

Press Clippings for the period of April 20th to the 27th, 2015
Revue de presse pour la période du 20 au 27 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*

Federal budget 2015 / Budget fédéral 2015

Federal public service unions united to defend their right to collective bargaining

CNW Press Release, April 22, 2015

OTTAWA, April 22, 2015 /CNW/ - Federal public service unions are united in their opposition to the Conservative government's plan to unilaterally eliminate the existing sick leave provisions in their collective agreements. In a meeting today, the federal public service unions, which together represent more than 166,000 employees, agreed to develop a common response to the federal government's proposal.

"What the government is proposing in the **2015 budget** will derail negotiations and cause irreparable damage to labour relations in the public service," said Ron Cochrane, chair of the National Joint Council of the federal public service unions. "For the government to say that it will legislate the bargaining outcome if we do not agree at the bargaining table is unfair and it's a violation of our right to free collective bargaining."

The Supreme Court of Canada has ruled that the right of workers to collective bargaining is a constitutional right protected by the Charter of Rights and Freedoms, explained Mr. Cochrane.

The Federal Bargaining Agents of the National Joint Council are:

- Association of Canadian Financial Officers
- Association of Justice Counsel
- Canadian Air Traffic Control Association, Unifor Local 5454
- Canadian Association of Professional Employees
- Canadian Federal Pilots Association
- Canadian Merchant Service Guild
- Canadian Military Colleges Faculty Association
- Coast Guard Marine Communications Officers Unifor Local 2182
- Unifor, Local 87-M

- Federal Government Dockyard Chargehands Association
 - Federal Government Dockyard Trades and Labour Council (East)
 - Federal Government Dockyard Trades and Labour Council (West)
 - International Brotherhood of Electrical Workers, Local 2228
 - Professional Association of Foreign Service Officers
 - Professional Institute of the Public Service of Canada
 - Public Service Alliance of Canada
 - Research Council Employees' Association
 - Union of Canadian Correctional Officers - CSN
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Congés maladie: les syndicats préparent leur riposte

Paul Gaboury, Le Droit, le 24 avril 2015

Les syndicats du secteur public fédéral ont décidé de riposter ensemble face aux intentions du gouvernement conservateur d'éliminer «de façon unilatérale» le régime de congés maladie prévu à leurs conventions collectives.

Lors d'une rencontre tenue jeudi, les dirigeants de 17 syndicats du secteur public fédéral, représentant plus de 166000 employés, se sont mis d'accord pour élaborer une stratégie commune afin de répondre à l'ultimatum lancé lors du dépôt du budget, mardi, par les conservateurs.

Les déclarations du président du Conseil du Trésor, Tony Clement, et du ministre Pierre Poilievre laissant entendre que le gouvernement imposera le régime s'il n'arrive pas à une entente avec les syndicats ont fait bondir les dirigeants syndicaux.

«Ce que propose le gouvernement dans le récent budget fera échouer les négociations et causera des dommages irréparables dans les relations de travail entre le gouvernement et les travailleurs de l'État», a indiqué Ron Cochrane, président du Conseil national mixte des syndicats du secteur public fédéral.

«Quand le gouvernement affirme qu'il compte imposer son nouveau régime de congés maladie si nous n'arrivons pas à une entente négociée, il démontre un grand manque de sens moral et un mépris de notre droit à la libre négociation de nos conventions collectives», de dénoncer M. Cochrane.

Les détails de la stratégie n'ont pas été dévoilés, mais elle pourra inclure un recours devant les tribunaux, selon nos sources.

Le gouvernement a prévu rayer un passif de 900 millions de dollars lié aux banques de congés de maladie des employés fédéraux en 2015-2016, puis 200 millions de dollars à chacune des années suivantes.

Mardi, une source gouvernementale nous a confié que l'ensemble des banques de congés de maladie des employés ont une valeur totale de 4,9 milliards.

M. Cochrane a rappelé que la Cour suprême a statué que le droit des travailleurs à négocier leurs conditions de travail est constitutionnel et qu'il est protégé par la Charte des droits et libertés. Mardi, le vice-président exécutif régional de l'Alliance de la fonction publique du Canada (AFPC), Larry Rousseau, a déjà indiqué qu'il n'était pas question de se faire imposer un régime comme celui proposé par le gouvernement, le syndicat voulant profiter de la négociation pour améliorer le régime actuel.

En négociations

Les 17 syndicats membres du Conseil national mixte sont en négociation avec le gouvernement pour le renouvellement de près de 27 conventions collectives.

Outre l'AFPC, la liste inclut aussi l'Institut professionnel de la fonction publique et l'Association canadienne des employés professionnels, l'Association professionnelle des agents du Service extérieur et **l'Association des juristes de Justice.**

Federal budget: Government poised to impose new PS disability plan

Kathryn May, Ottawa Citizen, April 21, 2015

Finance Minister Joe Oliver set the stage in Tuesday's budget for a labour showdown with Canada's public servants over the government's vow to replace the existing sick-leave benefits plan with a short-term disability plan unless a deal can be negotiated at the bargaining table within a "reasonable time limit."

The Conservative government said its commitment to a new disability and sick-leave regime is central to its plan to stem rising disability costs while ensuring a "healthier and more productive public service."

Sick leave is at the centre of the current round of collective bargaining that's been underway for a year. The 17 unions are united in their refusal to give up the 15 days of bankable sick leave public servants now receive for a disability plan proposed by Treasury Board President Tony Clement. His proposal would limit paid sick days to six a year.

The budget made it clear that the government is committed to Clement's proposal and would prefer to achieve it through a negotiated settlement. It said the government is willing to consider "reasonable improvements" to its tabled proposal and "mutually acceptable design parameters" for the new system.

Although willing to negotiate, the government is booking a one-time \$900 million in savings in 2015-16 in anticipation of abolishing banked sick leave and shifting employees to the new plan.

The government also expects the elimination of sick leave and lower long-term disability costs resulting from its proposed scheme will result in \$200 million in savings in each of the next two years and \$100 million in each of the following two years. The savings are based on the government's current proposal on the table.

But if the two sides can't reach a deal in a reasonable amount of time, the government will "take steps" to implement one.

Robyn Benson, president of the Public Service Alliance of Canada, said the government is signaling a "predetermined outcome" of negotiations, flouting the principles of fair bargaining practices.

"We are so disappointed because on the one hand, the government says we want to negotiate but then they booked the money, the \$900 million ... How can you negotiate in good faith when you have already determined the outcome?"

The move is a red flag for unions and akin to a take-it-or-leave-it deal – that could lead to the first government-wide strike since 1991. An impasse over sick leave opens the door to the prospect of back-to-work legislation, which the Conservatives have used for other labour disputes.

The government used a similar tactic in last year's budget when it booked \$7.4 billion in savings by changing the health-care plan for federal pensioners and public servants before a deal was negotiated. Unions and pensioners reluctantly agreed to a deal for fear a worse one would be legislated.

Ian Lee, a business professor at Carleton University's Sprott School of Business, said he expects the government wants a deal before the election. The government could legislate a deal or force unions to have a vote on its final offer.

"I have no doubt the Conservatives will go to the wall on this. I don't think they are seeking a strike but they are quite willing to take a strike. To them, this is symbolic of their reform of the public service."

The government didn't say when it wanted a deal. The government has acknowledged that it won't meet its original 2016 deadline to start phasing in the new system.

