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Chair

Mr. Robert Oliphant

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● (1105)

[*English*]

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

I wish to welcome Mr. Mehain from British Columbia who is with us via teleconference. Because the Mounted Police Professional Association of Canada is partly on teleconference, I'm going to suggest we begin our first panel with you. I understand Mr. McKenna will start the discussion.

We'll take 10 minutes to hear from the two of you and then we'll hear from Mr. Dupuis and Mr. Duggan for the second 10 minutes, just in case we lose the video conference. Our process is 10 minutes from each of the two groups and then there will be questions from the committee.

Mr. McKenna.

Mr. Brendan McKenna (British Columbia, Mounted Police Professional Association of Canada): Thank you, Mr. Chair.

Good morning, honourable members of the parliamentary committee.

My name is Brendan McKenna and I am the spokesman for the British Columbia Mounted Police Professional Association and the co-spokesman for the Mounted Police Professional Association of Canada. I've been involved in the association movement for 22 years. I am a founding member of both the British Columbia Mounted Police Professional Association in 1994 and the Mounted Police Professional Association of Canada in 2010.

The B.C. MPPA is a non-profit provincial association. It's the provincial arm of MPPAC, the national association.

I spent 30 years serving with the RCMP, all in British Columbia, primarily on detachment—including the largest detachment in the country, the Surrey detachment—in both medium-sized and small detachments in the north. I provided relief on a three-person isolated post when the nearest assistance was more than a two-hour drive, so I bring a fairly broad perspective to bear on this.

I'll begin by speaking and sharing my concerns regarding the lack of core components found in Bill C-7. I'll focus primarily on two areas: the factors to be considered in interest arbitration, and restrictions on the scope of bargaining in the areas of staffing levels and equipment.

Last year, the Supreme Court of Canada held that the right to strike is constitutionally protected. RCMP members do not seek the right to strike. They recognize that the work they do is essential. However, what they do seek is that an alternative to striking, interest arbitration, be fair and independent.

As the Public Service Labour Relations Act and Bill C-7 are currently drafted, the interest arbitration process for RCMP members is anything but fair and independent. Rather, an arbitrator must give preponderant weight to two factors, including the government's stated fiscal policy. This skews the whole process in favour of the employer. This is the opposite of fair and independent, and contrary to the charter of rights of RCMP members.

The British Columbia Mounted Police Professional Association calls upon the committee to amend Bill C-7 to allow an arbitrator to give equal weight to all factors and to not be required to consider the government's stated fiscal policy.

Another concern of the British Columbia Mounted Police Professional Association is in the area of restrictions on scope of bargaining in particular with respect to staffing levels and equipment. These two areas have a direct impact upon the occupational health and safety of front-line police officers. They have a direct impact on the quality of the work environment. Front-line officers who are overtasked, inadquately resourced, and underequipped cannot reasonably be expected to consistently deliver the high-quality service that the job demands and that the Canadian public expects.

We're being compared to civil servants under the Public Service Labour Relations Act. The survey of RCMP employees conducted by the previous government resulted in over 9,000 RCMP members clarifying that they wanted separate legislation solely for the RCMP and thus Bill C-7.

We know that the Liberal government is committed to ensuring that the Supreme Court of Canada decision is complied with, but we are concerned that this bill misses the mark.

Bill C-7 as written does not fully meet the spirit and intent of the Supreme Court of Canada decision that provides the right of collective bargaining to the RCMP. I submit that the court's intention was to clarify that RCMP members should be accorded the same rights and privileges as all other Canadians and Canadian police colleagues in the various municipal, provincial, and federal agencies.

The restrictions contained in Bill C-7 would be akin to guaranteeing a person the right to vote and then limiting the placement of voting polls to locations that cannot be accessed. Essentially, vitiating that right.

Those restrictions within Bill C-7, as currently written and unless amended, preclude RCMP front-line membership from having effective and meaningful input into two areas critical to occupational health and safety. This is because Bill C-7 misses many of the key fundamental elements found in collective bargaining in other agencies that enshrine organized labour in Canada.

There are several police associations around the country that have collective agreement provisions regarding minimum staffing levels, including the Toronto Police Association, Sudbury, Windsor, and the Durham Regional Police Association, just to name a few.

● (1110)

Anecdotally, I can provide my own experience in front-line operations. Our detachments are generally under-resourced. There's a variety of reasons for this. I believe the primary reason is that those individuals on the pointy end of the stick have no input. Contracts are negotiated between the federal government and either provinces or municipalities. Fiscal considerations appear to be the prime motivator

Policing is expensive. For many municipalities, it is the single biggest budget item, so it's understandable that they would want to control costs to the extent possible. However, this has resulted in chronic understaffing at detachments across the country, essentially leaving it up to the members on the ground to carry the burden.

In 2009, I was recruited to work at our provincial headquarters in British Columbia. The position was leading the unit, which focused on police resourcing at detachments around the province. One of the goals was to review each detachment in the province every five years to ensure that they were adequately resourced for front-line service delivery. Prior to my arrival, the unit had just completed a study which identified that one Vancouver Island detachment was so under-resourced that it required 26 additional front-line members to address the gap.

This client services unit was supposed to include two NCOs to analyze data and prepare and present the findings, and five public servants to mine and gather the data from computer-based record systems. Only one of the five public servants was hired. The other positions were blocked and the funding reallocated to another project. It was a notable irony that the unit responsible to ensure detachments were adequately resourced was itself so under-resourced that it could not meet its own mandate. Had there been a collective agreement in place, with provisions to ensure minimum staffing levels, it is unlikely that this situation would have been allowed to occur.

Thank you. That concludes my remarks. I'll turn it over to Pat Mehain in British Columbia.

The Chair: Thank you very much.

Mr. Mehain.

Cpl Patrick Mehain (President, British Columbia, Mounted Police Professional Association of Canada): Good morning, Committee Chair and honourable members of Parliament.

My name is Patrick Mehain. I'm a director of the British Columbia Mounted Police Professional Association. I've been involved in the association movement my entire 18-year career. I was president of the B.C. MPPA for eight years. I sat as an executive on the CPA, and I'm one of the founding members of the MPPAC. I'm also one of the affiants in the Supreme Court challenge.

Thank you for giving me this opportunity to share my concerns as they pertain to the significant shortcomings of Bill C-7. While the Liberal government is ensuring the Supreme Court decision is complied with, the bill misses the true spirit of the decision: the absence of a fundamental onus found in collective bargaining in other agencies.

The bargaining restrictions found in Bill C-7 and the existing PSLRA are more restrictive than those found in other police forces across Canada. Many collective bargaining agreements deal with promotions, equipment, transfers, workplace conflict, etc. While my colleagues in the MPPAC have already touched on these issues, I'll speak about resourcing and health care.

Resourcing has always been an issue. Our municipal brothers and sisters refer to us as the “Kmart cops”—we do more with less. Comparing the cities of Vancouver and Surrey, we see that Vancouver has approximately 1,340 officers and polices 605,000 people, while Surrey has approximately 800 officers and polices 500,000 people. Resourcing directly impacts members' vacations, minimum staffing levels, workloads, and I would suggest job satisfaction.

Members are getting burned out, and their health, both physical and mental, is being impacted. Due to long-term illnesses, spots are left vacant, the spots are held out in detachments, and units are required to run with shortages. Treasury Board wants to convert the approximately 4,000 civilian members into public servants. If this is allowed to happen, it will undermine resources even further in the RCMP, as our civilians to do jobs that public servants cannot.

Provincial health care and workers' compensation is different from province to province. The RCMP is unique and requires a unique way to address these concerns. In B.C., we pay our basic medical premiums whereas members from other divisions do not. The Lower Mainland already has a difficult time filling vacancies, but the added costs associated with changes to our medical benefits have made it worse.

This is of course not the sole reason that it is hard to staff vacant spots in the LMD, but it definitely contributes: prescription changes, reduced benefits, health services inappropriately getting involved in members' treatments, and the alarming and concerning fact of the recent privacy breaches conducted by senior RCMP officers. Unfortunately, all too often, members do suffer long-term injuries. How will workers' compensation affect this? Will a transfer to B.C. be halted because a member is deemed ineligible by the WCB or vice versa? Simply lumping the RCMP under existing mechanisms does not work.

Since the Supreme Court of Canada decision, I have had mixed emotions. While collective bargaining is one of those things that I have fought 18 years for, Bill C-7 leaves a lot to be desired. In its current state, it does little to provide true collective bargaining, which is protected under section 2(d) of the Charter of Rights.

While I am thankful for this opportunity to share my concerns about Bill C-7, without significant changes we will continue to see labour unrest and more court challenges, and the RCMP will continue to degrade in operational effectiveness as well as morale.

Thank you.

● (1115)

The Chair: Thank you very much.

Mr. Dupuis and Mr. Duggan are next.

[*Translation*]

Mr. Paul Dupuis (President, Quebec Mounted Police Members' Association): Good morning, Mr. Chair, committee members, ladies and gentlemen.

I am Staff Sergeant Paul Dupuis. I have been a member of the RCMP for 35 years. I have been involved in labour relations in the RCMP since 1993 as a representative of members. I have been a member of the *Association des membres de la police montée du Québec* (the "AMPMQ") since 1981 and I was elected president in 2015.

I have experienced first-hand and been a witness to abuse of power by RCMP management, and a counterweight is needed. Protecting people against abuse of power is best achieved by making all working conditions subject to collective bargaining. I appear before you today to provide you with AMPMQ's point of view on Bill C-7.

I will start by giving you an overview of the situation.

The members of the RCMP have been actively denied their right to freedom of association, in other words the right to unionize and engage in collective bargaining, for decades. The Supreme Court of Canada in MPAO v. Canada, decided that this violation was unconstitutional and that remedial legislation was required. Bill C-7 provides a process for an association to acquire collective bargaining rights for members. It also includes provisions to regulate collective bargaining. However, Bill C-7 falls short on several levels.

