



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Public Safety and National Security**

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SECU • NUMBER 009 • 1st SESSION • 42nd PARLIAMENT

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**EVIDENCE**

**Tuesday, April 12, 2016**

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**Chair**

**Mr. Robert Oliphant**



## Standing Committee on Public Safety and National Security

Tuesday, April 12, 2016

•(1205)

[English]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** I'm going to call this meeting back to order.

Welcome, Minister Goodale and Minister Brison. Thank you for joining us today as we're considering Bill C-7.

We're under a tight timeline. We hope to have given due consideration within a couple of weeks and to be able to report to Parliament with any proposed amendments hopefully by the end of next week. That is our goal.

You're here to explain to us Bill C-7. Thank you.

Mr. Goodale.

**Hon. Ralph Goodale (Minister of Public Safety and Emergency Preparedness):** Thank you, Mr. Chair and members of the committee.

[Translation]

It's a great pleasure to be here with my colleague, the Honourable Scott Brison, President of the Treasury Board, to aid in your study of Bill C-7.

[English]

I am joined today by Daniel Dubeau, who is deputy commissioner of the RCMP and chief of the human resources department; Craig MacMillan, the professional responsibility officer with the RCMP; and Kathy Thompson, who is assistant deputy minister, community safety and countering crime branch within Public Safety Canada.

Mr. Chair, we gather for this meeting on the day that the RCMP is laying to rest the late Constable Sarah Beckett, who tragically lost her life in the line of duty a week ago today near Victoria, British Columbia.

I know I speak for all committee members and all Canadians when I express our sincere condolences to Constable Beckett's family, her friends, and RCMP colleagues. Thousands will gather in her honour this afternoon, exemplifying Canada's love and respect for her and for her chosen career as a member of the RCMP. We honour her memory.

Specifically on this legislation, Bill C-7, it is encouraging to see a pretty good deal of cross-party support for this bill, at least judging by some of the debate on second reading. On the whole, I think the bill has been acknowledged as a fair and reasonable attempt to respond to the instructions of the Supreme Court of Canada.

At the same time, any legislative change of this scope is subject to questions and concerns, and we have of course heard these as well. We hope that those questions and concerns can be addressed during the committee's study of Bill C-7. As you know, the Prime Minister has been very clear on the important role of parliamentary committees. He has directed the Leader of the Government in the House of Commons to strengthen committee work and ensure that the committees more effectively fulfill their function of scrutinizing legislation. That is the purpose of your hearings today with respect to Bill C-7.

For my part at this meeting, I will briefly discuss the unique role of the RCMP as our national police force, as well as try to provide some background on how this legislation came about and why we need to move ahead on the changes that are before the committee.

Mr. Brison will then provide you with a more detailed look at the nuts and bolts of the bill and the implications of the proposed changes for the current RCMP labour relations regime.

Mr. Chair, as we know, the RCMP plays a policing role that isn't found anywhere else in the world. It is truly unique. That role is international, national, provincial, territorial, municipal. It not only provides federal policing services to all Canadians; it also provides police services under contract to three territories, eight provinces, 150 municipalities, and more than 600 indigenous communities across Canada.

[Translation]

Its mandate is vast. RCMP members prevent and investigate crimes—from petty theft to cyberespionage to terrorist activities, and everything in between. They protect the safety of state officials and visiting dignitaries.

[English]

They also work abroad as part of peacekeeping operations and with other law enforcement agencies in Canada and around the world.

That just scratches the surface of what the RCMP is all about. RCMP members are dedicated to their work and to serving Canadians. They must perform their jobs while often facing immense challenges and very real personal dangers. That becomes tragically apparent when we hear the sad news, as we did last week, of that young constable killed in the line of duty in British Columbia. It is important for all of us to support the work of RCMP members and important that we take all proper steps to ensure that they can in fact exercise their charter-protected freedoms, including the freedom of association.

That brings us to the legislation that is before this committee now. As members know, this proposed legislation is the Government of Canada's response to a significant ruling by the Supreme Court of Canada that was rendered in January of 2015. In that ruling, the court held that key elements of the labour relations framework in existence at that time for the Royal Canadian Mounted Police infringed the Canadian Charter of Rights and Freedoms, because those elements substantially interfered with members' rights to freedom of association.

In other words, within reasonable limits, RCMP members, according to the Supreme Court of Canada, are indeed entitled to unionization.

The ruling has broad implications for the government and for the RCMP, and it requires a restructuring of the existing framework that has applied to the force for more than 40 years.

Given the implications of this decision, which as I said was rendered in January of 2015, the court suspended its declaration of invalidity for 12 months. There was a deadline set for new legislation by January of 2016. No visible steps were taken to get things rolling in that regard before Parliament adjourned in June of 2015. Then, of course, as we know, a very long election campaign intervened. During the summer, after that long campaign had begun, government officials undertook some important basic consultation with both RCMP members and with the jurisdictions across the country that constitute the contract partners for the RCMP to get a sense of how the government should respond to that outstanding Supreme Court decision.

