

Press Clippings for the period of March 30 to April 6, 2015
Revue de presse pour la période du 30 mars au 6 avril, 2015

Here are articles and opinion pieces that might be of interest to AJC members
Voici quelques articles et textes d'opinion qui pourraient intéresser les membres de l'AJJ

The AJC in the News – L'AJJ fait les manchettes



Federal prosecutor fights decision to keep her from running in federal election

Kathryn May, Ottawa Citizen, April 5, 2015



Emilie Taman, a prosecutor with the Public Prosecution Service of Canada, wants the Federal Court to set aside a decision preventing her from seeking nomination as a federal candidate as “unreasonable” because it fails to balance her obligations as a public servant – to be loyal and politically impartial – with her constitutional right to seek public office. Bruno Schlumberger / Ottawa Citizen

A federal prosecutor is challenging a Public Service Commission decision that denied her permission to seek a federal party nomination in the riding of Ottawa-Vanier to run in this year's election.

Emilie Taman, a prosecutor with the Public Prosecution Service of Canada (PPSC), wants the Federal Court to set aside the decision as “unreasonable” because it fails to balance her obligations as a public servant — to be loyal and politically impartial — with her constitutional right to seek public office.

→ The Association of Justice Counsel, which represents 2,700 lawyers working in government, has taken on Taman’s case.

AJC president Leonard MacKay, also a prosecutor, said the union fears the commission’s decision sets the stage for a “blanket prohibition” on federal prosecutors ever running for office.

“We fear the worst,” said MacKay. “Maybe some can’t run because they are so visible and make potentially political decisions in their prosecution work, but we want to make sure that most can do so. It’s a delicate balance of Charter rights and employee obligations.”

MacKay said most provincial prosecutors are allowed to take leave from their jobs and run in provincial and federal elections.

For example, Julie Bourgeois, an assistant Crown attorney for Ontario, ran as a Liberal candidate in the riding of Glengarry-Prescott-Russell during the 2011 election and went back to that job when she lost. Alex Burton, a Crown prosecutor for British Columbia, ran for the leadership of the federal Liberal party.

The most notable example is Peter MacKay, the current minister of Justice and Attorney General, who was fired as a Crown prosecutor for Nova Scotia when he sought the Progressive Conservative nomination in his riding in 1997.

MacKay filed a wrongful dismissal suit, arguing a law that forbade doctors, lawyers and dentists in the public service from seeking office was unconstitutional. MacKay, who won election, eventually reached a settlement with the province, which included a review of the law. The law was rewritten to remove the blanket restrictions on which public servants could pursue political office.

On the federal front, the Public Service Commission is the watchdog of Canada’s non-partisan public service and its main job is to ensure the bureaucracy stays neutral.

In December, the commission concluded Taman’s ability to do her job impartially might be “impaired or perceived to be impaired” because of the visibility, recognition and “increased publicity” that would accompany her nomination or candidacy.

The commission has the exclusive authority to decide who can seek nominations and run in elections. Public servants who want to seek a nomination or run for office must get its approval. If approved, they take leave without pay during the election period. If elected, they must leave the public service.

The commission investigates all requests, interviewing would-be candidates, their supervisors and senior management.

It weighs a range of factors when deciding whether the visibility of a nomination or election race will affect the future impartiality of public servants should they lose and come back to work. The nature of their work, specific duties, role, level and importance in the department's hierarchy and public visibility are all considered.

Taman graduated from law school in 2004 and has been a federal prosecutor since 2008.

She handles regulatory prosecutions such as cases under the Immigration and Refugee Protection Act, the Fisheries Act and Income Tax Act. She has also had two cases under the Lobbying Act.

As a lawyer, Taman follows in the footsteps of her well-known mother, Louise Arbour, a former Supreme Court of Canada justice who also served as the chief prosecutor for war crimes tribunals in the former Yugoslavia and Rwanda. Arbour was courted by the Liberals to run for office in the mid- and late-2000s but did not do so.

In an affidavit, Taman said she was involved in student councils as a youth and is active in community politics but has never been involved with a political party.

Taman is said to be interested in the NDP nomination. Party officials say the nomination meeting hasn't been scheduled and wouldn't comment on whether Taman was a potential nominee.

The commission decision concluded she has a "high-level of autonomy" and decision-making. She offers legal advice to the RCMP and other federal organizations about prosecutions, can apply for seizure or forfeiture of property and is involved in plea and sentencing discussions with defence lawyers.

It noted she is "highly visible" when she appears in court where the public, as well as friends and family of the accused, might attend. She might also have to deal with the media about her cases.

The decision said the Public Prosecution Service's (PPSC) director, Brian Saunders, was particularly concerned that seeking a nomination or candidacy "indicated a significant allegiance to a political party and its platform which would undermine the independence" of the office's prosecutions.

"It is the Commission's view that this, in turn, could lead to a perception in that Ms Taman is not able to perform her duties in a politically impartial manner," said the commission decision.

