

Bill C-31, **Eliminating Entitlements for Prisoners Act**, An Act to amend the Old Age Security Act

Tuesday, November 16, 2010

Mr. Speaker, I am pleased to have the opportunity to speak to Bill C-31, An Act to amend the Old Age Security Act, which would eliminate entitlements for prisoners.

I was on the human resources committee which dealt with this bill after it passed the House with the support of all parties. We supported the bill then and we are supporting it again. We hope it is dealt with very quickly. However, that does not mean we do not have certain issues and questions. That is why we have a committee system in Parliament. We look at issues to ensure that however well intended a bill might be, it does not have unintended consequences that could come back to bite us after the fact.

My colleague from Mississauga South referenced that. His view is that it is very possible it will come back to bite us. I tend to agree. I am sure there are parts of it on which we will look back and ask why we did not spend more time on them at committee. We did raise significant issues at committee. My colleague from Windsor—Tecumseh raised some. We raised a number. They were dealt with.

In simple terms, to reinforce what Bill C-31 is about, under Bill C-31, the old age security pension, the GIS provided for under the OAS would not be paid to persons who are incarcerated in a federal institution and serving a sentence of more than two years, incarcerated in a provincial institution and serving a sentence of more than 90 days, or incarcerated in a territorial institution and serving a sentence of more than 90 days.

I think people would say that makes sense but they would want to know how it came about. I want to go through the timeline on this as I think it is somewhat instructive.

On March 26 news reports surfaced across the country that Clifford Olson was getting a pension while in prison. Because of the heinous nature of his crimes, people were understandably and rightly offended by that. That very day the Minister of Human Resources and Skills Development made a comment in the House. This is what she said:

...I am very concerned and disturbed [about these reports]. Members can rest assured that we are making every effort at a very rapid pace to ensure the situation does not continue and that it is prevented from happening in the future.

Those were the comments of the minister on March 26. Our party's critic, the member for York West, indicated right away that we would support getting the bill through the House as quickly as possible. Yet it was not until June 1 that the government introduced Bill C-31. The House recessed for the summer on June 17 without the bill having been called for second reading.

On September 23 we came back from the summer break. We had some debates, and the second reading vote was on September 24.

On September 30, we had our first meeting of the human resources committee, referred to as HUMA. It was on October 7 that we finally met to deal with Bill C-31. In fact the first meeting the minister was meant to attend, she was unable to make it. That meant another meeting went by without our being able to act on this bill.

It is a duty of the committee to look at these bills. There may be some unintended consequences. That does not mean this bill could not have come before us quicker. I just say that to show that the official opposition, and I think all opposition parties, wanted to deal with this bill as quickly as we possibly could.

The question is whether this bill will do what it is supposed to do, which is to make sure that Canada's most violent and offensive criminals who are serving long periods of time in jail are not receiving OAS and GIS payments. I think we all agree on that.

On the other hand, there are a number of people who are incarcerated in the prison system and upon release after many years in jail, what are their options? If their options are prefaced by a complete lack of money and resources, what is the action that obviously will follow? In many cases the person who had been an offender will most likely reoffend because the person has no income.

That does not mean those people should receive the payments. We believe they should be withheld, but we wanted to ensure during the course of this that the system was not only taking the payments away when appropriate but also that the payments would resume when appropriate.

We were surprised, perhaps even astonished, at how little information the corrections service keeps on prisoners' families. In fact, the commissioner was unable to tell us some very basic information about the income status of some of the prisoners who were in the system, which obviously could have a direct impact on their families. That was one thing we found surprising. There was not as much information as we thought there should be.

What are other countries doing? I think every country in the world would look at their most violent criminals and say that they need to have a look at that and see if they should be treated differently.

Some work has been done on this. For example, the United Kingdom, Austria, Denmark, Ireland and Luxembourg do not pay state pensions during the duration of prison sentences. In some cases those are recent changes and in some cases that is the way it has been for some time. Austria and Ireland confirmed that the legislation specifically excluded convicted prisoners from receiving their state pensions but that it did not apply to those remanded in custody. Dependants could apply to receive a portion of the pension.

Just about all countries that responded stated that prisoners would not be entitled to the full resumption of their benefits once they left prison, which is certainly the case here, but, as my colleague from the NDP, the justice critic from Windsor—Tecumseh, indicated, the bill had to be amended for us to be certain that the process would be in place to ensure that those payments would continue as appropriate.

Some other EU countries do in fact pay state pensions to prisoners during their sentences. Belgium and the Czech Republic continue to pay state pensions. In France, the payment is made into a prison account. Ten per cent is deducted and allocated to the prosecution and 10% goes toward a release allowance. In Germany, elderly prisoners are entitled to receive state pensions during the period of their prison sentences that is paid into a private bank account. In Norway, sections 3 to 29 of the national insurance act suggest that pensions are subject to deductions during the prison service, according to rules similar to those applying to those in long-term accommodation. In health institutions, the prisoner will receive reduced payments.

Therefore, other countries have had a look at this and some have decided that they should go the route that Canada is going, which is to ensure that people do not get payments while they are in prison.

