell:—we recommend that internships be permitted to last for a full 12 months. This will allow a greater opportunity for an intern to get more in-depth experience where it would be beneficial to do so.

The bill provides for regulations to be made for certain labour standards to apply to unpaid interns under part 3 of the Canada Labour Code. FETCO agrees that further consultation to better understand the arrangements for current interns is necessary so that appropriate employment standards provisions can be adopted.

We support consultation with stakeholders.

We caution that the provisions of part 3 that apply to interns should focus on basic workplace protections, such as hours of work and leave without pay for illness and bereavement.

Interns are not employees but they have the right to be treated fairly, and an appropriate balance is required. Overregulation of interns may lead to the unintended consequence of a reduction in existing internship programs.

Thank you, Mr. Chair.

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

We'll go to Mr. Henderson, please.

Mr. Graham Henderson (President and Chief Executive Officer, Music Canada): Thank you to the Standing Committee on Finance; the chair, Mr. Rajotte; and members for inviting me here today.

I'm Graham Henderson and I'm the president of Music Canada, a trade association that represents Sony Music Entertainment, Universal Music, and Warner Music Canada.

I'm here today specifically to thank the government and the members of the opposition who have publicly supported this amendment that extends copyright in recorded music from 50 years to 70 years. Prime Minister Harper and the Government of Canada have demonstrated a real understanding of music's importance to the Canadian economy. Thank you.

The legislation that is the subject of this committee implements term extension for sound recordings in a manner that adequately addresses the needs of the music industry. A term of copyright for sound recordings of 70 years or more has become the global standard. Over 60 countries worldwide protect copyright in sound recordings for a term of 70 years or longer from the time of recording, and there is no reason whatsoever that Canadian artists should be limited compared to artists in other countries.

Currently an artist records and releases a song. Without this amendment, 50 years later anyone in Canada can use that recording for any purpose without compensating the recording artist. Unlike the songwriter, who is protected until 50 years after his or her death, the recording artist can see others profit off their recording by selling it or using it in a commercial without compensation or seeking the permission of the artist. A recording that is made in the early years of a long life means that 50 years later those same artists could still be actively working and trying to make a living off their recordings. This is the situation many recording artists find themselves in today, and this is why this amendment is so important to us.

You have my brief in front of you. Therefore, you have the examples of Leonard Cohen and Buffy Sainte-Marie. Another artist, Paul Anka, born here in Ottawa, has iconic works like *Put Your Head on My Shoulder*, produced in 1964, which have already fallen out of copyright protection and into the public domain. This is not in the public interest. It does not benefit the creators or their investors and will have an adverse impact on the Canadian economy.

Other iconic Canadian recordings by artists such as Gordon Lightfoot, The Guess Who, Anne Murray, and April Wine, to name just a few, would soon fall into the public domain if this amendment to the Copyright Act is not passed. This would mean that artists would not have exclusive control over their recordings made during their lifetime. They wouldn't control who copies their recordings, who uses them, who distributes them, or who gets paid for them.

A term of copyright protection of 70 years will allow older artists to continue to receive revenue into their mature years. For younger artists, additional profits derived by rights holders from older recordings will be reinvested in developing artists, and they too can look forward to a time in their lives when protection will extend to them.

The music industry is second to none in terms of reinvesting in new talent, with over 28% of the revenue reinvested in 2014. As IFPI's latest "Investing in Music" report illustrates, this is a greater percentage of revenue than pharmaceutical, biotech, computer software, or high-tech hardware industries each invest in R and D.

This measure may be a small part of the Copyright Act, but it is a big deal for artists and the music industry. We have quotes from 24 artists on the Music Canada website that speak to how much they need and appreciate this small piece of legislation and what a big impact it will have on their lives. I'd like to share a couple of them.

The Arkells, who are a young rock band from Hamilton, have said this: As a Canadian band, we appreciate that our government recognizes the cultural and economic value in musical recordings, and has protected that value by extending the copyright term of those involved in producing these records.

Anne Murray has said:

I applaud the efforts of our Government to extend the copyright protection term for our recording artists. It is only fair that they continue to reap the rewards of their creative works well into their dotage, when they need it most.

I won't read all of them.

We are extraordinarily grateful for this amendment. The music industry has had many challenges over the last 15 years. Global recorded music industry revenues have decreased by 70% when you

take into account factors such as inflation, but we are vigorously embracing the new digital realities and we are determined to thrive in this environment.

• (0940)

Term extension for sound recordings is one thing that will help make a difference and I hope I can answer any questions the committee may have on this aspect of the budget implementation bill.

Thank you.

The Chair: Thank you, Mr. Henderson.

[Translation]

Ms. Legault, you may begin your presentation.

Ms. Suzanne Legault (Information Commissioner of Canada, Office of the Information Commissioner of Canada): Thank you, Mr. Chair.

Honourable members, I have been invited to discuss division 18 of Bill C-59, specifically clauses 230 and 231. This division amends the Ending the Long-gun Registry Act, or the ELRA, to exclude the operation of the Access to Information Act retroactive to October 25, 2011, the date on which the ELRA was first introduced in Parliament.

To assist parliamentarians in understanding the impact of these provisions, I tabled a special report on May 14, entitled "Investigation into an access to information request for the long-gun registry". I have also outlined the relevant facts in the timeline you have in front of you.

Given the limited time I have, I won't repeat these facts. I'll simply note that ELRA became law in April 2012. To this day, ELRA does not oust the application of the Access to Information Act. Pursuant to section 4 of the Access to Information Act, the act applies notwithstanding any other act of Parliament.

As you know, Mr. Chair, I have some very serious concerns with division 18 of Bill C-59.

[English]

First, division 18 will effectively make the Access To Information Act not applicable retroactive to October 25, 2011, even before the coming into force of ELRA. You must ask yourselves why?

Second, division 18 shields from the application of the Access To Information Act a broader scope of records than ELRA ever did. It covers not just the records in the long-gun registry, as ELRA does, but any records with respect to the destruction of those records. This probably means that no one will be able to request information about whether the RCMP has really deleted their own information from the registry or about how much the destruction of the registry cost Canadian taxpayers. Indeed, no one will be able to find out what transpired in relation to the destruction of the records at issue in my investigation. This is above and beyond what was ever considered by Parliament in 2012 in ELRA. You must ask yourselves why?