I will now discuss the right to a meaningful collective bargaining process.

The Supreme Court described a meaningful collective bargaining process as one that "provides employees with a degree of choice and independence sufficient to determine and pursue their collective interests." It rejected the current scheme that "does not permit them to identify and advance their workplace concerns."

While Bill C-7 does provide a process for certifying an association and having access to a collective bargaining process, it falls short on several levels, in particular by the restrictions it places on the content of collective bargaining.

Bill C-7 excludes important workplace matters of concern to RCMP members from collective bargaining, and therefore does not permit members to advance those workplace concerns free from management influence. What's more, these exclusions from collective bargaining go to the heart of members' workplace concerns. Matters that were specifically subject to management's failures and abuses are excluded.

Workplace concerns over health and safety and law enforcement techniques, including adequate protective gear and equipment, are critically important to members. I will cite the examples of the Mayerthorpe and Moncton tragedies. Inquiries into these tragedies underscored the same deficiencies in proper equipment and communications, even though nine years had passed between these two incidents. The RCMP failed the public, members' families, and the members themselves. This was not the first time that the RCMP failed to live up to its obligations concerning health and safety.

I will now discuss the issue of harassment.

Harassment was, and still is, a serious workplace concern that management has been unable or unwilling to resolve. Despite multiple studies and reports, harassment continues to be alive and well within the RCMP. For example, I refer you to the well-known Lebrasseur, Delisle, Smith, Gosselin and Sulz cases, as well as two pending class actions, several individual suits, and numerous internal harassment cases.

I will now discuss management abuse and the need for balance.

The courts, including the Supreme Court, have recognized the well-documented use of the disciplinary process and unfair labour practices by the RCMP to prevent unionization. In fact, I have been a victim of the RCMP's use of the disciplinary process to retaliate against me for my union activities. I have been subject to reprisals. The RCMP used disciplinary procedures against me for seven years. As it was determined that the disciplinary action against me was abusive due to its length and nature, the internal tribunal granted a stay of proceedings. At the same time, I also submitted grievances. After 10 years, my grievances have yet to be resolved.

● (1120)

This situation has had a negative impact on my career. Consequently, Canadians have lost the benefit of my services as a specialized investigator in financial crimes. During my career, I have witnessed abuses of power by management which clearly illustrate the need to strike a balance.

The disciplinary process has been repeatedly used to sanction members for exercising fundamental rights, including freedom of association and freedom of expression. There are a number of reported decisions concerning RCMP retaliations against my colleague and predecessor Gaétan Delisle. You have also heard the testimony of my colleague Peter Merrifield, whose case is still before the courts.

Demotions, dismissals, transfers, appraisals, probation and basic requirements are all vital concerns relating to our working conditions that management can and does use abusively against members who exercise their rights. Over my years of service as a members' representative, I have been witness to the abusive use of all of these working conditions against members, with devastating effect on them and their careers. The Duxbury, Brown and Robichaud reports confirm these abuses.

No credible evidence has ever been presented that would justify excluding these working conditions from collective bargaining on the basis that police services would be compromised without those exclusions. On the contrary, addressing members' concerns regarding these working conditions through collective bargaining is more likely to improve the quality of police services. The Supreme Court stated the following regarding collective bargaining for RCMP members:

> [...] it is not established that permitting meaningful collective bargaining will disrupt the stability of the police force or affect the public's perception of its neutrality.
>
> [...] The government offered no persuasive evidence to that effect. Empirical evidence tends to show the opposite [...]

More recently, before this committee, those who favour Bill C-7 have failed to provide any compelling argument for the proposed exclusions from collective bargaining. They have failed to assume their obligation to justify limiting RCMP members' fundamental rights.

My presentation will now address how to redress the imbalance in the employment relationship.

The Supreme Court recognized that laws and regulations that restrict the subjects that can be discussed in bargaining can disrupt the balance necessary to ensure the meaningful pursuit of workplace goals.

The Supreme Court also recognized a long-standing hostility on the part of RCMP management and successive Canadian governments to unionization in the force.

By excluding important workplace matters of concern to RCMP members from collective bargaining, Bill C-7 not only denies members the right to a meaningful process of collective bargaining, it also enshrines the imbalance between members and management by preserving absolute power over these matters by management.

In the past, management has not hesitated to abuse its absolute power over members. Bill C-7, by limiting collective bargaining and limiting remedies against management abuse, fails to ensure that the current imbalance in the employment relationship is adequately remedied, as management retains absolute power over these matters.

We argue that grievances concerning the working conditions of RCMP members, even those not governed by the collective agreement, should be referable to an independent tribunal.

As for civilian members, they share a community of interests with regular members, yet they are excluded from Bill C-7. They should be included.

Last Thursday, you heard the debate concerning the Government Employees Compensation Act. The reform to medical services for RCMP members as proposed in sections 40 and 42 of Bill C-7 should not be part of this bill. Rather, they should be negotiated at the collective bargaining table.

I will now discuss what should be done.

● (1125)

We ask that you remove the exclusions from collective bargaining that concern important workplace matters, specifically sections 238.19 and 238.22 as proposed, as has already been mentioned, to strike a real balance between RCMP management and members.

We also ask that you include civilian members under Bill C-7, and that you remove sections 40 and 42 from the bill.

Thank you.

I am now ready to answer questions.

The Chair: Thank you, Mr. Dupuis.

We will start with Mr. Erskine-Smith.

You have seven minutes for questions and answers.

[*English*]

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much, everyone, for your testimony.

My first question relates to a chart that has been circulated with respect to a comparative analysis of existing collective agreements and Bill C-7 restrictions. Perhaps you could walk us through those, specifically with respect to health and safety. I take it these relate to law enforcement techniques, but also to uniform and equipment. Perhaps you could also walk us through the jurisdictions that don't have these exclusions.

Mr. Paul Dupuis: Yes, I can do that for you.

The separation of the elements that are in Bill C-7 is not our separation, but the employer's separation. We feel that uniform and equipment, as well as control techniques and certain other elements, such as minimum standards of policing, are all part of officer safety. There are these three elements. If you look at the comparison we did of the various collective agreements, most of which are still active and some of which are expired, you'll see that they demonstrate that these elements are negotiated in.

This is to answer a question that I think was posed by Mr. Mendicino on Thursday about why we want to be compared with other police services. Do other police services have these elements that are negotiated?

Mr. Nathaniel Erskine-Smith: Taking that health and safety issue specifically, could you point to a few key jurisdictions we ought to be looking to that would treat health and safety as a collective bargaining matter?

Mr. Paul Dupuis: First there is *techniques de contrôle*—I don't have the English version with me—in the second column. It's the way to do operational policing. The last column is equipment and uniform, as well as basic competencies. These are elements that are essential for a police officer to do his work properly and have the proper equipment.

Mr. Nathaniel Erskine-Smith: We just received the chart, but I note from the chart, if we take law enforcement techniques specifically, in fact, the law enforcement techniques are not excluded per se, or—how to put it...? Stand-by time and ride-alongs, just to take Calgary as an example, are actually specifying specific issues related to workplace safety. If we were to put forward an amendment to the law enforcement techniques exclusion, in your view, what items should we be looking to? Should we be looking to stand-by time, ride-alongs...? What specific items should we be looking to?

● (1130)

Mr. Paul Dupuis: Actually, Bill C-7 restricts these elements. What I am suggesting is that you remove all of those restrictions and leave it to the membership to decide which ones are important or not at the negotiation table.

Mr. Nathaniel Erskine-Smith: At the very least, if law enforcement techniques and uniform and equipment are to remain exclusions, should there perhaps be language to suggest that health and safety considerations should be taken into account?

Mr. Paul Dupuis: If you look at my speech, what I'm saying essentially is that our working conditions contain three elements. There is pay and benefits, but there are also officer safety elements, and then there are elements of protection against abuse from authority, which means a proper workplace. These should be negotiated.

Mr. Nathaniel Erskine-Smith: Right. My point, though, is that you don't take issue with law enforcement techniques and uniform and equipment being excluded, but for their application to workplace safety and health.

Mr. Paul Dupuis: No, I do take offence to those being restricted. There should be no restrictions.

Mr. Nathaniel Erskine-Smith: Because in your submission you limited the concern to workplace safety and health. I'm just trying to drive at why we would be concerned with these exclusions. If we say law enforcement techniques and uniform and equipment are excluded but for their application to workplace safety and health, would that not get at your concern?

Mr. Paul Dupuis: No, because Bill C-7, the way it's written, uses the wording that was in Bill C-43 in June 2010, even before the Supreme Court rendered its decision. What I believe and what the AMPMQ says is that this is not a list.... The list does not reflect what's important for members. There should be no restrictions.

Mr. Nathaniel Erskine-Smith: Moving to appraisals, probation, discharges, and demotions, you note in your submission that your issue with these exclusions relates to the fact that management in your words can and does use.... You say, “These are all vital concerns relating to our working conditions that management can and does use abusively against members who exercise their rights.”

Would these exclusions be acceptable if there was an exclusion but for their application to bad faith conduct? If management were to act in bad faith, that is an issue that could be properly grieved, but otherwise it would be off the table.

[*Translation*]

Mr. Paul Dupuis: I would like to say something to help you understand the situation.

Our goal is to ensure that everything is on the table, and that we have the opportunity to negotiate all of these issues. It is important to remember that the government plays a double role as both legislator and employer. It must not abuse its legislative role in terms of prevention or facilitation to benefit its role as employer. The rule of the opposition is not just to promote an ideological view, but also to ensure that the government does not abuse its double role.

As described by the Supreme Court, we want all aspects of members' working conditions to be open to collective bargaining. Putting various vague restrictions into small boxes, as Bill C-7 seeks to do, does not work. We will always be told that if we take this with that, it cannot be discussed—even though the goal of collective bargaining is to strike a balance between both parties and to allow issues to be discussed.