The commission felt a leave of absence or returning to work other than that a prosecutor for a period of time if she lost would not "mitigate" the risk of political impartiality. It also noted senior management said the office was too small to accommodate her request for non-prosecutorial duties.

The union argues the commission didn't base its decision on the duties of her actual position and put too much stock on the concerns of senior management who presented the "broad principles of prosecutorial discretion" and the office's mandate.

In an affidavit, Taman called management's concerns about her "high visibility" an exaggeration and insisted "nothing I do is highly visible."

She also took exception to management's claims that she had a "high level of autonomy" arguing that the PPSC has a "consultative culture" and prosecutors are encouraged to consult with supervisors on their decisions, not make them on their own.

Historically, tensions surrounded the independence of the federal prosecution service when it was part of the Department of Justice answering to the Attorney-General who is also a cabinet minister. The Public Prosecution Service was created in 2006 — as part of the Conservatives' Federal Accountability Act — to ensure prosecutors are immune from partisan influence.

Taman's case is the first case of a prosecutor being denied the right to run since the PPSC's creation, which the union fears could set a precedent.

"The description of the prosecution duties relied upon in the (commission) decision could easily describe virtually every prosecution job in the country — both federal and provincial," said the AJC's MacKay.

"The reasoning in that decision is tantamount to a blanket prohibition on federal prosecutors seeking office. As soon as senior management says that PPSC cannot (or will not) 'accommodate' a prosecutor seeking nomination, we can expect (the commission) to rubber stamp this decision, as they did here."

The AJC in the News – L'AJJ fait les manchettes



Feds ordered to cover articling students' law society membership fees

By Glenn Kauth, Legal Feeds Blog, Canadian Lawyer, March 30, 2015

The federal government must cover the law society membership fees for its articling students, a labour relations adjudicator has ruled.

Since 2013, the Association of Justice Counsel has been battling to have the government cover the fees for all of its articling students after finding a patchwork of practices across the country.

In a decision this month, adjudicator George Filliter found in part in the union's favour.

"In my view, this confirms the requirement of the employer to pay any and all fees necessary for the student to be enrolled as a law student or an articling student in their respective law society," he wrote, citing the language in job postings that refer to the different articling provisions of the respective law society.

"This demonstrates that membership in a law society is a professional qualification 'required by the employer for the performance of any duties and/or responsibilities assigned,'" wrote Filliter.

At issue was s. 28.01 of the association's collective agreement that says the government will reimburse lawyers for their membership in a professional organization when it's necessary to maintain a professional qualification required by the employer. The collective agreement also notes the term "lawyers" also includes articling students.

In 2013, the government denied the union's grievance on the issue, arguing articling students don't have to maintain a professional qualification as they're in fact candidates rather than members of a law society.

While Filliter ruled in favour of the union on the issue of law society membership fees, he rejected the proposition that the government should also cover the costs of bar courses and examinations.

"In my view, clause 28.01 of the collective agreement cannot be interpreted to impose such an obligation on the employer," he wrote. "Again, looking at the posting notices, students apply for these positions with the full knowledge that these fees are not going to be reimbursed by the employer and that they are therefore responsible for the payment to the professional association."

→ "That's by far the largest fee," says Len MacKay, president of the union.

MacKay notes there has also been a patchwork of practices across the country on that issue as the government uses payment of the course and examination fees as a recruiting tool for individual candidates.

"It's an individual, sort of applicant basis," he says.

The union did win another partial victory on whether the government must cover articling students' fees for their call to the bar.

"When students are not offered employment post-articles by the employer, the employer is not required to pay bar fees," he wrote. "However, in those instances where a law student is offered a permanent position with the employer as counsel, I reach a different

conclusion, as such call to the bar fees would be necessary for the employee to maintain his or her recently acquired professional qualification.”

MacKay welcomed that aspect of the decision.

“Outside of that, we’re also happy that they sided with us on the hire backs,” he says.

Besides the fee issues, Filliter’s ruling also included some noteworthy facts on the government’s cuts to its articling program. In statistics on the number of articling students across the country, Filliter showed it has made significant cutbacks since 2010.

At the Ontario regional office, for example, the number of positions in 2013 was nine, down from 18 in 2010. At the northern regional office, there were no positions in 2013 versus two in 2010. At the prairie regional office, the number of positions fell to six in 2013 versus 14 five years ago.

“That’s one of the programs that have suffered,” says MacKay, referring to the government’s general climate of budgetary and staff cutbacks in recent years as it made efforts to eliminate the deficit. While he notes articling is often an easy target for cuts, he says he has heard there’s an intention to return hiring to previous levels.

Filliter’s decision comes as law students in Ontario are celebrating another victory on the financial front. In a news release today, the Law Students’ Society of Ontario noted the Law Society of Upper Canada had relented on its plan to provide licensing materials in electronic format only, something the group said would mean an estimated \$100 in required printing costs.

According to the law student group, the law society has now said it will provide hard copies to students who request them.