In its latest proposal, the government is offering public servants six days of paid sick leave a year. Unused sick leave can no longer be banked.

Clement has long argued the existing system is unfair, especially for new employees, because they often don't have enough sick leave saved to bridge the 13 weeks they have to wait to qualify for long-term disability if it is needed.

The rule of thumb for employees joining the public service is to save up enough sick leave to cover that 13-week waiting period so they can get full pay on sick leave rather than resorting to employment insurance.

The government says the 45-year-old system fails both taxpayers and employees. It estimates that 60 per cent of public servants don't have enough banked sick leave to cover them for the 13 weeks. Many, especially young and newly hired employees, have no banked days at all.

The \$44-billion annual wage bill is the government's single largest operating cost and has been a key piece of the Conservatives' restraint strategy for the past six years. It has whacked severance pay, health benefits and pensions, and is now targeting sick leave.

Gov't ready to talk, says Clement, despite \$900M booked for PS sick leave savings

Kathryn May, Ottawa Citizen, April 22, 2015

Treasury Board President Tony Clement claims he's ready to talk and "fairly" negotiate the terms of a new sick leave and disability regime to replace the one the Conservative government intends to scrap to save \$900 million.

Clement took a swipe at the 17 federal unions for "ragging the puck" in the ongoing round of collective bargaining as he defended the government's plan to implement a new short-term disability plan whether the unions agree or not.

"I have altered my position to be more fair. They have not altered their position," said Clement.

"The responsibility is now on them to come to the table, not to try to rag the puck. They clearly want a Liberal or an NDP government to negotiate with, who will roll over and accept their positions."

The stage was set for the looming showdown in Tuesday's budget with the government's vow to replace the existing sick-leave benefits plan with a short-term disability plan unless a deal can be negotiated at the bargaining table within a "reasonable time limit."

On Wednesday, leaders of the 17 federal unions privately met to develop a common front when they return to the bargaining table. The unions signed a "solidarity pact" more than a year ago promising not to make any concessions on sick leave.

So far, the unions have argued that the government is violating collective bargaining rights and has effectively decided on the deal, flouting the principles of fair bargaining.

The unions intend to issue a joint statement on their position but it is not expected to outline any immediate plans. They have various options, such as taking the government to court or filing a complaint of bad-faith bargaining with the Public Service Labour Relations Board.

The budget move will also dominate the debate at the triennial convention of the giant Public Service Alliance of Canada — which represents the largest number of public servants — in Quebec City next week.

Sick leave has been at the centre of bargaining, which began a year ago. Clement said Treasury Board negotiators and unions have met more than 200 times and 47 additional meetings have been scheduled between now and the summer. He has placed no deadline on when he wants a deal.

The two sides couldn't be further apart. Clement wants to scrap the existing sick-leave scheme and replace it with a new short-term disability plan. Public servants are entitled under existing contracts to 15 days of paid sick leave a year. They can bank it but any unused sick leave disappears when they retire. They can't cash it out.

The unions also want to overhaul the way sick leave and disability is managed, but are proposing fixes to the existing system. They reject giving up the sick-leave bank — estimated at having 15 million days — moving to a new plan that would limit paid sick leave to six days.

Among the measures introduced in the budget, the government is booking a one-time \$900 million in savings in 2015-16 in anticipation of unwinding the old sick leave regime — abolishing the banked sick leave socked away by public servants — and shifting them to a new plan.

Some have questioned how the government can wipe a liability for sick leave off its books and recoup the savings when negotiations are still underway.

“How can they book something they don't have. The only way they can remove that liability is by bargaining and reaching an agreement, or legislating it away, and they have done neither,” said Ron Cochrane, co-chair of the joint union-management National Joint Council.

But Clement suggested that \$900 million is a target because he said the government gave him “room” to negotiate so he could strike a deal with unions on the terms of a new system.

“That number has been carefully crafted to give me the room to negotiate if I have a dance partner, which I have not had for many months on the other side,” said Clement.

The government used a similar tactic in last year's budget when it booked \$7.4 billion in savings by changing the health-care plan for federal pensioners and public servants

before a deal was negotiated. Unions and pensioners reluctantly agreed to a deal for fear a worse one would be legislated.

“It’s the same thing Clement said last year with health care negotiations,” said Cochrane. “If we can’t come to an agreement he will use his trump card and legislate. That’s setting preconditions on collective bargaining, is an unfair labour practice, and booking money you don’t have is like fraud.”

Sahir Khan, former assistant parliamentary budget officer and now a visiting fellow with the Jean-Luc Pépin Research Chair at the University of Ottawa, said counting the savings indicates what the government is planning.

“They are indicating what they intend to save and are booking those savings accordingly. The fact that they can book with such certainty means that they are clearly intending to change the plan,” he said.

He said the move suggests the government’s revamping of disability and sick leave was driven by the “fiscal imperative” of saving money on benefits rather than improving wellness or getting a handle on what’s driving up disability claims, especially for mental health, which account for half of all claims.

Budget features ‘shot across bow’ to public sector unions over sick leave

Conservative government 'clearly signaling' its going to 'continue to tighten screws' on sick leave, says Queen's University professor Don Drummond.

By Mark Burgess, The Hill Times, April 21, 2015

The Conservative government’s budget contains a “shot across the bow” to public sector unions with \$900-million in savings on the sick leave and disability regime while negotiations over the plan are ongoing.

The 2015 budget, tabled after months of delay because of low oil prices, estimates \$900-million in savings from the disability and sick leave management system in 2015-16, with further savings of \$200-million and \$100-million projected for subsequent years.

Public sector unions started a new round of bargaining with the government last year to renew collective agreements. A new sick leave regime has been the core issue, one on which the unions are refusing to yield, and they’ve even come together in a solidarity pact for the negotiations.

Don Drummond, a former senior bureaucrat at Finance and a TD executive who now teaches at Queen's University, said laying out the savings before the negotiations have ended is a "common ploy."

"You set out the financial parameters and that forces a constraint to the process. It's a shot across the bow, if you want to put it that way: 'We don't have any money, and in fact we're assuming we're going to extract money from the sector. Now let's negotiate,'" he said in an interview.

With the major austerity period over, public servants may have expected some modest increases after hard times, he said, but the government "is clearly signaling" that's not going to be the case and will instead "continue to tighten the screws."

Public sector unions and other public sector observers have maintained that the Conservatives would happily make the negotiations an election issue, one that appeals to its conservative base that feels Ottawa bureaucrats have a better deal than most private sector workers.

Michele Austin, a senior consultant with Summa Strategies in Ottawa, said the budget—which will double as the Conservatives' re-election platform—is the government's way of telling its side of the story and publicizing the negotiations on its own terms.

"This is their opportunity to tie it to the economy of the country but also to lay it out in their strong suit, which is economic benefits, as opposed to union negotiation terms," Ms. Austin, a former Conservative ministerial staffer, said in an interview.

The negotiations are an "Ottawa-centric issue" that won't hurt the Tories outside the region, she said, and it meshes with the overall budget messaging.

"Clearly the message from this budget is keep the spending low, and that includes negotiations with public sector unions," she said.

The budget document says the negotiations so far "reflect the government's commitment to good faith collective bargaining" and says the priority is to reach agreements "within a reasonable timeframe" that are "fair and reasonable for both employees and taxpayers."

"In the event that agreement cannot be reached, the government will take the steps required to implement a modernized disability and sick leave management system within a reasonable timeframe," it says.

