Press Clippings for the period of June 14th to 20th, 2016 / Revue de presse pour la période du 14 au 20 juin 2016

CTV News Ottawa Video Clip on Federal gov't payment problems

Catherine Lathem, CTV News, June 15 2016

CTV's Catherine Lathem reports on a new system and the problems with payroll with the federal government
http://ottawa.ctvnews.ca/video?clipId=892721&binId=1.1164511&playlistPageNum=1

'Cautiously optimistic': Biggest public service union returning to bargaining table this weekend

Kathryn May, Ottawa Citizen, June 17 2016

The Public Service Alliance of Canada will return to the bargaining table Saturday to kick off an unusual six-day negotiation session, ready to talk sick leave and wages for public servants now that Treasury Board has agreed to all but throw out the Tories' rules on collective bargaining.

PSAC president Robyn Benson said the session is taking place in a "much fairer bargaining environment" now that the Liberals' have agreed to a set of interim measures that get around rules imposed by Tory legislation.

In fact, the union has considerably toned down its rhetoric against the government compared to even a week ago when it was staging rallies and demonstrations across the country to protest the slow pace of bargaining and boycotting National Public Service Week.

"I am cautiously optimistic," said Benson. "What I am trying to say (to the government) is that 'You have levelled the playing field so let's get down and do some negotiations.' We are two years in and our members want a fair agreement."

Benson said the interim measures were a "big win" for the unions but Treasury Board President Scott Brison wouldn't have agreed if the unions hadn't held protests and lobbied MPs for the changes. "Not to be disrespectful, but Brison wouldn't have done this on his own," she said.

The government has met with the 18 unions in two- or three-day sessions but never over a weekend since this contentious round of bargaining began more than two years go.

All eyes are always on PSAC when it's at the bargaining table because the government needs the buy-in from its largest union before it can resolve the most protracted round of public-service-union bargaining in years.

PSAC has also been the most vocal critic of the government's proposal to replace the existing sick leave with a new short-term disability plan. Treasury Board negotiators have been holding firm on the plan.

Benson said the union and government still have many non-monetary issues to deal with but she said she expects discussions on sick leave.

The last offer proposed eight days of sick leave. It limited the carryover to two days a year and abolished the existing bank, which has about 15 million days of unused sick leave.

Public servants now get 15 days a year of paid sick leave, which they can roll over and bank from year to year. They typically take about 12 days a year and are banking the rest.

Benson wouldn't discuss the offer.

However the Association of Canadian Financial Officers, which represents the thousands of financial officers working in government, recently raised eyebrows when it said the latest improved offer may open the door to a long-awaited settlement.

It's the first union to publicly muse that it may be willing to give up sick leave for a new short-term disability plan.

"The revised short-term disability plan tabled by the employer represented considerable movement from the plan tabled in previous bargaining sessions," ACFO said in a statement on its website.

"With several additional improvements we are confident that a short-term disability framework could be implemented that is superior to the current sick leave regime in place for the (financial officers) community."

The definition of disability is similar to the current requirement for sick leave. The proposed short-term disability plan will cover employees for 26 weeks with 100 per cent of salary for first 17 weeks, followed by 70 per cent for the next nine weeks.

That's a big improvement for young public servants or those facing chronic illness who have not banked enough sick leave for a long or recurrent illness. If they fall ill, they must wait 13 weeks

before qualifying for long-term disability. Those who have banked sick leave can use it to bridge this waiting period but those who don't go on employment insurance and face a big income drop.

Scott Chamberlain, ACFO's lead negotiator, said the union made counter proposals to the latest offer and, if adopted, the union could "recommend this short-term disability plan to the membership." It has proposed an annual raise of 3.5 per cent over the next four to six years.

"We are nowhere close to signing a deal, but I would say we are in the realm of talking about something that is viable after more than a year of (talks) not moving anywhere," Chamberlain said.

ACFO is the first union to publicly suggest the possibility of taking up the federal government's offer for a short-term disability plan since the unions signed a landmark solidarity pact when bargaining began two years ago. At that time, the 18 unions vowed to present a united front against making any concessions on the sick leave regime now embedded in all employees' contracts.

That position held fast and further solidified as the Conservatives changed the rules for collective bargaining then later passed legislation giving the government the power to impose whatever deal it wanted.

