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**BILL TO AMEND THE PUBLIC SERVICE LABOUR
RELATIONS ACT, THE PUBLIC SERVICE LABOUR
RELATIONS AND EMPLOYMENT BOARD ACT
AND OTHER ACTS AND TO PROVIDE FOR
CERTAIN OTHER MEASURES**

SECOND READING

Speech by:

The Honourable Larry W. Campbell

Thursday, June 2, 2016

THE SENATE

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SECOND READING

Hon. Larry W. Campbell moved second reading of Bill C-7, An Act to amend the Public Service Labour Relations Act, the Public Service Labour Relations and Employment Board Act and other Acts and to provide for certain other measures.

He said: Honourable senators, I'm pleased to have this opportunity to speak in support of Bill C-7. This legislation marks an historic milestone for the Royal Canadian Mounted Police, Canadian labour relations and for Canadians as a whole.

With the passage of this bill, RCMP members and reservists would for the first time have the same collective bargaining rights as other police forces in Canada. They would have the right to choose an employee organization to represent them in labour relations with their employer, the Treasury Board of Canada.

Colleagues, this legislation will amend both the Public Service Labour Relations Act and the Royal Canadian Mounted Police Act to create a new labour relations regime for RCMP members and reservists. In fact, Bill C-7 would bring the labour rights governing this group of federal employees in line with the fundamental freedoms enshrined in the Charter of Rights and Freedoms.

As you know, the legislation being considered addresses the Supreme Court of Canada's decision in the *Mounted Police Association of Ontario v. Canada (Attorney General)*. The Supreme Court's ruling in that case was that key parts of the current RCMP labour relations regime are unconstitutional. For one, the court struck down the exclusion of RCMP members from the definition of "employee" in the Public Service Labour Relations Act as unconstitutional. However, the court held that a section of the Royal Canadian Mounted Police Regulations infringed on the Canadian Charter of Rights and Freedoms. The court affirmed that section 2(d) of the Charter "protects a meaningful process of collective bargaining that provides employees with a degree of choice and independence sufficient to enable them to determine and pursue their collective interests."

In the case of the RCMP, the court determined that "The current RCMP labour relations regime denies RCMP members that choice, and imposes on them a scheme that does not permit them to identify and advance their workplace concerns free from management's influence."

The court found that the Staff Relations Representative Program did not meet the criteria necessary for meaningful collective bargaining. Under this program, RCMP members were represented by an organization that they did not choose. What is more, they had to work within a structure that lacks independence from management. Therefore, the court held that this violated the Charter right to freedom of association.

Under this legislation, RCMP members and reservists will be free to choose whether they want to be represented by a bargaining agent that is independent of the influence of RCMP management. In addition, to be certified as a bargaining agent, an employee organization would need the support of a majority of RCMP members appointed to a rank, as well as reservists, in a single national bargaining unit.

Taken together, the proposed legislation will provide a single national RCMP bargaining unit, composed solely of RCMP members appointed to a rank, and reservists; the requirement that the RCMP bargaining agent have as its primary mandate the representation of RCMP officers; that officers, as well as other managerial and confidential positions, be excluded from representation; that the Public Service Labour Relations and Employment Board be the administrative tribunal for matters related to the RCMP unit collective bargaining, as well as grievances related to a collective agreement; and that independent binding arbitration be the dispute resolution process for bargaining impasses, with no right to strike.

I note, however, that the proposed legislation would restrict certain matters from being included in a collective agreement or arbitral award.

Colleagues, 40 years ago I was a member of the Royal Canadian Mounted Police, stationed in British Columbia. At that time in the Lower Mainland, there was a fervent push to unionize the RCMP. There was no overtime and no wage negotiation. At that time there was no legal way to express displeasure with anything the force chose to do. It was highly illegal to even meet to discuss unionization.

After some effort, however, the system of divisional representation was put forward and accepted. This remained the status quo until the Supreme Court decision in the case of *Mounted Police Association of Ontario v. Canada (Attorney General)*.

I think of my sergeant now and retired Staff Sergeant Fred Hardy, who led this movement. In the 1970s he was forever known in the force as "red Fred." I present this bill in his name.