“This is great news for law students across Ontario, and the LSSO commends the law society for its reconsideration of this decision,” said Ryan Robski, president of the law students’ society.



Ralph Heintzman: Creeping politicization in the public service

By Ralph Heintzman, Contribution to the Ottawa Citizen, April 6, 2015

Ralph Heintzman is in the Graduate School of Public and International Affairs, University of Ottawa. During his public service career he was responsible for both the federal government's Values and Ethics Code and its Communications Policy.

On Nov. 21, 2014, the Canadian Press reported a shocking incident in Canada's supposedly non-partisan public service.

According to CP, an assistant deputy minister in the federal department of finance sent out a mass email asking government organizations to use official government Twitter feeds to promote the Harper administration's recently announced child-credit tax measures – measures not yet approved by Parliament – using the Conservative slogan “Strong Families.” The Conservatives used this political slogan during the 2011 election campaign, and again for a speech Stephen Harper delivered to a Conservative party audience last summer in Calgary.

“We ask that your organization re-tweet the Department of Finance tweets from @financCanada on the announcement over the following 72 hours,” the email said. “Most of our tweets will contain the hashtags #StrongFamilies ou #Famillesfortes.”

For anyone who cares about the condition of our federal public service, this is a very depressing story. It seems to confirm the widely reported slide of too many senior public service leaders from their traditional and proper role as non-partisan professionals to a new and improper role as partisan cheerleaders for the current political administration.

The finance incident is therefore overdue to be addressed, publicly, by the leaders of the public service, such as the clerk of the Privy Council, the official head of the public service; or the secretary of the Treasury Board, whose rules and policies were breached.

Action may already have been taken internally. But when a national news agency reports an incident so contrary to public service values, a public statement is needed to clear the air, and reassure Canadians – and public servants themselves – that Canada's public service is still a non-partisan institution, in practice as well as in policy.

In the absence of a public course correction, we would be forced to conclude that the top leaders of the public service condone this kind of partisan behaviour by the most senior executives of the public service.

As reported by CP, the Finance ADM's actions appear to constitute a violation not only of the general standards of conduct for public servants, but even of specific public service rules, such as those laid down in the Communications Policy and the Values and Ethics Code. The reason why the government of Canada has such policies is precisely to ensure that public servants don't stray into this kind of partisan and unprofessional behaviour. In fact, the reported action seems, prima facie, to fall into one of the definitions of a “wrongdoing” in the Public Servants Disclosure Protection Act: i.e. “a serious breach of a code of conduct,” such as the Values and Ethics Code (s.8(e)). Any conscientious public servant could thus make a “disclosure” about it, and prompt consideration of this case by the Public Sector Integrity Commissioner.

One of the encouraging facts to emerge from this and similar incidents over the past decade is that most ordinary, working- and mid-level public servants still get it. They still understand the boundary between partisan and non-partisan behaviour, and they are committed to the values and ethics of a professional, non-partisan public service. To their credit, they have often raised objections, recommended against, or simply refused to go along with inappropriate directives from higher levels.

In June 2014, the think tank Canada 2020 released a policy paper, entitled *Renewal of the Federal Public Service: Toward a Charter of Public Service*, in which I argued the next Parliament should enact legislation, called a Charter of Public Service, to protect the values and ethics of a professional, non-partisan public service, including strict new rules on government communications. The finance incident provides more evidence that such legislation is not only necessary but urgently needed.

But we don't need to wait for action until the next Parliament. The arrival of a new clerk gives her an opportunity to provide the kind of leadership for which the rest of the public service yearns.

It's time to stand up for a professional, non-partisan public service, as described in all the official laws, regulations and policies of the government of Canada. But too often betrayed in practice.

It's not enough to reaffirm, verbally, "the principles of a non-partisan professional public service," as the clerk did in a recent interview (*Canadian Government Executive*, 2 February 2015). Words like these are only hot air if they're contradicted by public service behaviour. The walk has to match the talk.

If the clerk wants her words to be taken seriously, she should start by doing something about the unaddressed and still uncorrected case of the department of finance. And she should tell us what's being done to prevent public servants from crossing the line, from non-partisan to partisan communications, in future.



Pension plan accounting changes spark pre-election concerns

Kathryn May, Ottawa Citizen, March 31, 2015

The federal government is changing the way it accounts for its employees' pension plans — a change that would indicate the plans have a nearly \$100-billion deficit.

The government says the move will have no impact on Canada's finances or the viability of the plans.

But that doesn't stop Canada's 17 federal unions from worrying that this accounting change could spark a political blowback.

They fear that those who believe public sector pensions are too rich will exploit this deficit — even though it is only on paper — to lobby for further reductions or reforms to the pension plans of Canada's public servants, military and RCMP.

Ron Cochrane, co-chair of the joint union/management National Joint Council, said the unions were briefed on the change and accept that it is an "accounting matter."

But he said they can't help but question why the government is making the change now — months before an election — after handling the accounting in the same way since the 1920s.