After the government changed in November, we went back to court to get a little bit of extra time to make it possible to respond in an orderly fashion, and the court provided an extra four months. That takes us to May 17, which is the deadline for getting the new legislation in place. We have tried to move quickly and responsibly in this regard.

Mr. Chair, I thank you for your encouraging view of the work of the committee: that the committee would hopefully be in a position to give this legislation its consideration and report to the House in a timely manner.

Officials at Public Safety Canada, the RCMP, and the Treasury Board have worked very hard to develop a sound legislative proposal to put before you, one that responds not only to the court decision but that also takes into account the views and preferences that were gathered from RCMP regular members themselves during the consultation process that I referred to. We want a bill that reflects the unique role and the operational nature of the RCMP.

Importantly, this bill provides members with a constitutionally sound labour relations regime, one that allows members the freedom, if they so wish, to choose to be represented by an employee organization and to bargain collectively through that employee association to address their labour needs with the employer. This is the same freedom of choice that is enjoyed by all other police forces in Canada.

● (1210)

It is crucial that we respond in a timely manner to that Supreme Court decision in order to respect RCMP members' charter rights and to provide members with legislative certainty about their labour relations future. If we don't respond by May 17, on that date the existing Public Service Labour Relations Act will come into effect and apply to members of the RCMP, so it's important that we intervene before that date.

The Public Service Labour Relations Act in its current form does not fully accommodate the concerns and interests of RCMP members or their operational reality. That said, I can assure committee members that we are committed to proceeding with a complete and thorough study of Bill C-7. We welcome open discussion and healthy debate on the proposed elements of the bill, and we are eager to hear from experts and stakeholders who will appear before the committee to provide their input.

I would like to touch on one important element of the bill, which has to do with the question of occupational injuries. I know this has been of interest to some members of the committee.

By way of history and background, on April 1, 2013, at the request of provincial contracting partners the previous government moved the RCMP members' non-occupational health care needs to provincial and territorial health care systems, but for reasons of the day, occupational-related injuries remained with the RCMP management to adjudicate and handle. A temporary program internal to the RCMP was set up to administer those occupational claims.

That temporary program lacks important features, such as a robust, independent adjudication methodology and an appeal structure. The employer should not be the final arbiter of whether the injury of one of its workers occurred on the job. An arm's-length arbiter, such as provincial workers' compensation boards are, can better provide professional, independent adjudication on any such claims, along with an established appeal procedure. The provincial boards also have experience with police-related injuries, as most municipal and provincial police currently access occupational claims coverage through provincial WCBs.

Finally, I would like to touch briefly on the issue of harassment, which I know members of the committee have been interested in as well, and mention three things.

Number one, I have taken under review the cases of four RCMP employees alleging harassment that are currently before the courts. You may recall that this issue became a matter of public discussion shortly after the election campaign. Both the Prime Minister and I undertook to review those cases, and that work is under way.

Number two, on February 4, 2016, I invited the Civilian Review and Complaints Commission for the RCMP to undertake a comprehensive review of the RCMP's policies and procedures on workplace harassment and to evaluate the implementation of the recommendations that the complaints commission itself had made in 2013; in other words, what progress has been made from the last report of the complaints commission.

Number three, you will recall the incident that occurred this winter at the Police College. The commissioner has launched a full investigation of that matter. He has invited Paul Kennedy, the former complaints commission chair, to act as an independent monitor of the situation at the Police College, and we are awaiting the report from that review and from Mr. Kennedy.

Finally, Mr. Chair, I can assure you that other steps will be taken as well to deal with the difficult and troubling matter of harassment.

● (1215)

[Translation]

On that note, I will end my remarks and ask my honourable colleague, Mr. Brison, to provide a more detailed overview of Bill C-7.

[English]

Thank you, Mr. Chair.

[Translation]

**The Chair:** Mr. President of the Treasury Board, you have the floor.

[English]

**Hon. Scott Brison (President of the Treasury Board):** Thank you, Mr. Chair, thank you to all members of the committee, and thank you, Minister Goodale.

I'm pleased to be here with you today and to have the opportunity to discuss with you Bill C-7, which would amend, of course, the Public Service Labour Relations Act to provide for a labour relations regime for members of the RCMP and reservists.

[Translation]

It is an important piece of legislation designed to uphold the constitutionally guaranteed freedom of RCMP members and reservists to engage in collective bargaining.

[English]

I am delighted, as always, to be joined by my colleague Ralph Goodale, Minister of Public Safety, and his officials. Joining me at the table from Treasury Board Secretariat is Manon Brassard, assistant deputy minister, compensation and labour relations, and Dennis Duggan from labour relations.

After my remarks, Minister Goodale and I look forward to your questions and a productive discussion on this bill.

