

Union ban struck down for RCMP

Organized labour advocates declare 'complete victory' after Supreme Court decision

TONDA MACCHARLES
OTTAWA BUREAU

OTTAWA—The Conservative government was mum Friday on a stunning ruling by the Supreme Court of Canada that overturned itself and declared the law that bans Mounties from forming a union is unconstitutional.

The high court said an in-house labour relations scheme that was imposed on RCMP rank-and-file members in 1967 by management and leaves all final decisions up to the commissioner breaches the charter guarantee of freedom of association. It denies their right to form an independent labour association and hold "meaningful" collective bargaining talks with their employer.

Advocates of unionizing the RCMP who had gathered at the court whooped, cheered and jubilantly hugged each other, saying they were "absolutely thrilled" with what they called a "complete victory." Rob Creasser, spokesman for the Mounted Police Professional Association of Canada, said "the campaign to certify begins now."

In reality, what begins is a difficult challenge for the Conservative government in an election year. The Conservatives have picked battles in the past with public sector unions over salary disclosures and political lobbying. Now Prime Minister Stephen Harper must decide what kind of new labour relations scheme would fit a modern national police force.

The country's top court gave the federal government 12 months to re-draft legislation that governs the Mounties, a huge undertaking that will restructure labour relations for the RCMP — the only Canadian police service that is not unionized.

None of the RCMP, the Public Safety Minister Steven Blaney nor the minister in charge of the public purse, Treasury Board President Tony Clement, commented substantively on the decision, which has been in the works for months.



GRAHAM HUGHES/THE CANADIAN PRESS FILE PHOTO

The Supreme Court says that a new association for RCMP officers must be independent from management.

Rae Banwarie, president of the Mounted Police Professional Association of Canada, and an RCMP organized crime investigator, said the RCMP has fallen behind in pay, benefits, staffing and equipment compared to other forces. He and others believe a union would have meant the RCMP would not have fumbled longstanding complaints of sexual harassment and bullying.

But the groundbreaking 6-1 decision written by Chief Justice Beverley McLachlin and the retiring Louis LeBel on behalf of the majority does not go so far as to say explicitly the RCMP should be unionized, simply that it must be independent of RCMP management and allow the rank-and-file members some choice in what that association is. It could be collaborative and does not have to be "adversarial," the court said.

The government could designate the kind of model it will bargain with by saying, for example, it will deal with one national body and not sev-

eral provincial ones.

The high court, however, lowered the threshold for determining whether a labour relations scheme is adequate, saying it must not "substantially interfere" with "meaningful" collective bargaining.

Justice Marshall Rothstein, in a strong dissent, said the current staff relations representation program in the RCMP did not render collective bargaining "effectively impossible" and did not violate the constitutional freedom to associate.

He also scolded his colleagues for overturning the decision of 15 years ago in which the high court ruled against the pro-unionization forces in the RCMP.

The Public Service Labour Relations Act excludes Mounties from the definition of public sector "employee," and regulations under the RCMP Act impose a scheme where the RCMP's 21,000 regular and civilian members are represented by 34 staff relations representatives, who

are elected and work with RCMP senior executives to resolve workplace issues. But they do not sit directly across from Treasury Board officials to negotiate pay, benefits or other issues as other public service unions do.

Three informal RCMP associations organized in Ontario, B.C., and Quebec, backed by civil liberties groups and large union groups such as the Canadian Labour Congress and Quebec's Confederation of National Trade Unions, argued the ban on a union goes too far, and has been used to suppress dissent within RCMP ranks. Those informal associations have about 2,000 Mounties as members.

Creasser said he believes a silent majority of Mounties support unionization, and "we only need 50-per-cent plus one." He said his group never had access to RCMP staff lists, telephone numbers or addresses to communicate with them, and expects all that to change.