

Press Clippings for the period of April 27<sup>h</sup> May 4<sup>th</sup>, 2015  
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*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*

## **AJC makes the Headlines/L'AJJ fait les manchettes**



# **The Hill: Decision against federal lawyer's election run sparks outrage in Ottawa**

**By Richard Cléroux, Law Times, April 27, 2015**

A federal government lawyer has lost her right to come back to her government job if she runs and loses in this fall's federal election.

The Public Service Commission of Canada made the ruling last December. It has the public service, particularly federal lawyers, up in arms.

Emilie Taman, a brilliant young lawyer with the Public Prosecution Service of Canada, is fighting back and taking her case to the Federal Court of Canada to overturn the ruling against her on the grounds it's a violation of her rights under the Constitution. Her union is backing her and is even supplying the lawyers for her.

The commission has the final decision on who in the government can get time off to run in a federal election and who can return to their old job if they lose. Len MacKay, who heads the Association of Justice Counsel, says Taman's job advising senior bureaucrats is in no way open to partisan bias. Her bosses make final decisions on cases, not her.

Taman handles cases dealing with immigration and refugee issues, the Fisheries Act, and Income Tax Act matters.

Brian Saunders, who's Taman's boss as director of the Public Prosecution Service of Canada, said that going after a party nomination would "undermine the independence" of his service.

The commission accepted his thinking and said in its ruling that Taman's ability to come back and do her old job after the election might be "impaired or perceived to be impaired."

Taman is no neophyte to the law. She graduated from law school in 2004 and has been a federal lawyer since 2008.

Her mother is Louise Arbour, a former justice of the Supreme Court who also served as chief prosecutor for the war crimes tribunals in Yugoslavia and Rwanda.

Taman's husband, Michael Spratt, is a noted Ottawa defence lawyer.

She has never been involved in a political party, she says. She says she wants to run in Ottawa-Vanier but for now won't say for which party.

We can guess, however. The incumbent in Ottawa-Vanier, a strong Liberal riding, is veteran Liberal MP Mauril Bélanger, who's running again. The Conservatives, meanwhile, don't have much of a chance in the riding.

But the NDP has been holding back on a nomination meeting, perhaps waiting for the outcome of Taman's court case. Wisely, Taman isn't tipping her hand right now.

Unlike her, MacKay isn't holding back on anything. To him, it's plain the commission violated the Constitution in its ruling.

Taman should have the same constitutional rights as any other Canadian citizen, he says. "It's spelled out right in the Constitution."

MacKay says that when the commission described what Taman does in her job, it could have been talking about any Canadian prosecutor as well any police officer. That's what made its ruling so frightening. "It would be tantamount to a blanket prohibition on federal prosecutors seeking elected office," he says.

MacKay says it's so outrageous that the federal government will eventually have to rewrite the rules that deal with time off for elections for public servants who want to run.

He has lined up two noted Ottawa lawyers, Janice Payne and Christopher Rootham, to represent Taman.

NDP justice critic Françoise Boivin, meanwhile, is furious. The suggestion offered by the commission ruling that former candidates can't make good, loyal government lawyers after they come back infuriates her.

"I nearly fell off my chair when I heard about this case," she says.

It's "odious and insulting," she suggests, to say that a lawyer going back to a previous government job after a failed election bid will be biased.

"Those two roles in society are so different," she adds.

"I am really upset."

Boivin has been both a lawyer and an MP and she knows the difference.

"I am really upset and I hope she wins her case in Federal Court . . . for all of us," she says.

The union hopes to be able to get Taman's case into Federal Court before the fall election so she can at least have a chance to run for the nomination.

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## Budget's \$900-million cut in sick leave doesn't account for replacement plan

**The feds calculated a \$1.4-billion liability for future sick leave entitlements. But the government has not provided any details of its new plan, saying it can't get into specifics while still negotiating with the unions.**

**MARK BURGESS, The Hill Times, May 4, 2015**

The Conservative government booked almost \$1-billion in savings from public service sick leave without showing the costs of a replacement plan, a "parlour trick" that critics say won't be any cheaper than the existing regime.

The government signalled in its 2015 budget that it would push ahead with reforms to the federal public service's sick leave regime, sparking a backlash from unions who say including the savings under a new plan while negotiations are ongoing marks a pre-determined end to discussions and violates collective bargaining.

The budget estimates \$900-million in savings from the public service 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.

The government's proposal is to replace the existing sick leave scheme, which allows for 15 days of paid sick leave per year with unused ones banked, with a regime that allows for six days per year with a short-term disability plan kicking in after a seven-day gap.

The 2014 public accounts calculated a \$1.4-billion liability for future sick leave entitlements based on an estimate of how much those sick days will be used. The savings in the 2015 budget "reflect the expected usage of the sick days based on the government's latest proposal to federal public service bargaining agents," a Treasury Board spokesperson said.

The government has not provided any details of the plan, saying it can't get into specifics while still negotiating with the unions.

The \$900-million was booked to allow room to negotiate the short-term disability plan, the Treasury Board says, though "the cost of the new system cannot be determined until negotiations have concluded."

But the unions say it's "presumptuous" to cancel the existing plan covered in collective agreements and book the savings without accounting for the cost of its replacement. Treasury Board President Tony Clement (Parry Sound-Muskoka, Ont.) said he has "some breathing room" in the budget's estimated \$900-million in savings for him to negotiate. Assistant Parliamentary budget officer Mostafa Askari said that because the sick leave is accumulated, it creates a "future potential liability" for the government because public servants will use the sick leave in the future.

However, Parliamentary Budget Officer Jean-Denis Frechette found in a report released last summer that sick leave costs almost nothing, since most positions—outside of those dealing with health and safety—don't backfill for those absent. "Since most departments do not call in replacements when an employee takes a sick day, there are no incremental costs," the July 2014 report said.

NDP MP Paul Dewar (Ottawa Centre, Ont.) said the budget contains no indication of how the government is going to reach the savings while implementing a new plan. "It's a very interesting parlour trick," he said, to offload the liability to an insurance company to operate the short-term disability plan.

"But all of a sudden you have a new obligation to pay for an insurance program, so it's not clear in the long run if this is going to save money," he said.

The government is pretending it has a "magic wand" it can wave to make the cost burden go away while still having an answer that will support public servants, Mr. Dewar said. "What is that answer? Well it costs money. They haven't shown any costing for that and the question is where is the plan and how much will it cost?"