[Translation]

As you know, we inherited a situation from the previous government that required us to move quickly to address the Supreme Court's decision, which was made public on January 16, 2015. In that decision, the court said that the current labour relations regime for the RCMP was unconstitutional because it interfered with RCMP members' freedom of association.

[English]

There are two key elements of the existing regime governing RCMP relations. First, RCMP members are currently excluded from the application of the Public Service Labour Relations Act. The result of this exclusion is that they are not allowed to bargain collectively and have no recourse to arbitration as part of that.

Second, the existing regime imposes on members a specific form of employee representation called the staff relations representative program. The aim of the program is that at each level of hierarchy, representatives and management consult on human resources initiatives and policies, with the understanding that the final word always rests with management. This program currently is the only form of employee representation recognized by the RCMP management.

Bill C-7 would respond directly to the Supreme Court decision by rectifying the elements of the RCMP labour regime that the court found unconstitutional. The bill would remove the exclusion of RCMP members from the definition of employee in the Public Service Labour Relations Act.

● (1220)

[Translation]

RCMP members and reservists would have the freedom to choose whether they wish to be represented by an employee organization and, if so, which organization. And this organization must be independent of the influence of RCMP management.

As a result of this bill, the constitutional freedom of RCMP members and reservists to engage in meaningful collective bargaining would be enshrined in a labour relations statute.

[English]

Under the previous government, there were consultations with RCMP regular members in the summer of 2015—in fact, much of that consultation would have been during the election, too—and an online survey and town hall sessions, so that their views could be incorporated and taken into account in developing this bill. More than 9,000 regular members completed the survey, and more than 650 people participated in the town hall sessions.

Most regular members who participated in the online consultations said they supported the idea of a unionized RCMP. They also showed a strong preference for a labour relations regime that would use binding arbitration without the right to strike as the mechanism for resolving impasses in bargaining. In addition to that, regular members showed clear support for the option of representation by a single national employee organization whose primary mandate would be the representation of RCMP members.

The bill reflects these preferences. First, it requires that there would be a single national bargaining unit composed solely of RCMP members and reservists. Second, it requires that the bargaining agent have as its primary mandate the representation of RCMP officers. The bill also establishes independent binding arbitration as the dispute resolution process for bargaining impasses, with no right to strike.

I'd like to take this opportunity to review a few other key features of the bill.

Similar to existing provisions in the Public Service Labour Relations Act, the bill proposes to exclude from representation RCMP officers from inspector to commissioner level, as well as other managerial and confidential positions. The Public Service Labour Relations and Employment Board will be designated as the administrative tribunal for matters related to RCMP member and reservist collective bargaining, as well as for grievances related to a collective agreement. In making recommendations for employment to that board, the chairperson must take into account the need to have at least two members with knowledge of police organizations.

Mr. Chair, during the second reading a number of members spoke about the methods by which unions can be certified and about whether to allow for a choice between a vote and a card check, for example. The bill we're studying today is entirely and intentionally silent on this issue. That's because we want to ensure a consistent approach for all employee associations. The government has introduced a separate piece of legislation, Bill C-4, to address this issue and restore a fair and balanced federal labour policy. It is being considered by the committee known as HUMA. It's our belief that discussions on union certification methods are better suited to and within the scope of the consideration of Bill C-4.

[*Translation*]

Mr. Chair, we believe this is a historic opportunity to give RCMP members and reservists their independence and freedom of choice in labour relations matters, while recognizing the unique operational reality of policing.

[*English*]

We value your committee's role in the legislative process. We believe that the role of Parliament and parliamentary committees is vitally important, and we're looking forward to the discussion and to your considered examination of this important piece of legislation.

Thank you.

**The Chair:** Thank you, Minister.

We begin a round of questioning now. Each member has seven minutes for questions and answers, beginning with Mr. Di Iorio.

[*Translation*]

**Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chair.

Ministers Goodale and Brison, thank you for your observations and the conciseness of your comments.

My first question is for Minister Goodale.

You mentioned the unique role of the Royal Canadian Mounted Police. I would also add its distinctive character and unique nature. Of course, its unique character extends even beyond our borders. You also referred to all the jurisdictions the RCMP is involved in.

Could you tell us whether you think it would be appropriate or not to include a preamble in the legislation? The preamble would summarize your comments, and provide guidance to the courts that will have to interpret the legislation and apply it.

• (1225)

[*English*]

**Hon. Ralph Goodale:** I appreciate the question, and it's an important point. We're trying to confer basic constitutional rights with respect to the freedom of association, collective bargaining, and union representation in a way that is consistent with the very special history, role, and character of the force. It's a delicate job to bring those two things together.

The notion of a preamble is not one we have considered necessary, to this point, because of the way this legislation changes the structure of the existing public service legislation to make that legislation appropriate to accommodate the needs of the RCMP.