[*English*]

The Chair: I just might comment that you can rest assured this parliamentary committee is not part of government and that we will be taking our responsibility as parliamentarians on both sides of the table very seriously.

Thank you.

Mr. O'Toole.

Hon. Erin O'Toole (Durham, CPC): Thank you, Mr. Chair, and thanks to all of our witnesses who have testified today and some who have testified in our previous meeting who are here at the back of the room observing.

I'm going to start off with a comment, and then I'm going to go into something I think is important. Certainly I respect the service of everyone who dons a uniform. I wore a Canadian Armed Forces uniform. Jim beside me, my colleague, served over 34 years in the RCMP, so we have the utmost respect. I think that with the commentary of previous witnesses and your members we're going to make some progress on clauses 40 and 42, particularly if you look at Ontario, Alberta, and Manitoba, which have an approach to PTSD as being presumptive in the workplace of law enforcement.

That standard should apply across the country not just in the provinces that have the presumption. Ironically, this committee has postponed its study on PTSD for first responders to look at Bill C-7. I think nothing highlights the challenges that clauses 40 and 42 lead to more than that difference between the provinces when it comes to operational stress injuries.

I think I'll start with Mr. McKenna.

You served over 30 years in uniform. When you were in depot, like boot camp for me, those become some of your best friends in life. Did a few of your mates from depot make it to the inspector or above rank?

● (1135)

Mr. Brendan McKenna: A few did. I can think of three.

Hon. Erin O'Toole: Would the other gentlemen like to comment as well? From your team at depot, did anyone make it into the senior ranks?

Mr. Mehain, you're too young, I guess, for that to have happened yet.

Mr. Dupuis?

[*Translation*]

Mr. Paul Dupuis: Currently, I am the only member in my unit that is not an officer. Three of my unit members are superintendents or chief superintendents. We are the four remaining members.

[*English*]

Hon. Erin O'Toole: So you have three close friends in those ranks.

The reason I say this is that this isn't a typical management environment. The management you talk about, the inspector level and above, which is generally management, are wearing the uniform as well. Unfortunately, I think some frustrations people have had with management over the years leads to management being described as big bad management. But I think all of you know that there are men and women wearing the uniform making decisions on equipment, training standards, staffing, that are in the same thin blue line as you.

As a former military person, I think it's appropriate for a paramilitary organization with a chain of command to have some exclusions, because you have faith in your comrades-in-arms. That doesn't say everything's perfect, but it sort of says that the unique paramilitary nature would lead to some exclusions.

I'll leave some time open for you to comment on whether that's warranted or not. I hear some people saying we're treated like public servants in the PSLRA. Well, that's what the legal case was about, the exclusion from the PSLRA.

Mr. Paul Dupuis: Maybe I can comment on that.

We have the Duxbury report, the Brown report, and the Robichaud report from C Division. All these reports mention that there is a dichotomy in the RCMP and that the officers have a different point of view of what is actually going on within the RCMP.

[*Translation*]

I would like to make a comment on the Robichaud Report.

Mr. Robichaud has a PhD in communications from the University of Montreal. He interviewed about 600 non-commissioned officers, which gave him a sense of what it is to be an officer. Allow me to quote a single sentence from his report: “(...) it's unbelievable, these are intelligent people, but they do not grasp reality, there's a gap between reality and their reality.”

That comment pertained to Division C officers at the time.

● (1140)

[*English*]

Hon. Erin O'Toole: Before the Robichaud report, did any of you have thoughts on the paramilitary nature leading to some obvious...? Let's say this was just a typical workplace environment, and I didn't want a posting. Postings, assignments—should all these be just collectively bargained and grieved? I don't think you would then have a chain of command paramilitary structure, if everything was subject to bargaining. Do you have any comment on that?

I'm focusing on this because I think the opposition has made some progress on clauses 40 and 42, but I personally think there should be some exclusions, as a former uniform and as a lawyer, and the court case does permit that. The problem with the staff relations program was that it was not sufficiently independent from management. I think the frustrations many of you have, being the early advocates for associations, was that institutional reluctance. That's now going to be changed.

Are there any other comments on the fact that the paramilitary nature might lead to some exclusions that are required, given the structure?

Mr. James R. K. Duggan (Legal Adviser, Quebec Mounted Police Members' Association): Yes. With respect, I've represented members of the RCMP for more than 30 years and argued dozens, if not hundreds, of cases. I argued the Delisle case and the MPAO case. The MPAO case was not about the exclusion from the Public Service Labour Relations Act. If it was about one thing, it was about preventing members of the RCMP from unionizing and having collective bargaining. The exclusion was merely a mechanism. This is one of the few cases where the Supreme Court recognized that the purpose of the legislation was to deny unionization and collective bargaining.

On the issue of the paramilitary nature of the RCMP, that's old history. It may be that it was relevant in the days of the North West Mounted Police and the whisky trade and so forth, but all of the evidence before the Supreme Court indicates that the RCMP is a police force like any other. Generally, it has the same kind of role.

What I think is problematic about the exclusions is that they deny the RCMP itself, and people who have to deal with the role of the RCMP, the voice of the members who are on what you call “the thin blue line”, which can inform both management and should inform your committee ultimately, and legislature, on those issues of health and safety. I would turn the question around and say, “What is the justification for excluding that kind of a voice?”

The Chair: Thank you, Mr. Duggan. I'm sorry, I have to cut you off there.

Mr. Blaikie.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Thank you very much.

Thank you guys for coming out today and providing testimony.

Part of what's at issue, and I guess I'll just touch on it because it's part of the conversation right now, is whether there's an opportunity created by the court to get beyond that institutional reluctance for collective bargaining, but we don't just buy the court fiat. I think there's a serious risk that Bill C-7 will actually entrench that institutional reluctance in law and make it more difficult to have bargaining in name only, or bargaining just for pay and benefits, when the concerns of members clearly go far beyond pay and benefits. It's not really living up to the spirit of that decision, and I think we need to be concerned about whether we're actually doing damage with Bill C-7 to the rights of members to raise certain issues in the workplace with the way that the bill is currently worded.

I don't have the credibility of having been in uniform, but I would say when I hear comments about sharing a uniform and therefore having faith in management to manage in a way that's fair to fellow comrades in uniform, it cuts both ways. I think there should be some faith given to members at the bargaining table by management who shared that uniform to bring forward reasonable proposals that have the interests of the organization at heart as much as their own interests as employees. I think the other side of that trust is really what's really missing in Bill C-7. It has a lot of layered protection for management and very little for the employees of the RCMP. It's perhaps not a coincidence that there was very little consultation with employees of the RCMP leading into that.

The chart that you brought here today I think is really helpful. It's been a missing component of the conversation so far. Just to try to get a better sense of what's really at stake with these exclusions, I'm wondering if you have an example, say, of law enforcement techniques. We have some examples in this chart of where law enforcement techniques have been discussed and agreements made at the bargaining table. Are you guys aware in any of those cases of the standard of law enforcement in those jurisdictions falling below an acceptable level, or serious discord or disorganization within the police force that discussed those things at the bargaining table? What was the consequence for those police forces? Did they subsequently fail as police forces because those things were discussed at the bargaining table?

● (1145)

Mr. James R. K. Duggan: Our research, and more than research.... Members of the RCMP work with all those other police forces. It's the contrary. A careful reading and understanding of the MPAO case indicate that when members' views are taken into account, there is less likely to be frustration among the members. It also provides for optimal police services because the members know that their rights are being respected and their voices are being listened to, and they can concentrate on the delivery of the best police services possible. That is recognized, as well, in the Supreme Court decision.

Mr. Daniel Blaikie: If that is true for discussing law enforcement techniques at the bargaining table, is it also true where there have been, say, issues about probation discussed at the bargaining table? Did any police forces subsequently fail as police forces, or have terrible internal strife or mismanagement as a consequence of employees bringing those issues to the table, that you are aware of?

[*Translation*]

Mr. Paul Dupuis: Yes. A few years ago, it was current practice in Quebec to use temporary police officers. Certain cities wanted there to be a collective agreement or a separate salary scale for temporary officers, as compared to permanent officers, which left open the possibility of a grandfather clause. Depending on the date a person was hired, that person may have earned a different salary than another who was hired two months previously, for example. Some people were opposed to this. There was even a class action suit against the union and the city.

I simply wanted to give you a sense of the situation. We are talking about minimum standards. Cities were using temporary officers a great deal.

[*English*]

Mr. Daniel Blaikie: I think that's it for questions for me.

The Chair: Really?

Mr. Daniel Blaikie: Yes. There you go.

The Chair: Do you want to save some for later?

Mr. Daniel Blaikie: Will you let me? I never mind speaking last.

The Chair: I am always very generous.

We are going to turn to Mr. Di Iorio for his questioning.

[*Translation*]

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

Gentlemen, thank you for your presentations and for the informal conversations we have had previously; this is all very helpful to our committee.

You have told us about certain problems, some of which we were already aware of. You were here last week when we discussed clauses 40 and 42 of Bill C-7. We were open to the discussion. Your comments were greatly appreciated.

Mr. Dupuis, I would like to address clauses 40 and 42.

There is a corollary aspect in clause 42. You had the opportunity to do this work, to be part of the organization and to become familiar with labour relations issues. We were told that some border officials and correctional officers work in border towns. At times, they may work in one province, and at other times in another, so that they move between two different systems.

Mr. Dupuis, could you tell us why this is a different problem when we're talking about the Royal Canadian Mounted Police? Please feel free to provide examples.

● (1150)

Mr. Paul Dupuis: Your question is very timely, since I was a member of the national health and safety committee along with my colleague Mr. Brian Sauvé, who testified last Thursday and is present today. As it happens, we discussed health issues and other similar things. At a certain time, the RCMP wanted to divest itself of basic health services. Before this research, members received the same treatment and services across the country. There was no distinction between basic service, supplementary service and work-related service. After the budget cuts, they began to...