Third, if division 18 is adopted, it would nullify the request at issue in my investigation; nullify the complaint made to my office; nullify the entire investigation, including the production orders for documents—some 30,000 records—and examinations of witnesses under oath and the transcripts; nullify my recommendations to the Minister of Public Safety and my referral to the Attorney General of Canada; nullify my existing application to the Federal Court on behalf of the requester; nullify the possible police investigation by the OPP; nullify all potential administrative, civil, or criminal liability of any of the actors involved and essentially nullify the requester's rights in this case. You must ask yourselves why?

These proposed changes, Mr. Chair, would retroactively quash Canadians' rights of access and the government's obligations under the Access To Information Act, retroactively to a time where, in fact, ELRA did not exist. It will, effectively, Mr. Chair, erase history.

Mr. Chair, division 18, of Bill C-59 cannot be considered to be an attempt to close a loophole. It can only be an attempt to create a black hole.

[Translation]

Given the fundamental importance of the right of access to information and the rule of law in Canada, I would urge this committee to remove division 18 and clauses 230 and 231 from this bill.

• (0945)

With that, I would be pleased to answer your questions.

The Chair: Thank you for your presentation.

[English]

Colleagues, we will do six-minute rounds. I'll ask you to keep very tight to that timeline and allow enough time for witnesses to answer.

We'll start with Mr. Cullen, please.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Mr. Chair.

Thank you to all our witnesses today. I'll keep my questions as brief as I can.

Ms. Seaborn and Mr. Champagne, if I look at the last comment from Mr. Farrell, there's a bit of a suggestion that perhaps if we protect interns, under that third part of the labour code, against excessive hours of work, sexual harassment, and arbitrary dismissal,

it may in fact reduce the internship opportunities available for young Canadians. Is this a concern for either of you?

Perhaps, Ms. Seaborn, you can start.

Ms. Claire Seaborn: I'm not concerned that providing basic workplace protection would decrease the number of experiences for young Canadians in the workplace. I think it's employers' responsibility to be training young workers, and the interns themselves will find ways to make those positions available.

The kinds of amendments we're discussing today, including sexual harassment protections and hours of work, are basic workplace protections. These are not the sorts of protections that should deter employers from taking on interns.

Mr. Nathan Cullen: Mr. Champagne.

Mr. Jonathan Champagne: If the proposed regulations or proposed amendments to put workplace safety standards in place with regard to hours, protections against unjust dismissal, or sexual harassment are too burdensome for an employer to have to protect its interns, then I think we have to look a little more broadly and organizations have to look at their business practices to figure out why those would be in place.

Mr. Nathan Cullen: Okay. Thank you very much, both of you.

Ms. Seaborn, you've helped raise this issue to national significance. I think it's important. There's obviously a shifting context, as has been talked about, in the employment market that young Canadians in particular face. Keeping internships up to some sort of modern and acceptable standard has not seemed to be of interest to the government.

Mr. Gleason, I think making this an issue of decency is important as well.

Madam Legault, I want to turn to you for a moment. I think you've given us an important piece today on the timeline of what has happened. Have we seen this before in Canadian law?

Ms. Suzanne Legault: I haven't seen it.

Mr. Nathan Cullen: What we haven't seen before is this retroactive application going back in time and essentially making what was illegal now legal. Am I characterizing that properly?

• (0950)

Ms. Suzanne Legault: Well, there are precedents for a retroactive application of laws; I just haven't seen a case like this one in particular, because the retroactivity here goes back to even before the law that is being made retroactive even existed. It wasn't even voted for by Parliament. And the particular facts of this case are following an investigation.

Mr. Nathan Cullen: Let me stop you right there. The government has argued that it was the will of Parliament and that there was a technicality that wasn't imagined and that this is just correcting that technicality. It argues that that's why it had to go back in time and correct things. You're suggesting that even before Parliament passed this act, this is how far back this amendment under this omnibus bill goes to make something now legal that was at the time illegal. Is that what you're suggesting?

Ms. Suzanne Legault: As far as I understand the laws that are still applicable to this day, ELRA applies at the same time as the Access to Information Act. ELRA never ousted the jurisdiction of the Access to Information Act. The Access to Information Act applies notwithstanding any other act of Parliament, and the government has to abide by its obligations under the Access to Information Act.

Mr. Nathan Cullen: What's so important about this part of the Access to Information Act? Why is it so essential? I'm going well beyond the issue of the registry, to what it is to hold or not hold government records, to destroy or not destroy government records. Why is that important in a free democracy?

Ms. Suzanne Legault: It's important because that's the regime we set in place in the Access to Information Act. We have given people the right to request information from their governments. We have provided a scheme whereby there is a process of complaint, a process of investigation, at the first level, and then a process whereby people have the right to go to Federal Court to have their redress. We're nullifying this entire process with this retroactive amendment.

Mr. Nathan Cullen: This is what I want to get at, that the right of citizens to seek documents from their government is a fundamental right and means of holding a government to account.

Is that true?

Ms. Suzanne Legault: The Supreme Court of Canada has even gone as far as to say that there's a derivative right to freedom of expression under section 2.(b) of the charter.

The Chair: You have one minute left.

Mr. Nathan Cullen: So this is a charter right, then. The freedom of expression is to be able to go and seek information from government. I'm trying to apply this to other issues that have come before Canadians. I'm thinking of the sponsorship scandal. I'm thinking of some of these other things in which the pursuit of documentation was eventually important in revealing government misbehaviour or corruption.

Are we creating a precedent here that when government gets in trouble, they can just go back in time and allow for the retroactive destruction of documents?

Ms. Suzanne Legault: As I have said publicly so far in relation to this case, I think it sets a perilous precedent in Canadian history and Canadian democracy. There is no other way I can characterize it.

Mr. Nathan Cullen: Thank you very much.

Thank you, Chair.