Without question, this bill is a huge step forward in modernizing the RCMP. For too long, the force has been beset with problems stemming from a military culture being applied to a policing function. Allowing members to be represented by a union is forward-looking. In saying this, however, I would be remiss if I did not state that this bill is far from perfect and needs careful study to ensure that it gets it right for the members of the force. This means loosening the grip that senior management has on the rights of members to help make the force better.

This bill excludes the following from the collective bargaining: law enforcement techniques; transfers from one position to another and appointments; appraisals; probation; demotions or discharges; conduct, including harassment; the basic requirements for carrying out the duties of an RCMP member or reservist; uniform, order of dress, equipment or medals of the Royal Canadian Mounted Police.

These exemptions continue the paramilitary mindset of the RCMP and deny the fact that the actual on-the-ground members of the RCMP can and should contribute to moving forward. Surely these exclusions go to the very heart of the collective bargaining process and should not be the exclusive purview of the commissioner.

The argument has been made that the RCMP will be part of the public service and, as such, should be governed by the rules in place. I would counter these points.

Mounties are not public service employees. They are police officers who happen to be employed by the federal government.

Secondly, the Royal Canadian Mounted Police, while iconic, are not special in the police world. Unlike public servants, they operate in the police world with the same dangers, problems and issues as any other police department. No other Canadian police force has exemptions such as found in this bill.

One of the aims of collective bargaining for the RCMP is to allow them to raise their standards to the levels of other police agencies. They should not be fifty-second when it comes to wages; they should not find themselves outgunned in a shootout; and they should have the finest of equipment and uniforms.

Collective bargaining starts with everything on the table.

Hon. Senators: Hear, hear.

Senator Campbell: Issues are resolved or removed with the consent of both sides. Every other police agency has a chief, commissioned officers and non-commissioned officers. Look at the history and explain how these police forces operate well without the exemptions. My thought is that both parties have the good of the citizens at heart and work toward agreements that reflect both good policy and good law enforcement.

I know that the committee will do their job and listen carefully to witnesses regarding the merits of this bill. I look forward to the committee's report on what I consider to be a vitally important piece of legislation.

Thank you for your attention.

Hon. Senators: Hear, hear!

Hon. Terry M. Mercer: Would the senator accept a question?

Senator Campbell: Of course.

Senator Mercer: It seems to me that the exemption of discussing occupational health and safety issues — I understand that is exempted by this bill, which talks about implementation and monitoring of workplace safety programs dealing with safety issues. But this is really not a subject for an occupational health and safety committee; this is a matter of life and death for members of the RCMP every day.

Do you think that the bill in its present form is the proper one to serve and to protect those members of the Royal Canadian Mounted Police?

Senator Campbell: Thank you for your question, senator.

I believe that this bill is a good start, and I believe it has to be looked at by the committee and debated. It's my understanding that these exemptions are in there not out of any kind of wish to control the mounted police but, rather, to ensure that the bargaining rules for the public service, which have these exemptions built in, are not changed.

My answer to that is that while I love the public service and I think they do a great job, I couldn't care less whether those exemptions apply to them. I'm simply here speaking to the Royal Canadian Mounted Police, and from their point of view this bill should be amended to get those exemptions out of the bill.

Hon. Colin Kenny: Would you take a question, Senator Campbell?

Senator Campbell: Yes, sir.

Senator Kenny: Given your experience, could you list the exemptions that you find most egregious?

Senator Campbell: Senator, I find all of the exemptions equally wrong. I believe that this is collective bargaining, and you don't go into collective bargaining with one side saying, "We aren't going to talk about this." You go into collective bargaining with everything on the table, and the two sides decide what goes off the table. Things falling off the table, of course, comes at a cost to each side. They have to make a decision about what is important to them.

I don't know how many times we have to see the Alberta and New Brunswick situation before we realize that something is desperately wrong here, and I can tell you it has been desperately wrong for years. In the 1970s we had a bullet in our revolvers that wouldn't go through a windshield. We actually loaded our own so that we could have a weapon that could go through the windshield. This is not acceptable.