Mr. Nicola Di Iorio: I apologize for cutting you off, Mr. Dupuis. I understand what you were saying, but we are running out of time.

Can you please tell us why your situation is different from that of correctional officers and border officials, who provide our country with very important services and who also put their lives at risk? Why is the RCMP situation leading to a different treatment for them? I would like to hear your opinion on that.

Mr. Paul Dupuis: The short answer is that those people are almost all hired locally and they work in the same place where they were hired.

We RCMP members are transferred from one province or one territory to another, and sometimes outside the country, and health care services are not the same in all territories or provinces. Provinces and territories do not deal with specific issues that exist in the policing world, for example post-traumatic stress disorder or OSIs, which you are now studying. These problems particularly affect police officers. However, in provinces where the RCMP is the sole police force, health services are not equipped to deal with such cases.

Just as we did on Thursday, we are asking that health care services be negotiated at the bargaining table to establish which benchmarks are being used, and we ask that those benchmarks apply to all RCMP members. We get transferred every three to five years on average. We have to change provinces on a regular basis.

Mr. Nicola Di Iorio: There is another matter.

Police officers, the forces of law and order, are the only people and the only citizens of our country who are authorized to use force as part of their job. That is the distinctive nature of their work. I cannot use force, but you, when you are carrying out your duties, are authorized to do so.

Mr. Paul Dupuis: I would like to emphasize the fact that we are also paid to go toward the danger, contrary to other citizens, who run away from danger.

Mr. Nicola Di Iorio: In that case, we could also talk about firemen. It is for this reason that I mentioned this distinctive nature of your work. Firemen are not authorized to use physical force against someone else. In that context, I understand the distinctive nature of a police officer's work.

You mentioned something very important, that is, that civilian members are excluded. Why is this exclusion a problem for you, given the distinctive nature of the Royal Canadian Mounted Police? I would like you to explain this distinctive aspect. In other words, give us some details on this distinctive aspect, more specifically as it relates to the comment that you made.

Mr. Paul Dupuis: With regard to health in the workplace, given that we move from province to province, our situation is different from that of police officers who work for the Ontario Provincial Police, for example. And yet, the OPP does exactly the same work as the RCMP. Officers in the OPP must do police work in areas that are located further away from services, among other things. We are different because we are often transferred from one province to another, but we are not really different from our colleagues in the OPP.

As concerns civilian members, they were hired under the Royal Canadian Mounted Police Act, they are governed by the same code of ethics and conduct as regular members. The only difference is that the vast majority of them are not peace officers and do not have to make arrests or use the required force against an offender.

● (1155)

Mr. Nicola Di Iorio: I would like to come back to what my colleague, Mr. O'Toole, said. This goes back to a lawsuit that went right up to the Supreme Court, in which it was argued that people were excluded from the collective bargaining system. These people will now have access to such a system.

Mr. Paul Dupuis: Are you referring to regular members?

Mr. Nicola Di Iorio: I am referring to civilian members. The provisions were overturned and now they are not excluded. They will be subject to provisions that are different from the provisions governing you.

Mr. Paul Dupuis: Bill C-42 will give Treasury Board the power to incorporate them into the public service at a later date. This is something that means that Bill C-7 contains specific provisions with regard to civilian members. And we do not know what the government's intention is concerning our civilian members. In our opinion, this is something else that must be discussed at the bargaining table.

The Chair: Thank you, Mr. Dupuis.

[*English*]

Now we'll continue with Mr. Eglinski for five minutes.

I think we'll be able to get two more in because we started a bit late.

Mr. Jim Eglinski (Yellowhead, CPC): I'm going to talk a little quickly.

The RCMP is a unique organization. I do have to differ with one of the witnesses. I still believe it's a paramilitary organization, and the members within the organization recognize the rank structure and it's very important to that organization. Most members who join the RCMP choose the RCMP because of the uniqueness to other police forces in Canada and around the world. You have an opportunity to police in large communities as a municipal police force, to specialize in special investigations and identification services, to become a pilot, to do international peacekeeping, to go to small, remote, rural communities.

You have a great diversification, and I don't believe we can lump them all together because each role is different and you choose to specialize within that organization, whether it's general duty policing or special investigations. You choose and you make a career and you can climb within the rank structure from a constable to a chief superintendent to a commissioner if you so choose and many have gone that route.

Brendan, I served 34 years on the force and when I left I served an additional eight years as a recruiting officer across British Columbia. Now, as a member of Parliament, I have eight or nine detachments in my area and I visit with my guys fairly regularly. They all know me, and I keep a fairly close liaison. I don't believe there's a strong feeling out there among the people I'm talking to in rural Alberta, and even to the members I'm talking to on the Hill, that they want a union. I don't believe it's a popular thing among them. I believe it's a movement by some within the organization.

Has a statistical count ever been done within the organization? What is your feeling on the fact that they have to become unionized because the courts have now told us that? What is your overall feeling on the overall picture of the force?

Mr. Brendan McKenna: Thank you.

I think part of this goes back to the fact that there have been consistent and significant efforts on the part of the organization to restrict the amount of information that members get. What you're suggesting—a lack of interest in unionization—I think a lot of that is being driven by some of the middle management, senior NCOs who have come up, starting at my vintage or maybe earlier, who feel it's disloyal to want to have a unionized organization.

When I got involved with the association movement and the founding of the association of British Columbia, I was considered a radical, almost a communist, that I was advocating against management and wanted to overthrow the force. In that time I've seen the Chicken Little scenario trotted out repeatedly about how we're all going to be in chaos if the members of the RCMP get parity with the police forces across the country who have input into their pay and pension and benefits and working conditions. Of course, it's a lot of palaver.

I think that the vast majority of members in the smaller places still exist in an environment whereby disagreeing or confronting your NCO in charge, if it's a small detachment of five or six or ten people, runs the risk—whether they run the risk or think they run the risk—of being singled out and not getting vacation when they want it or not getting courses or falling out of favour with the person who can directly impact their day-to-day living. That may be driving some of that.

I think that after the Supreme Court decision came out in January last year, the message from the commissioner's office and senior management was that members would be updated and they'd be provided with a lot of information. Virtually no information has been provided to anybody other than the edict that you couldn't use the information systems, you couldn't have any meetings in the workplace about anything to do with unionization.

It's such a big organization, you can never get everybody into a room. That's one of the reasons it's taken so long to get us to this point. In cities, any police force can get a significant number of members to some kind of a meeting, whereas the mounted police are spread out across the whole country. How could you ever get everybody in one place and if you do have them all in one place, who's looking after the country? You can't do it. You're only ever going to get small portions.

● (1200)

The Chair: Thank you, Mr. McKenna.

I love the variety within the membership of the RCMP. It's great.

Mr. Spengemann, I think this will be our last round, for five minutes.

[*Translation*]

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Thank you, Mr. Chair.

I would like to thank you, sir, for appearing at this committee and for the services that you provide to our country.

[*English*]

Very briefly, I wanted first of all to reassure you the entire committee takes the well-being of our first responders very seriously. Speaking for the Liberal side of the committee, we have some serious concerns about clauses 40 and 42, and a feeling these provisions may be premature at this stage of the legislative process.

In the interest of time, I will ask this question only to Mr. McKenna. What is the current size of your membership?

Mr. Brendan McKenna: I'd love to give you that number, but I don't have it.

Mr. Sven Spengemann: Approximate, ballpark...?

Mr. Brendan McKenna: I couldn't tell you. I don't have that information. I'm not even close.

Mr. Sven Spengemann: Would you have a sense of what percentage of your membership would be women? Again, approximately.

Mr. Brendan McKenna: I don't have that information in front of me. I could get it for you later today.

Mr. Sven Spengemann: How do you keep in touch with membership and how do you solicit their views on initiatives like Bill C-7?

Mr. Brendan McKenna: Much of it has been done through the MPPAC website and we have, of course, peoples' personal email addresses. For anybody who has joined the association movement, we have their personal emails and we distribute emails all the time.

Mr. Sven Spengemann: Would you say you received a fair cross-section of comments from across the membership in terms of diversity, gender, and geographic location? Or you haven't done the analysis—

Mr. Brendan McKenna: We haven't done that analysis.

Mr. Sven Spengemann: Okay. Would you say the RCMP currently has pay equity as a police force?

Mr. Brendan McKenna: Pay equity across the genders within the force?

Mr. Sven Spengemann: Yes.

Mr. Brendan McKenna: I would say probably, yes.

Mr. Sven Spengemann: Is that the policy of the force?

Mr. Brendan McKenna: I think it's a federal government policy. It's a Treasury Board policy.

Mr. Sven Spengemann: Your own mechanisms allow you to verify that's the case. You're satisfied that's pretty much where it needs to be.

Mr. Brendan McKenna: I think the Treasury Board policies don't discriminate. You don't decide one way or another. It's the same for everybody. It's the position and not the gender.

Mr. Sven Spengemann: Thank you for that.

Here's the other question I had. Do you have a sense of how your female membership would feel about—I'm going to go into something very specific, just to broach the topic of harassment—the question of employee-to-employee harassment, not management to union, but peer-to-peer harassment? Have you received any views from female members of your association on how that is best tackled?

Mr. Brendan McKenna: There has been that feedback to the directorship of the association, but I haven't been party to any of that.

Mr. Sven Spengemann: Would you be able to share any analysis that you're going to do in the short term, or if there are any that your organization has done, in terms of views?

● (1205)

Mr. Brendan McKenna: I think that's something we're going to have to look at, but I don't think we've done that yet.

Mr. Sven Spengemann: That's all I have, Mr. Chair.

The Chair: Okay. You've very compliant today.

Thank you very much. As always, thank you both for your service, as well as for your time with us and our committee.

We'll suspend until the next panel can come in. We'll take two minutes. Thank you.

● (1205)

(Pause)

● (1210)

The Chair: We are going to start again with our second panel. It's a bit of a change, moving out of the RCMP and its directly affected parties in Bill C-7.