The current regime, which allows for 15 sick days per year with unused ones banked, is "failing both employees and taxpayers," the budget says.

More than 60 per cent of public servants don't have enough banked sick leave to cover a full 13 weeks of short-term disability, the document says; one-quarter have fewer than 10 banked sick days. Some long-time bureaucrats, meanwhile, have more "than they will ever reasonably need."

The savings do come with a caveat: "As required under public sector accounting standards, the government's liability associated with accumulated sick leave entitlements will be re-evaluated in light of final improvements to the system," the budget says, meaning the numbers could change based on the outcome of negotiations.

Finance Minister Joe Oliver (Eglinton-Lawrence, Ont.) told reporters in the budget lockup that "good faith negotiations" are ongoing with public sector unions.

"But we have an obligation, and it's in accordance with federal Cabinet principles, to take into account a number we expect," he said, before deferring further questions to Treasury Board President Tony Clement (Parry Sound-Muskoka, Ont.).

The budget also shows a \$1.4-billion surplus and has been balanced. "Promise made, promise kept," Mr. Oliver said in his speech in the House after tabling the budget.

Public service blast federal budget for targeting sick leave

Government expects \$900M in savings this year from overhaul of sick leave program

CBC News, April 22, 2015

The leaders of three federal public sector unions said the government is attacking the collective bargaining process with its federal budget plans to cut sick leave benefits, which are subject to ongoing contract negotiations.

"This is a government that is speaking out of both sides of their mouth," said Robyn Benson, head of the Public Service Alliance of Canada.

"You can't on one hand say, 'Oh, we want to negotiate fairly,' but on the other hand say, 'We're really, after X amount of time, going to take away your sick leave.'"

The government wants to get rid of the system whereby public service employees can bank sick days and instead provide short-term disability benefits through an insurance company. Sick leave has been the subject of contentious contract negotiations for the past year.

On Tuesday, the 2015 federal budget said that negotiations held to date "reflect the government's commitment to good faith collective bargaining." But it also added that if negotiations fail, it will "take the steps required to implement the changes within a reasonable timeframe."

The government said the overhaul will clear \$900 million in future liability to sick leave, which it is applying to the coming fiscal year to help reach a \$1.4-billion surplus.

Sahir Khan, economist and visiting fellow at University of Ottawa, said that the government's plan to change the sick leave program is "one of the largest contributors" to achieve the surplus.

Debi Daviau, head of the Professional Institute of the Public Service, said members are still feeling the sting of previous budgets.

"With an operational budget freeze still in play from last year, and over \$14 billion in cuts still going through the system, the cuts have not ceased," she said. "By the end of this year, we expect to have lost 7,500 scientific and research positions."

Union leaders plan to return to their members to figure out how to best defend their bargaining rights.

Pierre Poilievre says \$900M hit to public servants 'set in stone'

'Budgets don't balance themselves, it takes fiscal discipline,' MP Pierre Poilievre says

CBC News, April 22, 2015

Pierre Poilievre believes the Harper government has done a "great job" reducing the size of the federal government and that rank-and-file civil servants agree with this approach, despite a brewing battle over saving \$900 million by reducing sick leave benefits.

The human resources minister and Nepean-Carleton MP was a guest on Ottawa Morning Wednesday to discuss what the federal budget will mean for the capital and the public sector.

Ottawa Morning host Robyn Bresnahan spent the first few minutes of the interview asking Poilievre questions about \$900 million in projected savings from overhauling sick leave for public servants — something Robyn Benson, the head of the Public Service Alliance of Canada and others say amounts to the government not bargaining in good faith, counting on funds it hasn't yet secured in collective bargaining. Here's the exchange in full.

Bresnahan (RB): "[Public service union leaders say] You're taking money you don't have. How do you respond to that?"

Poilievre (PP): "Well that's not true. ... I think the policy of the government of Canada ... is that sick leave should be fair to public servants and taxpayers. Sick leave should be used to cover the costs of paying people who work in the public service who are sick, and

that we can deliver that to our public servants while making it affordable for Canadian taxpayers."

RB: "But that's something that's still under negotiation, is it not?"

PP: "Yes. And we will negotiate in good faith with our public service partners."

RB: "So why promise this \$900 million in savings if it's something that hasn't been negotiated yet?"

PP: "I think it signals to the public sector unions the money that's available, and that we'll all have to negotiate within the confines of the money that Canadian taxpayers can afford."

RB: "But can you see how it might be perceived by some public servants, who would say, 'If you're promising this money then there's no point in negotiating because you've already made up your mind.'"

PP: "Well, together we'll negotiate how to achieve it. We only have a certain amount of money available and when we negotiate collective agreements we have to find a way to pay for them out of that available money. Budgets don't balance themselves, it takes fiscal discipline, and both the union and the government will have to show taxpayers that discipline."

RB: "So that \$900 million in savings is not set in stone. If you're up for negotiation that could change."

PP: "No, it is set in stone. What's up for negotiation is how we achieve those savings."

RB: "Also, if the projected savings cannot be achieved through these negotiations with the unions, the budget states that the government will take steps to introduce those changes, and I'm wondering what that actually means?"

PP: "The reality is we have an envelope of money to cover the cost of the administration of government, and the public sector unions will have to negotiate with us to find a way to operate within that boundary."

Public servants agree?

Bresnahan then asked Poilievre if he thought the government was "bloated," and he said he thought the Harper government had done a "great job of managing the government to make it more affordable for taxpayers."

"The public service workers agree with the direction of our government," the minister said, disagreeing that morale in the federal government ranks is low.

"I listen to the hard-working public servants in my riding and they tell me that we've had a great working relationship and that they agree, because they are taxpayers as well..."

Public service negotiations start to reach their deadlines this fall, at around the same time Canadians are set to head to the polls for a general election.

Poillievre said he thinks his government has a good relationship with public servants and that is reflected in the fact that the majority of the National Capital Region's MPs were elected to represent the Conservative party.

Federal budget 2015: Taking aim at public service sick leave

Government expects \$900M in savings from overhaul of sick leave program

By Paul Jay, CBC News, April 21, 2015

The federal government says it is counting on the proposed overhaul of its sick leave and disability programs for federal public sector workers to save \$900 million in the next year, and says it will "take steps" to introduce the changes if it can't negotiate them.

Public sector unions and the Treasury Board have been in ongoing negotiations for the last year about the proposed overhaul of sick leave.

The government wants to get rid of the system whereby public sector employees can bank sick days while providing them access to short-term disability benefits previously unavailable.

Tuesday's federal budget says negotiations held to date "reflect the government's commitment to good faith collective bargaining," but adds that if negotiations fail, it will "take the steps required to implement the changes within a reasonable timeframe."

The government says the overhaul will clear \$900 million in future liability to sick leave, which it is applying to the coming fiscal year to help the reach a \$1.4-billion surplus.

Reducing long-term disability costs and other savings related to the unwinding of the liability related to sick leave will result in savings of \$200 million in 2016-17 and 2017-18 and \$100 million in the following two years.

Canada Labour Code changes

The budget also outlines the government's intention to make a number of changes to the Canada Labour Code, including:

- Put interns under federal jurisdiction, regardless of whether they are paid or not, and clarify the circumstances under which unpaid internships are offered.