As I have indicated, we are supportive of this measure because we think it makes sense, but that is not to say that there are not legitimate concerns that have been raised. Some people have indicated that they are concerned that this may not withstand a charter challenge. I am not a lawyer. I have been accused of being one, but I am not a lawyer and I cannot speak effectively to that.

I do want to suggest that there was significant opposition. The Canadian Criminal Justice Association sent some information around to all of us indicating its concerns. Its main points with regard to Bill C-31 are: that it may be in violation of the charter; that it may set a precedent to deny benefits to others housed in government institutions, specifically mental health centres or hospitals; and that the bill may take away funds that may be needed for food and shelter upon release. This goes to the issue of what people would live on when they leave the institution.

The association goes on to say that a waiting period of weeks or months to reinstate payments would exacerbate this problem. I wanted to mention that because that was the biggest issue in our committee and the subject of the amendments, on which the opposition parties and the government eventually came to terms.

The association was also concerned that it may create additional victims out of families, spouses and children of prisoners, as pensions may contribute to household income, and that it could contribute to household disintegration due to lack of income, resulting in additional expenditures to Canadians. There were a number of other issues.

One of the association's biggest concerns, which was a concern expressed by a number of people throughout the country, is whether this is the best way to do criminal justice. Do we react to a headline of a story and then determine that is the course of action?

Back in early summer, Craig Jones, who was then the executive director of the John Howard Society, suggested that this was being used to divert attention from other problems plaguing the government. I want to indicate what his view was. Mr. Jones warned against quickly crafting new laws based on the most extreme examples of offenders. That was a legitimate concern and one that we had to take into account as we did our committee deliberations.

It is not hard to imagine that most Canadians would be generally in favour of suggesting that inmates should not get pensions. In fact, I would reference

an Ekos poll taken back in April, shortly after this story broke, under the topic of entitlement to old age benefits while in federal prison. The poll showed that 59% of Canadians agreed with the statement that all federal prisoners should lose their benefits while in prison; 25% said that only federal prisoners with life sentences should lose their benefits; and 17% said that all federal prisoners who are entitled to federal pensions should receive them.

The percentages in the poll were not particularly surprising and probably spurred the government on to ensure that this legislation was brought forward.

However, as I said before, we think it could have been done quicker and, in fact, could have gone to committee before the summer break. Certainly our critic from York West indicated that we would have been very supportive of that.

There were a number of questions, but the key question and the first question I asked when we had committee meetings was: How do we ensure that this gets administered in a way that is not only reasonable for the families, who, in many cases are the unwitting victims of what their loved ones have done by committing offences, but also ensure that we have streets that are safe? How do the benefits get stopped and how do the benefits get started?

We agree that when somebody is in an institution they should not be getting old age benefits and GIS. The spouses could still qualify for GIS on their own income. If it is determined that prisoners will not get benefits while in a federal institution, how would that actually happen and how do we ensure it happens correctly on both ends?

The Commissioner of Correctional Service Canada, Don Head, presented to us on October 26. He took us through a number of things about what happens to inmates while they are in prison. He said:

I would like to address the mechanics of how Correctional Service Canada would help implement the withholding of old age security benefits. We have developed a draft informationsharing agreement with Human Resources and Skills Development Canada that would permit the disclosure by CSC of information on federal offenders age 60 years or older. This would include information on those who are incarcerated in order to facilitate the suspension of payments, as well as information on those who are recently

released by virtue of parole or statutory release, so that payments can be reinstated.

I want to emphasize the words "as well as information on those who were recently released". This would indicate that as prisoners are entering the prison system, when the time has come for their benefits to be stopped, that will happen automatically. On the reverse side, when prisoners come out, the bill stipulates that they must notify the minister, i.e. Service Canada, for the resumption of benefits. What the Commissioner of Correctional Service Canada indicated was that the department would provide information on those who were recently released.

That is a bit of a concern in that it means that people would be hitting the streets without any income to support themselves and potentially their families. We asked if there were a way that Correctional Service Canada could work with inmates as they are coming up for release, either being paroled or at the end of their sentence, to ensure they can make contact with Service Canada to avoid a month or two month delay when they get back onto the streets and hopefully back to their homes, if they have them.

I do not have any reason to doubt the integrity of the Commissioner of Correctional Service Canada or the people who work in the system. I think they are all very well-intentioned and do a very good job. However, they indicated that they could not assist us in ensuring that would be the case.

The nature of the amendments that were provided by the opposition were to ensure that prisoners getting ready for release, not just after they are released, would actually receive those benefits upon release. I think that was taken care of. We had discussions in committee and eventually the government and the opposition parties got together and agreed on some wording to that effect.

As I indicated, I do not know if it is a charter challenge. I am not a lawyer so I cannot speak very effectively to that. However, what makes perfect sense, I think, to most Canadians is that prisoners serving long sentences for serious crimes should not be getting OAS and GIS.

On the other hand, we need to ensure that there will not be some unintended consequences where families will simply have no option. In many cases, it is through no fault of their own that they are involved with people who commit these violent and serious offences.