We have a yellow stripe down our pant leg. There is a reason for no other police forces having a yellow stripe down their pant legs: it's a running target. It shows where you should be shooting. Go to the top of the yellow stripe and that's what you should be aiming for.

The idea that the members of the RCMP would not be involved in solving the harassment issue is ludicrous to me. This is where the problem lies. This is where they have to address it. We have to do better.

Honourable senators, I can't list one over another. I think they all should be taken out. They shouldn't be on the table.

Hon. Pierrette Ringuette: I certainly agree with all the comments the honourable senator has made. Another issue that I believe is important for this chamber to understand is that once again we have a bill in front of us that has a deadline with regard to a Supreme Court decision.

Could you elaborate a little on this issue?

Senator Campbell: Certainly.

I have the utmost respect for the Supreme Court. Quite frankly, I don't know where we'd be without them most of the time. I think with this bill, as with Bill C-14, while they say there is a deadline, I don't believe that there is such a thing.

What is going to change if we don't have it done by the deadline? Nothing. What is going to change if we take the time and we look at this? Everything. Everything to do with the RCMP is going to change as a result of this act. I would like it to be done before that, but quite frankly I don't think the world will end if it's not.

Hon. Nancy Greene Raine: Would the honourable senator take another question?

Senator Campbell: Certainly.

Senator Raine: I'm very curious. I note that it doesn't call for a secret ballot vote in the union when they are doing their voting. I would be concerned that without a secret ballot vote in any kind of voting that's being done in the membership of the unions, it might set up some ill will. I feel that a secret ballot is not that hard to do. Why would we not do that for members of the RCMP union?

Senator Campbell: I agree with you. I think that issue should be explored at the committee.

Honourable senators, I think you have to be a former member to understand this, but I am blown away by the number of emails that I've received from people who put their regimental number down and where they are from. That is a complete act of bravery as far as I'm concerned. I believe that in fact a secret ballot should be in place but this should be up to the committee to explore.

There are lots of issues in this bill that some people agree with or do not. My reason for speaking out here are those exemptions, which I think basically negates the bill from the point of view of being an RCMP member and wanting, as these emails say so graphically, to be a part of the solution. They want to be involved in all of this. At the end of day, they're the sharp end of the stick and they should be listened to.

Hon. Vernon White: Would the honourable senator take a question?

Senator Campbell: Certainly.

Senator White: In the past year or so, the RCMP members have lost medical and health care benefits and been moved to new programs without any discussion between the bargaining agent and the organization or the Government of Canada.

My question to you — now that I find you are the critic, not the sponsor — is if salary and benefits are to be arbitrated, and with all of these things that are exempted, what would a union even negotiate?

An Hon. Senator: Not much!

Senator Campbell: I should state publicly that had they chosen Senator White as commissioner, we probably wouldn't be sitting arguing about this — but that's another issue.

That's exactly the problem. There is no negotiation. There is no ongoing dialogue between rank and the top. It's all top-down. As we saw in these emails, it ranged from people with one year to people with 25 years. It's heartbreaking to listen to a young constable say this is all he or she ever wanted to do and, suddenly a year later, that they don't know why they made the choice because there is no way of expressing what should happen.

This bill is historical; it's huge. From 1873 until now, we have been a military outfit. We have been run like a military outfit and disciplined like a military outfit. That has to change. It's 2016.

Hon. Frances Lankin: Would the honourable senator accept another question?

Senator Campbell: Yes.

Senator Lankin: This is following up on your observation about secret ballot votes. As you introduced this bill, you made reference to the fact that it is bringing the opportunity for unionization and collective bargaining under the regime of the Public Service Labour Relations Act. I assume — I don't know if you're aware — that all sorts of provisions regarding secret ballot votes and the conducting of votes are contained therein as they are within provincial jurisdiction labour relations acts, so it might be a redundant area of study for the committee. Perhaps you can look to that and provide the committee that advice. It seems that it is not correctly placed in this bill but it is already in the regime of the Labour Relations Act.

Senator Campbell: I'm certain that the Defence Committee, with their able chair, will be looking into all of that. I was simply stating a personal opinion.

In closing, it's wonderful to be independent to introduce a bill and then to be able to actually talk about it. Thank you.