- Provide new short-term and long-term unpaid leaves for family responsibilities, increased bereavement leave.
- New amendments to address violence and sexual harassment in federally regulated private-sector workplaces.
- The budget also calls for increasing the number of occupational health and safety officers from 90 to 100 at an additional cost of \$4.8 million over five years.

The government also says it will modernize the act governing benefits and services to federal employees suffering from work-related injuries and illnesses to accelerate claims and clarify what's covered.

Surplus comes on the backs of public service sick leave

By Kelsey Johnson, iPolitics, April 21, 2015

The federal government plans to book nearly \$1 billion in savings this year by slashing the public service's sick-leave and disability benefits in order to "modernize" the benefits of federal employees, regardless of the outcome of ongoing negotiations with the unions.

Finance Minister Joe Oliver announced Tuesday that the government has banked \$900 million in 2015-2016 fiscal year, funds extracted from the core public service's benefits program. Another \$600 million from the benefits program is banked for the following four fiscal years, starting in 2016-2017.

Here's the kicker: The government and unions don't yet have a deal to change the benefits package.

"In the event that an agreement cannot be reached, the Government will take the steps required to implement a modernized disability and sick leave management system within a reasonable timeframe," Tuesday's federal budget documents state.

The federal government is currently locked in negotiations with the public service unions over the employees sick-leave and disability benefits. The \$900 million — and the threat to enact the cuts unilaterally in the event the union balks — is based on the current offer put forward by the government during negotiations.

Treasury Board officials have promised to continue negotiating in good faith.

"The government will make every effort to reach (an) agreement with bargaining agents within a reasonable timeframe on necessary reforms to disability and sick-leave management," the budget reads.

Those reforms, the budget notes, include introducing a "formal short-term disability plan to replace the existing bankable sick day system."

The federal government insists a “modernized disability and sick-leave management system” would result in a “healthier and more productive federal workforce.”

The government claims Canada’s current sick-leave and disability system is “antiquated.” Currently, the Harper government says the sick-leave system is prone to abuse, and that more than 60 per cent of employees in the core public service would not have enough sick leave left to cover a full period of short-term disability (3 weeks).

Twenty-five per cent of employees have less than 10 days banked, the budget notes, while “many employees, especially new and younger employees, have no banked sick days at all.”

The news didn’t go over well with the public service unions.

Robyn Benson, president of Canada’s largest federal public service union, the Public Service Alliance of Canada, said she was “very disappointed” with what she read in Tuesday’s budget.

“What it says to our membership, the PSAC’s is that they are going to negotiate in good faith but on the other hand they are going to take away the sick leave if you will so they are talking out of both sides of their mouth,” she said.

Benson said she also plans to consult her members and gauge their reaction to the budget and measures like income splitting and the amount of money for universal child care.

Meanwhile, Debi Daviau, president of the Professional Institute of the Public Service of Canada, said the government is sending public service unions a mixed message.

“The Treasury Board’s message to us and the message through the budget is that they are committed to negotiating with public sector unions,” she said.

“On the other hand they seem to have a predetermined result in mind and that definitely concerns us. It definitely indicates a disrespect for a fair process, a due process in negotiations.”

Nevertheless, Daviau says her union will continue to bargain in good faith.

With files from Elizabeth Thompson

Federal budget 2015

<http://www.budget.gc.ca/2015/docs/plan/budget2015-eng.pdf>

Budget fédéral 2015

<http://www.budget.gc.ca/2015/docs/plan/budget2015-fra.pdf>

Clement pledges to not use mental health as "bargaining chip"

Kathryn May, Ottawa Citizen, April 18, 2015

Treasury Board President Tony Clement says he won't use the mental health of public servants as a "bargaining chip" during negotiations with unions over his plan to replace the existing sick-leave regime with a short-term disability plan.

But that hasn't stopped concerns that Clement may have done just that when he recently reached an extraordinary agreement with the largest federal union to set up a task force that will examine what's making public servants sick with historic levels of mental health disability claims.

With that agreement, the big question is whether the government will seek any more concessions from public servants on their benefits. It has already taken a whack at severance pay, health benefits and is now taking aim at sick leave.

Some are waiting for the shoe to drop in next week's budget, which will effectively lay out the platform that Prime Minister Stephen Harper will take into October's election.

"I'd say the budget could signal or sabotage a breakthrough in the promotion of mental health in the federal workplace," said Bill Wilkerson, a mental health advocate who has long pressed the government to tackle the high number of disability claims for mental health.

"The health of your workplace is one of those things that should rise above politics and the partisan nature of the management-labour relationship."

The Conservatives just reached an unprecedented agreement with the largest union, the Public Service Alliance of Canada, to set up a task force that will conduct a sweeping review of the policies, practices and working conditions of the public service, seeking to understand the "toxic" factors that can poison the workplace and drive up mental health claims. Within the public service, mental health claims account for fully half of all disability claims.

Both unions and Treasury Board declared the task force a great victory. The agreement, though hammered out at the bargaining table, has now moved to an independent track. The 17 unions and management are now setting up the steering and technical committees for the task force.

So will the Conservatives introduce a budget measure that risks torpedoing any good will and trust forged by agreeing to the joint mental health task force? Such a move could jeopardize its work.

"We entered into this task force process in good faith hoping to make real progress on a key factor behind sick-leave use and to improve mental health in the workplace," said

Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC). “We expect no less from the government; any sign otherwise in the budget will cast a very long shadow.”

Clement has said he is “passionate” about mental health issues and wants the public service to be Canada’s model employer in managing mental health in the workplace.

“The minister, and the unions, feel this issue is too important to be used as a bargaining chip. This is a real commitment to improving the health and welfare of federal public servants,” said Stephanie Rea, a spokesperson for Clement.

PSAC President Robyn Benson said she expects Clement to stick to his promise to bargain in good faith and his disability plan is a “step in the wrong direction.”

“We’ll be watching the budget carefully and we’ll take all the necessary measures to oppose any attempt to legislate changes to our collective agreement. The right to collective bargaining has been established by the Supreme Court as a Charter right.”

Ian Lee, a business professor at Carleton University’s Sprott School of Business, said he would be surprised if the budget didn’t highlight sick leave, one of Clement’s signature reforms of the public service. He speculates the budget could contain an announcement of the government’s intention to implement a new short-term disability plan.

A proposed short-term disability plan is a red flag for unions during a difficult round of collective bargaining. Sick leave is now enshrined in public servants’ contracts, so Clement needs to negotiate a new deal to proceed with his disability plan.

The unions are united in their opposition to surrendering sick leave for the new short-term disability plan. Instead, they propose fixing the existing sick-leave regime and keeping the 15 million unused paid days employees have banked. Clement wants the current system abolished.

For unions, an announcement of a new disability plan in the budget could be tantamount to a take-it-or-leave-it deal – and that could lead to the first government-wide strike since 1991. A strike, in turn, opens the door to the prospect of back-to-work legislation, which the Conservatives have used to end other labour disputes.

“While I think that the public service bargaining reforms have the unions in a bind, I do not think Clement will publicly rub the unions’ nose in it, by publicly threatening back-to-work legislation and termination of the sick-leave bank,” said Lee.

“But if the unions strike, they are setting themselves up for back-to-work legislation that will likely include the termination of the sick-leave bank.”

If they reject the government’s offer of six sick days a year instead of 15, most of the public service unions have little choice but to strike. Under new rules, the government, not the unions, decides whether they strike or have access to arbitration in the event of a negotiating impasse.