The other part of this is the cost and/or the savings to the government. We have been told that there needs to be a coordination with the provinces but not all the provinces have signed on. The minister acknowledged this when she appeared before committee. She said that a number of provinces indicated that they would coordinate this with the federal government but that not all of them have. This is something that will need to be worked out, respecting provincial jurisdiction and the fact that some of these costs could be borne by the provinces. Somewhere between \$2 million and \$10 million, which are the numbers we heard, would be withheld or, in other words, saved. The government would spend \$2 million to \$10 million less a year.

When the minister appeared before committee, I asked her if that money could be used to support victims of crime. The critic for the Liberal Party indicated as far back as the spring that it was our view that the savings should go to victims of crime. There are some victims of crime organizations that have had funding cuts or their funding has lapsed with the government. I think we all agree that a lot of people who are victims of crime should get the benefit of the doubt.

If \$2 million to \$10 million will be saved, why can we not allocate that? We all understand that the money goes back to a certain department but there are lots of ways to allocate a certain amount of money and ensure it goes toward something specific. We think it is perfectly sensible and logical that the money should go to victims of crime.

The government talks about victims of crime a lot but it cut the budget of the grants for victims of crime initiative by 41% and the contributions for the victims of crime initiative by 34%, \$2.7 million. There is a need by the groups working with victims of crime and we do not understand why that money, which in fact would be money saved because of this bill, could not be dedicated to them.

The saving of money was not the primary purpose of the bill. The primary purpose of the bill was to ensure that people who commit violent crimes do not benefit while in prison. Their costs are already being paid. Why would they need OAS and GIS? We understand that. However, if there are savings to be made, why could that money not then be turned over to victims of crime organizations?

The minister indicated that statutorily the money goes into the department, and we understand that, but whatever the savings are we could very easily designate those savings to the victims of crime. It is all taxpayer money and it all comes out of the same pot at the end of the day. We believe that

amount of money, whether it is \$2 million or \$10 million, would make a bigger difference to victims of crime organizations than it would to the overall bureaucracy that administers OAS and GIS. We were a little disappointed, because we felt this was an initiative that was well worth supporting, that the government did not see fit to support that.

The committee meetings that we had on this were generally productive. As I said, we heard from a number of witnesses, such as Correctional Service Canada and victims groups. We heard some very compelling testimony from people who had been victims of crime. As one can imagine, they tell stories that most Canadians do not want to hear but when they do hear them they feel great empathy and compassion for the families.

The committee worked and at the end day we fashioned a bit of a compromise on an amendment to ensure that more would be done to ensure that long-term prison inmates would not hit the streets without anything for the good of society as much as for the good of themselves and their families. The bill is back in the House today.

I can support this bill. In our country now there is a big need to recognize that there are causes of crime that we can be tough on, but we also want to ensure that we are reasonable, fair and that we are not paying benefits to prisoners that, by and large, Canadians do not think they are entitled to, and I tend to agree with that.

We do not think it is a perfect bill, and there may well be some things that come out down the road, but for today it is an important step for Parliament to say that it is a step forward, that this is a better way of doing things, let us not make perfect be the enemy of better and let us pass Bill C-31.

Response to Question

Madam Speaker, my colleagues raises some very good questions. When we look at how many people currently incarcerated in federal penitentiaries would be affected by this, we are told it would be 400, potentially up to 600 if we include provincial institutions, at a cost of somewhere between \$2 million and \$10 million.

The bill probably could have been handled much more expeditiously. The last government bill we saw on employment insurance was the military families one, which would affect 60 people a year at a cost of somewhere between \$500,000 and \$1 million a year. Many things we do in the House are more about politics than they are about principle or policy.

Having said that, we follow the rules of this place and we want to support the bill. We want to get it through.

The member mentioned a number areas where the money could go, whether it be \$2 million or \$10 million. There are some things that could be done with that in our prison system and for our veterans. I suggest the money could be dedicated to reopening prison farms, which was only a matter of a few million dollars a year and had great benefits. There are many areas where that money could go. It is not a large amount of money in the overall scheme of things on OAS and GIS, but on specific targeted measures it could have made a significant difference.

Response to Question

Madam Speaker, I know he has asked that question before. I do not know the answer. I do not know why it would have started. I was not aware until recently that it had actually been instituted in 1979 under Prime Minister Clark, a person for whom I have enormous respect. I do not know what the reason is. It might have been something in the courts and if it was post-charter, then maybe that makes it even more problematic now. I do not know the reason for that.

The member is right to ask the government. It is very reasonable. I am sure he could make an appointment with the **Minister of Justice** or the **Minister of Human Resources and Skills Development**. For five or ten minutes, they would be happy to sit down and be very open and transparent about the whole process. They would be better able to give the history than I would.

For now, the history is important. It is important to look at what other people do, particularly those countries to which we like to compare ourselves, European countries, OECD, the United States and other countries, and figure out where we are now. I would be very interested in what he finds out about 1979. I just cannot answer the question.

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