"The unions' big concern is optics and whether this will become a feeding frenzy for the Conservative base and those institutes that favour changing public servants' pension plans," said Cochrane.

"It has no impact on anyone and everything stays the same, but that doesn't mean it might not be used to give more fodder for Conservative supporters to make hay and push for changes."

The change will have no impact on the government's finances because the employee pension obligations have been accurately recorded in the federal budget and the Public Accounts, which is the government's overall financial statement.

Treasury Board President Tony Clement wouldn't comment until the reports have been tabled. The annual report and financial statement for the public service pension plan is expected to be released Tuesday.

Stephanie Rea, a spokeswoman for Clement, confirmed the change will have no "financial implications" for the government. It will not affect the deficit or government plans to balance the budget in 2015.

She said the change is one of "presentation" only, and was done to bring the plan's financial statements in line with public sector accounting standards as urged by Auditor General Michael Ferguson and the federal comptroller general.

The unions were also assured the change would have no impact on the plan, its viability, the contributions employees make or the benefits paid to more than 700,000 public servants and pensioners.

So, just what is the government doing?

The federal pension plan has two accounts, one for pension contributions that employees made before 2004, and another for ones made after 2004.

The pre-2004 account, known as the superannuation account, was created in the 1920s as an internal account to keep track of employees' contributions, interest and benefit payments. It had no cash.

By the 1990s, this account began racking up a massive surplus that became the centre of a long court battle to decide if the surplus was real or not and who owned it, ending up in the Supreme Court of Canada.

Meanwhile, in 2000, the government passed legislation to create a new pension plan that was invested in the market and managed by the Public Service Investment Board.

The government began publishing financial statements for the combined plans in 2004. They included the superannuation accounts as "assets" along with the investments managed by the Public Service Investment Board. This was an interim step until the Supreme Court issued its decision.

By 2012, the Supreme Court decided federal employees were not entitled to the surplus and the accounts were nothing more than "ledger accounts" with no real cash or assets.

With the lawsuit resolved, Treasury Board decided that removing the superannuation account's notional "assets" from the financial statements would more accurately reflect the fact the account was only a ledger account. It would also bring them in line with accounting standards.

It consulted widely with pension experts, the administrators who run the military and RCMP plans.

Ferguson also raised the red flag that if the accounting wasn't brought in line with standards, his office would issue a qualified opinion on the plan's financial statements — a black eye on their credibility and the government's management.

The size of the superannuation account will now be recorded as a note to the plan's financial statement to be released Tuesday. If the change was applied to last year's financial statements, removing the notional assets would increase the size of the plan's deficit to more than \$96 billion.

Robyn Benson, president of the Public Service Alliance of Canada, said the chief actuarial reports show the pension plan is adequately funded and viable but that the accounting change could confuse and mislead Canadians.

"The decision by the government to unilaterally remove the superannuation account from the Public Service Pension Plan's financial statements is therefore unnecessary. Making billions disappear overnight is an attempt by the government to mislead the public on the viability of public sector pensions."

The public service pension plan is the biggest in the country and critics, ranging from the groups like the Canadian Federation of Independent Business and the C.D. Howe Institute have assailed it as under-funded and unaffordable.

The Conservatives introduced reforms to the pension plan in 2012 that's aimed at saving \$2.6 billion by 2018 and an ongoing \$900 million a year. Reforms included jacking up contribution rates so employees pay half and raising the retirement age to 65 for new hires from age 60.



Tax bill hiked for civil servants sent to war zones

2012 budget made employer-paid insurance policies a taxable benefit, ding government's own employees

By Janyce McGregor, CBC News, March 31, 2015

Civil servants representing Canada in the world's most dangerous places are being hit by a personal income tax hike, a possibly unintended consequence of the 2012 budget that senior government officials are struggling to reverse.

Changes that took hold in 2013 began treating group sickness or accident insurance plans — including accidental death and dismemberment policies for travel in war zones — as a taxable benefit.

Government employees assigned to high-risk travel are angry about paying hundreds or even thousands in extra taxes, just for the privilege of doing their jobs.

"The civil service is full of brave people with a strong sense of duty," said Scott Gilmore, a former foreign service officer who left to start his own non-governmental organization. "Some simply cannot afford to do something like that."

Because standard accident or life insurance policies may be void in conflict zones, a diplomat, immigration officer or humanitarian aid worker often needs extra coverage on certain assignments.

The cost varies, depending on the number of insured employees, the region, the nature of the work and the mode of transportation.

CBC News obtained stories from individuals serving in the Middle East, Africa and Central Asia who crunched the numbers on the tax slips they received this year and worked out how much their assignments cost them in extra income taxes:

- Three days' travel to a country where Canada has no embassy: \$240.
- Five months serving in a mission later evacuated due to a deteriorating security situation: Almost \$900.
- Occasional travel to another "high priority" country without a Canadian embassy, where the security situation is "extremely precarious": \$700.
- Posting to a country with sporadic violence and civil war: \$1,500.