Outside Ottawa, a fight with unions plays to the Conservative party's base.

But Lee argues reducing the pay and benefits of public servants in the name of prudent management also resonates with the swing vote the Conservatives want– Liberal voters with conservative leanings – and that will matter more than worrying about alienating unions at a critical juncture in negotiations.

Clement's short-term disability plan wouldn't generate big savings. The banked sick leave is valued at \$5 billion, but it is a contingent liability and abolishing it won't affect the deficit.

Clement also doesn't have to force a strike because the new rules will lead to one when negotiations hit a stalemate over sick leave.

Others argue that Clement has already tactfully shifted bargaining back to his priority of dealing with sick leave by moving the "mental wellness" issue from the bargaining table to the task force.

The unions had managed to change the channel on these round of talks by linking sick leave to "wellness" rather than casting it as a battle to save an employee benefit.

Meanwhile, Mathieu Ravnat, the NDP's Treasury Board critic, argues the task force will be a token gesture unless the budget provides it funding and the Conservatives adopt the Mental Health Commission's national standard on psychological health and wellbeing – which it is resisting so far.

Emmanuelle Tremblay, president of the Canadian Association of Public Employees (CAPE), is pleased about the task force but admits her first reaction was: "What is the trick?"

She said the Conservative government has previously shown little trust in the public service or concern for the wellness of employees. She noted the announcement of the mental health task force came at a time when the number of public servants being denied disability claims has tripled.

"Whether or not Treasury Board is serious about mental health in the workplace, I have my serious doubts about ... It is all words now and not so much in deeds," she said.

Other Topics / Autres sujets

Segal's amendments to union disclosure bill not dead yet

Andrea Gunn, iPolitics, April 23, 2015

As senators debated whether their colleagues could even consider Bill C-377, one thing now appears to be sure: former Tory senator Hugh Segal's 2013 amendments, which would largely gut the "anti-union" bill, will be proposed again.

Speaking with iPolitics after Wednesday night's Senate committee hearings for the controversial private member's bill, independent Senator George Baker confirmed he and a number of other senators will be putting forward changes to the bill that will aim to significantly increase the minimum dollar amount of union spending and salaries subject to disclosure requirements under the bill.

Though he wouldn't name the other senators backing amendments, Baker, who is the deputy chair of the legal and constitutional affairs committee, said there is support in the Conservative caucus.

In the spring of 2013 Segal's amendments to the bill were passed with the help of a number of other Conservative senators, raising the floor for disclosure of spending from \$5,000 to \$150,000 and salary disclosure from \$100,000 to \$444,000. The amendments were automatically scrapped that summer when Prime Minister Stephen Harper prorogued Parliament, setting the bill back to its original form.

Segal retired in June 2014, leaving the task of reintroducing the amendments to other members of the Red Chamber.

New venue

Parliament's East Block was lively on Wednesday evening for the first hearings for C-377 under the Senate's legal committee — a change of venue from 2013, when the Senate banking committee heard testimony surrounding the bill.

The bill's sponsor Russ Hiebert took the floor first to sell C-377 to the committee as a constitutional piece of legislation that would make unions more transparent and accountable. The three other witnesses were Canadian Labour Congress president Hassan Yussuff, Nova Scotia based lawyer Brian Johnston and labour and constitutional lawyer Paul Cavalluzzo.

Though the focus of the hearings was set to be the constitutionality of the bill, Hiebert's testimony raised a new question: How can the Senate debate a private member's bill that uses public money, and why was it passed by the House of Commons?

In his opening statements, Hiebert said the Canadian Revenue Agency had put a price tag of \$1.2 million a year to implement the new regulations for the first two years, and \$800,000 a year thereafter.

Baker was quick to jump on this, citing regulations that say if there's evidence that a private member's bill will use public money, it can't pass. He pointed out that the CRA established their price after the bill's trip through the House. At that point, Hiebert said the regulations could be paid for with "previously allocated funds."

Senator Mobina Jaffer pressed Hiebert on the condition in the bill that requires union leaders to disclose all non-union activities, and the level of personal privacy the requirement would breach.

Speaking after the hearing, Baker said this is the first time the Senate had heard the CRA estimate.

“We have a problem on our hands,” he said. “We have to address this in the Senate, because the Senate has no lawful authority to address this bill after this evidence was given.”

Testimony during the second half of the hearing turned heated Cavalluzzo, who was the chief counsel to the Maher Arar inquiry, opened up by calling the bill an insult to unions. “There are so many constitutional issues raised by this bill I can’t even go into them all,” he told the committee.

In the ensuing back and forth, Senator Don Plett told Cavalluzzo his presence at the hearing was a waste of time — a charge that was met with enthusiastic disapproval from the other Senators.

The question of constitutionality will likely feature strongly Thursday morning as hearings continue with Canadian Bar Association representatives and former Supreme Court justice Michel Bastarache amongst others.

Liberal leader Justin Trudeau has also weighed in, issuing an open letter to the Senate leaders criticizing the bill, and calling on them to vote it down.

Harper’s anti-union bill rises from the dead: Tim Harper

Bill C-377 is unnecessary, unfair and unconstitutional, but Harper’s attack on the labour movement is still breathing.

Tim Harper National Affairs, April 23, 2015

OTTAWA—Stephen Harper’s notorious, proposed anti-union legislation is still floundering in its fourth year, unloved, unnecessary, unfair and largely unconstitutional.

But not dead.

Bill C-377, first introduced by British Columbia Conservative backbencher Russ Hiebert in December 2011, has been revived by a Senate committee and there was Hiebert this week, again staking his claim to some type of Conservative medal as the man who has most doggedly pursued his boss’s agenda.

Hiebert is still flogging what must be considered the most fundamentally flawed piece of legislation to come from this majority government, a punitive assault on labour unions which would tip the collective bargaining process in the country to the employer, violate privacy and freedom of association rights of union leaders and tie up unions up with unnecessary, trivial, insulting paper work.

In short, it is just the type of confrontational piece of legislation Harper would like passed before an election.

It is a solution in search of a problem, but those “big labour bosses” the Conservative caucus loves to rail against provide just too much of an inviting target.

There was the tenacious backbencher back at it, wrapping his legislation in gauzy talk about transparency and accountability and “empowering (Canadians) to gauge the effectiveness, financial integrity and health of Canadian unions.”

Or, as Canadian Labour Congress president Hassan Yussuff, calls it, “an unwarranted, unconstitutional, venal and indefensible bill that is inherently flawed and must be withdrawn.”

This legislation has already once collapsed in the Senate.

Former Conservative senator Hugh Segal led the rebellion, leading his colleagues in amending a bill he called “badly drafted, flawed, unconstitutional and technically incompetent.”

The law, as proposed, would require unions to publicly disclose any spending of \$5,000 or more and any salary of more than \$100,000. All documentation would be supplied to the Canada Revenue Agency and then to the public on searchable website. It would include the addresses of the union officials.

It would compel union leaders to account for their political and non-political activity, forcing them to divulge work with minor hockey teams, church groups or scout packs.

It intrudes on provincial turf.

It would also extend to those who have business dealings with unions. In essence, it would force unions to publicize their budgets, their expenditures, how much they would be able to pay workers in the event of a strike and what type of money they would have to promote their cause in the case of a breakdown of a collective agreement.

Employers would not be compelled to disclose any of that.