For example, the name of the act is changed, the name of the labour relations board is changed, the composition of the labour relations board is changed by the addition of two people who will have particular expertise in policing matters, and so forth. Those are the ways we have tried to send the signal that we are bringing here, within the ambit of the act, a very special organization that needs the appropriate kind of understanding to make the legislation work in a way that fits the circumstances of the RCMP.

If the committee has specific suggestions about a preamble or a statement of purpose or principle that might be made to fit within the structure of the Public Service Staff Relations Act, we could certainly give it consideration. I wouldn't rule it out of hand. I'm not sure it's necessary, but if the committee has a suggestion to make, I'm sure Mr. Brison and I would be prepared to consider that advice.

[*Translation*]

**Mr. Nicola Di Iorio:** Thank you for your answer.

I simply want to draw your attention and submit for your consideration the fact that the Canadian Labour Code has a preamble that provides guidance to the authority interpreting and applying that piece of legislation. The preamble has been used extensively over the years. And that is why I made the comment.

Given the amount of time I have, I will put my next question to your colleague, Minister Brison.

Minister, collective bargaining is the cornerstone of our labour relations regime. In addition, what makes our regime special is the fact that both sides can apply pressure. That way, the employer has the right to lockout and the employees, through their union, have the right to strike. Of course, we are not seeing the right to strike here, but we are seeing the arbitration of disputes. Canada has experience in dispute arbitration, since that is applied in many municipalities and even on some provincial police forces in Canada. That experience has turned out to be costly for those municipalities. The right to make a decision on a budget issue was delegated to a third party. That decision belonged to an authority that was not elected by Canadians.

I would like you to tell us about that decision regarding dispute arbitration. What are your concerns in terms of controlling the associated costs?

• (1230)

**Hon. Scott Brison:** I really appreciate your question, Mr. Di Iorio. As a lawyer, you have a great deal of experience in that area.

[English]

and labour lawyer. We've had some of these discussions.

First of all, during the consultations, overwhelmingly members preferred binding arbitration, and we understood that. I think you're suggesting that these binding arbitrations can be expensive to employers. That's part of the process, ultimately, in a negotiated process with binding arbitration, and we accept that. We're looking at some of the examples of what has happened in other jurisdictions and at their experiences.

One thing that is clear is that we have a responsibility to move forward to honour the Supreme Court, and we're moving forward with collective bargaining and a binding arbitration process to settle any disagreements that ultimately exist.

Manon may want to add something concerning the number.

[Translation]

**Ms. Manon Brassard (Assistant Deputy Minister, Compensation and Labour Relations, Office of the Chief Human Resources Officer, Treasury Board Secretariat):** I have two points to make.

If there is a right to strike, most of the services would be declared essential. Ultimately and practically, there would be no right to strike either.

Our experience in the latest bargaining rounds shows the following. Since there is also binding arbitration in the core public administration service, the changes are about 0.25%. There is not a great deal of fluctuation in terms of the current experience in arbitration orders that would lead us to believe that an arbitration decision would result in astronomical costs.

[English]

**The Chair:** Thank you.

Mr. O'Toole.

**Hon. Erin O'Toole (Durham, CPC):** Thank you very much, Mr. Chair.

Thank you, ministers, and your departmental officials for appearing here today, and particularly Minister Goodale for your reflections on Constable Beckett. I know that the thoughts of everyone in Parliament and in Canada are with her husband and children and their colleagues.

As you are right to say on Bill C-7, we certainly followed the Mounted Police Association case to the Supreme Court, and it's our intention to try to work with the government on Bill C-7. You'll note that we've said two things that we want to see, as critical to this bill and the discussion around it.

One is the right for front-line members of the RCMP to vote by secret ballot on their own union, which your officials have said to us in briefings is the normal course for public sector unionization. We expect to see that, despite Bill C-4.

The other critical piece, and I mentioned this in my speech in the House, is the wellness of RCMP members, particularly with respect to mental health and balancing off their needs. As you know, I was veterans minister for a time. Veterans Affairs Canada administered benefits for RCMP veterans post-release.

I think now is an appropriate time for us to have a complete discussion whenever benefit regimes are being changed, because we learned that in the move to the new Veterans Charter—and both the Liberals and the Conservative governments more or less owned that change—there wasn't enough discussion and understanding of the changes, and that led to a lot of stress.

My two questions will focus specifically on clauses 40 and 42 and some changes. Bill C-7 is now including the RCMP in the Government Employees Compensation Act rather than in the old occupational health regime of the RCMP.

Minister Goodale, you said that this is because it's lacking features such as appeal mechanisms and structural things like that. But for a federal police force, it looks as though this is the outsourcing of a single federal force to ten different provincial standards across the country, through workers' compensation.

Can you explain to us how that will ensure a high standard for members of our federal police force?