The Chair: Thank you.

Thank you, Mr. Cullen.

We will go to Mr. Saxton, please.

Mr. Andrew Saxton (North Vancouver, CPC): Thank you, Chair.

Thanks to our witnesses for being here today.

My first questions are in regard to internships here in Canada.

Some people believe that educational internships are as important or sometimes even more important than classroom instruction in preparing a student for their career in the workplace.

Mr. Champagne, do you agree with that?

Mr. Jonathan Champagne: Yes.

Mr. Andrew Saxton: Ms. Seaborn, do you agree with that as well?

Ms. Claire Seaborn: I absolutely agree that internships are very valuable for the interns themselves and for students. At the same time, many of the internships that we're discussing today are, in fact, work. Entry-level employees have value, and young people's work also has value, and the employers that we're discussing today—big, federally regulated employers—have the ability not only to provide basic workplace protections to these young workers but also to pay them.

Mr. Andrew Saxton: Our government also recognizes the importance of internships, and that is the reason we believe that interns should receive basic benefits and protections in order not to be exploited. However, it's a balancing act, and I think everybody recognizes that if you are too strict on employers, they may cease the internship programs altogether, which Mr. Farrell has referred to earlier.

Would you agree with that as well, that it's a balancing act, Mr. Champagne?

Mr. Jonathan Champagne: I think we have to look at it to see exactly which regulations are supposedly too burdensome. If an employer can't hire an intern or someone without providing them protections against sexual harassment, or working a certain number of hours, or any of those provisions that are awarded to other employees, then I think organizations and federally regulated companies have to look at their business practices to see what exactly it is about these regulations that make it too burdensome to bring on an intern.

I don't think that is too much to ask.

• (0955)

Mr. Andrew Saxton: We agree with you as well, and that's why those protections will come into place. I want that to be on the record, that these labour standard regulations will reflect the unique situation of unpaid internships and will be developed in consultation with stakeholders. At a minimum it is expected that they will ensure that unpaid interns receive maximum-hours-of-work protections, as well as unpaid bereavement and unpaid six leave, and that they are protected from sexual harassment.

We can assume that those will come into effect. We're moving beyond that now. If those do come into effect, do you agree that it's a balancing act, that if we're too strict on employers, the availability of internships may dry up?

Mr. Jonathan Champagne: I do believe, obviously, that there is some sort of balancing act, and that's why I think there are certain exceptions that need to be provided to internships. For example, providing academic credit instead of...and you sort of...minimum-wage pay is something that I think we can accept as an exception. Obviously, length and duration of employment as part of an internship program would, again, be another exception you need for interns. So there are, obviously, certain exceptions.

And yes, there is trying to find that right balance between allowing interns to gain valuable experience that they can use in future careers and the employer's being able to have that flexibility to bring these interns on board and provide them with a learning opportunity and experience that they can use for the rest of their lives.

Mr. Andrew Saxton: Do you believe that our government has achieved that balance with the changes in the recent budget implementation act?

Mr. Jonathan Champagne: From what I've seen in at least the first part, in terms of creating that exception for interns, the government has definitely taken a very important first step and recognizes the importance of the need to help provide those protections to interns—at least from what I've seen, and I'm not the lawyer on the panel here. There are additional provisions, and as you mentioned, if they are forthcoming, then I believe those are the necessary steps that need to be taken and will be taken to adequately protect those interns.

Mr. Andrew Saxton: If those basic protections, that you mentioned earlier and I just quoted, come into effect, do you also agree that our government has achieved the balance necessary?

Ms. Claire Seaborn: I do not believe we've achieved that balance in any sense.

Mr. Andrew Saxton: And why is that?

Ms. Claire Seaborn: What we recommend is unpaid work only be allowed when there's oversight from accredited educational institutions. The current bill would provide for four to twelve months of unpaid internships outside of school. That means there's no oversight. There's no ability for an intern to have a procedure to ensure they are actually receiving training. The conditions that are provided under that four-to-twelve-month exemption don't allow interns to enforce their own rights and, in fact, they have been exempted from the complaint system.

If interns feel as though they are not receiving adequate training during their four-month unpaid internship outside school, they in fact can't file a complaint, and they would have to, for example, hire a lawyer and find some sort of system to be able to enforce their own rights.

The appropriate approach is only to allow unpaid work when it's overseen by an educational institution.

Mr. Andrew Saxton: Mr. Farrell, if employers feel they are going to be sued because a student isn't getting the training they want, is that going to stop employers from potentially having interns?

Mr. John Farrell: You know that you can't prevent people from taking actions they think are appropriate, but I don't think it's necessary to concern ourselves with lawsuits.

We believe employers and interns can benefit from the balance that is necessary to give them the training they need, so they can advance their educational and work experiences.

Mr. Andrew Saxton: Has the government has achieved that balance with these changes. Yes or no?

The Chair: I'll take that as a yes.

Mr. Easter, for six minutes.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair, and welcome to all the witnesses.

I'd love to put questions on internships, but this is not my regular committee. We have great concerns about the budget bill and the remarks made by an officer of Parliament, the Information Commissioner, on how it relates to what is basically a violation of the law from the destruction of records in this country.

We've tried at the public safety committee, Mr. Chair, to have the Information Commissioner come forward with the Commissioner of the RCMP and the Minister of Public Safety, and that motion was turned down. That's where this discussion should take place.

Let me continue on the line of questioning of Mr. Cullen.

You said in your remarks that this division 18 in the budget bill provides immunity for any administrative, civil, or criminal proceedings against the Crown in relation to the destruction of said documents.

That being a peerless precedent, does it mean that this really can go back in time, provide a cover-up, and really make illegal what was legal, or make null and void what was illegal at the time?

• (1000)

Ms. Suzanne Legault: Well, it could. If it were to pass, it would really erase any kind of liability of anyone involved. I think people have to understand there are two things here.

One was an investigation into whether or not the RCMP provided all their records to the requesters. I have concluded that they haven't. This matter is now before the Federal Court. The government disagrees with me.