Segal’s amendments raised the spending disclosure threshold to \$150,000 and the salary threshold to \$444,000. He won the backing of 16 Conservatives (four others abstained) but Harper prorogued Parliament and the bill was reborn in the Senate, without the amendments.

The Hiebert bill and a companion piece of private legislation introduced by Alberta Conservative MP Blaine Calkins which would make it more difficult to join a union, but easier to decertify one are “designed as a direct attack on unions, meant to diminish and weaken the labour movement in our country,” Liberal leader Justin Trudeau wrote this week in a message to the Senate, urging rejection.

They may no longer be Liberals, but the senators Trudeau kicked out of his caucus are taking up his battle.

The bill has many backers, and former Supreme Court Justice Michel Bastarache argued it is constitutional because it is about transparency and accountability, not an attempt to regulate labour relations.

But Yusuff argued the onerous paper work involved would force him to “sit in my office and write nice letters to wonderful people like you, thanking you for your kind service, even when you’re screwing my members. That will not happen.”

There may still be Conservative opponents sitting somewhere in the Senate, but they didn’t appear to be sitting around the committee table.

Manitoba Conservative Don Plett showered praise on Hiebert for his hard work and announced it was time to make this bill law.

But when he clashed with Paul Cavalluzzo, a constitutional and labour lawyer with more than four decades of experience, the bombastic Plett insulted the witness by telling him he considered “your time and my time to have been wasted with you here today not answering my questions.”

Plett’s wrong. The real waste of time has been that of all parliamentarians who have had to deal with Harper’s overzealous piece of legislation since its 2011 birth.

Ken Pereira défend la transparence

Le syndicaliste appuie le projet de loi C-377

Brian Myles, Le Devoir, le 21 avril 2015

Selon Ken Pereira, les syndicats sont réfractaires aux valeurs d’ouverture et de transparence, d’où la nécessité de ce projet de loi C-377.

Ken Pereira n’est pas près d’élargir son cercle d’amis dans le monde syndical. Il ira défendre, mercredi à Ottawa, le projet de loi sur la transparence financière des syndicats.

Le lanceur d'alerte, qui a rendu un témoignage percutant à la commission Charbonneau, est le seul syndicaliste à appuyer publiquement le projet de loi C-377 devant un comité sénatorial.

« Ce projet de loi n'est pas parfait, mais c'est la chose la plus proche d'un livre ouvert, explique-t-il. Il va favoriser une transparence qui fait défaut dans les syndicats. »

Dépeint comme « une attaque antisyndicale » par les grandes centrales, le projet de loi C-377 forcera les centrales à divulguer publiquement l'utilisation de leurs fonds.

En vertu du projet, amendé par le Sénat, toutes les transactions supérieures à 150 000 \$ devront être accompagnées d'une description et d'informations nominatives sur les destinataires et les destinataires. Les salaires annuels des dirigeants syndicaux devront aussi être rendus publics, au-delà de 445 000 \$.

Les syndicats de moins de 50 000 membres bénéficieront par contre d'une exemption.

Dans la version originale, le parrain du projet, Russ Hiebert proposait d'imposer la divulgation pour toute transaction supérieure à 5000 \$ et tout salaire de plus de 100 000 \$.

Quatorze groupes ou individus ont présenté des mémoires au Comité sénatorial permanent des Affaires juridiques et constitutionnelles, qui étudie le projet, mercredi et jeudi.

L'Association canadienne des avocats du mouvement syndical juge le projet contraire aux droits à la liberté d'association et d'expression. Il suggère l'abandon de cette mesure législative « choquante et contraire aux valeurs que la société canadienne devrait respecter ».

Le Barreau du Québec voit aussi « des risques sérieux » de contestation du projet devant les tribunaux.

Un mal pour un bien

Selon Ken Pereira, les syndicats sont réfractaires aux valeurs d'ouverture et de transparence, d'où la nécessité de ce projet de loi.

L'ex-délégué syndical des mécaniciens industriels à la FTQ-Construction (FTQ-C) avait dénoncé publiquement le train de vie somptueux mené, aux frais des membres, par l'ancien directeur général de la centrale, Jocelyn Dupuis.

À la suite des dénonciations de Ken Pereira, M. Dupuis a été accusé de fraude. Il a été condamné à une peine d'un an de prison.

La FTQ-Construction n'a tiré « aucune leçon » de la commission Charbonneau et de l'affaire Dupuis, estime Ken Pereira. « La FTQ-Construction n'a jamais démontré d'ouverture. Elle a toujours défendu Jocelyn Dupuis. L'exécutif syndical savait ce qui se passait avec ses dépenses farfelues, et il n'a rien fait », dit-il.

Selon Ken Pereira, le projet de loi C-377 empêchera les syndicalistes mal intentionnés d'utiliser les cotisations des membres à des fins personnelles.

Security-bill snooping goes too far, federal watchdogs warn

Ian MacLeod, Ottawa Citizen, April 23, 2015

The federal government's proposed security bill contains serious and contradictory flaws that will allow more than 100 government entities to exchange Canadians' confidential information – yet no provision for similar information-sharing between the agencies that track the lawfulness of federal spies and police, parliamentarians were told Thursday.

Four of Canada's top government watchdogs – who monitor privacy, the country's two spy agencies and the RCMP – testified on Bill C-51 before the Senate national security committee.

Privacy Commissioner Daniel Therrien levelled the harshest blows. Canadians risk being caught in a web of unbridled government snooping into their personal lives if the draft security legislation becomes law, he warned.

“The bill would potentially lead to disproportionately large amounts of personal information of ordinary, law-abiding citizens being collected and shared. This sets up the prospect of profiling and Big Data analytics on all Canadians. In short, the means chosen are excessive to achieve the end,” Therrien said.

A crucial concern is C-51's proposed Security of Canada Information Sharing Act. It would allow more than 100 federal departments, agencies and other entities to share information about Canadians with 17 departments and agencies that have national security responsibilities. The information would only have to be “relevant” to a potential or suspected national security threat. The 17 agencies also could share and collate information among themselves.

Therrien fears this could lead the Canadian Security Intelligence Service (CSIS), RCMP, Department of Finance and others to share potentially all information they may hold on Canadians and businesses.

“The minister of public safety has indicated there are several privacy protections envisaged by Bill C-51. While I agree there are some, I believe they fall quite short of what a balanced approach would require,” he said.

Therrien's recommendations to the committee include:

- Information should only be shared between departments if “necessary” – not merely “relevant” as the bill currently reads – to combat activities that threaten national security.
- The bill should be amended to: ensure that all 17 agencies are subject to independent and effective review, by an expert body and by parliamentarians; remove impediments for information exchange between existing review bodies; and amend the Privacy Act to allow for judicial recourse in cases involving collection, use or disclosure of personal information. The bill should also include a mandatory period of review after three years.
- Fourteen of the 17 agencies to receive information for national security purposes are not subject to dedicated independent review or oversight. To fill that gap, the jurisdiction of one or more of the existing review bodies (monitoring Canada’s two spy agencies and the RCMP) should be extended to include the 14, or a new expert review body with horizontal jurisdiction should be created to review the lawfulness and reasonableness of national security activities.

Meanwhile, the heads of the Security Intelligence Review Committee (SIRC), which monitors the activities of CSIS, and the Office of the Communications Security Establishment (CSE) Commissioner, which watches over Canada’s electronic spy agency, CSE, complained Thursday that C-51 does nothing to help them share information with each other.