The Parliamentary Budget Office has put the question of how much a new short-term disability program would cost to the Treasury Board but it hasn't received an answer. The public sector unions at the negotiating table are doubtful of the savings and some observers worry the cost of the new program could be left to departments, leaving it to them to absorb into their operating budgets so there's no extra cost for the government. Peter Bleyer, special adviser to the Professional Institute of the Public Service of Canada (PIPSC), one of the large unions, said the government's proposals on sick leave have included transition periods, so booking \$900-million in savings is "crazy." "It's certainly not going to be cleared in 2015-16, despite the fact they're putting it in the budget," he said.

"The budget basically signalled that they're unilaterally cancelling an insurance plan that's included in our collective agreements and covers federal government employees when they're sick and injured, and there's no accounting for the cost of a replacement." He said the move fits with other budget moves—such as selling off General Motors shares to add \$1-billion to the bottom line in 2015-16 and reducing the \$3-billion contingency fund to \$1-billion—that position the Conservatives to run on a balanced budget in the fall election.

"I'm not sure that any government has ever been quite so openly manipulative in an attempt to ensure its re-election," said PIPSC president Debi Daviau in an emailed statement.

Robyn Benson, national president of the Public Service Alliance of Canada, the largest public sector union, said she doesn't think a new short-term disability program will be any cheaper than the current system, since right now sick leave pay is "just a continuation of your salary for 95 per cent of the federal employees."

"This is strictly the ideology of this government," she said. "To have an insurance company that they're going to have to pay to administer sick leave is not cheaper. They're doing it for political gain because it sounds good to Canadians who don't have sick leave, and yet every single person in this country should have sick leave."

PSAC held its annual convention in Québec City last week where it passed an emergency resolution allowing it to spend up to \$5-million from its surplus for a "strategic campaign" to oppose the changes and "work to elect a federal government that respects worker and union rights and federal public services, and that governs for the benefit of all Canadian workers."

Ms. Benson said the campaign wasn't planned yet, but that it would probably involve targetting federal ridings and partnering with other unions to run ads in the lead-up to the election.

Conservative strategists told The Hill Times after the budget was tabled that the government sees the move as a "political winner" ahead of the fall election, allowing the Conservatives to appeal to the millions of non-public sector workers.

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# Postal workers union says sick leave reform didn't work for them

Julie Ireton, CBC News, April 29, 2015

The head of the union representing postal workers says the federal government's plan to modernize sick leave for public servants sounds like déjà vu.

Denis Lemelin, president of the Canadian Union of Postal Workers, said the relatively new sick leave system at Canada Post hasn't worked out for his members or the workplace.

"It changed a lot of things," said Lemelin. "It's the fact that it's personal days and what is happening is people are coming to work sick, so that's the reality."

Canada Post negotiated a new sick leave policy that was implemented in 2013 after a labour dispute, during which sick leave was one of the key issues.

CUPW members went from being allowed 15 sick days a year to the current system of five personal days, Lemelin said.

Once those five days are used up, postal workers must then apply to an insurance company for short term disability.

## **Sick leave big issue in current negotiations**

Right now, the federal government and public sector unions are at odds over a new sick leave policy for public sector workers. In last week's budget, the government said it could save more than \$1 billion by scrapping the current sick leave regime.

But public sector unions have vowed to fight the cut.

Robyn Benson, president of the union representing the largest number of federal workers, the Public Service Alliance of Canada, said the Canada Post example is a cautionary tale for her members.

"At Canada Post for example, they get X amount of days ... but if you don't have those you go on leave without pay," said Benson. "It's certainly not management now trying to ensure that their employees are healthy. This is an insurance company saying, oh, you must come back to work. I think, on so many levels, it's just wrong."

The insurance company that runs the short-term disability program for Canada Post is Morneau Shepell. When the federal government initially announced it would revamp the sick leave system, Morneau Shepell sent out a media release praising the initiative.

"We applaud the Government of Canada for taking a much-needed step to modernize its human resources practices," stated the news release from June 2013.

'I'm here for the public servant who wants to work hard ...,' Treasury Board president says

Officials at the Treasury Board would not say how much a public service new sick leave system will cost to implement.

"I'm here for the public servant who wants to work hard, who needs sick benefits when they are truly sick ... but I'm also for accountability ... on behalf of the taxpayer," said Treasury Board President Tony Clement last Wednesday in a scrum with the press.

Canada Post said its revamped sick leave plan was "part of a long-term strategic initiative to align costs with our competitors" and was drawn from industry best practices.

But officials there would not say if any savings have been realized.

"This information is commercially sensitive and therefore not public," Canada Post stated in a note to CBC News.



## **Bill C-377 could cost almost double estimated price: CRA**

**Andrea Gunn, iPolitics, April 29, 2015**

The controversial private member's Bill C-377, a union spending disclosure bill backed by the Harper government, could cost nearly double the figure its sponsor has often quoted to Canadians, iPolitics has learned.

In last week's Legal and Constitutional Affairs committee hearings for the bill, Conservative MP Russ Hiebert, the bill's sponsor, referred back to the oft-quoted \$1.2 million a year for the first two years and \$800,000 a year thereafter as the price tag for the Canada Revenue Agency to implement and run the measures.

"I believe that this is a modest price to pay to obtain transparency on the use of hundreds of millions of dollars in public benefits," Hiebert told the Senate committee.

These numbers are from a rough estimate by the Canada Revenue Agency submitted to Parliament on Dec. 7, 2012 based on a set of amendments made to the bill by Hiebert himself that would reduce system setup and operating costs for the CRA. They replaced an earlier set of figures for the pre-amended bill — an \$11 million startup cost and just over \$2 million year — that were quoted by the CRA and backed by the Parliamentary Budget Officer.

But both the original estimate and the subsequent adjustment came with a caveat: that the number of unions that would fall under the new regulations would be approximately 1,000.

This grand-total reporting unit number was hotly contested in the ensuing House of Commons and Senate debates around the bill, with many critics charging that the number of reporting units covered by the bill would be closer to 18,000. This number aligns with estimates provided by the PBO.

Today, the Canada Revenue Agency has provided a new price tag for Bill C-377. In an e-mail, a spokesperson outlined two possible scenarios. The first, the original figures of \$1.2 million for each of the first two years and \$800,000 a year ongoing based on a reporting population of 1,000.