We have invited the United Steelworkers, as well as Paul Champ, who is a labour and employment lawyer, to join us for some of their thoughts and reflections on this bill, which for the first time will enable RCMP members to form a union, should they choose.

I'm going to suggest we start with Mr. Rowlinson, you have 10 minutes, followed by Mr. Champ for 10 minutes. Then, we'll continue with questioning.

Mr. Mark Rowlinson (Executive Assistant to the National Director, United Steelworkers): Thank you very much, Mr. Chair.

My name is Mark Rowlinson. I'm the assistant to the Canadian national director of the United Steelworkers. I've also been a practising labour lawyer for the union for about 20 years.

The United Steelworkers is one of the largest industrial unions in Canada, with about 225,000 members from coast to coast to coast. We're part of an international union that has about 800,000 members across North America. We represent a diverse membership in almost every part of the private sector, along with thousands of public sector workers in hospitals, nursing homes, universities, and among security guards. We also advocate on behalf of roughly 100,000 retirees and their families across Canada.

While many of our members work under provincial law regimes, we also represent about 25,000 members in the federal jurisdictions, including workers employed in airport security, transportation, energy, and telecommunications.

Labour legislation in all jurisdictions in Canada is important to our union, as it is to all labour organizations across the country. We are concerned about any legislation that may interfere with either the spirit or the substance of fundamental labour rights, like the right to join unions and the right to bargain collectively.

We're very grateful for the opportunity to appear before you today, as we're concerned about how the Government of Canada responds to and complies with the important Supreme Court of Canada decision in the MPAO case, which the Supreme Court issued a little over a year ago.

The MPAO decision was one of a series of decisions by our country's highest court that clarifies the scope of freedom of association and collective bargaining rights under the charter. We were a plaintiff in the SFL case that was issued a week after the MPAO decision, and we've long taken a great interest in how the charter and labour law regimes in Canada interact.

In MPAO, as the committee will be aware, the Supreme Court affirmed that freedom of association protects the right to join and form associations, to do so in pursuit of constitutional rights, and the right to join others to meet on more equal terms the power and strength of employers.

If I might pause for a minute, I want to read you an excerpt from the decision, where the Supreme Court noted, and I'll return to this:

> Individual employees typically lack the power to bargain and pursue workplace goals with their more powerful employers. Only by banding together in collective bargaining associations, thus strengthening their bargaining power with their employer, can they meaningfully pursue their workplace goals.

It is precisely that set of rights that is protected under section 2(d) of the charter.

The Supreme Court continued, “The right to a meaningful process of collective bargaining is therefore a necessary element of the right to collectively pursue workplace goals in a meaningful way”, and “A process” or legislation, I would submit, “that substantially interferes with a meaningful process of collective bargaining by reducing employees’ negotiating power is therefore inconsistent with the guarantee of freedom of association enshrined in [section] 2(d)” of the charter.

We are here today to provide a few comments on Bill C-7, and to express our concern that in some areas Bill C-7 grants the right to join a union and collectively bargain to RCMP employees and officers on the one hand, but on the other hand it also erodes that right through limits on association and the scope of bargaining.

I want to review a number of points where we have concerns, given that background about Bill C-7.

First, is the configuration of the bargaining unit. In the bill under its present form, as the committee will be aware, civilian RCMP members are excluded from the bargaining unit. There is no justification, in our view, for excluding employees of the same employer from the bargaining unit, other than to erode the collective bargaining position of the union. In both federal and provincial jurisdictions across Canada, labour relations boards have for decades preferred broad-based, all-employee units.

While we agree with the bill's exclusion of officers in their capacity of management, the list of ranks that are considered officers is set by Governor in Council. The number of officers in each rank who are excluded, as prescribed by the Treasury Board, means the employer has essentially the exclusive power to decide who is included and excluded from the bargaining unit as an officer. This is an exception to the normal rule in Canadian labour relation regimes, which provides that managerial exclusions and other exclusions from the bargaining unit are determined by independent labour relations boards.

Second, and this is perhaps the one point I want to emphasize the most this morning, are the very vague and general limits on affiliation that are contained in Bill C-7.

● (1215)

Under Bill C-7, to be certified, an employee organization must be, among other things, “not affiliated with a bargaining agent or other association that does not have as its primary mandate the representation of police officers”.

We fully respect and understand the limit that the bargaining agent itself must be an organization that is primarily devoted to the representation of police officers; however, we are at a loss to understand this very general and vague point that the bargaining agent must not have any affiliation with other organizations. We submit that this is a serious infringement on freedom of association, and there are clearly less restrictive ways to deal with issues of the independence of the bargaining agent than this one.

We would refer the committee to the Ontario Police Services Act, which deals with this issue in a different way in that, for police unions in Ontario, the only limit to their ability to affiliate applies to individual members and prevents them from actually joining another union without approval. However, the Ontario Police Services Act appears to rightly allow collaboration and affiliation with members of other unions and other labour organizations.

This would seem, for example, to allow members of the RCMP union—should there be one—who are affiliated with other organizations to provide that union with advice, support, and so on and so forth, and would actually allow the police union to become a part of a broader movement and to seek the assistance of other organizations. We don't think that at all threatens the independence of the RCMP potential union and we think it is an important right for them. This could take the support in terms of one-off support for a particular campaign or initiative. For example, police unions across the country were very important in the campaign around Bill C-377, which was introduced by the former government, and worked within the broader movement on those sorts of issues.

We are suggesting that this restriction on affiliation, again, is extremely general and will be very hard to understand by someone from outside the organization and from the broader labour movement.

Our union, for example, has a wide range of different relationships with different unions. We have strategic alliances with some unions, we collaborate with other unions, and we provide resources, whether that's use of our buildings or collaboration or training with other organizations. Again, it's not clear to us that such a broad restriction is necessary.

The third point I want to comment on, and only very briefly, is limits on the scope of collective bargaining in Bill C-7. I know the committee has already heard a great deal about the limits on the scope of collective bargaining that are contained in the legislation, and I won't belabour the point other than to say that limiting the scope of collective bargaining, as the legislation does, in such a broad and pervasive manner, constitutes a significant infringement, in our view, on the rights of RCMP officers as enshrined in section 2 (d) of the charter. We submit that the legislation is over-broad in precluding negotiation over transfers, promotions, discharges, and demotions; conduct, including harassment; the basic rights for carrying out the duties of an officer; as well as equipment matters.

Further, of course, Bill C-7 limits the outcome of binding arbitration. We understand and support the idea that collective agreements should be resolved by binding arbitration, but again, the fact that the arbitrator will be precluded from dealing with that wide range of issues in our view further reinforces the restriction and the possible infringement on section 2(d) of the charter. We would submit to you that it substantially interferes in their collective bargaining rights.

The fourth issue that I want to mention is the factors in the binding interest arbitration regime that is set forth for RCMP officers. Here Bill C-7 essentially provides that the factors that are already set out in the PSLRA to guide an arbitration board in imposing a collective agreement will also apply to the RCMP union, should there be one.

In particular, section 148 of the PSLRA, which was amended and implemented by the previous federal government, requires that the arbitration board consider:

> (a) the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians; and
>
> (b) Canada’s fiscal circumstances relative to its stated budgetary policies.

These provisions of the PSLRA were introduced, as I mentioned, by the previous Conservative government, and the fact that they've been maintained in Bill C-7 we think is problematic. The fact that the legislation requires an arbitrator to give preponderant weight to these two factors compromises the independence of an arbitrator and creates a built-in bias in the interests of the arbitration process by essentially requiring an arbitrator, rather than to act independently, to implement what amounts to government policy.

● (1220)

Bill C-7 imposes an additional constraint on the arbitration process in that it provides that the board must consider “the impact of the determination on the operational effectiveness of the Royal Canadian Mounted Police” in imposing collective agreement terms.

This requirement is unique to Bill C-7 and is not required for any other federal public sector employees. Given that RCMP members do not have the right to strike and the fact that bargaining impasses must be resolved by way of interest arbitration, this is a new factor, which unnecessarily and in our view inappropriately biases the interest arbitration process in favour of the employer.

The Chair: Could I just ask you to wind up as quickly as possible?

Mr. Mark Rowlinson: We had two other issues that we raised in our submission. Lesser issue one relates to limits to the grievance and arbitration process. The other relates to the concern about workers' compensation and the fact that under Bill C-7 RCMP officers may be subject to a sort of patchwork of workers' compensation benefits. I'll skip over those.

In conclusion, as an international union with strong ties to other unions throughout North America and globally, we are committed to the full expression of the right to freedom of association in collective bargaining. Bill C-7 in its present form limits these fundamental rights for RCMP officers in a manner that is, in our view, unnecessary.

We ask that the committee, in its clause-by-clause review of the bill, remove the barriers outlined in this submission and others, and ensure that the spirit and intent of the MPAO decision is enshrined in the legislation by allowing officers to exercise their right to free and independent collective bargaining.

● (1225)

The Chair: Thank you, Mr. Rowlinson.

Mr. Champ.

Mr. Paul Champ (Lawyer, Champ and Associates, As an Individual): Thank you, Mr. Chair and committee members. I want to thank you very much for this opportunity to address you and assist you—

The Chair: Excuse me. I just want to remind the committee members that there is a submission from the United Steelworkers, because you didn't get everything out you wanted to.

Sorry, Mr. Champ.

Mr. Paul Champ: Thank you, Mr. Chair.

I want to thank the committee members and the chair for this opportunity to assist you in your review of this very important bill to introduce the right to unionization and collective bargaining to RCMP members. In its way, it's really quite an historic moment. There have been efforts by men and women in the RCMP for over 50 years to unionize, and they have been consistently resisted by governments of the day. This is now a moment for RCMP officers to exercise these freedom-of-association rights. It's a very important bill for that reason.