In the increasingly entwined and expanding world of federal security intelligence, the two watchdogs remain firmly locked in silos and unable to “follow the thread” of their agency’s operational activities once they move into the domain of another department or agency.

“These legislative constraints on SIRC will make it increasingly difficult for us to provide robust assurances on CSIS’s activities to Parliament and Canadians,” said Michael Doucet, SIRC’s executive director.

Jean-Pierre Plouffe, the CSE commissioner, voiced the same concern. ““It is critical (that) the ability of review bodies to share and co-operate must keep pace,” with the sweeping reforms and new powers C-51 will give to federal spies and RCMP national security investigators, he said.

Supreme Court of Canada judge announces retirement

Globe and Mail, The Canadian Press, April 24, 2015

Justice Marshall Rothstein is retiring from the Supreme Court of Canada effective Aug. 31, just months short of his mandatory retirement on his 75th birthday in December.

Rothstein was appointed to the court by Prime Minister Stephen Harper in March 2006 after 13 years with the Federal Court and the Federal Court of Appeal.

Chief Justice Beverley McLachlin has formally notified Justice Minister Peter MacKay of the coming vacancy on the bench.

Although Rothstein steps down at the end of August, the Judges Act provides that for six months after retirement, he can continue to participate in judgments of cases heard before his departure.

Rothstein was Harper's first appointment to the highest court, shortly after the Conservative government took office.

Harper has appointed all but two of the nine judges on the court.

McLachlin said Rothstein will be greatly missed.

"Justice Rothstein has served on the court with distinction, and made enormous contributions to the court and to Canada," she said in a statement.

The prime minister thanked Rothstein for his distinguished service over the years.

Rothstein pointed out that on retirement, he will have been a judge for more than 23 years.

"I am grateful for this privilege and mindful of the honour and public trust that attach to the holding of judicial office in Canada," he said in a statement.

Rothstein was born and raised in Winnipeg. He earned a commerce degree and a law degree at the University of Manitoba and began in private practice in 1966.

During his career, he taught law at the University of Manitoba and was a member of the Canadian Human Rights Tribunal from 1986 to 1992.

He was appointed to the Federal Court in 1992 and moved to the Federal Court of Appeal in 1999.

Prime Minister Stephen Harper sued by B.C. lawyer for not filling senate seats

Lawsuit claims prime minister is violating the constitution by refusing to fill seats

Greg Rasmussen, CBC News, April 23, 2015

Beset by allegations of corruption, greed and downright uselessness, senators aren't the most popular breed of politician these days.

But Vancouver lawyer Aniz Alani says that doesn't mean Prime Minister Stephen Harper can bury his head in the sand and refuse to fill empty senate seats.

Aniz Alani has filed a federal court application trying to force the issue and made his argument in court in Vancouver on Thursday.

He pointed to Section 32 of the Constitution Act, which states, "when a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy."

Although the Governor General has the legal power to appoint senators, by convention the prime minister picks the person and the Governor General then rubber stamps the appointment.

There are currently 19 vacancies and no new senators have been appointed in over two years. As a percentage, Manitoba is the biggest loser, with three of its six positions vacant.

With reform of the upper house stalled, Harper has indicated he doesn't intend to appoint unelected senators.

Alani told CBC news this delay is unique.

"Prime Minister Harper is not the first prime minister to allow these vacancies to accumulate, but he appears to be the first prime minister to actually say that he doesn't plan to appoint any."

Alani launched this court action at his own expense, and says he isn't tied to any political party or organization.

"I just didn't see of any way of getting this resolved. That's why I brought it to the courts."

Federal response

Federal government lawyer Jan Brongers, who represented the prime minister and governor general in court, argued this application should be tossed out at this early stage and not get a full hearing.

He told Federal Court Justice Sean Harrington the appointment of senators is purely a political matter and the courts have no jurisdiction in the matter.

Justice Harrington appeared intrigued by several of the arguments presented and asked questions of both lawyers.

He wanted to know, for example, what would happen if the prime minister refused to appoint new Justices to the Supreme Court of Canada and wouldn't that effectively paralyze the top court? He also asked if the same argument could be made about the Senate?

Harrington reserved judgement on the matter after hearing the arguments.

Le fédéral retire ses coordonnées de l'annuaire

STEVE RENNIE, La Presse Canadienne, La Presse, le 19 avril 2015

Le gouvernement fédéral a décidé de retirer toutes les coordonnées des ministères et des agences des pages bleues de l'annuaire téléphonique.

Dans une note interne obtenue par La Presse Canadienne en vertu de la Loi sur l'accès à l'information, il est écrit qu'il est «insensé» que le gouvernement publie des informations qui deviennent rapidement caduques alors que la majorité des Canadiens finissent par chercher ces données sur Internet.

Selon cette lettre envoyée à Services partagés Canada, le délai entre la publication et la distribution est de cinq mois, donc les coordonnées ne sont plus valables la plupart du temps quand les ménages canadiens reçoivent l'épais document.

«Moins de 50 % des ministères et des agences mettent à jour leurs informations, alors que plusieurs préfèrent communiquer avec les Canadiens par d'autres canaux, tels que le Web et la ligne 1 800 O-Canada», ajoute-t-on.

Le gouvernement estime donc qu'il n'est pas justifié de dépenser environ 3,1 millions \$ par année pour publier les 115 numéros de téléphone dans les pages bleues. La note conclut que cette mesure «coûteuse» n'est «pas nécessaire», ni «efficace» en raison de la prépondérance de l'Internet.

Les Pages jaunes, qui distribue l'annuaire, a indiqué que la dernière édition avec les numéros du gouvernement fédéral avait été envoyée en mars.

La porte-parole de l'entreprise Fiona Story a expliqué qu'elle publiait ces données «par obligation» aux fournisseurs de services téléphoniques qui souhaitent actualiser leur liste de numéros de téléphone.

«Nous n'avons pas monnayé ces revenus dans une bonne partie du Canada parce qu'ils étaient réservés aux fournisseurs et non aux Pages jaunes. Les seules exceptions sont l'Alberta et la Colombie-Britannique, où les ententes [...] prévoient que les fonds aillent directement à l'éditeur, qui (sont) les Pages jaunes», a-t-elle indiqué dans un courriel.

Les Pages jaunes ont récolté environ 1 million \$ de ces provinces, selon Mme Story. «Ce n'est pas une somme importante pour nous et nous n'avons aucun problème à ce que le gouvernement centralise tous ses appels à un seul numéro, que nous continuerons de publier», a-t-elle conclu.

Un porte-parole de Services partagés Canada a indiqué que son agence n'avait pas reçu de plainte concernant la décision du gouvernement.

Les pages bleues ne disparaîtront pas pour autant - les villes et les provinces y présentent encore leurs coordonnées.

Should Supreme Court judges choose their own chief justice?

By Michele Krech, *Canadian Lawyer Magazine*, April 20, 2015

Michele Krech is a recent graduate of the University of Ottawa's joint JD/MA program, during which she participated in Professor Adam Dodek's Supreme Court seminar. She is currently completing a clerkship and will commence her LLM in international law in the fall.

Vacancies on the Supreme Court of Canada bench — comprised of eight puisne judges and the chief justice — are filled according to the will of the prime minister. Although there has been significant debate about the process and criteria for selecting Supreme Court judges, little if any debate has revolved around the selection of the chief justice in particular.