**Hon. Ralph Goodale:** To start with, Mr. O'Toole, the problem with the current regime flows from a change that was made in 2013. At that time, as I understand it, the contracting jurisdictions made the request that the health needs of RCMP members operating within their geographic jurisdictions fall within the jurisdiction of provincial compensation boards.

What was transferred at that time was the ongoing regular health requirements, but not occupational issues. Occupational issues were retained under the management authority of the RCMP. That caused two problems.

Number one, the RCMP had to set up an administration for handling these, and it contains within it two defects: it doesn't have a proper independent adjudication process and it doesn't have an appeal process. In other words, it is strictly a management decision as to whether there is an occupational issue or not.

That ought not to be a management decision per se. To give the authority to the compensation boards actually provides for better adjudication.

• (1235)

**Hon. Erin O'Toole:** Respectfully, Minister, I can't recall whether you in your remarks or a briefing I read talked about Ontario, but Ontario, with a very sophisticated workers' compensation regime, is not a contracting jurisdiction. I wonder, then, how we can ensure a high level of consistency for our federal police force when the largest jurisdictions are not contracting states, so that you would be then looking at eight provinces and provincial compensation regimes. How can we suggest that there is going to be a consistent standard between a posting to, say, Saskatchewan and one to Nova Scotia, with this outsourcing approach?

**Hon. Ralph Goodale:** I think the experience would demonstrate that the relative approaches of the provinces and the contracting jurisdictions here are ones that are reasonably consistent with each other across the country.

Maybe my ADM or Mr. Dubeau could comment on it a bit more specifically in terms of the practical experience: are there big discrepancies among these contracting jurisdictions or not?

**Hon. Erin O'Toole:** Given time constraints, perhaps we could have a follow-up to the committee on comparing provinces?

**Hon. Ralph Goodale:** Sure. We'd be happy to give you some statistical information on that.

**Hon. Erin O'Toole:** The other thing I wanted to focus on is the fact that the move of RCMP members into the Government Employees Compensation Act sets up the prospect of a potential set-off between the disability pension under the superannuation act and this new act.

Something else I learned from my brief time in Veterans Affairs is that, if not properly done or communicated, these set-offs can lead to situations like the Manuge class action, whereby the last Conservative government faced a class action related to that set-off—based on the Pension Act and provisions from the SISIP insurance program—that predated the government and in some cases several governments.

One, is there going to be set-off? Two, has this been communicated to front-line RCMP?

**Hon. Scott Brison:** On this, Mr. O'Toole, there's not going to be a change, I've been informed. Veterans Affairs will continue to administer for the RCMP in the same way that it has in the past, so this is not going to change that.

In terms of the previous question on workmen's comp, all federal public servants currently use workmen's compensation boards provincially for on-the-job injuries. The workmen's compensation boards do have a lot of experience in police-related injuries because they also help adjudicate for other police forces in Canada. There's quite a bit of experience out there. As Minister Goodale said, this approach also has the advantage of being independent from the employer.

There have been some concerns around workmen's compensation doing this because of a potential impact on pensions. That would not occur, because the RCMP would top up appropriately to prevent a negative impact on pensions as a result of a workplace injury, the body being a workmen's compensation board handling that provincially.

• (1240)

**The Chair:** I have to cut you off there. Thanks, Minister.

Mr. Blaikie, welcome to the committee.

**Mr. Daniel Blaikie (Elmwood—Transcona, NDP):** Thank you very much. It's a pleasure to be here.

Thank you to the ministers, their staff, and others who have come here today.

On behalf of the NDP, I want to take a moment to echo our sympathies for the family of Constable Beckett.

I want to focus my remarks. Although I share the concerns of the other members about some of the benefit implications, I would say that part of the issue here also is about determining some pretty big decisions about benefits prior to bringing in a new regime of collective bargaining. I think it would be appropriate to hold off on big changes like this until there is a process that can formally recognize employees so that they might be part of that conversation. In consulting those members, we may well learn things that are important and that could guide these changes in order to make them better.

I wonder if the President of the Treasury Board could tell us if it's a priority for his government to not perpetuate the approach to labour of the previous government.

**Hon. Scott Brison:** It's not my intention to be terribly partisan at committee. I think we are engaging Parliament respectfully, but we're also as a government engaging the public service respectfully. We're working to restore a culture of respect for Canada's public service. We have an exceptional public service in Canada, one of the best in the world, and we intend on working closely with our public service, including working with our RCMP—

**Mr. Daniel Blaikie:** It's not so much an issue of the public service. What I would say is that some of the language in this bill—I guess I don't have the same inclination to non-partisanship—comes directly out of Bill C-43 from the previous government, particularly around exclusions from collective bargaining. I will say what you may not be prepared to say at committee—

**Hon. Scott Brison:** I hope we can disagree without being disagreeable.

**Mr. Daniel Blaikie:** I hope you won't find me too disagreeable today.

I would say that I really didn't endorse the approach of the previous government when it came to labour, and that would include these exclusions from collective bargaining. The Supreme Court said that “a process of collective bargaining will not be meaningful if it denies employees the power to pursue their goals”. I think it's fair to say that the RCMP members who took the time to pursue this issue through the courts for many, many years were concerned about issues outside of pay and benefits. They were concerned about some of the chronic issues around harassment, and they were concerned about staffing in remote and northern communities. This legislation excludes all those things from the bargaining process.