So that you know my perspective on this, I'm a lawyer in private practice—a labour lawyer—and I have had the great honour and privilege of representing numerous RCMP officers from across the country in labour disputes over the years, in all the different provinces—or divisions, as they're established in the RCMP. I've dealt with disciplinary matters, promotional cases, harassment cases, whistle-blower cases, occupational injuries, duty to accommodate, and racial and sexual discrimination cases, all in the context of the RCMP. From that experience, I believe I have a pretty good sense of the recourse mechanisms under the RCMP Act that are available to all RCMP members. I want to offer my views on these to you.

The main issues I want to address are the exclusions, about which you've heard a lot, but I'll offer some insight on those as well as on the grievance system that you would have under this bill. It's quite complex now concerning where your recourse goes. Is it a disciplinary matter? Is it a collective agreement matter? Is it a promotional matter? There are different avenues that you have to follow. This, I think, makes recourse very difficult.

I can tell you that even before this bill, this was one of the more complex labour regimes that I have to contend with. I represent all kinds of federal public sector workers, from across the board—every department you can imagine. I represent CSIS officers, CSEC...so I have a sense, and the RCMP Act is very complex as it is right now.

The final issue is the workers' compensation matter. I have some views on that, and I'd like to offer them to you as well. I was going to address it last, but I'll address the workers' compensation one first, because I think the exclusions have been hit pretty well by the other presenters.

Right now, as you're no doubt aware from previous presentations, RCMP members are entitled to full pay from their employer while on sick leave, and the causality doesn't matter. Whether it is a workplace injury or some other kind of illness doesn't matter; they get their full pay. What this bill proposes to do in clause 40 of Bill C-7 is push all RCMP members onto different provincial compensation schemes across the country.

I want to say this right now. If you make any changes or recommendations for any changes to the bill, change this one. This one doesn't make sense, and here's why.

I reviewed what the ministers told you last week, suggesting that the approaches of the different provinces are reasonably consistent and that there are not big discrepancies between provinces. They also told you that this system seems to function well for federal public service employees, who are in the same way governed by provincial compensation schemes based on the province in which they're employed.

The RCMP are very different, for three reasons.

First of all, RCMP officers are involved in more physical work than other federal public service employees and are more prone to injuries on the job. I think that's something we can all understand and grasp.

Two, RCMP officers have mobility built into their jobs. They are assigned and are posted to locations of work across the country and are reposted again and again. You'll see many RCMP officers with even 20 years or 25 years of service who have worked in two or three provinces throughout their career, and some of them even more than that. That's very different from federal public service employees, who typically work in one location their entire lives and who moreover get to choose. If you're applying for a job in Ottawa with whatever agency—say, the CRA—or for a job with the Department of Fisheries and Oceans in Vancouver, for example, you know what provincial compensation scheme you're going to be subject to.

If you're an RCMP officer, you don't have the right to choose and you don't have that knowledge. You could well be moved—and many are—to different provinces throughout your entire career. I think that is a fundamental difference from the conditions of federal public service employees that really makes this unfair.

● (1230)

Here is the third and final reason why I say you have to take this out of the bill, and that is the differential coverage across the country. It is a patchwork. They are not reasonably consistent.

Under workers' compensation schemes, there is maximum income coverage, so you are covered only up to a certain level of income, and they are very different across the country. The low is $51,000, and that is in P.E.I. The high is in Manitoba with $119,000 of annual income.

An RCMP constable at the top of the band earns $82,000 a year. Of all the 10 provinces, only three would provide full coverage to that constable if he or she was injured on the job and was off work. A dramatic example.... I am from Saskatchewan, so I always enjoy the examples we can draw from Saskatchewan; it teaches the country a lot of things. Lloydminster, as many of you are aware, straddles the border of Alberta and Saskatchewan. It is a really entertaining place for all kinds of reasons, but it also has two RCMP detachments. They are about two kilometres apart. I think one is on 47th Avenue on the Saskatchewan side, and the other is on 44th Street on the Alberta side.

In Saskatchewan, the maximum coverage for that member is $54,000 a year. In Alberta, it is over $90,000. It could well be the case that there is a very serious matter and RCMP officers from both detachments are called to a certain location. A terrible thing might happen and they both might be injured. Well, if you push these members on to the provincial compensation schemes, these two police officers, working side by side at the same incident, are going to have very different outcomes in what they get. The member who is posted to the detachment on the Saskatchewan side is going to earn, by my rough calculations, about $1,000 less per month than his or her colleague who is assigned or posted to the other side.

I wanted to highlight that. This is a bad idea and I think it is unfair to RCMP members. At a bare minimum, making this change right before you are about to see unionization, where an association might want to discuss or negotiate this with the employer, is a very bad idea.

I will turn to the other points I want to talk about, the exclusions. You have heard a lot about the exclusions. I will just hit on the points that I think are most significant, which are promotions and transfers, and harassment cases. These exclusions are not only a major issue due to the lack of free and meaningful collective bargaining, but they also push members into a very complex recourse system. In many cases, when you exclude these from the collective bargaining, they do not have the right of independent adjudication.

Under section 31 of the current RCMP Act, you go through internal grievance mechanisms. They do have adjudicators, but they are commissioned officers, superintendent or chief superintendent. When you are dealing with a situation where you are grieving the actions of a deputy commissioner or a commissioner—and I tend to get involved in cases that are more serious like that—you are going to a chief superintendent and saying, “Hey, can you overturn this decision of the commissioner?” Well, that is not going to happen very often.

The way this act works is that only collective agreement issues will go to the Public Service Labour Relations Board. When you combine that with all the exclusions, this really means that the only things you are going to see at the PSLREB are pay and comp issues. Some of the most important working terms and conditions that are so important to RCMP members are not going to be subject to that independent adjudication. I think that is a really big problem.

About promotions.... Reviews and studies over the last 20 years have repeatedly found that the views of RCMP members are that the RCMP promotional system lacks transparency and fairness. The Brown report from 2007, “Rebuilding the Trust”, said that the promotional system is “viewed almost universally as being ineffective, unfair and opaque.”

That was the Brown report in 2007, cited by the Supreme Court of Canada in the MPAO judgment.

The RCMP did another report of its own recently, called “Gender-Based Assessment”, published in 2012. I noticed they just suddenly posted it last week for some reason. There, they did a review and survey of members. Those members said that one of their most serious issues is “The lack of fairness and transparency in the promotional processes”. Yet promotional processes are kept completely out of collective bargaining or the independent grievance adjudication system that you would have going to the PSLREB. They have to continue to grieve up.

● (1235)

Promotions, I would submit from my experience over the years, are seen as rewards to those who belong to a club, to those who are seen as loyal, to those belonging to certain cliques that happen to be in ascendency within the force, and I honestly say I think that if you would get any member, even a commissioned officer, over coffee or a drink and ask them, they will tell you the same thing: that's how it works.

It's based on loyalty more than anything, not fairness or merit.

The Chair: Can you just wind up, Mr. Champ.

Mr. Paul Champ: Yes, thank you, Chair.

Then on harassment, this is one of the most serious issues facing the RCMP today. It's a part of the culture. You have fiefdoms where arbitrary conduct can go unseen. You have some isolated posting where they're all subject to a certain sergeant, and perpetrators are then often protected by that loyalty. Some staff sergeant gets in trouble or there's a complaint and then it goes up and it's a chief super who used to be posted with that staff sergeant, and that complaint is going nowhere.

Moreover, when you get to the loyalty issues, anyone who complains is by definition seen as disloyal. I'm sure you've heard this again and again on the cases of the class actions involving female RCMP officers; well, it applies otherwise. If you bring a complaint of harassment, you are instantly singled out and subject to reprisal, and that's a problem. There's no independent adjudication, and it's not subject to collective bargaining. Where members need it the most, they don't have it.

Those are the submissions that I wanted to make primarily. I have a couple of other points that maybe will come out in the questions, but I don't see why the government wants to shield this kind of conduct from independent grievances—harassment. I've heard Minister Goodale say last week that they're going to try to make changes, and we take him at his word, but this problem is deeply entrenched in the culture. I think if you expose it to the sunlight of collective agreement bargaining representation, that will take care of it.

Thank you very much.

The Chair: Thank you, Mr. Champ.

We're going to begin with Ms. Damoff.

Thank you.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you very much to both of you for coming out and giving us more information on the issue that we're dealing with.

I think one of the things that I've been heartened about since I've been a newly elected MP on this committee was the way all parties embraced the importance of dealing with PTSD and OSI in our first responders and public safety officers. I think all sides of the House have agreed that we need to deal with this issue. It's evidenced by being our choice for our first study.

We all face challenges with clauses 40 and 42 because of the very things that you've outlined in terms of coverage. Ontario now has presumptive legislation for PTSD and OSI, and other provinces don't. I'm wondering if you might be able to give us some input on how you think that should be dealt with it then. If it's not dealt province by province, do you have any suggestions on how we could deal with that?

Mr. Paul Champ: The big question I have is, what's broken here? I don't think I've heard the case about why we need to change the current system.

I believe last week Deputy Commissioner Dubeau indicated there hadn't been consultation with members broadly on the issue or really any consultation. I just don't know what the problem is. What's wrong with the current system?

I've dealt with a lot of RCMP officers who were off due to illness or injury on the job, and there's the whole separate issue of trying to adjudicate with workers' comp while also dealing with the employer. I deal with it in non-RCMP contexts, and it's very complex and very difficult when you're dealing with these two regimes. Here, it's a one-stop shop. You're dealing with the employer saying, “Here's the issue, here's this person's medical restrictions, they're off work for this period of time, and let's deal with it.” I just don't see why it needs to be changed. I haven't heard the case, so it's difficult to respond to that question.

● (1240)

Ms. Pam Damoff: Given that we will be resuming our study following these meetings, I think we could benefit from the recommendations that would come out of that study.

