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MILITARY STRUGGLING WITH GAY RIGHTS ISSUE

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CBC: The federal government has delayed an announcement that would have allowed gays and lesbians to serve in the Canadian Armed Forces. The Associate Defence Minister Mary Collins said yesterday that a final decision has yet to be made, and that the government was still working on guidelines and regulations. But there are indications that the government's delay is in response to pressure from inside the Conservative Caucus.

Joining us now to discuss the issue is Joshua Birch. He joins us from Ottawa. Mr. Birch was forced to quit his position as an Air Force captain after revealing his homosexuality to his commanding officer. His is one of the Charter of Rights cases that has forced the government to reconsider its policy.

And this hour, joining us in Vancouver is Svend Robinson, the NDP Member of Parliament for Burnaby-Kingsway and also a prominent campaigner for gays' rights in this country.

Well hello to you both.

ROBINSON: Good morning Jane.

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BIRCH: Hello.

CBC: Mr. Robinson, perhaps you could lead off our discussion with some background. What kind of judicial pressures have been placed on the military and the government?

ROBINSON: Effectively what's happened is since the Charter of Rights came into affect in 1985 the Parliament of Canada, through a special parliamentary committee, held hearings on equality rights; what does Section 15 mean, what does the Charter of Rights mean? And that committee unanimously, after hearing from Canadians from coast to coast to coast, recommended that the policies of the Canadian Armed Forces which discriminate against lesbians and gay men, be repealed. That people be treated as individuals and no special rights, but that this absurd and destructive and painful policy of discrimination must end.

That was in 1985 Jane. Well, since then the government responded about six months later, said they would be taking whatever steps were necessary to end discrimination. Nothing happened. So in frustration and anger frankly, a number of members of the Armed Forces, Michelle Douglas, a very talented young officer in Ontario, Derrek Dwyer(?) in Montreal, a number of others, have sued the federal government, arguing that these polices are in breach of the Charter of Rights and Freedoms.

Those cases are scheduled now for trial next year, and I think what's happened is that the government has been told by the

001292

Attorney General, the Minister of Justice, look, these policies are obviously in breach of the Charter of Rights, clean up your act and don't force people to go through the expense and the difficulty of trials to respect the Charter.

CBC: Well, I don't anyone's pretending for a moment that there aren't homosexuals in the military. Mr. Birch, what is the official policy now? How did the military manager to get you out of your position once you revealed your homosexuality?

BIRCH: Well, the official military policy now, the administrative order that has been in existence for many, many years, is still in existence. That administrative order which flatly says that gays and lesbians will be discharged when their sexuality is discovered, that administrative order has not been used for a number of years. For the last four to five years there has been a policy directive in place superseding that administrative order that says that gays and lesbians will not be promoted, posted or given further career training. And that was the policy that was applied to me when I told my commanding officer that I was gay.

CBC: And Mr. Birch, your case has already worked its way through one level of the courts in Ontario. How did the Ontario court rule?

BIRCH: Okay. I did not directly challenge the Canadian military policy at all. The court case that Graham

Hague(?) and I won two weeks ago was a challenge of the Canadian Human Rights Act. Our case challenged the Human Rights Act saying that it was in violation of the Charter and the Ontario court ruled that in fact the Canadian Human Rights Act is in violation of the Charter by not extending protection to gays and lesbians, and the judge overturned the law and stayed his decision for six months to allow the government time to amend the law.

CBC: I'm curious, Mr. Robinson, as to what you know about how the story has come to light, this week in particular. From my understanding there was actually a news release prepared and sent to the Pentagon. The story began to circulate in the Pentagon that there will be a change in policy from Ottawa. If the government wasn't ready to go with its change in policy, how did this come out of Washington of all places?

ROBINSON: It's been a bizarre story, to say the least. I had no idea, at least I certainly suspected perhaps, but had no confirmation that the links between this government and Washington were as cozy as they were. I mean, when we have to learn about a pending change like this from the Pentagon it's a rather sad reflection on the independence of our country.

But as I understand it a press release was prepared, they were ready to make the announcement and then some of the...shall we call them the dinosaur wing of the Conservative Caucus decided that this was not acceptable, raised some concerns. They have a weekly Caucus meetings

001294

on Wednesday, and in response to that I gather that the announcement has been delayed.

But you know, as the saying goes, you can run, but you can't hide. The fact of the matter is that some members of the...senior members of the military I assume are fighting a rear guard action against this. Certainly some members of the Conservative Caucus, but ultimately the Canadian Armed Forces are going to have to obey the law of the land like anyone else, and frankly I don't think there's going to be a great deal of turmoil.

We've heard the same kind of arguments against women, but when we look at a number of other jurisdictions, particularly European countries, in which there is no discrimination at all, there's been no problem.

CBC: Mr. Birch, I want to borrow from your experience for just a moment if we can, and if the policy indeed is changed, I'd like to talk about the working reality. What's it going to be like for those first gay and lesbian soldiers, salors, air force people who are openly gay in their positions? What kind of challenges are they going to face?

BIRCH: I think there's a grave misconception here. If, in fact the military does go ahead with the policy changes that have been talked about in the last couple of days I don't think that you're going to see a whole lot of gay men and lesbians rushing out of the closet in the military.

The fact is that the social environment of the military is not suddenly going to change, and these men and women are not going to be coming out of the closet and flaunting their sexuality and turning things in the military upside down. What these changes really mean is only that they won't be ferreted out and discriminated against actively.

CBC: I...

ROBINSON: I think the other...If I can just add to that...

CBC: Go ahead.

ROBINSON: I think the other point too is that the current system is profoundly unjust because what it means is that in fact people who are within the Armed Forces are afraid of somehow being discovered, of being reported by someone else, of being investigated by the SIU and so on, the Investigations Unit. This obviously leads to situations in which people aren't able to perform at their best potential.

So as Josh...I think Joshua's absolutely right. We're not going to see a massive coming out within the Canadian Armed Forces, but we will see a situation, hopefully, in which people will feel a little more comfortable, not in fear of losing their jobs, and certainly in which people who happen to be lesbian or gay, and who want to join the Armed Forces are not automatically barred from doing so for that reason alone.

001296

CBC: Mr. Robinson, literally just a few moments left here for us, but your best bet as to if and when this government policy will be changed?

ROBINSON: Certainly my hope is that this last minute resistance from the Conservative Caucus is going to overcome within the next week to ten days and we'll have an announcement then. But we're going to have to look at the details very carefully.

The worst case scenario would be that people like Michelle Douglas and Derek and others, who have shown such tremendous courage in fighting this openly, are going to have to go through a long and protracted court battle. That, let's hope, will be avoided by ministers showing some leadership here.

CBC: Thank you both for joining us.

BIRCH: Thank you.

ROBINSON: Thank you.

CBC: Joshua Birch won a Charter of Rights case over his treatment by the Canadian military after he openly admitted his homosexuality. Svend Robinson is the NDP Member of Parliament for Burnaby-Kingsway. He joined us from Vancouver this morning.

001297