What we haven't heard are the reasons for denying employees the ability to bring up those issues at the table. The language in those exclusions is so vague as to perhaps even preclude establishing within bargaining...not determining what side arm RCMP officers are going to carry on the job, but they may well want to establish through bargaining that there be a joint committee with employer and employee reps that discusses big decisions around equipment, the uniform, or whatever, and that there be a process whereby the voice of employees is formally recognized.

I'm wondering if you can provide some reason for why there are so many exclusions and why they're so vague.

**Hon. Ralph Goodale:** Could I ask Dan Dubeau to begin responding to that? Then I may have a few remarks to add.

**D/Commr Daniel Dubeau (Chief Human Resources Officer, Royal Canadian Mounted Police):** On the exclusions themselves, if you look at the exclusions holistically for the RCMP versus other police forces, you will find that they are very similar to those of other police forces across the country. I'm talking about our major comparators. They are very similar. As well, they're similar to those of our colleagues in the core public admin.

Notwithstanding that you seem to think the exclusions are out of line, they're not. They are aligned to a police organization that you're trying to deploy, as our minister said, across a wide country and internationally, with unique needs everywhere.

As for resourcing, a discussion around resourcing obviously is a very complex one, but it's not one that is the RCMP's alone. It's one

that would be Canada's, with the provincial jurisdictions as well as the municipal ones. Those discussions happen at that level. To have that in our collective bargaining framework would make it very difficult for an employees' representative group to come in and negotiate that, knowing that the provinces and the municipalities are not at the table at the time. That's why—

• (1245)

**Mr. Daniel Blaikie:** Again, I would say that one of the issues here is not so much that you want to be able to make all those specific decisions at the bargaining table, but it's that the vagueness of the language may well preclude being able to establish a kind of formal process for employees of the RCMP to be heard in those discussions. That would be an advantage, as far as I'm concerned, to bargaining. It would be an advantage not just to members but to the organization.

It would be a shame if vagueness in the legislation, which admittedly is being brought forward in a very rushed way, were to preclude that from being established at the bargaining table.

**Hon. Ralph Goodale:** Could I add briefly to that, Mr. Chair? I know the time is limited here, but I have two points.

On that point, if you have specific concerns about the choice of phrase or language in a particular clause or section of the bill and have a better idea about how to propose more precise wording, we would certainly be interested in seeing the specific nature of your concern and how you would suggest that it could be better reflected or corrected in the legislation. Please offer that specific drafting comment if you have that, and we'd take that into account.

Secondly, on the issue of harassment, as I mentioned—maybe I should have emphasized this more in my opening remarks—there is a whole set of initiatives under way right now dealing with that very troublesome concern. The commissioner has taken some steps. There are independent review bodies that have been called upon to offer advice and counsel here with respect to four specific cases. Both the Prime Minister and I have undertaken to take those under account. We do not want to leave the impression that somehow here harassment is being overlooked or given short shrift. We are dealing with it, and there's more to come.

**Mr. Daniel Blaikie:** I wouldn't want to give that impression either, but what is the case with this is that by passing this legislation as is, government is precluding the idea that, through bargaining, whether it's around a process about how to handle harassment or whatever else, this could actually be a better way of dealing with some of these things, and you could come up with a better process at the table. We've had decades of top-down efforts—

**The Chair:** I'm afraid I have to cut you off there. We're about half a minute over.

Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** Thank you. I will pick up on the questions of my colleague, Mr. Blaikie.

The Supreme Court found that the previous labour regime was “more restrictive than necessary to maintain the Force's neutrality, stability and reliability”. I recognize that resourcing is excluded for specific reasons. Given binding arbitration and the additional factor of operational effectiveness to the RCMP that's going to be included and must be taken into account by the arbitrator, why would we exclude conduct, including harassment, from the bargaining table?

**Hon. Ralph Goodale:** Those issues at the moment fall under the authority of the commissioner, and there were some legislative changes made a couple of years ago in that regard.

Plus, as I mentioned earlier, we have a number of initiatives under way, Mr. Erskine-Smith, in dealing with the harassment issue per se. There is more work to be done in that field. Both the Prime Minister and I indicated early last fall, shortly after the election, that these were troubling issues that we took very seriously, and we will have more to say and more to do on those topics as we move forward.

**Mr. Nathaniel Erskine-Smith:** It's the same question, but why would we exclude discharges and demotions from the bargaining table? Why would the union not have a say on those matters at the bargaining table?