The second thing is that at the end of the investigation, I referred the matter to the Attorney General of Canada because I had evidence that there was a possible commission of a criminal offence. I did not investigate that. I sent that to the Attorney General for investigation.

This bill erases all of this. It erases everything. I'm not quite sure what happens in relation to all the records that are in my office at this time, because this nullifies that this ever happened. I'm not even sure what happens to the special report that's before Parliament. That's a record that has been created in relation to something that all of a sudden this bill is going to erase.

What's going to happen to all of these records, these *Hansards*? Are we going to suddenly forget that any of this ever happened because we're going to pass a bill retroactive to even before we had this access to information request? This is what we're doing.

Hon. Wayne Easter: I find that absolutely astounding. This is a government that claims to be for law and order and to uphold the law. When you're talking law and order, you can't just pick and choose what laws you want to uphold. That seems to me to be what is happening in this case.

This is an extremely serious charge. When an officer of Parliament is suggesting to the Attorney General that the RCMP, our national police force, actually violated the law and is asking for charges to be laid, that's an extremely serious matter. Then even worse is for the budget to nullify that whole procedure for those who have broken the law.

Do you have any idea who ordered this? Was it the political side that ordered that these records be destroyed? And do you have any idea who may have destroyed them? If we can't find that out now, then with the passage of this cover-up in the legislation, will we ever find out as Canadians?

Ms. Suzanne Legault: There are two things. First of all, I must clarify that I did not ask for charges to be laid against the RCMP. This is not within my power. I referred the matter to the Attorney General of Canada for an investigation. These matters are complex

In terms of all the records in relation to the destruction of the documents—because the long-gun registry has been destroyed, let's be clear—if that's the loophole we're trying to fix, the long-gun registry, as far as I know, no longer exists and that loophole does not need to be done. But in terms of all the records in relation to everything, if anyone wants to find out who ordered what, at what time and under what direction, we will not know if this bill passes.

Hon. Wayne Easter: I think that's really important, Mr. Chair, because I've previously been a solicitor general, and there is supposed to be a firewall between the political establishment and the RCMP. If there was political influence with the RCMP to destroy these documents, that is an extremely serious issue, because political influence is not supposed to be there in the day-to-day operations of the Government of Canada.

Can you shed any light on that point?

• (1005)

The Chair: Just a brief response, please.

Ms. Suzanne Legault: As you know, my investigations are done confidentially. If records are to be disclosed through the court process, it will be done so in that fashion. I referred the matter to the Attorney General of Canada because I was really of the view that an investigation needed to be conducted independently into possible violations of the law. That will not happen if this bill passes.

Hon. Wayne Easter: Thank you.

The Chair: Thank you. Thank you, Mr. Easter.

We'll go to Ms. Bateman, please, for six minutes.

Ms. Joyce Bateman (Winnipeg South Centre, CPC): Thank you very much, Mr. Chair.

Thank you to all of our witnesses this morning. We appreciate all of your testimony.

I'd like to start with Mr. Champagne, if I may. I'm the mother of two kids aged 23 and 17. What are the benefits for young people of internships?

Mr. Jonathan Champagne: If you look at post-secondary education today, you're seeing a lot more work-integrated learning and emphasis on being able to take some of those skills you learn in the classroom and apply them into workplace setting. There are the hard skills of learning how use software, equipment, or machines and tools, but also some of the more soft skills—responsibility, showing up on time, being accountable, etc.—that can benefit someone for the rest of their life.

Ms. Joyce Bateman: And they're so important.

From your perspective, sir, what protections existed for the interns before Bill C-59, and what will exist after its passage?

Mr. Jonathan Champagne: From where we stand, before Bill C-59, there haven't been a whole lot of protections in place for interns because has been no real definition or classification of interns, so it wasn't very clear what those protections were.

Ms. Joyce Bateman: I appreciate that.

I want to move to Mr. Farrell now to balance the perspective. We've heard previous testimony how valuable internships are for young people.

Now, sir, you represent 400,000 people. You represent a lot of employers. For things to work, there has to be balance. What are the benefits for employers of these internship programs? I want to hear from you, sir, if I could, as to the protections that we have now built in to Bill C-59 for young people in internships, which I believe are important. Have they gone too far, or is it still reasonable for employers? I hope it is, but anyway I'd like to hear from you.

Mr. John Farrell: First, I'd like to make a comment just for clarification.

We recognize the value of internships for students and people who are associated with recognized educational institutions. We also believe there is a very important component of internship programs that should apply to persons who are not necessarily participating in educational institutions but have a requirement to get work experience. For example, there are some member companies of our group that, as a community service, allow new immigrants to work in their organization to get them accustomed to working in a Canadian environment and to understand how work is done in Canada. That is done on a short-term basis.

Those kinds of programs are designed to benefit the overall community. We believe it's important that everybody has an opportunity to understand how work is done in Canada.

With regard to the provision of internships, organizations are pleased to do it. They believe that the balance of having academic and practical experience is very important to persons who are trying to advance their ability to move forward in the workplace. Employers are willing to extend themselves to provide practical experience, give employees some direction, supervise their activities, and impart knowledge that they would not otherwise get in an academic situation, nor would they get it if they were unable to take advantage of an internship if they were not connected with an educational institution.

There is a great deal of social value involved in ensuring that Canada develops and retains a robust internship arrangement. We believe it's a very important part of public policy, which will advance the ability of educational institutions to work together with stakeholders who are representing the interests of people who need access to training and knowledge. We should do everything we can to encourage the existence of internships.

If the regulation of interns becomes so onerous that they are otherwise considered to be employees, then the unintended consequence could be that the numbers of internship programs may be diminished. Employers will opt for simply hiring employees rather than extending themselves to the training and development of people who may not necessarily be retained in their organizations.

There is a very important balance here. We recognize that we have responsibilities to anybody who is on our property, and we expect that we will honour those obligations. The only thing we want to make sure of is that it's done appropriately and that it will advance the willingness of employers to engage interns.

Thank you.

•(1010)

Ms. Joyce Bateman: Thank you very much.

Do you feel that Bill C-59 is going to help that happen?

The Chair: A brief response, please.