This issue deserves more and separate attention because of the distinct considerations involved in filling the unique and important position of chief justice.

In addition to the judicial duties of all Supreme Court judges, the chief justice has numerous leadership responsibilities. Most significantly, the chief oversees the work of the court by scheduling and assigning judges to cases and presiding over most hearings. The chief also has roles outside the court such as chairperson of various committees and substitute governor general.

The case for election of the chief justice by the SCC bench

The separation of powers assumes that each branch of government possesses its own institutional competencies. Accordingly, the selection of the chief justice may be a job suited for the judiciary rather than the executive.

Supreme Court judges have two important advantages over the prime minister, as well as federal or provincial legislatures and the general public, in deciding who among them should assume the role of chief: They know precisely what skills and qualities a chief justice must possess; and they know which justice possesses them to the highest degree.

The leadership competencies required of a chief justice include both hard administrative skills and soft interpersonal skills. No one can assess whose skillset best matches the duties of the chief justice with the same precision as the other judges in that court who are directly affected by the chief's administrative decisions and may have experience carrying out such decisions themselves.

The judges also know, based in large part on private conversations and backroom meetings, who has the personality traits and intra-court relationships necessary to effectively serve as their leader. Unlike court observers who speculate about the nature of the relationships between judges and court employees who may be privy to certain inside information, only the judges themselves have access to the full picture.

In contrast, it is impossible for the prime minister to appoint a chief justice based on such an accurate skillset assessment even if he wanted to (and there is no indication that he does).

The PM is not an expert in the work of the court, especially not the administrative duties of the chief; nor can he possibly understand the complex ways in which judges' personalities mesh and conflict. Transferring the job of selecting the chief justice to the court would not only overcome these disadvantages, but also ensure the bench's confidence in its leader, which can only benefit the functioning of the court.

Potential obstacles and complications

Such a change to the method of selecting the chief justice is not without challenges. For instance, it is possible that judges would vote for a chief based on ideological similarity rather than the skillset described above. However, judges are presumably less politically motivated than the prime minister and have a strong interest in choosing a chief with leadership competencies to make their jobs easier.

Allowing the Supreme Court bench to elect its own chief would likely require an amendment to the Supreme Court Act. It also raises a consistency issue since the chief justices of all other Canadian superior courts are appointed by the prime minister.

In addition, the change raises some uncertainty as to whether the chief justice would continue to hold other appointment-based positions, such as chairperson of various committees, Privy Council member, and substitute governor general.

Many procedural questions would also require delineation: Must candidates be nominated? Is self-nomination permitted? May a judge vote for him or herself? Is the outgoing chief permitted to vote? What happens in the case of a tie?

Nonetheless, election of the chief justice by the Supreme Court bench is worth considering on the basis that the chief of Canada's highest court should be the judge best able to provide the leadership the court needs to carry out its adjudicatory functions effectively.

How to teach students to think like a lawyer (or maybe not)

Law School Futures

Written by **Ian Holloway**, *Contribution to Canadian Lawyer*, April 20, 2015

Ian Holloway is the dean of law at the University of Calgary, and former dean at Western's law school.

Maybe the best movie line ever about law school was delivered by John Houseman in *The Paper Chase*. Playing the imperious contracts professor Charles W. Kingsfield, he famously said to first year student James Hart and his classmates: "You come in here with a skull full of mush. . . . And if you survive," he continued in all his stentorious magnificence, "you'll leave thinking like a lawyer."

It's a great line, and it still can raise a laugh at a law school pub night. But the fact is that it was not accurate in 1973, when the movie was made, and it's not accurate now. The truth is that in law school, we teach students half of what thinking like a lawyer really is.

Thinking like a lawyer — really thinking like a lawyer — involves not just parsing problems, finding the issues and then applying the law. Of course, legal advice is grounded in legal principle. But lawyers — good lawyers — think in terms of solutions.

Yes, good legal advice is based on the law, but it includes a pragmatic assessment of which is the best of a possible range of outcomes in the circumstances. And, ultimately, the lawyer is judged, not just in the formal courtroom, but in the court of public opinion on the quality of his or her . . . well, judgment.

Yet, this is not something that we tend to teach in law schools. At least not in a systematic way. We do a very good job at teaching analysis. But solution-oriented thinking, not so much.

Every law school probably has courses where the art of solution-oriented thinking is introduced, but I don't think there are any schools where we can say every student has systematically acquired at least some mastery of it.

This would never do in other professional disciplines. Think how odd it would sound for a medical student to say to a patient, "Yes, you're really quite ill. Let me tell you just how ill you are. You are ill in five different ways."

It puts one in mind of the Monty Python "dead parrot" skit, and I'll bet that med school variety shows regularly have skits that riff off stuff like this. Yet no one would seriously say that diagnosis, however important it is, it can validly be the principal objective of a medical education.

Yes, it's a bedrock of what doctors do. But it's only the first half of what we want medical students to learn. We expect a quality medical education to involve teaching putative doctors how to make the right judgment calls in life or death cases.

For most of them, it will be several years post-MD before they find themselves alone in the firing line, but we'd be aghast if the medical academy didn't embrace teaching students how to cure as well as how to recognize disease when they see it.

But part of our problem is that we in law school have become accustomed to drawing a distinction between analysis and action. Or, as it is more commonly put, between theory and skills.

Law school, the conventional party line has it, is supposed to teach the former. The bar admission process takes care of the latter (except for legal research and writing). That was the deal struck between the universities and the Law Society of Upper Canada in 1949, and it remains the theoretical basis for our professional federalism across Canada even today.

The problem with this sort of a division, though, is that it represents a false dichotomy. A lawyer with theory but no skills is useless. One with skills but no theory is a malpractice claim waiting to happen. The fact is that any lawyer worth his or her salt can reason from first principles, and then actually do things to help others.

Moreover, we know that doing deepens learning. It helps contextualize theory; it makes it seem real, which in turn makes the theory more "sticky." For most who advocate it, the objective of experiential learning is not to turn out "practice-ready" lawyers. That, frankly, would be impossible in three years — regardless of whether or not we have a system of articling. Rather, it is to make the learning environment more active and more intense.

In other words, it is to combat the progressive disengagement that I wrote about last time, and to deepen the extent to which students learn — and retain — legal principle.

It is also to introduce students to how they'll actually be earning a living. Whether they end up as barristers or solicitors, in the public sector or private, in big firms or small, in the city or in the country; if people with JDs haven't acquired the skill of making judgment calls, then we are short-changing them in their legal education.

So above all else, that's what law schools should do: incorporate solution-oriented thinking — what the medical schools call “problem-based learning” — throughout the curriculum.

There are plenty of other things that ought to go along with this. It is difficult, for instance, to overstate the impact that technology is having on the law and the legal system. Legal project management is now mainstream enough to demand a spot in the curriculum. So, too, should we be teaching things like leadership and teamwork.

But as a precursor to everything else, we have to jettison the baggage of the theory versus skills distinction.

In its Canadian formulation, that was grounded in the attempt to draw up a peace treaty between big egos at the University of Toronto and the Law Society of Upper Canada more than six decades ago. Louis St. Laurent was prime minister and Frankie Laine was No. 1 on the charts. We still had appeals to the Privy Council.

But the men of 1949 are long-dead. For heaven's sake, surely in 2015 we can come up with a way in which to teach law today that actually acknowledges what we're preparing our students to do.