I do also want to talk a little bit about the limits. You mentioned the limits on the scope in collective bargaining, and in particular, the wording right now says “conduct, including harassment”. The minister, when he appeared, talked about initiatives that are being worked on right now, and I see that there's just a report that misconduct reports are up I think it's 158%. Management is saying that's because they're addressing bad behaviour within the RCMP.

Are there any implications from a legal point of view—you're a labour lawyer, so you can address this from a legal point of view—if the wording “including harassment” were removed?

Mr. Paul Champ: You would find some of the more serious cases would then end up going to the Public Service Labour Relations Board. No doubt you would probably have the association negotiating some clause in the collective agreement that says fair treatment in the workplace, or no harassment in the workplace, some kind of language like that. It wouldn't open floodgates because a member would not be able to bring a case to adjudication on their own. It would have to be approved by the association, so I think just the more serious cases would end up in adjudication.

I think that's what we would have and you have that with other police officers. I also represent the Ottawa Police Association, so I'm familiar with that regime. They have the right to have those issues adjudicated. I don't know why it's being denied to RCMP officers.

Ms. Pam Damoff: Would there be a vacuum between the time this legislation passes and when and if a union is formed? What happens in that interim period?

Mr. Paul Champ: Presumably the current system would remain in place and I think the issue of a vacuum is a very real one. I think you heard last week about how the RCMP commissioner has unilaterally cut the legs out from under the Mounted Police Members Legal Fund, which has been representing members for 20 years in a number of cases. It is supporting a number of cases right now that are going to be knocked out at the knees because of those changes.

I think there's a concern that RCMP members in the next two years may be more vulnerable than they've ever been until we get an association, if we don't give some thought about this interim period.

Ms. Pam Damoff: Do you have any suggestions on how we deal with that interim period?

Mr. Paul Champ: This is amusing in some ways, but only because of how bad it is. Under the old system, you already did not have any adjudication. You could file a harassment complaint or grievance and if you got that resolved in less than four or five years, you would be lucky. Frankly, I don't think I ever saw one resolved in less than three years.

That's a terrible thing, and it's been attacked by the Federal Court, which criticized the RCMP for that. At the end of the day if it's only about two years, provided that the grievances can still at least start moving through the system, or at least be protected in the same way they were before, where you have some kind of member rep system that can assist people at least under the RCMP Act section 31 process, that would be better, but unfortunately I think it will be a tough situation.

Ms. Pam Damoff: When we were talking about harassment, it would be from a manager to someone who was working under him or her. What about peer-to-peer harassment?

Mr. Paul Champ: You can also grieve those. You would be able to grieve those. In terms of the employer liability or responsibility, it's a situation where had the employer been put on notice of the problem and taken effective steps to deal with the problem.... If the employer doesn't know there's peer-to-peer harassment, you don't have liability in that sense.

In making a complaint of harassment where the harasser may well be subject to discipline, that's still there and the disciplinary process is important and I think that's part of the reason why it's excluded because they see harassment as a misconduct—we're going to discipline someone—rather than let's provide a remedy to this person who was harassed by a manager, complained several times, and was ignored several times.

You have that awful case in the Police College; I'm involved in that one. That one is classic, and that's where you need proper remedies for members who have been harassed. They've raised the issue with management and not enough has been done.

● (1245)

The Chair: Thank you, Ms. Damoff.

Mr. O'Toole.

Hon. Erin O'Toole: Thank you, Mr. Chair, and thank you both for your testimony here today.

Certainly it's clear, Mr. Champ, you've followed the committee coverage right to the day the ministers appeared and I think you could see we had some concerns with clauses 40 and 42 right away. I don't think anyone's put it as succinctly as your Lloydminster example to show that the patchwork approach, whether it's with PTSD or whether it's with income levels, is not something that's well suited to a federal force with, as you said, the three unique RCMP differences, that unique posting structure and nature that means you're a federal police officer but one day you could be in Atlantic Canada and a week later you could be posted to northern Canada.

I want to thank you for that because I do think we're making some progress there and that example just shows how across town there would be differences from single incidents.

Mr. Rowlinson, it was interesting you chose a quote from the decision talking about meaningful collective bargaining, which was at the centre of the case. The court did specify what made up the meaningful standard and that was employee choice and independence. On the employee choice front, the labour movement tends to very much disagree with a secret ballot approach for creating a union. Would you feel that's the best way to truly see employee choice on certification of a union?

Mr. Mark Rowlinson: Before I answer the question, I'll respectfully disagree, if I could, on what the Supreme Court actually said in MPAO. Yes, they dealt primarily with issues of employee choice and the autonomy and independence of the bargaining agent, because that was the issue that was before them. They made a lot of comments about meaningful interference on collective bargaining and they elaborated a sort of test and a number of principles for analysis of 2(d), but in the actual MPAO decision, of course, they weren't looking at a collective bargaining regime. They were looking at a regime where a group of employees was specifically excluded from collective bargaining, so therefore that is the issue they ultimately focused on.

In terms of your question about the means by which employee choice is determined, i.e., whether it's by a secret ballot vote or by way of membership cards signed without any intimidation or coercion, different Canadian jurisdictions, as you know, deal with that issue differently. In Quebec, “50% plus 1” membership cards are sufficient. In the federal jurisdiction until very recently, that was the way in which employee choice was determined. In other Canadian jurisdictions, there is a requirement for a mandatory certification vote. The courts have been very clear that both methods pass constitutional muster, and the charter has nothing to say about the preferences between one or the other.

Speaking from the labour movement's perspective, our view, as I'm sure you know, is that in these particular circumstances when employees are choosing a bargaining agent for themselves, a secret ballot vote tends, in all the empirical evidence, to demonstrate what a secret ballot vote essentially does. It provides a licence for employers, during the campaign up to that secret ballot vote, to behave in ways that are inherently intimidating and coercive toward the employees as they make their choice. Secret ballot votes are essentially a licence for employers to intimidate and coerce employees, and therefore—

Hon. Erin O'Toole: Does that same approach apply to the context of government, though? There can be examples cited from the private sector and private sector unions, but we're all here because I think all sides recognize the right outlined by the Supreme Court in that Mounted Police decision. Is that same intimidation and coercion concern as relevant in the public sector context?

I say that because at the briefing the government provided in relation to this bill, senior officials said that every previous certification of the public sector had taken place under a secret ballot regime because it goes back so far. Is the same concern that you're highlighting relevant for the government?

Mr. Mark Rowlinson: I think the concern is that if your employer, whether it's a public sector employer or a private sector employer—i.e., the institution that puts food on the table for your family—indicates firmly to you that it has a preference as to how you're going to vote on the question of unionization, that becomes a very difficult choice for an employee, because the day after the vote, your employer, and again, whether it's the public or the private sector, is still your employer.

● (1250)

Hon. Erin O'Toole: The employer here is bringing enabling legislation forward for that vote, so I think it's very clear that there will be a bargaining agent, and the certification decision really should be in the hands of the employees.

Mr. Mark Rowlinson: Right, and I agree with you that the certification decision should be in the hands of employees. Because it should be in the hands of employees, it should be done in a manner that is confidential and private. That, in our view, mitigates in favour of a requirement to sign membership cards and not indicate a choice, again, by way of a secret ballot vote.

Hon. Erin O'Toole: In the remaining time I have, I want to talk about the exclusions you mentioned on civilian employees, and the issue of making sure the bargaining agent was unique to the police force, that is, the RCMP. You used the example of the ability of an employee to counteract the power imbalance between an employer through a bargaining agent, through the union.

Would it not be fair also to extend that to the same power imbalance where you could have a single employer not wanting the power imbalance with a large union that's a collective of many different ministries, many different jurisdictions, and many different needs and wants? Isn't there then a power imbalance? A union as large as yours, with.... Maybe the federal government is a bad example, but with some employers, a single employer, the power imbalance actually would be towards a collective style union such as Unifor or your own.

I'm wondering what your thoughts are, and where the case law may show in future that collectivization of the labour movement may lead to the power imbalance going the other way.

The Chair: I'm afraid I'm not going to be able to allow you to answer. The question was very long, and we've reached the time limit. You may respond to him in writing if you'd like.

Mr. Blaikie.

Mr. Daniel Blaikie: Thank you.

I thought I'd follow up with Mr. Rowlinson a bit on the question of affiliation. I'm wondering if you could give an example of the kind of co-operation or arrangement between organizations that might make sense and help advance the interests of RCMP members, that wouldn't interfere with their independence, but under the vague wording right now might land them in hot water.

Mr. Mark Rowlinson: I'll give you a couple of illustrations. We have what we tend to call strategic alliance relationships with other independent unions. They're not financial relationships in any way. For example there's ACTRA. ACTRA's a national union, with members all over the country. We have a strategic alliance relationship with them simply because there are parts of the country where we have resources, where we can assist ACTRA members and we're happy to do so, and where they don't necessarily have the resources to do so.

If I could use the example in the case of the RCMP, one of the reasons, candidly, why we're here is that we are the predominant union in the resource extraction sector. We have a lot of members in small communities all over western and northern Canada where, not surprisingly, there are also RCMP detachments. Many of our members have family members who are in the RCMP. With the RCMP union, or whatever it is it that may form, whether that's using a meeting room or a building, or needing a place or a location, or joint efforts in terms of education, all of those things are done. Our union does those sorts of collaborative exercises with other unions. We don't see any reason why there should be absolute prohibition on such arrangements with the RCMP union, should it arise, and should it be necessary for the effective representation of those workers.

Mr. Daniel Blaikie: I want to say thank you very much to Mr. Champ for your example between Alberta and Saskatchewan. I think it puts into stark light what some of the problems with some of the changes to benefits are.

I was hoping you might say more, and add to when you were talking about covering things like promotions and transfers within a collective agreement. How terrible would this be from the organizational point of view? What kinds of things or proposals do you think might reasonably be brought to the table, particularly a table that ultimately is going to go to binding arbitration, with an arbitrator who's required to take into consideration the unique needs of the RCMP as the national police force and everything else?