The second scenario assumes, within the scope of the legislation, closer to 16,000 organizations could be affected. Though the startup costs would rise only slightly, \$2.6 million over two years, the ongoing cost to administer the program would nearly double to \$1.5 million annually.

The spokesperson also notes that if the bill becomes law, the costs associated with either scenario would come from the CRA's pre-existing budget. An important point, as Parliamentary regulations state that, in order to be considered, private member's bills requiring the expenditure of public money must receive a royal recommendation.

This point was raised by the opposition in 2012 during the bill's first go-round. Speaker Andrew Scheer ruled at the time royal recommendation would not be needed for Bill C-377 as the scope of Bill C-377 is already within the existing mandate of the CRA.

“As part of its ongoing mandate, (the CRA) already administers filing requirements and makes information available to the public. The requirements contained in Bill C-377 can thus be said to fall within the existing spending authorization of the agency,” Sheer said in his ruling.

Bill C-377, which has been criticized as being a targeted attack on unions, has an embattled past. In the spring of 2013 former Conservative Senator Hugh Segal led the charge in his caucus to introduce amendments that significantly increased the required reporting threshold for union spending from \$5,000 to \$150,000, and salary disclosure from \$100,000 to \$444,000. The Tory-dominated senate passed the amendments, rendering the bill largely ineffective.

But that summer, the bill was automatically reverted to its original state a passed by the House when Prime Minister Stephen Harper prorogued Parliament.



The bill was resurrected and assigned to the Legal and Constitutional Affairs senate committee this fall, and hearings focusing on the constitutional questions raised by the bill started last week.

Though Segal is no longer in the senate, his amendments could live on; last week iPolitics reported several liberal senators plan to reintroduce them when the bill goes back to the red chamber.

Hearings are set to continue for C-377, though no other dates have been scheduled yet.



## **Trudeau Vows To Fight Bill C-377, Tories' 'Masterpiece Of Anti-Worker Sentiment'**

**Althia Raj, Huffington Post Canada, April 27, 2015**

OTTAWA — Liberal Leader Justin Trudeau waded into traditional NDP territory Monday, declaring his strong support for the union movement and the agenda it is trying to promote.

“Unions matter,” Trudeau declared at a meeting of the International Association of Fire Fighters in Ottawa. “They are one of the few remaining forces that fight effectively for the fair wages that Canada's middle class needs to make the economy grow.”

The Liberal leader said his party would continue to fight against the Conservative government’s Bill C-377, which places onerous financial reporting requirements on unions. The Tories say the bill promotes transparency, but the unions view it as a direct attack on them. On Monday, Trudeau called C-377 a “masterpiece of anti-worker sentiment” and said that it and Bill C-525 — the Employee’s Voting Rights Act, legislation already passed that makes it harder to form a union and easier to decertify one — were meant to weaken the labour movement in Canada.

“We are committed to repealing both should the Liberal Party of Canada form the next government this October,” Trudeau told the crowd to enthusiastic applause.

The pro-union message wasn’t an accident, union leaders told The Huffington Post Canada.

Jerry Dias, the national president of UNIFOR, the largest private sector union in the country, said he has been waiting to hear such words from the federal Liberal leader.

“If Trudeau wants to appeal to the middle class, it means he has to appeal to the labour movement and so, strategically, it was a brilliant move,” Dias said.

UNIFOR has pledged to support current NDP MPs but will help “anybody who is likely to defeat a Conservative” in the remaining ridings, he said.

“We will absolutely be supporting Liberals in key ridings, no question about it,” Dias said. “What the Liberals need to do — and, by the sounds of it, what they have just done — is they need to show a strong support for the labour movement in Canada. They need to come out and say that Bill C-4, and C-525 and, if in fact, C-377 goes through,” will all be repealed.

Bill C-4 is the Conservatives’ omnibus budget bill, tabled in 2013, which changed the way essential services are determined and the process for resolving collective bargaining disputes in a way that gives the federal government the upper hand.

Unions are influential in elections, Dias said, pointing to last year’s Ontario provincial campaign as an example where the labour movement mobilized against then-Ontario Progressive Conservative leader Tim Hudak and helped Liberal leader Kathleen Wynne’s party win. UNIFOR’s call for strategic voting was controversial among NDP members, prompting staffers on the Hill to split from the group because of it.

“There is a no question,” Dias said, “that the labour movement played a huge role in defeating Hudak, no question about it... [And] ultimately we are hoping that the labour movement plays the same role in defeating Harper.”

Unlike in Ontario, however, unions cannot advertise in any significant way during federal elections. Interested third parties are restricted to spending a maximum of \$150,000 across the country, with a limit of \$3,000 in any one riding.

Dias told HuffPost that he is currently discussing what role UNIFOR will play and how it will play it. But the biggest impact the union could have, he said, is getting the message out to its members — all 300,000 plus of them — and ensuring that they, their partners and their neighbours all go out to vote.

Paul Moist, the national president of the Canadian Union of Public service Employees (CUPE), said the union’s biggest strengths during elections are sharing information with their members — in CUPE’s case, 628,000 — and motivating people to volunteer.

“People power is the most valuable thing [we] can deliver,” Moist said. “[Winnipeg NDP MP] Pat Martin is my MP, and I take a vacation day every federal election and work on Pat’s campaign, and hundreds upon hundreds of CUPE folks will be volunteering in campaigns. That is the biggest contribution we can make.”

Moist, whose union is a strong backer of the NDP, said he thinks Trudeau is speaking to the labour movement now because the Liberal leader is sinking in public opinion surveys.

“His party is in trouble in the polls and he’s tacking to the left, and that is a tried and true practice for the Liberals,” he said. “The Liberal Party of Canada has an amazing

propensity to look for our attention and our support when they want to get back in power and then to forget about us when they come into power. We would put them in the Conservative category more than anything. There is no way CUPE could recommend endorsing the Liberals.”

The NDP noted Monday that the Liberals have over the last four years voted against a handful of pro-union measures, such as a New Democrat proposal to delay Canada Post back to work legislation.

But in the audience Monday, Scott Marks, a spokesman for the International Association of Fire Fighters, which represents about 23,000 Canadian firefighters, was pretty pleased with what he heard. “We heard more than what we had hoped to hear,” he said. Trudeau not only pledged that a new Liberal government would provide compensation to the families of firefighters, police officers and paramedics killed or permanently disabled in the line of duty, and that it would establish a national plan to deal with post-traumatic stress disorder (PTSD), but he also announced unexpectedly that the Liberals would reinstate funding for heavy urban search and rescue teams (HUSAR), Marks said.