And diplomats assigned to evacuate Canadian citizens from a dangerous region were first sent without knowing if they had adequate insurance, then were taxed on it.

Managers at Foreign Affairs report an extra \$600 tax hit for their group policy.

'Fairness' nets taxman extra \$105M

Documents released to CBC News under the Access to Information Act show tax policy experts from the finance department met with foreign affairs officials to "hear their concerns." Legal counsel was also present. Most of the notes are redacted.

Talking points from Finance explain the goal was fairness: all employment benefits — private, public or not-for-profit sector, in-cash or in-kind — are to be included in an employee's income to ensure people with comparable incomes pay comparable taxes.

Across all sectors, making group sickness or accident insurance plans a taxable benefit is expected to net the federal government an additional \$105 million annually by 2016-17, according to a document tabled in the House of Commons in late January.

But the punitive effect on the government's key people abroad was not anticipated or well explained. Confusion over the change is evident in the documents.

CBC News made a detailed inquiry about the issue to both departments. David Barnabe, a finance spokesman, replied only that the department "does not comment or speculate on possible policy actions, or discuss what might be under consideration."

"Further to the response you received from Finance, [Foreign Affairs] does not comment on ongoing discussions," Nicolas Doire, a department spokesman, wrote the next day.

Concerns 'falling on deaf ears'

Chrystiane Roy, a spokeswoman for the union that represents foreign service officers, said members were both offended and caught off-guard by the tax hit.

"Trips to these locations are no holidays. They are deemed essential by the employer and could hardly be described as a benefit," she wrote to CBC. "No government should resolve its budget issues on the back of the safety and security of its employees."

Some of her members found out about their extra taxes after accepting a posting or returning from a trip. Meetings to resolve the issue "seem to be falling on deaf ears," Roy said.

Collective bargaining now underway can't address the concerns. A change to tax law can only be fixed with another change to tax law — an exemption or change of interpretation.

An amendment to the Income Tax Act could quietly appear in a budget implementation bill later this spring. But if the Harper government really wanted to fix it in a hurry, cabinet ministers could change it with an order-in-council.

"In order to get the best people you have to treat them fairly," said ex-diplomat Gilmore. "The people who manage people are not the same people who manage money," he said.

"There's a huge disconnect between Treasury Board and Foreign Affairs," he said.

'Diplomats don't sit in Vienna'

In some ways, Gilmore said, things have improved in the decade since he left.

When he volunteered to evacuate Canadians from East Timor, he was sent with no extra insurance and no hostile environment training. When he realized he'd landed in the middle of a shooting war, he borrowed body armour from a departing CNN crew.

Military deployments in Afghanistan, and more recently in northern Iraq, have been twinned with foreign aid announcements — requiring both boots and briefcases on the ground.

"Diplomats don't sit in Vienna anymore," Gilmore said.

Afghanistan offers a sad, cautionary tale about insuring for worst-case scenarios.

When diplomat Glyn Berry was killed by a car bomb in 2006, he did not have this extra insurance. His family negotiated a one-off settlement with the federal government to compensate for what his dependants might have received.

Ex-ambassador Ferry de Kerckhove, who was Berry's boss in Pakistan, said the late diplomat begged to go.

But the mentality in the foreign service is changing, de Kerckhove believes, and nickel-and-diming won't go over well with younger generations.

"The way the department is going is very sad," he says. "It's been deliberately emasculated, and one day the government will pay dearly."

L'APEX salue l'entente de principe

Paul Gaboury, Le Droit, le 31 mars 2015

L'Association professionnelle des cadres supérieurs de la fonction publique (APEX) salue l'entente de principe intervenue jeudi dernier entre le gouvernement et l'Alliance de la fonction publique du Canada pour la création d'un groupe de travail conjoint sur la **santé mentale**.

«Nous nous réjouissons des possibilités potentielles de contribuer à l'important travail de ce groupe de travail conjoint et de l'appuyer» a déclaré, la chef de la direction de l'APEX, Lisanne Lacroix. Elle a rappelé que son association a travaillé «assidûment» depuis 1997, avec le lancement de son premier sondage sur la santé, afin d'assurer que la santé des cadres supérieurs demeure un enjeu prioritaire.

«La santé mentale des employés est un des facteurs clés qui contribue à l'efficacité et l'efficience de la fonction publique. Au fil des ans, grâce aux sondages sur la santé qu'elle réalise tous les cinq ans, aux sommets sur la santé, aux présentations au comité consultatif sur le maintien en poste et la rémunération du personnel de direction et à d'autres initiatives, l'APEX s'est imposée comme un moteur important de l'amélioration du milieu de travail qui permettra de rehausser les résultats individuels sur la santé et de maximiser le rendement organisationnel» a rappelé la chef de direction de l'APEX.

