

*Parliamentary Employment and Staff Relations Act*

The court has suggested that Parliament must have intended to exclude its employees from coverage under the Canada Labour Code. However, it also points out that Parliament did not include those employees under the provisions of the Public Service Staff Relations Act and the Public Service Employment Act. The consequences are that, according to the reasoning of the Federal Court of Appeal, staff members of the House of Commons have been left in a legislative limbo where they have neither the right to organize under the Canada Labour Code or as other employees of the Government of Canada. The basis of that argument is the position taken by the court as to whether or not Part V of the Code applies. It points out that it applies in respect of employees who are employed upon or in connection with the operations of any federal work, undertaking or business. I would have thought that the House of Commons is a federal undertaking, or a federal work, or a federal business, particularly when you consider the reasoning of the court and its consideration of the judgment of the Supreme Court in the Canada Labour Relations Board versus the City of Yellowknife, and the fact that members of the House of Commons staff prepare meals, help to look after the grounds, drive the small buses and do many other things which are works in the traditional sense of the word.

● (1110)

In addition to that, the definition section of the Canada Labour Code states:

"Federal work undertaking or business" means any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including without restricting the generality of the foregoing—

Then there are a number of references to various things such as transportation, aircraft, radio and banking. The general definition is that any work, business or undertaking that is within the legislative competence of the Parliament of Canada is a federal work, undertaking or business.

The Federal Court of Appeal has basically stood that definition on its head. It has looked at all of the particulars, but has not realized the general fact that the Parliament of Canada has clearly the legislative authority to legislate for its employees and should make the work of its employees federal works, undertakings or businesses, and, therefore, entitle them to certification under the Canada Labour Code.

The situation is that the Court of Appeal's decision has basically removed negotiating or bargaining power from these employees who have been waiting for three years to get those rights, and who have been trying for more than 20 years to get some effective means of redress and some effective means of speaking collectively on their own behalf.

This is a big place; there are 3,000 employees here in the House of Commons. A number of problems and grievances have emerged which drove the employees to form a union and to seek certification in the first place, and now they have had the rug pulled out from under their feet.

It is damn well about time that the courts of this country woke up and moved into the modern age. It is a perverse decision for them to say that because of legalisms going back into the 1870s they judge that Parliament did not intend to give to its employees the right to organize. The citations they make, which reach back many years ago, as I just said, indicate that Parliament was thinking of other things. I doubt very much whether Parliament was thinking whether or not its employees should have the right to organize. It may have been felt at one time that the employees of the House of Commons should not, but, nonetheless, in the 1960s the Parliament of Canada made a very major decision in extending collective bargaining to employees of the Government of Canada. There was no specific exclusion in saying that members of the House of Commons staff should not have the right to organize, although they were not given the same rights as other public employees.

There are many employees of the Government of Canada who are, in fact, certified under the Canada Labour Code. There are certain other staff, including I believe the staff of the Governor General, who are certified under the Canada Labour Code. The employees of other Legislatures in the country are certified under the relevant provincial labour codes. Therefore, it is very hard for me to understand why it is that we at this level have to present such a bad example as a Bill as flawed and inadequate as Bill C-45.

The major argument for Bill C-45 is that the employees will have something if they decide to go ahead and form a union with the limited rights of bargaining which are given to them. Those rights of bargaining are very limited. They are not entitled to appeal to an impartial body over issues such as classification, promotions and issues like that which provoked the employees to form a union in the first place. Therefore, the employees must go through the whole tortuous process of organizing all over again, of signing cards for the third or fourth time in order to get an adequate bargaining right in a regime in which they have no confidence and with a feeling that the deck is stacked against them and in favour of the House of Commons.

I counsel those employees, ever if they again have to sign cards, to form a union and get some consultative mechanisms to try to resolve problems informally, even if they are barred directly from settling them formally. If they are upset about the situation created by Bill C-45, assuming that it does eventually go through, then I have every reason to sympathize with them, because it is a bad Bill. It is an unfair Bill, and it is not right that their lengthy efforts to organize should be greeted in this kind of way.

I want to say to the back-bench Members of the Conservative Party, in particular, that it is time Members of that Party woke up to the fact that for many years now we in Canada have had a Canada Labour Code which affirms, as the provincial labour codes do, the right of collective bargaining, the right of employees to have a union. Those who are members of the Catholic faith may be aware of the May Day