

Unemployment Insurance Act

If this were not bad enough, Sir, Section 46 of the Act prohibits a pregnant woman who is not qualified for maternity benefits from getting any other benefits in the weeks surrounding the birth even though she would otherwise qualify for regular or sick benefits but for her pregnancy. This is the infamous Section 46 which has been referred to as the catch-22 section of the Act as far as pregnant women are concerned. But it will be repealed by the amendments we are considering today.

There are many people who are opposed to changes when it comes to any reference to maternity benefits because they somehow feel that there is going to be a huge extension of payments or a huge addition to the moneys paid out through unemployment insurance benefits. I do not think that such people, when considering the changes to the Unemployment Insurance Act as regards—maternity benefits, fully understand the ludicrous position in which some women find themselves as the result of the Act as it presently stands.

● (1240)

I want to refer to a couple of concrete cases which will perhaps give a better idea of the injustices and absurdities caused by these sections to which I referred, Section 46 and Section 30(1). One such case was that of Stella Bliss. She was unemployed at the time of her confinement. She had worked the necessary 20 weeks to qualify for regular benefits, but she did not satisfy the "magic ten" rule. She was therefore denied maternity benefits.

Shortly after her child was born, however, she was in need of income and therefore sought work again. She was unsuccessful in finding a job. Being unemployed, capable and available for work, and having worked the required 20 weeks, she applied for regular unemployment insurance benefits. She was denied them because she was still within the 15-week period when maternity benefits may be payable, even though she was not receiving them.

Bliss argued that Section 46 was discriminatory since it had the effect of denying her benefits to which she would otherwise be entitled but for her pregnancy. She sought redress under the Canadian Bill of Rights. The Federal Court of Appeal ruled that the Canadian Bill of Rights was not contravened in her case because Bliss was being discriminated against, not because she was a woman, but, rather, because she was a pregnant person.

Some Hon. Members: Oh, oh!

Miss MacDonald: It is really absurd, ridiculous, to think that such a ruling could have been made. The Supreme Court of Canada ruled that the Canadian Bill of Rights did not cover this kind of situation since it prohibited discrimination in the administration of the law only, and not in its content.

Of course, Section 15 of our new Charter of Rights and Freedoms would clearly apply to the discrimination faced by Stella Bliss and others like her. However, the women of Canada cannot yet rely on the Charter, since Section 15,

unlike any other provision in the Charter, does not come into effect until April of 1985.

I want to cite another concrete case which will be addressed by these amendments today, the case of Bernadette Stuart. She was a pregnant woman who left employment as a result of acute appendicitis. She was denied any sick benefits because of Section 46 of the Unemployment Insurance Act, which, as I mentioned earlier, denies payment of any benefits other than maternity benefits in the period starting eight weeks before the week of the birth and six weeks after. She was also not entitled to maternity benefits since she did not meet the "magic ten" rule. As a result, she was denied both maternity and sick benefits even though she met all the qualifications for sick benefits. The Federal Court of Appeal ruled that Stuart could not rely on the Charter of Rights and Freedoms since Section 15, which guarantees equality before and under the law, does not come into effect until 1985.

These are two very concrete cases which are both reflected in what will happen today, but which could have been addressed previously had Section 15 of the Charter of Rights and Freedoms been in effect. That is why my colleagues and I have argued time and again in the House of Commons and elsewhere that the Government should act in accordance with the spirit of the Charter of Rights and Freedoms and amend laws which blatantly discriminate against women, rather than waiting for the three-year period to expire and for such cases to be forced to go to the courts. I am glad to see that this is being done in the case of the discriminatory aspects of the Unemployment Insurance Act. However, as the Minister and others know, there are a number of other inequities in our laws which have not been addressed during this period when amendments could very well have been brought in and changes made in the laws.

The Canadian Human Rights Commission has been asking the Government to amend these provisions under the Unemployment Insurance Act since it brought down its annual report in 1979. Women's organizations such as the National Action Committee on the Status of Women, the National Association of Women and the Law, and the Canadian Advisory Council on the Status of Women have repeatedly sought the amendments with which we are dealing today.

In fact, as the Minister will probably remember, on March 7 of this year, an Opposition day, the Progressive Conservative Party directed its attention to women's issues during the International Women's Week. Our motion at that time criticized the Government for its failure to move to grant legal equality in accordance with the Charter. In my speech I specifically referred to the Bliss case and the discriminatory aspects of the Unemployment Insurance Act.

I also want to refer briefly to the important amendment to the Act which my colleagues and I have been seeking through Private Members' Bills, through Question Period and other means, for the last number of years. I am now referring to the amendment which would allow adoptive parents access to maternity benefits on the same basis as natural parents. This,