La santé des cadres

Le sondage sur le travail et la santé des cadres supérieurs 2012 de l'APEX révélait notamment que les problèmes de santé mentale, principalement la dépression et l'anxiété, avaient presque doublé depuis 2007 chez les cadres. De plus, 46% des cadres signalaient des niveaux de détresse générale élevés en 2012, comparativement à 31 % en 2007. Le recours aux services de counselling professionnel avait doublé au cours des 15 dernières années, passant de 10% en 1997 à 21% en 2012, selon les données de ce sondage auquel 2314 cadres avaient répondu, soit un taux de réponse de 35%.

Lorsque l'AFPC a déposé sa demande visant la mise en oeuvre de la norme nationale sur la santé mentale, le vice-président exécutif de l'AFPC pour la région de la Capitale nationale, Larry Rousseau, avait rappelé que la demande syndicale était également appuyée par l'APEX.

Le comité conjoint doit notamment étudier la possibilité de mettre en oeuvre la Norme nationale sur la santé et la sécurité psychologiques en milieu de travail dans la fonction publique fédérale.

Une entente de 76 millions soumise aux proches des victimes de Lac-Mégantic

La Presse, Presse Canadienne, le 2 avril 2015

Un cabinet d'avocats a indiqué avoir obtenu une proposition de 76 millions de dollars pour venir en aide aux proches des 47 victimes de la tragédie ferroviaire de Lac-Mégantic, survenue en 2013.

La firme Meyers & Flowers, de Chicago, a précisé qu'elle analyserait minutieusement la proposition afin de déterminer si la somme est suffisante.

La majeure partie du centre-ville de Lac-Mégantic a été détruite par le feu après qu'un train de la Montreal, Maine & Atlantic (MMA) sans conducteur comportant 72 wagons de pétrole eut déraillé au beau milieu de la nuit.

La somme proposée provient d'une vingtaine d'entreprises représentant des firmes d'exploration pétrolière, des propriétaires de wagons-citernes, l'entreprise Irving Oil, le gouvernement du Canada, la MMA et des sociétés d'assurances.

World Fuel Services, à qui appartenait le chargement de pétrole, et le Canadien Pacifique, qui transportait le pétrole à Montréal, ont refusé de participer. Les victimes pourraient déposer une poursuite contre ces entreprises.

La MMA a déclaré faillite peu après la tragédie.

L'entreprise Chemin de fer du centre du Maine et du Québec, qui a repris les actifs de la MMA, a recommencé le transport de matériel potentiellement dangereux, comme le propane et les produits chimiques. L'entreprise a accepté de ne pas transporter de pétrole brut à Lac-Mégantic avant 2016.

La proposition d'entente inclut des paiements pour ceux qui ont perdu une propriété, des revenus ou leur paix psychologique à la suite de la catastrophe et est sujette à des changements de dernière minute, selon Meyers & Flowers.

Une proposition finale sera sans doute soumise à un vote plus tard ce mois-ci avant de pouvoir être approuvée par le juge qui supervise le processus de faillite.

Against all odds, Legal Aid Ontario is getting better: Goar

Nobody thought he could do it but John McCamus has strengthened and expanded Legal Aid Ontario.

Carol Goar, Toronto Star Columnist, March 26, 2015

Lawyers were dubious. Anti-poverty activists rolled their eyes. Social assistance recipients, visible minorities, injured workers and people with disabilities shrugged: they'd heard too many public officials promise more than they could deliver.

But after eight years at the helm of Legal Aid Ontario, John McCamus is winning over the skeptics.

He said he would introduce a dedicated mental-health strategy to help low-income Ontarians with psychiatric problems (who are disproportionately criminalized and incarcerated). He did.

He said he would stretch Legal Aid Ontario's constrained budget to deliver more services — local offices in every courthouse, a toll-free help line offering up to 20 minutes of legal advice, mediation for divorcing couples and a network of family-law information centres. He did.

He said he would strengthen Ontario's 76 community legal aid clinics. This month, Legal Aid Ontario (LAO) announced \$4.2 million in additional funding for the clinics in the greatest need. "This year's investment is an important first step in LAO's strategy to expand financial eligibility, access to justice and clinic law services across Ontario," McCamus said. "Ontario's clinics are the foundation of poverty law in this province and we are committed to helping them."

The overworked lawyers who run those clinics — once his fiercest critics — are starting to come around. Lenny Abramowicz, executive director of the Association of Community Legal Clinics of Ontario, who accused LAO of overlooking "the poorest and most disempowered clients" five years ago, greeted McCamus's announcement with unreserved praise. "With these resources, community clinics will be able to provide more services to more of the most vulnerable people in our province," he said. "This new money is an important step along the road toward increased access to justice and poverty reduction here in Ontario."

Not everyone is happy. Forty-eight clinics — including Jane-Finch, Rexdale, South Etobicoke, Kensington Bellwoods and Parkdale in Toronto — got no funding increase in

this round. But there will be a \$5.6-million second round. And it is hard to dispute LAO's distribution plan; clinics with the fewest resources per client were helped first.