“These are the groups that respond to such things at the Elliot Lake mall collapse and natural disasters,” Marks said, adding that the groups’ training costs are a minor expense.

“When it comes to protecting Canadians, I think we all recognize that things like HUSAR are things we are far more likely to need than boogie men that come out of closets,” he said. “The chance of terrorist attack is much less likely than something a HUSAR team would [address].”

Marks said the firefighters association is active during elections but doesn’t endorse any particular party. “Our locals work with what candidates they feel are the best... for their communities,” he said. “I think firefighters, as trusted and respected leaders in the community, people will listen to us.”

The Conservatives, NDP and Greens also sent representatives to speak to the firefighters.

“Our philosophy is: We support those that support us,” Marks said.



## **Why the Conservatives badly need a brawl with unions this year**

**By Tasha Kheiriddin, iPolitics, April 27, 2015**

In early November 2013, the Conservative party held a national policy convention in Calgary. One of the big themes that emerged from that weekend was a hate-on for Canada's labour movement. Delegates passed a number of resolutions seeking to ban secret ballots during strikes and forbid the use of dues for political purposes. They also voted to require increased financial disclosure by unions and implement right-to-work legislation.

At the time, however, the news cycle was in overdrive about a very different workplace issue: the compensation of one Senator Michael J. Duffy. Just a week earlier, Duffy had regaled the Senate with his side of the story — and what a story it was. To hear him tell it, he was no fraudster but rather the victim of a vast government conspiracy involving Prime Minister Stephen Harper himself. “It’s not about what you did,” he claimed Harper told him. “It’s about the perception of what you did that’s been created in the media. The rules are inexplicable to our base.”

Eighteen months later, it’s plus ça change, plus c’est la même chose. Duffy’s fraud and bribery trial is making front-page news as it grinds away in Ottawa. The case features questions of vast national import — such as who should pay to powder the PM’s nose, and whether a volunteer is really a volunteer if she gets paid. As a recurring theme, lawyers dissect the definition of ‘primary residence’ like ninth-grade biology students taking apart their first frog.

The nation is (allegedly) riveted by this circus — but just in case they’re not, the national media will keep beating the drum until the BIG REVEAL, when former PMO chief of staff Nigel Wright takes the stand to testify about the \$90,000 cheque he cut to make Duffy whole — or rather, as Harper allegedly wanted, to keep the whole mess quiet.

At the same time, the government is stepping up its War on the Unions, otherwise known as federal public sector contract negotiations. After pink-slips and pay cuts, the next target is bankable sick days, a system which allows employees to continuously accumulate paid leave year-over-year throughout their career. Bankable sick days are probably the ideal benefit to target because a) most Canadians don’t have them and thus don’t sympathize with people who do, and b) because they conjure up images of civil servants taking extended sick leaves over the slightest sniffle, scarfing bon-bons on the couch.

That’s not entirely accurate, of course: According to the 2015-2016 budget, one quarter of federal public employees have fewer than 10 banked sick days. Many long-term employees, however, have more days banked “than they will ever reasonably need,” according to the budget text. This inequity is one of the reasons the government gives for ending the practice and replacing it with a sick-leave system modelled on the private sector: Public sector employees would have five days of non-bankable sick leave per year and, after a waiting period, would be eligible for short-term disability. The Conservatives say such a move would save the taxpayer \$900 million this fiscal year — \$200 million the next year and \$100 million each year after that.

Despite numerous meetings, public sector unions (including the Public Service Alliance of Canada) aren’t buying the government’s argument — something which the Conservatives probably don’t mind one bit. In an election year, this intransigence allows

Treasury Board President Tony Clement to charge that “(unions) clearly want a Liberal or an NDP government to negotiate with who will roll over and accept their positions. I’m here for the taxpayer. I’m here also for the public servant who wants to work hard, who needs sick benefits when they are truly sick.”

Stoking labour angst among public servants may seem like a sleeper issue when placed next to that of senatorial sleaze, but it isn’t. Both the NDP and the Liberals would dearly love strong union support in this year’s election. Historically, those votes have mostly gone NDP, but in the last few elections many unions exhorted their members to vote Liberal. No surprise, then, that Liberal Leader Justin Trudeau recently penned an open letter to the leaders of the government and Opposition in the Senate urging them to oppose Bill C-377 — which calls for greater transparency in union financial disclosure — and reiterating the Liberal party’s opposition to Bill C-525, which would require secret ballots to certify or decertify union bargaining units.

But with the NDP gaining in the polls at the Liberals’ expense, leader Thomas Mulcair is in a better position to tell traditional union supporters that he, not Trudeau, is the true anti-Harper, and that they should back his party to oust the Conservatives. And there’s nothing like a good old collective bargaining showdown to buck up the troops and send them right down the campaign trail.

All of which leaves the Tories smiling, even as the senator from P.E.I. sings. Every union vote for the NDP is one less vote for the Liberals, and one more way to both polarize and split opposing votes in the key battlegrounds of Ontario and B.C. It’s a circus, indeed. But while all eyes might be on Duffy in the centre ring right now, it’s the sideshow that’s really worth watching.



## **Benson re-elected with mandate to fight the Conservatives**

**Kathryn May, Ottawa Citizen, May 1, 2015**

Canada’s largest federal union has emerged from a week-long convention with a renewed mandate and a \$5-million war chest meant to protect existing sick-leave benefits for public servants and campaign against the Conservative government.

The 700 delegates at the Public Service Alliance of Canada’s triennial convention re-elected president Robyn Benson and vice-president Chris Aylward for second terms, to implement a sweeping resolution to fight what PSAC sees as the government’s attack on

collective bargaining rights and sick leave. Delegates approved using about \$5 million in surplus funds to finance that campaign.

“I think they are putting confidence in us, knowing we are prepared to defend public services,” Benson told the Citizen.

The week-long convention, which ended Friday, was a pivotal gathering of the giant union to help it map out a bargaining strategy when it returns to the table May 12 to deal with the government on sick leave.

The government announced in the federal budget that it was booking a one-time \$900-million saving this year for abolishing the existing sick-leave regime – along with millions of unused sick-leave days that public servants have banked – and replacing it with a new short-term disability plan.

That budget measure jumped to the top of the union’s agenda at its convention in Quebec City, with delegates passing a resolution condemning the government’s threat to collective bargaining rights. It called for a series of steps, from legal action to organizing and campaigning.