What do you think the fear is about what's going to get pushed through that process? What could possibly be pushed through that process that ultimately would be bad for the RCMP and somehow good for its members?

● (1255)

Mr. Paul Champ: Probably the thrust of some of these exclusions, like the transfers ones, is that the RCMP wants to reserve unto itself that they're still a paramilitary organization. If we tell you you're going to the front lines, or you're going to this remote community, that's where you're going. We need someone there. We don't need any talk-back. That's what's happening.

I think that's where it comes from, but I don't think there should be fear of that in the RCMP. For example, here's what a collective agreement provision could look like. You could say that, in posting a member, the RCMP will take into account the member's interests, career aspirations, and family issues. However, due to operational requirements, the member may be posted anywhere the force requires. In that context, if you're in the penalty box...people remember one of Commissioner Paulson's early comments about harassment.

This is why I get to this. If you don't have independent adjudication of the right to grieve, these assignments and postings can be used to harass people, essentially. You could grieve and say no, there's no reason for me to go to this posting, and what's the operational requirement? Then the force would be required to bring evidence and show to an independent decision-maker that here are the operational requirements, we only have this many people here and these people here, we're short here, and we need to post this person here. If they can do that, great, they win the grievance. If they don't, and if it's tainted in some way that some officer is trying to put the thumb on that member, or treat them unfairly, or put them in the penalty box, then labour adjudicators are pretty quick on that kind of stuff. They'd pick it out and say no, that's an unfair posting, and this person's not going to be assigned there.

That's how I think those kinds of grievances would be sorted. Obviously the management prerogative to assign or post people and understanding the operational requirements in the RCMP would be critical or paramount. I still think that having the right of grievance there, or at least collectively bargain the kinds of factors that would go into that, is something that I don't think the force needs to be afraid of.

Mr. Mark Rowlinson: May I make a quick point on this issue?

One thing our union does is gather empirical data around why people want to join unions—perhaps not surprisingly. One thing you find is that, yes, people want higher benefits and wages and terms and conditions of employment, but actually workplace fairness and dealing with their employer on exactly these kinds of issues is almost always at the top of the list, if you actually ask Canadians why they want to join a union. It's not just about the benefits and the wages, and it's certainly not about taking strike action or anything like that. Workplace fairness is almost always at the top of the list.

Mr. Daniel Blaikie: Speaking from a process point of view, the kinds of things that fall under the exclusions are quite diverse, because the exclusions are many, and the kinds of remedies that parties might seek at the bargaining table, if they were allowed to, are also diverse.

Does it make sense, from your point of view, to try to anticipate all of those many issues as legislators and then write exclusions to the exclusions, if you will, into the law anticipating those things? Or do you think it makes sense to back off those exclusions and let decisions be made at the bargaining table?

The Chair: Be very brief, please.

Mr. Paul Champ: I can answer that in a couple of seconds.

At the end of the day, even removing the exclusions doesn't mean their subject matter is necessarily going to be subject to the collective agreement. It will still be subject to collective bargaining. If the RCMP as the employer, or the Treasury Board—whoever does the bargaining—insists that they need absolute control over postings and when they happen, they can say, "We're not putting that on the table, guys. We're just not doing it." They could do that, or maybe years down the road it's not as big a deal and they're willing to negotiate on it.

I guess all I'm saying is that just removing the statutory provisions or exclusions doesn't mean that their content is necessarily going to be part of a collective agreement. There's still, obviously, collective bargaining to be done.

The Chair: Thank you, Mr. Blaikie.

I think I'll give Mr. Mendicino a short round of four or five minutes.

Mr. Marco Mendicino (Eglinton—Lawrence, Lib.): Do you mean a lightning round, Mr. Chair?

The Chair: Yes, it's a lightning round, just to make sure you have a chance to get in.

Mr. Marco Mendicino: Thank you very much to both of you for your testimony.

Here are just a few things over which I think there is consensus.

The Supreme Court of Canada has concluded that any process that substantially interferes with the collective pursuit of workplace goals would infringe section 2(d) of the charter.

Am I right about that, Mr. Champ?

Mr. Paul Champ: Actually, these exclusions may well run afoul of that.

Mr. Marco Mendicino: That leads to my second question.

Bill C-7 is the government's proposed response, at least in its present form, but you point out a number of concerns with it, some of which relate to the exclusions.

Concerning harassment, there's a report, which was apparently just posted on the RCMP website, called "Results and Respect in the RCMP Workplace". I don't know whether you've had a chance to access it.

● (1300)

Mr. Paul Champ: That's one, yes. There's that one and there's another one that they link to in it.

Yes, I read it.

Mr. Marco Mendicino: We see that some progress has been made by the RCMP—I think they deserve some credit for that—with respect to gender and diversity. Is that a fair statement?

Mr. Paul Champ: I see the statistics, but I have to confess that I've been involved in enough human rights cases at the Canadian Human Rights Tribunal that I often doubt how those statistics are created.

I have to confess in all fairness that when I read that report, "Results and Respect in the RCMP Workplace", I'll say frankly, I didn't believe it.

Mr. Marco Mendicino: On the surface of it, though,—

Mr. Paul Champ: On the surface of it—

Mr. Marco Mendicino: —the numbers look better than they did, let's say, a couple of years ago. Is that a fair statement?

Mr. Paul Champ: Yes.

Mr. Marco Mendicino: All right.

With respect to workplace culture and harassment, we see that there is an increase in the number of grievances in this report. Am I right about that?

Mr. Paul Champ: Yes.

Mr. Marco Mendicino: Some of those deal with harassment. Is that also correct?

Mr. Paul Champ: Yes.

Mr. Marco Mendicino: Now, you point out that there is a real backlog. That some of these cases take years. Four years, I think, was the figure that you provided us.

Mr. Paul Champ: Yes.

Mr. Marco Mendicino: That's notwithstanding the existence of internal tools that are used by the government in its role as the employer for the public service. What I'm referring to is the code of conduct that applies to the RCMP—

Mr. Paul Champ: Yes.

Mr. Marco Mendicino: —and other Treasury Board policies that also apply, such as the Values and Ethics Code for the Public Sector.

Mr. Paul Champ: Yes.

Hon. Erin O'Toole: Mr. Chair, I have a point of order.

The Chair: State your point of order.

Hon. Erin O'Toole: Thank you, Mr. Chair.

Because Mr. Mendicino is taking his time exclusively to question the witness on a report that the witness revealed had quickly appeared on a website and that is not before this committee, I would ask that Mr. Mendicino table this report, and that the government not slip it onto a website. It should be before this committee now, particularly if a line of questioning is proceeding on that report, which we have not seen and which has not been tabled.

Mr. Marco Mendicino: This is disrupting my lightning round, Mr. O'Toole.

Some hon. members: Oh, oh!

Hon. Erin O'Toole: It has that added bonus.

Mr. Marco Mendicino: Was that the goal?

Hon. Erin O'Toole: Mr. Champ mentioned this report and says he doubts the numbers. To be frank, I think this committee should be seized with this report.

The Chair: I'm going to suggest two things.

I actually don't believe it's a point of order. I think it's a good point of debate.

I think it's also a good point of information for our committee to receive that report. We'll ask our analyst to help us with that. I think it was just released. We'll get that report.

Mr. Marco Mendicino: Could I resume for just another minute, Mr. Chair?

The Chair: Yes, you may.

Mr. Marco Mendicino: Thank you very much.

I just wanted to finish up on this point. There are existing tools within the government in its role as an employer apparatus to address it. Notwithstanding that, you say, in your experience, having represented employees on the RCMP side, that it's dysfunctional.

Mr. Paul Champ: Completely and utterly.

Mr. Marco Mendicino: All right. That's a very—

Mr. Paul Champ: I'm done with a case just this last fall, six months ago. It's grotesque. This is the Police College one. It's ridiculous, but I've seen it before. Nothing surprises me anymore.

Mr. Marco Mendicino: I think we got the point. Thank you very much.

In a scenario where harassment remains excluded from the bargaining table, can RCMP members avail themselves of unfair labour practice remedies under the PSLRA as it relates to the conduct of an employer?

Mr. Paul Champ: Well, I guess if they were harassed because they were trying to unionize or because they were a representative who was assisting another member and then they became subjected to some unfair treatment, you're right, that could be something you could bootstrap under an unfair labour practice complaint and get before the board. That would not be beyond the purview of a manager to do, for sure.

Mr. Marco Mendicino: Last but not least, is it your opinion that if harassment is excluded from collective bargaining that it would amount to an infringement under section 2(d), not justifiable under section 1?

Mr. Paul Champ: Yes, very potentially. That wasn't before the MPAO case, but there are other cases before the Supreme Court of Canada such as the B.C. Health Services case. It had to do with certain workplace conditions that the employer unilaterally imposed by statute of the B.C. government, and then the union was deprived of the opportunity to negotiate. That was found to be in violation of the charter, and I think these terms could very well be found in violation as well.

Mr. Marco Mendicino: Thank you for your indulgence, Mr. Chair.

Thanks again to the witnesses.

The Chair: Thank you.

Thank you, witnesses. It's been helpful for us to hear opinions that are somewhat outside the realm of what we've been hearing.

This is a reminder that we'll meet on Thursday at 11 o'clock. We are going to be doing our clause-by-clause consideration beginning on Thursday. As you know, I think there's all-party agreement that we're going to have a special briefing on clauses 40 and 42 at that time. It will be within the context of the clause-by-clause review. We'll try to work out at the actual time whether or not we begin the meeting with that briefing, or we continue and break in when we come to clauses 40 and 42. We'll see whatever works best for the officials giving us the briefing.

I need to tell you what a privilege it is to chair this committee today. I love the way the committee is taking both the RCMP concerns so seriously as well as the mandate for us to get a piece of legislation that's been referred to us from the Supreme Court of Canada done quickly. Thank you for your hard work.

The meeting is adjourned.

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