All 17 of Ontario's specialty clinics — those serving linguistic minorities, racialized people, individuals with disabilities, social assistance recipients, low-income tenants, injured workers and the elderly — received an \$86,000 increase. (There is a separate aboriginal justice strategy.)

McCamus, who conducted a comprehensive review of Ontario's legal aid system in 1997, is acutely aware that only the very poor qualify for legal aid. He doesn't have the authority to raise the threshold. But he has lobbied the government to do it throughout his tenure.

This year, for the first time since 1997, the answer was yes. Premier Kathleen Wynne included a \$95.7-million increase in legal aid funding in her government's inaugural budget. Attorney General Madeleine Meilleur followed up with an announcement last fall that the province would expand the legal aid system by 6 per cent annually over three years. This allowed McCamus to bolster community legal aid clinics, which deal with everything from immigration problems to child support disputes, eviction notices and appeals to the Workplace Safety and Insurance Board.

The agency's better-known criminal law side — which provides legal aid certificates (vouchers) to private lawyers willing to represent low-income Ontarians facing criminal law charges — remains extremely restrictive. To qualify, an individual's income must fall below \$11,448. The agency puts it simply, but bluntly, on its website: "Our clients have one thing in common — they are people with low or no income."

That excludes the majority of taxpayers who carry the \$374-million cost of the system at a time when few can afford to hire a private lawyer. Middle-income Ontarians often go to court unrepresented, confused and scared. McCamus is deeply concerned that access to justice is slipping out of reach for all but the richest litigants.

But his mandate is to assist low-income Ontarians trapped in abusive relationships and immigration snarls; powerless against child welfare bureaucrats, social assistance officials, police, prosecutors and workplace safety officials and threatened with eviction. For years McCamus had to do more with less. Finally he has the resources to do more with more.

There are still pessimists and naysayers. There are those who blame him for the lean years and those who resent him for providing legal assistance for the poor that middle-income Ontarians can't afford. There are those who dismiss his reforms as negligible and those who regard poverty law as a waste of public funds.

But against all odds, McCamus is making progress.



Cut university enrolment by one third, but keep funding as is: Council of CEOs

By BJ Siekierski, iPolitics, March 30, 2015

Maybe it shouldn't be a given that any Canadian high school student with lacklustre grades and a modicum of ambition should get to go to university.

In a new paper commissioned by the Canadian Council of Chief Executives and released Monday, University of Saskatchewan public policy professor Ken Coates takes aim at the “sense of entitlement” he sees pervading the Canadian postsecondary education model.

There's a lot that's familiar in “Career ready: Towards a national strategy for the mobilization of Canadian potential” : the bias against “blue-collar work” and the preoccupation with university degrees, the oft-cited skills gap and the educational disconnect with the realities of the Canadian economy.

But the tone is acerbic, and some will find a few of the recommendations a little jarring.

“Canada currently has a demand-driven approach to higher education. With the exception of externally controlled and accredited professional programs, the system is expected to accommodate virtually any young person who wishes to study at a postsecondary institution,” Coates writes.

“Every marginally talented student in the country can get into a college and most can get into a university, even though many are ill-suited or unprepared for the experience. Canada needs to shift away from this open-access approach – based on the idea that everyone ‘deserves’ a degree, or at least the chance to try to earn one – to one that is based on achievement, motivation and compatibility with national needs.”

One way to dramatically improve the quality of university education, Coates argues, would be to cut enrolment by “as much as 25 to 30 per cent” while maintaining funding at roughly the same levels.

Canadian society will always want the freedom of choice, but the Canada Research Chair in Regional Innovation thinks governments can guide them in the right direction.

“Individuals who are willing to pay for education and training in fields of lesser priority should have the opportunity to do so, but with little or no government support,” he writes.

At the same time, where there are fields with high demand, both government and business should provide financial incentives to attract qualified students, such as scholarships, guaranteed summer jobs, and contingent loans.

That goes hand in hand with better information for students and parents about the needs of employers, projected three to five years into the future.

Universities, colleges, and applied-learning oriented polytechnics – which he thinks should play a larger role in Canadian higher education – should be required to provide up-to-date online data on graduates' career and income experiences.

“(That data) would, in all likelihood, place greater pressure on institutions to devote more effort to preparing students for their eventual move into the workplace, and would reward institutions and programs with better outcomes,” Coates writes.

“Such an approach would likely steer more students toward polytechnics and cooperative education programs. Fewer students would be encouraged to pursue generalist university degrees.”

He'd also like to see what he calls competency-based evaluation processes for a range of sectors and occupations.

Just because someone has a degree or a diploma doesn't mean they're ready for the workforce, and too many employers are finding credentials that don't come with expected skills.

“Competency-based evaluation processes are therefore needed. Whether the evaluation is performed at the level of the program, institution or employer (as some large firms currently do), a systematic, comparative and ideally nationwide system of competency testing would be revolutionary in impact,” he writes.

“Of course, the pushback from educational institutions would likely be considerable as well.”

Coates rounds out his recommendations with a call for more encouragement of entrepreneurship.