The budget move changes the character and even the pace of bargaining, now that the government has laid out the terms of the deal it expects – especially since Treasury Board President Tony Clement appears to want all contracts settled before a fall election.

The 17 federal unions and the government have been negotiating for a year. They are still dickering over non-monetary issues and haven’t touched thornier problems such as sick-leave benefits and wage increases.

“We won’t give up the sick leave in our collective agreements for one that will make our members go to work sick. They will have to choose between going to work sick or a paycheque. That’s the (government’s) proposal,” said Benson.

The government says it is willing to negotiate, yet it set the terms of a deal in the budget. The unions have refused to make concessions on the sick-leave provisions embedded in existing contracts, though they say they will talk about fixing the existing scheme.

Clement claims he is willing and has “room” to negotiate and improve the offer he has on the table, which he has already modified several times. Public servants now get 15 days of paid sick leave a year. The government has offered them six days and may increase that number in a new offer. Under Clement’s plan, once they use up their allotted sick days, they would have to go a week without pay before they could apply for short-term disability.

Some argue the government is hoping talks break down and escalate into a strike so the government can legislate the deal it wants while winning the anti-union vote.

Benson said the union’s campaign to protect sick leave and collective bargaining rights is part of trying to protect against the government’s broader attack on public services through spending cuts and contracting out services to the private sector.

Benson broke her long-standing position that PSAC shouldn't tell members how to vote when she urged delegates in her opening speech at the convention to vote against the Conservatives and "give Canada back to Canadians."

"I have always had the philosophy that ... we encourage people to vote, not tell them how to vote, but at this convention it was clear that we have to work to have a new government and a new employer," said Benson.

Benson said the union represents up to 30,000 members who work at universities, gaming and other industries and they also backed the campaign to defeat the government.

It's not clear how this will go over with rank-and-file members. PSAC held a big push on face-to-face meetings with members over the past year, and 36,000 signed pledge cards to participate in political action. Nearly 40,000 have signed an online petition.

Federal employees, however, have to balance their obligations as public servants – to be loyal and politically impartial – with their constitutional right to participate in political activities.

PSAC is also the largest of the 17 unions that signed a "solidarity pact" more than a year ago to present a common front when negotiating sick leave.

The solidarity pact is an unusual alliance of unions representing workers in very different jobs with separate cultures – from dockyard workers to scientists and prison guards to lawyers.

The solidarity pact was signed to ensure unity in opposing concessions on sick leave, so it's up to each union to decide if it wants to follow PSAC's lead and actively encourage members to defeat the Conservatives. The militant Union of Canadian Correctional Officers has already kicked off a video campaign on the "10 reasons why not to vote Conservative."

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## **Robyn Benson réélue à la tête de l'AFPC**

**Paul Gaboury, Le Droit, le 30 avril 2015**

Alors qu'il se prépare à lancer une campagne de 5 millions \$ pour chasser du pouvoir le gouvernement Harper, le plus important syndicat du secteur public fédéral a choisi la stabilité en réélisant les mêmes deux leaders nationaux pour un autre mandat.

Robyn Benson a été réélue sans opposition présidente nationale de l'Alliance de la fonction publique du Canada (AFPC) lors du 17e congrès triennal du syndicat, qui se

déroule à Québec. Idem pour le vice-président exécutif national, Chris Aylward, réélu pour un autre mandat de trois ans.

Les congressistes ont aussi élu une figure bien connue dans la région à un des trois postes de leaders nationaux en choisissant Larry Rousseau au poste de vice-président national suppléant.

Selon les statuts de l'AFPC, M. Rousseau remplacera le vice-président exécutif national si celui-ci quitte ses fonctions. Il pourra donc continuer à occuper ses fonctions de vice-président exécutif pour la région de la capitale nationale tant qu'il n'est pas appelé à assumer la fonction de vice-président national.

Depuis l'élection de la présidente Benson, une unilingue anglophone, M. Rousseau est devenu le porte-parole francophone du syndicat dans les médias et lors des rassemblements de l'AFPC dans la région.

### **Une campagne de 5 millions \$**

En début de semaine, les congressistes ont adopté à l'unanimité une résolution d'urgence qui permet au syndicat de puiser 5 millions \$ dans ses fonds excédentaires pour une campagne dans laquelle les membres seront invités à élire un gouvernement fédéral qui respecte les services publics et les droits des syndicats.

La présidente Benson devrait jouer un rôle prépondérant dans le front commun syndical pour chasser le gouvernement Harper du pouvoir.

Les syndicats ont décidé de travailler ensemble et ont conclu un pacte pour défendre leur droit à la négociation et le maintien du régime de congés maladie que le gouvernement Harper s'est engagé à modifier pour un régime d'assurance invalidité à court terme.

Les 17 syndicats ont réitéré ce pacte au lendemain du dépôt du dernier budget fédéral dans lequel le gouvernement Harper a prévu économiser 900 millions \$, dès 2015-2016, en éliminant les banques de congés maladie des employés fédéraux, un enjeu qui reste pourtant encore à négocier avec les syndicats.

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## **L'AFPC adopte une résolution d'urgence**

**Paul Gaboury, Le Droit, le 28 avril 2015**

Les délégués au 17e Congrès triennal de l'Alliance de la fonction publique du Canada (AFPC) ont amorcé leurs délibérations hier à Québec en adoptant une résolution d'urgence pour protéger leur droit à la négociation et les congés de maladie.



Le syndicat voulait ainsi réagir rapidement au récent budget fédéral dans lequel le gouvernement Harper a prévu de rayer 900 millions\$ de sa colonne des dépenses avec l'abolition des banques de congés de maladie des employés fédéraux dès 2015-2016 alors que les négociations sur cette question sont toujours en cours.

«Le gouvernement veut imposer un régime d'assurance invalidité de courte durée qui est malavisé. Il obligerait ainsi les travailleurs à faire un choix déchirant: se présenter au travail même quand ils sont malades ou ne pas être payés. Par cette résolution, le syndicat réaffirme sa volonté de défendre les droits syndicaux, tant maintenant que pour l'avenir», indique l'AFPC.

Cette dernière et 16 autres syndicats du secteur public fédéral ont d'ailleurs réagi en confirmant leur intention de lutter ensemble contre cette volonté gouvernementale qui porte, selon eux, atteinte à leur droit de négocier confirmé récemment par un jugement de la Cour suprême du Canada.