Mr. John Farrell: Yes, I think it's in the right direction.

The Chair: You have 10 seconds.

Ms. Joyce Bateman: Madam Legault—

The Chair: Unfortunately, Ms. Bateman, I have to move on. Thank you for your round.

We'll go to Mr. Cash, please.

Mr. Andrew Cash (Davenport, NDP): Thank you, Mr. Chair.

I'd like to first address a question to Mr. Gleason.

Before tabling our Bill C-636, Bell Mobility, one of Canada's largest and most profitable telecoms, ran a controversial unpaid internship program that took advantage of hundreds of unpaid, non-academic interns.

Would the current bill, the one we're discussing now, stop such large-scale unpaid programs, or would it facilitate them?

Mr. Tim Gleason: I think the answer is yes and no.

It would stop them if they exceeded the twelve months, or in some cases four months, but if it were up to four months, the bill would not impede those programs at all.

Mr. Andrew Cash: Okay.

I have to acknowledge a comment from the government side on including measures at some point to bring interns into part 3 of the code. I'm unclear, though, as to whether this is going to be enshrined in law or a regulation.

What I want to ask, first of all, is whether there is any logical reason why the government would not have included these measures in the bill in the first place.

Mr. Tim Gleason: Well, I can't think of a logical reason. I've heard some people comment on balance today and say that the necessary balance requires excluding these people from these protections. I don't understand that. I think we've long recognized that there's a floor beneath which we will not permit employers to go, and that part 3 of the Canada Labour Code is that floor.

Excluding them from the code and saying that we might address it in regulations places it, first of all, at the discretion of cabinet, not subject to the scrutiny of Parliament. There's no clarity at all with respect to the plans to do that. I think one of the members of the committee suggested that we can assume that will happen, but I don't see that we can assume that will happen when we're expressly excluding these people from the protections in the code. They're workers like anybody else.

Mr. Andrew Cash: Extrapolating from that, if these measures—as you say, the floor for protections for unpaid interns—are regulations or are included in some kind of cabinet initiative beyond the oversight of Parliament, is that enough? Or does that open the door for some other kind of diminution of protections for interns?

Mr. Tim Gleason: Well, certainly it could be enough. It could be enough if the regulations were drafted properly and reflected exactly what's in the code or perhaps even better, but again, there's no clarity with respect to what those plans are, and those regulations can be changed at will, at the pleasure of the cabinet.

Mr. Andrew Cash: The government side likes to put up the straw man argument of employees suing large corporations. Imagine that. Imagine a young unpaid intern going up against Bell, right? That's scary stuff, right, for Bell?

Why would the government put forth such arguments as some kind of justification for not providing that solid floor? By the way, on that floor, not one of us in this room would put their own children in those kinds of circumstances. Why would the government do that?

•(1015)

Mr. Tim Gleason: Again, I can't answer for the government, although I think it was an odd question that was posed earlier. There's nothing in the statute that would prevent interns from suing employers for a breach of any agreement they have with them. This statute or any statute wouldn't prevent them from suing, so I don't understand that question put by the other member.

That said, your comment about the floor that we wouldn't subject our children to is apt. I have children of working age, and I can say that I can afford to subsidize my children to work for free, but when I was their age, I couldn't afford it. When I had to article to become a lawyer, we were paid for that, and now in Ontario we're introducing unpaid internships for articling students. I can say that I would not be a lawyer today if we'd had those when I came out of law school; I just could not afford to work for 12 months for free.

By excluding interns from these protections, we're reserving the advancement—all of the good things the government is saying that internships do for people—for the children of the wealthy.

The Chair: You have about one minute, Mr. Cash.

Mr. Andrew Cash: I want to clarify this quickly because we hear this on the government side too when they talk about the value of internships, but we do have to make a distinction between internships that are paid and internships that are not. They're very different things.

Finally, I'd just like to say that our bill was inspired in part by the death of Andy Ferguson, a 22-year-old intern who worked excessive hours, got into his car at five o'clock in the morning after working all night long, drove home, fell asleep at the wheel, crashed, and died. Would the measures included in this bill...? In regard to the fact that we're not including caps on hours of work, if those were included, would that affect young people in a positive way?

The Chair: A brief response, Mr. Gleason.

Mr. Tim Gleason: Yes, those protections would affect young people profoundly.

Mr. Andrew Cash: Thank you.

The Chair: Thank you, Mr. Cash.

We'll go to Mr. Cannan, please.

Hon. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair.

To our witnesses, good morning and thank you for being here.

I represent the riding of Kelowna—Lake Country in the Okanagan, where we have UBC Okanagan and Okanagan College, so I appreciate the support that our students provide for our community and our country.

I have just a couple of quick questions for Mr. Champagne.

As far as the economic action plan goes, it's looking forward as a budget and working with our students. It talks about making student loans work for families. I'm wondering if you could comment on the three initiatives that are being proposed as we move forward over the next few years.

They include providing \$119 million over four years, starting in 2016-17, to reduce the expected parental contribution under the Canada student loans program needs assessment process. There are also proposals to provide \$116 million over four years to eliminate in-study student income from the Canada student loans program needs assessment process. Also, with regard to expanding the eligibility for Canada student grants, the budget is proposing to provide \$184 million over four years to expand eligibility for Canada student grants to students in short-duration programs.

Could you comment on those three initiatives as we move forward to help our students across Canada?

Mr. Jonathan Champagne: I would say those three announcements in Budget 2015, from what we can tell, are the largest investments in student financial aid since 2008. I think they are a strong positive step and a great indication from this government in investing in young people and their education.

Hon. Ron Cannan: Thanks. I appreciate that, and also the fact of internships. I was thinking back to my younger years when I ended up managing a grocery store and eventually owning a convenience store with a gas station. I got that experience in school, working for a dollar an hour, in a work experience program. I share the view that there's always a need for increased regulation and protection.

To elaborate on Mr. Saxton's comment that he didn't have a chance to finish, are the regulations that have been proposed an appropriate step in terms of the element of balance, as we move forward and review the regulations that are being put in place and consider as we move forward?