He cites the University of Waterloo's Velocity initiative and the Shad Valley program for high school students as some examples to build on.

“Canada's youth are encountering a clash of expectations. Large numbers of young people aspire to stable and secure jobs. The federal public service now tops the list of career preferences” he notes.

“The gap between expectations and outcomes will probably grow even wider for many young people. Those who possess that rare combination of drive, curiosity and intelligence – particularly in combination with scientific and technological prowess – will likely enjoy remarkable career opportunities. The future is bleaker for those with motivational challenges and limited skills.”

How good pensions help keep your community afloat: Mayers

Good pension plans support more than the people receiving the money. They support their neighbour and their communities in a big way, a study has found.

Adam Mayers, The Toronto Star, March 30, 2015

The pension divide in Canada is a yawning public sector-private sector gap.

In the private sector, 76 per cent of employees don't have a pension of any kind. In the public sector, 86 per cent do and they usually have the best kind.

By best kind, I mean a defined benefit plan where you receive a monthly amount for life when you retire. You don't have to worry about how to invest the money or what it's invested in. You can sleep easily at night.

Only 10 per cent of those in the private sector have this kind of plan and many are now grandfathered. In their place, companies are offering defined contribution plans – if they offer anything at all – which match money contributed by employees. Retiring employees have to figure out how to turn that cash into a reliable stream of income, a source of stress and anxiety

The gap is a growing source of friction, with some critics enviously eyeing public sector pensions and saying they are unaffordable and unfair. Far too generous. Wind them up, they say.

But would that really be a good idea?

If you own a business in Cobourg or Orillia, or St. Catharines or Collingwood, or for that matter in Toronto, the answer is no. You may wish you had as good a deal as your neighbour the teacher, the firefighter or nurse, but don't wish their pension away.

The money they are paid is a huge economic energizer in the community where they live. The money they spend on groceries and restaurants, at the hardware store or taking yoga and fitness classes is greasing the local wheels.

A study by The Boston Consulting Group (BCG) commissioned by four of Ontario's biggest pension plans, took a look at the relationship between pension income and the health of communities.

The 2012 study found that on average 14 cents of every dollar of income in Ontario communities come from pensions. The biggest chunk of that pension cash comes from defined benefit plans. The rest is from RRSPs, Canada Pension Plan and other supports like Old Age Security (OAS). That cash keeps smaller communities afloat because the money the defined benefit pensioners spend is someone else's income.

In Toronto, pensions contribute 11 cents of every dollar of income in the city, the study found. In Elliot Lake, it is 37 cents, in Cobourg 27 cents, in Orillia, 24 cents and St. Catharines, 23 cents.

The four pension plans funding the research were Ontario's biggest –Healthcare of Ontario Pension Plan (HOOPP), Ontario Municipal Employees Retirement System (OMERS), OPSEU Pension Trust (OPTrust) and Ontario Teachers' Pension Plan (OTPP).

They were looking for support for the argument that defined benefit pension plans offer a lot more than cash in a pensioner's pocket. Rather, they help with social cohesion and reduce pressure on government programs.

Here are some of the findings:

- In 2012, Canadian defined benefit plans paid out \$72 billion to 3.5 million pensioners.
- Most of this money is spent where they live.
- In Ontario, 7 per cent of all income in our towns and cities, or \$27 billion, is derived from defined benefit pensions.
- That \$27 billion generated \$3 billion in federal and provincial income tax, \$2 billion in sales taxes and \$1 billion in property tax on an annual basis.
- Seniors with defined benefit plans are confident consumers because the predictable income stream allows them to better plan their affairs.
- Defined benefit plans offer a broader social benefit, because people who get them rely less on benefits like the Guaranteed Income Supplement (GIS) to the tune of \$2 to \$3 billion a year.

“These pensions are an important part of income in their communities,” says Jim Keohane, HOOPP's CEO. “You get different spending patterns because you don't have to worry about running out of money.”

The study offers a six-point plan to encourage better pension coverage for all Canadians, something everyone wants but everyone is struggling with how to do it.

So we need more of them, not less.

The study concludes with some suggestions including:

- Make workplace pensions mandatory to force savings. The coming Ontario Retirement Pension Plan is an example of how that might happen, as is Britain's Nest (National Employment Savings Trust.)
- Don't wait. Governments should do something now, whether enhancing the CPP or going another way.
- Share the risk between employees and employers, so that pensioners aren't left managing their money alone.
- The study won't reduce public sector pension envy, but it does explain why these plans are important. We need more like them, not less. The trick is finding a way for that to happen.

How retirees energize local economies

Total community income from pensions, RRSPs, CPP and OAS/GIS

- Elliot Lake - 37 per cent
- Cobourg - 27 per cent
- Orillia - 24 per cent
- St. Catharines- 23 per cent
- Kingston - 18 per cent
- Hamilton 16 per cent
- Toronto - 11 per cent
- Ontario Average: 14 per cent

Source: StatsCan, Boston Consulting Group