### **Benson se représente**

Dans le cadre de ce congrès triennal qui se terminera vendredi, la présidente de l'AFPC, Robyn Benson, sollicite un autre mandat à la tête du plus important syndicat du secteur public fédéral, elle qui avait été élue lors du dernier congrès triennal à Ottawa.

Jusqu'à maintenant, elle n'a pas d'opposant dans cette course, et à moins d'une candidature de dernière minute, elle devrait être réélue pour un autre mandat de trois ans au moment où le syndicat est en négociations pour le renouvellement des conventions collectives de plus de 100000 de ses 175000 membres.

Dans son rapport au Congrès, déposé à l'ouverture dimanche, la présidente Benson a attaqué le gouvernement conservateur de Stephen Harper, lui reprochant d'avoir fragilisé les régimes de soins de santé et de retraite et mis la hache dans les services publics qu'utilisent les plus vulnérables de la société, notamment les anciens combattants. Elle a invité les membres à chasser le gouvernement Harper du pouvoir aux prochaines élections fédérales, en octobre prochain.

### **Changer de gouvernement**

«En tant que syndicat, nous allons barrer la route à ceux qui s'acharnent à détruire notre pays. En tant que syndicat, nous disons non aux concessions, non aux coupes, a ajouté Robyn Benson. À l'AFPC, nous savons ce qu'il faut faire pour améliorer les choses. L'inégalité n'est pas inévitable, ni le fruit du hasard. C'est le résultat de choix politiques délibérés. Nous pouvons faire d'autres choix et changer de gouvernement.»

La présidente Benson s'est aussi engagée à poursuivre la collaboration avec d'autres syndicats. Elle a lancé un appel à la mobilisation des membres. «Il est temps de retrouver espoir. Il est temps de se donner un gouvernement qui choisit l'égalité comme priorité. Un gouvernement qui ne s'attaque pas aux syndicats. Un gouvernement qui choisit de valoriser la démocratie. Un gouvernement qui choisit de réinvestir dans les services publics au lieu de les réduire», a insisté la présidente Benson.

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## **Auditor General: Security reports incomplete for most gov't departments, agencies**

**Kathryn May, Ottawa Citizen, April 28, 2015**

Only 38 per cent of all departments and agencies have confirmed with the Treasury Board that they completed mandatory reports on their security plans — albeit two years late — and the rest are either incomplete or the status is unknown, says a report by the auditor general.

In his spring report, Michael Ferguson found 41 of the 109 departments under the government's security policy confirmed they finished final reports on their security plans by last fall. A new policy on government security required departments to submit their first reports by a 2012 deadline.

The finding is part of Ferguson's review of the growing reporting burden that is a long-standing complaint of many public servants. It comes at a time when security in government is a top issue. The government recently introduced a new and tougher security and screening regime for all federal employees that has created an uproar over privacy rights.

A report is required under the security policy that was introduced in 2009 as a key piece of Canada's national security framework. It spells out the responsibilities of deputy ministers and heads of agencies to ensure that government information, assets and services are protected and employees are safeguarded against workplace violence.

The report found the Treasury Board made several attempts to get a handle on the status of these reports, but that doesn't seem to have hastened compliance.

It pressed 25 departments in the fall of 2011 for copies or drafts of their plans. Of those, 22 departments had drafts ready and only three delivered final plans.

A few months later, Treasury Board followed up with a questionnaire to 95 of the 109 departments on the status of their security plans. It got responses from 81 departments and among those, 51 per cent had completed the reports. It was left in the dark by 28 departments — including 14 that didn't even reply.

Treasury Board says it is taking steps to improve compliance, including a new monitoring system that comes into effect in April 2016.

But the late security reports raises critical questions about how these reports are being used for internal and government-wide management, as well as Treasury Board's monitoring of them for compliance.

The audit took a sampling of five departments' compliance with eight mandatory reports. It included two Crown corporations that are required to submit quarterly financial reports. Five of those reports are required to help make government more transparent and accountable and two — investment and security plans — are done primarily to help departments manage better.

Although departments are slow in completing their security plans, they rated them as the most useful of the eight mandatory reports for internal decision-making.

Reports on investment plans are also considered central to improving decisions in policy-making or managing programs and services, but Ferguson's study found only 80 per cent of departments had completed those mandatory reports by time he finished his audit.

The security and investment plans are among the dozens of mandatory reports that cash-crunched departments are racing to complete every year.

Ferguson said the reports aimed at improving accountability and transparency served the "intended purposes" but he questioned the value, cost and effort of those that are supposed to help improve management.

"In our view, the efficiency and value of government reporting should be improved," Ferguson said.

Treasury Board requires about 60 reports from departments at various times. The Public Service Commission also requires mandatory reporting on staffing.

These reports are on top of all the other information departments have to gather, such as for the Estimates, the government's main spending plans. They also collected information and documents to answer 55,145 requests under Access to Information in 2012-13 and the more than 3,570 questions MPs submitted for responses last year.

Treasury Board promised to adopt all of Ferguson's recommendations.

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## Supreme Court approves Robert Mainville judicial appointment

Sean Fine, The Globe and Mail, April 27, 2015

The Conservative government's controversial attempt to shift a judge from an Ottawa-based court to a Quebec court has been approved by the Supreme Court of Canada.

The court ruled right after hearing arguments that the justice department acted within its constitutional powers in moving Federal Court of Appeal Justice Robert Mainville to the Quebec Court of Appeal. The expert in aboriginal law can now take his seat on that court, nearly a year after his appointment.

The unanimous decision Friday was a vindication for Prime Minister Stephen Harper. It came in a rematch with Toronto lawyer Rocco Galati and the province of Quebec after the Supreme Court's unprecedented rejection last year of a judge Mr. Harper had chosen to join it.

A spokeswoman for Justice Minister Peter MacKay said the government is pleased with the decision and has every confidence Justice Mainville will serve with distinction.

The ruling may soothe hurt feelings among Federal Court judges after the Supreme Court declared them ineligible in the Nadon case for the three Quebec seats on the country's highest court.

The Mainville appointment was controversial because his name had been on a secret list of six candidates for a Supreme Court vacancy, drafted by the Prime Minister's Office in mid-2013. The list was obtained by The Globe and Mail.

