

many of the considerations that have animated the debate on this motion and have been reflected in the many briefs and petitions we have received, as well as many of the discussions we have had on Parliament Hill about where the public servants who work here stand so far as the Canada Labour Code is concerned.

I would have expected that some Government Members might have risen today to respond to the situation and to give us the Government's position in light of the important decision that was reached yesterday. So far, as I understand it, no Government Members have spoken since—

Mrs. Mailly: To support Ms. Copps?

Mr. Kaplan: The Hon. Member opposite says that she does not want to support the Hon. Member for Hamilton East (Ms. Copps), but I would urge her to put her own personal antipathy to my colleague to one side and to face the issues. There is more at stake here than whether or not the Hon. Member for Gatineau (Mrs. Mailly) gets along with the Hon. Member for Hamilton East. As much as all of us would want the two of them to get along, I think it is more important that we deal with the issues raised by this legislation and by yesterday's decision.

At times, we have moved reasoned amendments at second-reading stage for six-month hoists or three-month hoists. Under the rules of the House, that is one of the ways the Opposition may show its protest about the legislative menu that the Government has put before us. In this case, the motion moved by my colleague is for a simple 30-day hoist. I would have thought that, with yesterday's decision, it would not be unreasonable to delay the Bill for 30 days. Indeed, the Government itself should initiate some type of respite so that we may take a look at the legislation, and so that the parties who work on Parliament Hill and are bargaining for their rights will be able to take account of the change represented by yesterday's decision.

I do not even know if there is to be an appeal of that decision. If it is appealed, I would have no hesitation in expressing my own hope that the appeal succeeds. I would very much welcome a situation in which the staff on Parliament Hill have the same kinds of collective bargaining rights as other public servants, for reasons to which I will turn in a moment.

Having entered this place in 1968, I can recall the early developments in collective bargaining rights for public servants. The British tradition which we inherited has always put the Crown and anything associated with the Crown in a very special position. The Crown could not be prosecuted and employees of the Crown did not have the right to strike, nor did they have many of the rights that employees of ordinary citizens in society had. There has been a movement, which I suppose is at least 70 or 80 years old, toward narrowing the prerogatives of the Crown, trying to address them by legislation, and also trying to remove the privileges of the Crown.

Parliamentary Employment and Staff Relations Act

● (1410)

I had some involvement with the development of a responsible Crown as a party in lawsuits. When I was a law student it was a convention that the Crown could not be prosecuted. Then there developed a situation where the Crown could be prosecuted, but the Crown's permission was required to issue a writ in Her Majesty's Court and, in fact, against Her Majesty. The same or similar constraints applied in the rights of public servants who faced the Crown in the way ordinary citizens did, although they were employees of the Crown.

I think we live in a day and age where a lot of arguments should be required to justify giving emanations of the Crown or giving the Crown itself any special privileges at all in the law. The presumption should be the other way. The presumption should be that the Crown, when it is operating a business or running an institution, even an essential institution such as the Parliament of Canada, should be seen in no more privileged position than circumstances require. I am glad to see that the tradition which gives an automatic and special privileged position to the Crown is being eroded. I think even with the very conservative nature of some members of the Government Party opposite, they are seeing the wisdom of that.

One needs only to examine the case of an ordinary citizen crossing the street—this is one of the teaching cases I remember from my days in law school—being hit by a truck owned by the Eaton's company compared to a citizen crossing the street being hit by a truck from the Post Office. You can ask why it should make any difference whether the victim is a victim of a commercial operation or a victim of the Post Office. Just to ask the question in the modern environment illustrates that there should be no difference, and that, as far as the victim is concerned, the victim is just as entitled to compensation if the postal official driving is at fault as he or she is if the individual driving the Eaton's truck is at fault. It is hard to believe, when you are talking to people who are not familiar with the legal history, for how many centuries a special privilege has existed in that area.

The Crown has taken, and in the present Government the Crown still takes the same attitude toward employees who work on Parliament Hill. There is no doubt that the tradition entitles the Crown to view the employees on the Hill as having less rights than employees of the private sector. That is the point of the decision reached in the court case and released yesterday, that for traditional reasons based on historical precedent people who work on the Hill, even if they are doing exactly the same types of jobs as people who work off the Hill in the private sector, are not entitled to the same legal rights as are enjoyed by the private sector.

Let us ask the question I asked in connection with the truck driver and the traffic accident situation. What is the justification for any difference at all? I am not denying that there is some justification for a difference, and I hope I will have time to deal with that, but I want to make the point that in modern times that is the way to approach the question. The right way to do it is to say that a person who works on Parliament Hill,