**Hon. Ralph Goodale:** Could I ask Mr. MacMillan to comment on that?

**A/Commr Craig MacMillan (Professional Responsibility Officer, Royal Canadian Mounted Police):** I think I'll try to address conduct and discharge and demotion in one answer for you this way.

First of all, the court was pretty clear that “[w]hat is required to permit meaningful collective bargaining varies with the industry culture and workplace”, so what we're having a discussion about is transecting the core public administration approach and the police industry approach in Canada.

I'm going to say that as a general matter—there are always slight differences across this country and that's why it's the Constitution and the way it's set up—conduct is dealt with legislatively in most jurisdictions in Canada because there is public interest involved. You want a set regime to deal with conduct matters, and that's the police industry standard. It's not bargained. Now, you may have little clauses and collective agreements that say you get notice or you get to have somebody attend with you, but as a general matter, conduct is not part of that.

Now, harassment, similarly, is not dealt with as a bargainable matter in most police jurisdictions. There might be clauses in collective agreements that talk about how in the police industry there shouldn't be harassment of union officials, but that's different from the conversation we're having right now. Again, the police industry doesn't deal with harassment as a separate matter because it's inextricably linked to conduct, so you have these regimes that set up the process.

I see that you're anxious for further questions, so I'll stop there.

• (1250)

**Mr. Nathaniel Erskine-Smith:** Yes, and thanks very much, in part because I want to jump in on the reference to other police associations. For me, it's incredibly important. Not being particularly experienced in what other associations are doing, it would mean a lot in terms of my decision-making to see what other police associations do. Have you performed a comparative analysis? Are there other jurisdictions that have these identical exclusions?

**A/Commr Craig MacMillan:** Yes, we've done a comparative analysis, but here's the difficulty. You get to the same exclusions by different routes. Some are silent. Some expressly say that it's not negotiable. Some collective agreements say that it's not negotiable. Also, then, you have some where they might have some negotiation, but I wouldn't call it negotiation. It's like motherhood statements, or inspirational clauses, or specific things such as how the union will get notice if there's a conduct matter, or the union will be permitted to have a representative attend. That's a difficulty in making a blanket statement.

I would say that you get to this conclusion that, yes, there are things that are not negotiated, but are they dealt with as exclusions potentially, or is it silent, is it a management prerogative, or is it specifically said in the collective agreement that they won't deal with it?

**Mr. Nathaniel Erskine-Smith:** Would you be able to share that comparative analysis with us so that we could assess it and make our own determination?

**A/Commr Craig MacMillan:** Yes, we have that information available.

**Mr. Nathaniel Erskine-Smith:** Thanks.

**Hon. Scott Brison:** Mr. Erskine-Smith, there's one thing to note, which is that broadly in terms of the Public Service Employment Act there are exclusions—for instance, around classification of employment. There are also exclusions on pension benefits. So there are actually some, and these exclusions aren't inconsistent with those broadly which would apply across the public service.

**Mr. Nathaniel Erskine-Smith:** I think that's fair. I mean that's the hope: that there are different justifications for different exclusions. There's not a global justification for exclusions per se.

**Hon. Ralph Goodale:** We'll try to get some comparative information for the use of the committee.

**Mr. Nathaniel Erskine-Smith:** Thanks very much.

On that note, if there are other associations that do not operate with the same exclusions, I'd be interested to know if there's any evidence of problems in those associations and jurisdictions because of the failure to exclude certain items. If that's possible, it would be appreciated.

**Hon. Ralph Goodale:** We'll pursue those issues and get the information back to all the committee members.

**Mr. Nathaniel Erskine-Smith:** I'd like to change gears a little bit and speak to the health care coverage. There was broad consultation regarding the government's response to the Supreme Court's decision. I saw that thousands of members were consulted. Was there any consultation with respect to the change of health care?

**D/Commr Daniel Dubeau:** No, there was not. When we went out with the survey, it was really specific to the labour relations regime.

Notwithstanding that, with regard to the changes to GECA and health care modernization, that's been under discussion since 2011, 2012, 2013, with the staff relations program, the labour relations regime of the day. It's not as though it was done in isolation. We were talking to the employee reps. We were working through this and we were leading ourselves down through it.

One of the concerns, exactly as our minister said, was that as we fell under the Canadian health care act, we had the changes, and we fell under provincial jurisdictions that, for occupational injuries, we were still seized with. The concern was that it was not neutral. It was within the organization, and it was not neutral. The appeals process was also within the organization. That's one of the things that got us to where we were going, to request the changes to GECA.

It's been under consultation for three to four years with our representatives of the day.

**Mr. Nathaniel Erskine-Smith:** Thanks very much. That's very helpful.

I have a final question on the GECA issue. It seems to me that this might be an item that an RCMP union would have a strong view on. If it is in fact such an item, why not defer this decision until after the union has had an opportunity to establish itself?