Mr. Harper's choice of Justice Marc Nadon of the Federal Court of Appeal to fill that Supreme Court vacancy was rejected after a challenge by Mr. Galati. The court said Federal Court judges lack current knowledge of the unique Quebec civil code and social values. It was the first rejection of a Supreme Court judge since the court was created in 1875.

Not long after the Nadon ruling, the federal justice department announced Justice Mainville's appointment to the Quebec Court of Appeal, prompting another challenge from Mr. Galati. He said he suspected the Conservative government wished to evade the spirit of the Nadon ruling by parking Justice Mainville on the Quebec appeal court, to render him eligible for a future Supreme Court vacancy. The challenge blocked Justice Mainville from taking his seat on the Quebec appeal court, and Mr. Harper appointed Montreal litigator Suzanne Côté when another Quebec seat opened on the Supreme Court.

At its heart, the case against Justice Mainville joining the Quebec Court of Appeal was that Federal Court judges lack current Quebec legal knowledge, and that Quebecers need to have confidence in their institutions within Canada. But on Friday, after hearing arguments from the federal government, Quebec, Mr. Galati and interveners, the court said this case was different, and involved different wording from a different law.

Chief Justice Marc Noël of the Federal Court of Appeal gave a speech in December in which he decried the effect of the Supreme Court ruling in the Nadon case. "How can one explain to a Quebec candidate, approached to fill a vacancy in our court, that he will be appointed for his civil law training and as a representative of Quebec, but that he will be

deemed to no longer have those qualities under the Supreme Court Act from the moment he is sworn in?”

Sébastien Grammond, a University of Ottawa law professor who represented the Canadian Association of Provincial Court Judges in the case, arguing in support of Justice Mainville’s appointment, said Federal Court judges would probably appreciate the ruling.

“To the extent some people perceived the Nadon ruling as establishing the proposition that Federal Court judges were a threat to civil law, the Mainville case shows that this was not the basis of the Nadon ruling,” he said in an interview. “I think that aspect of the decision will surely be comforting to Federal Court judges.”

Mr. Galati was not immediately available for comment.

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## **La commission des relations de travail doit réévaluer une demande de compensation**

**Paul Gaboury, Le Droit, le 2 mai 2015**

La Cour fédérale vient d'ordonner à la Commission des relations de travail dans la fonction publique du Canada de reconsidérer la demande d'une fonctionnaire fédérale qui tente d'obtenir des dommages de 100000\$ à la suite d'un incident survenu dans son milieu de travail.

Le juge de la Cour fédérale, John A. O'Keefe, a conclu que la Commission avait pris une décision déraisonnable en rejetant la demande pour des dommages, sans avoir étudié la preuve présentée par la fonctionnaire Gisèle Gatién. Le juge a donc ordonné à la Commission de reconsidérer la demande pour les dommages de 100000\$ réclamés par la fonctionnaire.

Fonctionnaire fédérale depuis 35 ans, l'employée était responsable depuis 1995 du Programme d'indemnisation des employés fédéraux au ministère des Ressources humaines et développement social.

À l'automne, elle avait eu des problèmes avec un des employés qu'elle supervisait et s'en était plainte à son directeur général, de même qu'au directeur régional de la région de Toronto.

Lors d'un incident, cet employé, appelé AB dans les documents de la cour, l'avait agressée et lui avait tiré les cheveux. Malgré sa plainte, la direction n'avait rien fait contre cet employé, sans lui donner d'explication.

À un moment donné, elle avait décidé de se barricader dans son bureau pour éviter de voir l'employé qui devait se présenter pour ramasser ses choses et avait elle-même été suspendue pour une période de 10 jours pour son geste. Elle avait par la suite quitté en congé de maladie et déposé un grief.

La Commission des relations de travail dans la fonction publique avait renversé la suspension de dix jours et lui avait plutôt imposé une réprimande orale, exigeant que son employeur lui rembourse le salaire et les avantages perdus. Toutefois, la Commission avait rejeté la demande de dommages de 100000\$ de la fonctionnaire Gatien.



## **Conrad Black loses bid to have Supreme Court of Canada hear case over millions in back taxes**

**JASON FEKETE, OTTAWA CITIZEN, April 30, 2015**

The Supreme Court of Canada has dismissed Conrad Black's bid to have his multi-million-dollar battle with the Canada Revenue Agency over back taxes heard by the country's highest court.

The author and former media mogul has been fighting the Canada Revenue Agency for years over whether he was considered a resident of Canada in 2002 for the purposes of the Income Tax Act and, therefore, owed the CRA what's believed to be more than \$5 million in back taxes.

In a decision released Thursday, the top court dismissed his leave to appeal a lower court ruling that said he was, for income tax purposes, a Canadian resident at the time and owed the Canada Revenue Agency taxes on income earned. The Supreme Court also ordered that Black pay the federal government's costs in the case.

An earlier federal Tax Court decision deemed that Black was a Canadian resident in 2002 and owed the CRA taxes on income earned.

Black's lawyers argued that under the Canada-United Kingdom Income Tax Convention, he was, for tax purposes, a resident of the U.K. in 2002. They appealed the decision to the Federal Court of Appeal.

In a decision last fall, the appeal court upheld the Tax Court ruling and said Black should pay taxes on all income earned outside the United Kingdom, not just his Canadian income.

Black then sought to appeal his case to the Supreme Court of Canada, but his bid was rejected in a judgment Thursday from Justices Marshall Rothstein, Thomas Cromwell and Michael Moldaver.

The Canada Revenue Agency had pursued Black in court for more than 10 years to get the taxes it believed it was owed.

At issue in the case was the interpretation of the Canada-United Kingdom Income Tax Convention, a 1978 agreement intended to save citizens from double taxation while living abroad.

The CRA argued that, after a reassessment, Black owed Canadian taxes on \$2.8 million in income, \$1.4 million in benefits from use of Hollinger Inc.'s private aircraft, \$326,000 in taxable dividends and \$571,000 in other benefits.

Black was a resident of the U.K. from 1992 to 2002, running the Daily Telegraph newspaper and famously giving up his Canadian citizenship so that he could be appointed to the House of Lords.

In 2002, he earned income from the United States but Black had argued that, as a resident of the U.K., he wasn't required to pay tax in Canada on the items listed by CRA.

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## **Mike Duffy trial a change of pace for lawyer used to defending alleged Nazi war criminals, terrorists**

**Tristin Hopper, National Post, April 28, 2015**

If Donald Bayne's defence of Mike Duffy seems a bit overzealous at times, it's probably because misfiled Senate expenses are rather pedestrian compared to the charges his clients usually face.