Mr. Jonathan Champagne: I guess I also wanted to briefly touch on this idea of balance.

When we go outside the internship and coop sphere for a second, as a society, and as a government, and as a country we've already established balance when it comes to protecting general employees, whether it's with the minimum wage, workplace safety, or all of the extra protections as well. I think we've worked between the private sector and appropriate legislation and regulations to achieve that balance where people can work, people can earn a living, people are not worried about being dismissed for no reason, and those sorts of things.

To have on the one hand that balance with employees and then for some reason, on the other hand, to have the balance shift so drastically for non-employees is a bit of a question mark. We should work to maintain that and keep that balance as close as possible.

● (1020)

Hon. Ron Cannan: Thank you very much.

Shifting over to Ms. Legault, I wanted to know if you could comment about the original intent of the Ending the Long Gun Registry Act in 2011?

Ms. Suzanne Legault: I think you'd have to ask a member of Parliament about the original intent of the Ending the Long Gun Registry Act. I am assuming it was the destruction of all the records in the long gun registry.

Hon. Ron Cannan: Correct. All the records. Okay, I appreciate that.

Shifting over to Mr. Henderson for my last couple of minutes.

As an amateur musician, and not a professional like Mr. Cash and a few others in the House of Commons, I appreciate the culture and the value that Canadian musicians and artists provide for our country. I was wondering if you could elaborate a little on previous length of copyright in Canada compared to other countries around the world and the length now.

Mr. Graham Henderson: Our our copyright protection extended for 50 years, as opposed to 70, from the date of publication of the recording in question. There was a 20-year difference.

Hon. Ron Cannan: Songwriters and composers already have lifetime copyright protection, right? I think the principle behind the recent changes is that no artists would wake up and be able to hear their work without their owning it. Is that basically the understanding?

Mr. Graham Henderson: Yes, and there's a distinction between recording artists—or performers—and labels, and then the songwriters. They're not always the same people. Anne Murray, for example, in those early recordings of hers, was not the songwriter. She was the performer. The songwriter of those early performances is protected under copyright legislation for life, plus an additional 50 years in Canada and 70 years in other countries around the world. There's protection there for the songwriter, but the performer, Anne Murray and many others—you might even think of the Beatles and the fact that Paul McCartney and John Lennon wrote those songs, not Ringo and George necessarily.... What we're focused on is protection for the performers on the master recording, and that's where there was a very significant risk, and an immediate one.

The Chair: You have 30 seconds.

Hon. Ron Cannan: Thirty-one years ago this month I got married, and I used an Anne Murray song, so I'll send my tribute to Canadian artists.

It was the summer of 1969 when all by myself these eyes of an old man who was taking a look at himself, while sitting under some patio lanterns, wearing sunglasses at night, under a harvest moon, saw a snowbird. While dreaming if I had a million dollars, along with the constant craving for a K-car, I said to myself, "My heart will go on". Then I asked my wife if she would put her head on my shoulder and if I could have this dance for the rest of my life, and she said, "Never say never".

That's my tribute to Canadian artists. Thanks.

The Chair: Right. Thank you.

Thank you, Mr. Cannan.

Voices: [*Inaudible—Editor*]

The Chair: Order, order.

You've adequately demonstrated why you're an amateur musician.

Voices: Oh, oh!

Hon. Ron Cannan: It's also great Canadian talent. There you go.

The Chair: Madam Liu, *s'il vous plaît pour six minutes*.

Ms. Laurin Liu (Rivière-des-Mille-Îles, NDP): I think we'll leave the artistry to members on our side.

Earlier this year we found out through an access to information request that the federal government hired just 22 out of its 1,000 interns since 2008. So we know that internships often don't result in paid employment and also contribute to a cycle of youth under-employment and youth unemployment. Unlike the bill that the NDP proposed, Bill C-636, C-636, An Act to amend the Canada Labour

Code (unpaid training), the current proposed budget implementation act doesn't actually restrict non-academic internships.

So, Claire, could you just talk about the risks of the allowance of unpaid academic unpaid internships and the effect that it could have on labour and the labour market?

Ms. Claire Seaborn: The first thing I'll say is that these amendments would put interns, students, and entry-level workers in a worse position than they're currently in under the Canada Labour Code. Entry-level interns and workers who are receiving training are currently entitled to a number of different employment protections, including wages, the ability to file complaints, and protections against sexual harassment. These exemptions only cover a small portion of the protections they should be entitled to, and we've discussed the health and safety and the benefits of that, but there's quite a lot missing.

The proposal we've made today is that the simplest solution, the simplest amendment, would be to only allow unpaid internships in the context of educational institutions. Those institutions provide the appropriate oversight to ensure that interns have a process for complaints to ensure that they are receiving training for the work that they're doing. Once they graduate, that's when they should start receiving pay for the hours they're working in addition to the summer months.

● (1025)

Ms. Laurin Liu: So what would be your response to those who claim that new Canadians, for example, should have these opportunities to work for free for employers, Ms. Seaborn?

Then, Mr. Gleason, if you have anything to add, please go ahead.

Ms. Claire Seaborn: Mr. Gleason made an excellent point, which is that only the wealthiest young Canadians can afford to do unpaid internships. The result is that everyone else experiences barriers to accessing all sorts of professions and jobs in journalism, the arts, politics, and increasingly in law, and social work. There are a number of professions and industries in Canada that essentially require months of unpaid work that many young Canadians just simply can't do.

Ms. Laurin Liu: What would be the case for new Canadians? Do you think that new Canadians should be forced to work for free to gain workplace experience?

Ms. Claire Seaborn: Absolutely. We frequently receive emails from immigrants in Canada who take unpaid work out of desperation and for no other reason. In fact, all Canadians are taking unpaid work out of desperation. Federally regulated employers would use these exceptions to take advantage of that desperation and extract work, labour, that's useful to them. They provide training but they are certainly extracting work from people without providing remuneration and without really being accountable for what they're providing to those people.

Ms. Laurin Liu: Mr. Champagne, would you agree with that?

Mr. Jonathan Champagne: I think the idea of providing a community service for allowing new immigrants to work for free is a guise and something that shouldn't be accepted or tolerated.