**Hon. Ralph Goodale:** Mr. Erskine-Smith, as Mr. Dubeau has indicated, the process with respect to the health benefits has been under way and evolving since 2011. In 2013, at the request of provincial contracting jurisdictions, general health care issues were moved to the provincial and territorial health care plans. The occupational side was retained by the RCMP.

The experience since 2013 has been, as Mr. Dubeau has indicated, that the adjudication process is by definition a management process, therefore a one-sided process. It doesn't have an appeal mechanism. It's just not a sustainable administrative structure. The inclusion of the changes in this legislation were thought to be a helpful way to move forward at this time.

If you have a different view about the sequencing of events here, we would be interested to see your approach and your argument, but bear in mind the point that Mr. Brison mentioned earlier, that for all of the rest of the public service, this is the way the system functions. It seems to have functioned satisfactorily in relation to the rest of the public service.

•(1255)

**The Chair:** You actually never take a breath, so it's really hard to interrupt you, Minister.

**Hon. Ralph Goodale:** I learned it over 42 years: don't breathe.

**Voices:** Oh, oh!

**The Chair:** I think we have time for one more five-minute round from Ms. Gallant.

Just before she begins, though, there was a question raised by committee members around the contracting jurisdictions. You said in your remarks that you had consulted with them, or the government before this government, in 2015. I'm wondering if your officials could give us some indication in writing of any concerns or anything from the contracting jurisdictions—the provinces, territories, first nations communities, indigenous communities, and municipalities.

**Hon. Ralph Goodale:** The short answer is yes, and that goes for the requests from other members of the committee.

**The Chair:** Ms. Gallant.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Thank you, Mr. Chairman.

First of all, in terms of workers' compensation, how do the contributions that will have to be made towards covering the members affect the overall workplace injury costing? Will there be a greater cost in having to submit premiums to workers' compensation? Is there some sort of savings, or is there duplication in some cases?

**D/Commr Daniel Dubeau:** Well, there would be no costs off the top, because right now we're paying 100% regardless for members who are occupationally injured. That would not change. The only change you may see is actually the premium paid to workers' compensation, but that's negotiated through ESDC, the same as it is for the core public administration. That would be the only difference.

Having said that, would it be offset by the internal costs we're spending right now on this determination process? We haven't really done a full cost analysis on that, ma'am.

**Mrs. Cheryl Gallant:** I share the concern of my colleague Mr. O'Toole over the legitimacy of an institution perhaps being called into question if the voting is not conducted in secret, because there could be exposure to pressure, harassment, or just plain having influence amongst other voters.

But in attempting to reach some RCMP members, I was told that in December of 2015, they were told that they were not supposed to be contacting parliamentarians, and that they felt they were being muzzled from talking to us. In fact an email had been sent to me but apparently blocked, because it was to [parl.gc.ca](mailto:parl.gc.ca).

Can you verify whether or not there is any restriction of the members speaking to us?

**Hon. Scott Brison:** Well, Ms. Gallant, I know absolutely that about seven RCMP members from the Annapolis Valley of Nova Scotia met with their member of Parliament last Friday in his constituency office in Wolfville, Nova Scotia, and he's president of the Treasury Board. I know of no prohibition to members of the RCMP exercising their...

I know of no prohibition. I'm not aware of any. I know that these Nova Scotian RCMP members reached out to me as their member of Parliament, and I met with them.

**Mrs. Cheryl Gallant:** There seems to be some confusion amongst the members about what is in the legislation over the RCMP having its own union, separate and apart from any of the other civilian public service unions. Can you tell me whether or not there is definitely a distinction between the two?

• (1300)

**Hon. Scott Brison:** As part of the legislation, RCMP will have the opportunity to choose the bargaining agent or union of their choice, but the union ought to be one that represents RCMP or have police members. In part, that is to avoid conflict that could potentially arise otherwise.

Mr. Goodale may want to add to that.

**Hon. Ralph Goodale:** Ms. Gallant, you will recall that this consultation took place at a time before the election last year. As I

understand the results of the consultation among the membership, the majority preferred a single national bargaining unit for RCMP members and reservists and the requirement that the employee organization have as its primary mandate the representation of RCMP members and not be affiliated with a bargaining agent or an association whose primary mandate is not the representation of police officers.

In other words, the members wanted to have a collective bargaining agent that truly represents the nature of the work they do and the culture of the policing environment within which they have to work. We are doing our very best to respect that consultation.

**Mrs. Cheryl Gallant:** Thank you.

**The Chair:** Perfect. I think you have an internal clock.

Thank you, ministers and officials, for being with us today. I know you'd like to go on all afternoon, but we'll end our meeting here.

**Hon. Ralph Goodale:** Mr. Chair, we will do our very best to get back in writing with the answers that committee members have asked us for.

**The Chair:** You've given us a tight timeline.

The meeting is adjourned.

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