Namely, spousal stabbings, terrorism, synagogue bombings and Nazi war crimes.

To clear his name and fulfill his vow to take down the Conservatives who allegedly betrayed him, Duffy can consider himself lucky to have obtained one of Ottawa's most well-known criminal defence lawyers.

Bayne has participated in the high-profile inquiries for Maher Arar and the 1993 Somalia Affair. Way back when, he also had an articling student by the name of Dalton McGuinty.

A contemplative painting of Bayne hangs in Ottawa's Von's Bistro, for some reason, and his name is also notably similar to Donalbain, a character in another great epic of power and ambition, William Shakespeare's Macbeth.

Outside the courtroom, Bayne has been championing Duffy as the victim of a Conservative cover-up ever since 2013.

Inside court, his lust for details is largely to blame for turning the Duffy trial into a neverending show of technicalities, definition and longwindedness.

"Your sentences are just too long," witness Nicole Proulx, a Senate officer, told Bayne in the midst of a Tuesday grilling.

The former Queen's University quarterback has also gotten a reputation for browbeating Senate witnesses, whom he has accused of singling out Duffy. Judge Charles Vaillancourt has asked him to tone down his "enthusiasm" during a particularly standoffish cross examination, and Proulx on Tuesday complained that she wasn't the one "on trial."

But while other Duffy Trial participants may find the 69-year-old lawyer somewhat annoying, Bayne appears to be having the time of his life. He is energetic when all around are sleepy, engaged while others fight the urge to daydream.

While news cameras are always capturing a tired, stoic Duffy as he enters court, they persistently seem to catch a smiling Bayne bounding to work with a spring in his step.

Even as it reaches the midpoint of Week Four, the Duffy trial has only just begun, and throughout Ottawa, Senate haters and Conservative opponents alike are eagerly awaiting the day when one of the city's most insistent and detail-addicted trial lawyers starts getting some top Tories on the stand.



## Ted Morton: How the Supreme Court shut the door on Senate reform

Ted Morton, Contribution to The National Post, April 29, 2015



Earlier this month, an Angus Reid Institute poll reported that Canadians overwhelming support either reforming (45 per cent) or abolishing (41 per cent) the Senate. Only 14 per cent favour the status quo. These numbers have been constant for the past decade. But thanks to the Supreme Court's decision one year ago today, we are at risk of being stuck with the status quo for at least another generation. It did not have to be this way.

The Senate Reform Reference gave the Supreme Court the opportunity to break our nation's political and constitutional gridlock over Senate reform. Instead, the court gave us a decision that throws even more obstacles on the path to either reforming or abolishing an institution that has ceased to serve any useful political purpose.

In earlier analogous cases of political deadlock and constitutional ambiguity — the Patriation Reference (1981) and the Quebec Secession Reference (1997) — the Supreme Court crafted compromise rulings that facilitated subsequent resolution by elected governments. In the former, then Prime Minister Pierre Trudeau was confronted with conflicting constitutional claims over his attempt at unilateral patriation of Canada's Constitution. In the latter, then Prime Minister Jean Chretien was attempting to block Quebec's attempt at unilateral secession from Canada.

In both these earlier cases, the Supreme Court engaged in what Peter Russell has described as “bold statecraft (if) questionable jurisprudence” to give partial victories to both sides of the conflicts and return the issues to the political arena for resolution. Given these precedents, Prime Minister Stephen Harper had reason to believe that the worst the court would give him would be this kind of “half-loaf” result.

Instead, the court slammed the door shut on Senate reform, save through formal Constitutional amendments that would require the support of either seven (consultative elections) or all 10 provinces (abolition). These options would open the Pandora's box of Meech Lake and Charlottetown, a path that neither Harper nor any other sane Canadian wants to revisit.

The court's sweeping dismissal of the government's proposed reforms would of course be acceptable — indeed, laudable — if the law on the method of selecting senators were clear and compelling. In fact, it is anything but. There were at least two clear and simple interpretive paths to allowing some form of consultative elections and returning the Senate reform issue back to the political forum, as the court has done before, but chose not to here. Instead, the court provided two contradictory and unpersuasive arguments to defend the status quo.

The court repeatedly invoked the mantra that the “Senate's fundamental role as a chamber of sober second thought,” to defend the appointed Senate from the alleged dangers of consultative elections. According to the court, the framers' “intention was to make the Senate a thoroughly independent body ... in order to remove Senators from a partisan political arena that required unremitting consideration of short-term political objectives.”

Whatever the framers' intentions may have been, the Senate has been neither independent nor non-partisan for the past 100 years. And often not very sober either! Today's Senate

is a political rubber stamp organized along strict party lines, and its members routinely follow the directions of the prime minister or the party to which they owe their seat. The court is defending an institution that doesn't exist today, and may never have existed. As an argument that is at the very core of the court's decision against consultative elections, this legal fiction utterly fails to persuade.

The court also tried to defend the Senate status quo on the grounds of federalism — that it provides “a distinct form of representation for the regions” and “assure(s) their voices would continue to be heard.” But again, there is a yawning gap between reality and whatever the framers intended. Today there is virtually no communication between provincial cabinet ministers and their province's Senators. Senators receive their appointments thanks to the patronage of a current or former prime minister. When it comes time to vote on any bills affecting the interest of the province, party discipline trumps whatever provincial loyalties a Senator might have.

Ironically, the consultative elections proposed by the Harper government would break, or at least weaken, the yoke of party discipline and make Senators more effective voices for regional interests. The court's defence of the Senate status quo on federalism grounds is even less persuasive than its bicameralism argument. If the Senate were abolished tomorrow, nobody outside of Ottawa would even notice, and it would have no material effect on the functioning of Canadian federalism.

Unlike the earlier precedents, in the Senate Reform Reference the court gave Canadians only questionable jurisprudence and no statecraft. As a result, we are at risk of being stuck with a dysfunctional and discredited second chamber for another generation. This is a loss, not just for the Harper government, but for Canadian democracy, and the Supreme Court responsible for its contribution to this sorry state affairs.

*Ted Morton is a senior fellow at the School of Public Policy and the Manning Foundation. The full version of No Statecraft, Questionable Jurisprudence: How the Supreme Court tried to Kill Senate Reform, is available at <http://www.policyschool.ucalgary.ca/publications>*