Ms. Laurin Liu: Thank you.

Going back to the issue of sexual harassment, which is actually not covered in the BIA, we know that unpaid interns tend to be very young and very open to exploitation, and we also know that women tend to be overrepresented in unpaid internships. So taking those things into consideration, I'd just like to read into the record the definition of sexual harassment found in the Canadian Labour Code. Sexual harassment is defined there as:

any conduct, comment, gesture or contact of a sexual nature
 (a) that is likely to cause offence or humiliation to any employee; or
 (b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

Now, is there any reason whatsoever that protections from sexual harassment should not be included as an amendment in the BIA as opposed to in a regulation?

Mr. Gleason, you commented on this earlier.

Ms. Seaborn, would you have anything to add to that?

Ms. Claire Seaborn: I frequently speak to interns who have been sexually harassed. It's something that occurs often in Canada and is very infrequently reported. Interns who have been sexually harassed do not want to speak out about their internships. This bill would provide no protections for them. At a minimum, allowing educational institutions to oversee the internship would mean that the intern could speak to their educational institution about whatever sexual harassment they're being subject to. Of course, interns should be covered under the sexual harassment provisions of the code, and also may have some other avenues for complaint. But as it stands right now, this is completely inadequate and a complete misunderstanding of the experience of many young interns.

The Chair: You have one minute remaining.

Ms. Laurin Liu: Mr. Champagne?

Mr. Jonathan Champagne: It's not clear to me at this point why those provisions especially related to sexual harassment are not included in the original act.

Ms. Laurin Liu: Mr. Farrell, thank you for your testimony today. Would you also agree that sexual harassment should be included as an amendment in the BIA, rather than as a regulation?

Mr. John Farrell: Firstly, we would prefer that most of the matters dealt with within in this bill be in legislation rather than in regulations, because that would provide immediate clarity.

We believe it's important to have a consultation on the matters that would be properly included in regulation, if that's the direction this bill ends up going in, because we believe that all stakeholders have a stake in expressing their true views about what should be in this legislation.

With respect to sexual harassment—

• (1030)

The Chair: Be brief, please, sir.

Mr. John Farrell: —it is covered, as all employers are required under part 3 of the Canada Labour Code to provide a policy with respect to sexual harassment.

All employers in the federal jurisdiction take this matter very seriously. We cannot tolerate sexual harassment, whether it be of

anybody who's employed directly by the employer or of people who are on the employer's premises. We will take care of that.

Thank you.

The Chair: Okay. Thank you.

[*Translation*]

Thank you, Ms. Liu.

[*English*]

We'll go to Mr. Van Kesteren, please, for his round.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Mr. Chair.

Thank you all for being here.

Just for clarification, I want to talk about the amendments to the Canadian Labour Code in two circumstances: those in which the internship is formally part of a program approved by a recognized school—we have talked about that for a secondary or post-secondary institution—and secondly, those in which the internship meets all six specific criteria.

I want to read those, just to put them into the record: the internship does not exceed four months, or the equivalent number of hours in a 12-month period; the internship is primarily for the benefit of the intern; the intern is supervised; the internship is not a prerequisite for a job in the employer's organization, nor is the employer obligated to give the intern a job; the intern does not replace any paid employees; and the intern is informed in advance in writing that he or she will not be paid.

I want to go to Mr. Farrell. I'm listening to the discussion, and there are good points made, and I think that passionately our two panellists from the educational institutions have laid them out well. But Mr. Farrell, you represent the public sector, which has the opportunity to possibly pay—or, if they're instructed by the government, may be able to do so. But I'm wondering whether you have any concerns about the private sector and how they would react to something over and above what the government is proposing at this time.

Mr. John Farrell: For the purpose of clarification, FETCO represents mostly private sector employers. Certain companies that are crown corporations also participate in FETCO. So we represent private sector employers.

We think that establishing these criteria in this bill will be helpful to interns and will require that employers follow certain procedures to ensure that they are hired to participate as interns, which does not place them in an employment relationship, in a manner that is going to benefit them. So we think that the criteria that have been established are going to require that employers make sure they apply appropriate criteria for the engagement of interns in their organizations.

Mr. Dave Van Kesteren: Now, in different situations in this committee—we've dealt with, for instance, some regulations that were applied to banking, for credit cards—we suggested self-policing, and it was quite successful, too. Is there room for that, possibly?

Ms. Seaborn, you talked about the lawyers, for instance. Quite frankly, to embarrass those organizations, if there really isn't any cause for what they're doing, if they're taking advantage.... Is there room for that? Is that something the government might want to pursue?

Mr. John Farrell: I'm not quite sure that I understand your question with respect to so-called self-policing.

Mr. Dave Van Kesteren: We asked for self-regulation in the banking industry. Is there room for that? Is there maybe somewhere we should go? I guess I could ask Ms. Seaborn and Mr. Champagne as well whether that's a possibility. I'm just concerned about the private sector. We all want to stop any practice that's wrong or that takes advantage of, or is harmful to, students. By the same token we have that balance.

Can all of you maybe just comment on that?

• (1035)

Mr. John Farrell: All I can say is that all of the employers that are members of FETCO recognize the responsibilities to treat people fairly, and they do have obligations to do that. As for this notion of some kind of self-regulatory process, I just don't understand how that would work. I think employers have obligations to protect the interests of employers, employees, and to protect the interest of anyone who is on their premises.

Mr. Dave Van Kesteren: So you're quite satisfied with the legislation as it's being presented.

Mr. John Farrell: I'm satisfied with the direction that this legislation is going in. I think we would prefer that it not necessarily be fully played out in a regulatory process, because that could create uncertainty down the road, but we do believe in the importance of having a dialogue with all the stakeholders who are going to be engaged in improving internship arrangements in Canada.

Ms. Claire Seaborn: The conditions that you just listed are completely unenforceable. We can't rely on the federal sector employers to ensure that those conditions are being met for every intern. If interns feel as though those conditions are not met for them, then how are they to proceed? They can't file a complaint under the Canada Labour Code. They can't appeal to an educational institution because they're not overseen by one, and they'll have no choice but to turn to a lawyer, a lawyer who they can't afford, and if they can afford a lawyer, it will become quite a public mess for that employer. The appropriate solution is to get rid of these conditions that create ambiguity, vagueness, and possibly litigation, and instead have some clarity and only allow internships with educational institutions.

The Chair: Thank you.

Thank you, Mr. Van Kesteren.

We'll go to Mr. Adler, please.

Mr. Mark Adler (York Centre, CPC): Thank you very much, Chair.

Thank you, witnesses, for being here today. I appreciate all of your input.

I do want to begin first of all with Madame Legault. Do you agree with the principle of supremacy of Parliament?

Ms. Suzanne Legault: I do.

Mr. Mark Adler: Okay, thanks.

You mention earlier that there are no precedents for retroactive legislation?

Ms. Suzanne Legault: That's not what I said. I said that there were. I said that I haven't seen a specific case like this one with retroactive legislation.

Mr. Mark Adler: Okay, because there are multiple examples of—

Ms. Suzanne Legault: I agree.

Mr. Mark Adler: The tax law, for example.

Ms. Suzanne Legault: I agree.

Mr. Mark Adler: I would just like to read you something to you and get your opinion on it. The courts have recognized that there is a long-standing presumption in Canadian law that legislation does not have retroactive effect unless this is made explicit in the enactment or is a necessary implication of the language used. That principle has been used in multiple cases. So if there is explicit language in the law for the application to be made retroactive. If there is no explicit language of retroactivity, then that principle is not applied. This principle has been applied in dozens of cases that have appeared before the Supreme Court of Canada where that rule has been applied.

Ms. Suzanne Legault: And your question?

Mr. Mark Adler: The presumption that you are making and the opposition is making is that there is no retroactivity. However, there is retroactivity if retroactivity is put into the law, logically speaking. And here we have the principle of retroactivity applied within this amendment. Is that correct?

Ms. Suzanne Legault: I can assure you that I agree that retroactive laws can be legal. I am not sure this one is. That's why my office is still exploring our options, because I believe the facts of this case and the retroactive application in this particular bill may very well raise constitutional issues in relation to freedom of expression and to the rule of law in Canada.

Now, we shall see.

• (1040)

Mr. Mark Adler: Be that as it may, the principle of retroactivity is a long established one in Canadian law and has been affirmed by the Supreme Court on many occasions, and the principle of parliamentary supremacy is a long standing one in Canada and in our parliamentary tradition going back to Britain.

All members of Parliament, all 308 of us, were elected by popular vote and sent here to pass legislation on behalf of the Canadian people, and that's exactly what we have done here.

Every Canadian has the option of pursuing legislation on its constitutionality within the court system but, again, that is based on an opinion that specific people may have.

Is that correct?

Ms. Suzanne Legault: Well, Mr. Chair, I agree that the will of Parliament is supreme. I really do.

The situation that I have before me is the following: I have the Ending the Long-gun Registry Act, which has been in existence since April 2012. The ELRA never ousted the jurisdiction of the Access to Information Act; it ousted the jurisdiction of various provisions of the Privacy Act, but is silent about the Access to Information Act, which is also a law of Parliament that I am mandated to apply. I am mandated to receive and investigate complaints under the Access to Information Act. Government institutions are obligated to respect their obligations under the Access to Information Act.

This is the will of Parliament today and it was in 2012, and until it is changed, it is the will of Parliament.

The Chair: You have one minute.

Mr. Mark Adler: The will of Parliament is expressed by Parliament.

Is that correct?

Ms. Suzanne Legault: In both the Access to Information Act and the ELRA, I cannot speculate that Parliament decided that the Access to Information Act was not to apply if it were not specifically mentioned.

Mr. Mark Adler: You're speculating on its constitutionality, are you not?

Ms. Suzanne Legault: I don't know what a court would say on the constitutionality of this particular retroactive bill.

Mr. Mark Adler: So all your assertions are based on speculation right now, correct?

Ms. Suzanne Legault: It is based on my—

Mr. Mark Adler: On your own speculation.

Ms. Suzanne Legault: No, it is based on our review—

Mr. Mark Adler: Because no court has ruled yet, right?

Ms. Suzanne Legault: No, and it will have to be determined by the court unless parliamentarians decide not to pass this bill.

The Chair: Okay, just a brief question and response, please.

Mr. Mark Adler: Okay. Thank you.

Do you agree that when Parliament passes laws, it doesn't do so to create loopholes—and again this is a long-standing tradition in Canadian law—but to close them?

Ms. Suzanne Legault: A week after the ELRA came into effect in April 2012, I wrote to Minister Toews, who was the Minister of

Public Safety, alerting him to the fact that the Access to Information Act applied. Of course, I saw there was a concern; I had a valid request and a valid complaint. I alerted the minister in April 2012 that the access act applied. The minister replied to me—and this is in my special report—that he would abide by the rights of access under the Access to Information Act.

The government, which had a majority at the time, could have said, “Oops” and changed the law at that time. Unfortunately, it wasn't done, so an investigation was conducted and this is the situation we are faced with.

I agree with you: I really do not know what a court would determine in relation to this bill. I do have serious concerns and I don't think the law is settled on facts such as these.

I urge parliamentarians to really look at this and to see whether or not it is a better solution to say, “Let the facts and the case in the Federal Court determine whether or not the response was provided appropriately.” It's already before the Federal Court. Let the police do their own investigation. Perhaps they will find that there is nothing there. We shall see, but that's the situation we have. It should run its course.

The Chair: Thank you.

Unfortunately, the time has run out for the chair to ask any questions.

On behalf of all of the committee, I want to thank all of our witnesses for being here this morning and contributing to our deliberations on Bill C-59. We appreciate your involvement very much.

Colleagues, you have a very modest budget in front of you. Could I get someone to move this budget?

• (1045)

Mr. Nathan Cullen: I so move, Chair.

The Chair: Okay.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Okay. Thank you.

We will see you this afternoon with Minister Oliver.

The meeting is adjourned.

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