The Liberals picked up the Conservatives' short-term disability proposal when they took over negotiations but have since promised to repeal every piece of legislation seen as anti-union that the Conservatives introduced.

It's unclear whether ACFO's position reveals a crack in the solidarity pact's united front or if the Liberals have changed the bargaining climate enough that unions are coming around.

Chamberlain argues ACFO is not breaching the pact because the union will not make concessions and accept a new plan unless it's better than what its members enjoy now.

"The solidarity pact, from our perspective, is not to accept any income-replacement regime that doesn't improve the current one. Our duty is to members and if we feel they offer an income-replacement regime better than we have now, our duty is to put it out to members for a vote."

ACFO has stood apart form the other unions from the start because it had tabled a proposal for a new short-term disability plan at the previous two rounds of collective bargaining.

For the unions, the big deal breakers are: hiring an insurance company or third-party to process and manage disability claims; abolishing banked sick leave and taking sick leave provisions out of collective agreements.

Chamberlain said ACFO tabled a counter proposal that addresses those issues and seeks more annual sick days and additional sick-leave carryover.

Like other unions, it wants employees to be able to draw on banked sick leave to top up their salaries to 100 per cent during the nine weeks when payments drop to 70 per cent of salary.

THE SICK LEAVE BATTLE

Current sick leave regime: Public servants get 15 days of fully paid sick leave a year. They can carry over any unused days from year to year. They typically take about 12 days a year, banking the rest. There are about 15 million unused sick days currently banked.

Waiting period: Employees who fall ill must wait 13 weeks before they qualify for long-term disability. Those who have banked sick leave can use it to bridge this waiting period, or they can collect employment insurance.

The Latest Proposal: The accumulated sick leave regime would be replaced by a short-term disability plan with more focus on prevention, case management and rehabilitation to get the sick and injured earlier care and back to work faster.

- Sick Days: Employees would get eight days of sick leave a year and could carry over two of any unused days.
- Short-term Disability: Employees would be entitled to disability benefits for 26 weeks. The first 17 weeks covers 100 per cent of salary and the next nine weeks are paid at 70 per cent of salary. They can file disability claims any time with no yearly or career limits.
- Waiting Period: The last proposal still requires a seven-day unpaid waiting period. It will, however, be reimbursed at 100 per cent of salary when a disability claim is approved. Anyone hospitalized, however, is immediately eligible for disability without the waiting period.
- Banked sick leave: All sick leave stops accumulating and will be abolished as soon as the short-term disability plan is implemented.
- External Case Managers have access to employees medical records. They evaluate and approve claims and develop return to work plans.
- Medical Appointments: Extra time off for any medical appointments that are part of the treatment for chronic and recurring illnesses.
- Contract: Sick leave would no longer be part of employees' collective agreements.

Top bureaucrat says there's a 'buzz and excitement' in public service despite increased workload

Clerk of the Privy Council says a very different looking public service will emerge as boomers retire

Katharine Starr, Simon Nakonechny, CBC News, June 15 2016

Canada's public service is enthusiastically embracing its revamped role within the new Liberal government, but with an ambitious agenda comes the risk of bureaucrat burnout, warns the country's clerk of the Privy Council.

"Everyone's finding it both challenging and stimulating," said Michael Wernick in his first TV interview, on CBC News Network's *Power & Politics*.

- Time to empower next generation of public servants, says Canada's top bureaucrat
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"I think this government takes its tone from the prime minister — a very open approach, very engaged, very consultative. That's creating a lot of energy, but also a lot of work" for public servants, Wernick said.

"You have to be good at managing work flows and not trying to be a hero and do everything in the last 48 hours. It's putting a premium on good management skills, and those are not skill sets all our senior middle managers have, so we're working on developing them."

An increased workload and new demands hasn't dampened federal employees' spirits though, he said.

"There does seem to be a bit of a buzz and excitement about being around something exciting."

Creating a public service that 'looks like Canada'

As Canada's top bureaucrat, appointed by Trudeau this past January, Wernick said he's aware of the more difficult issues facing him in overhauling the country's public service.

"We clearly have a challenge to have a public service that looks like Canada," he told host Rosemary Barton, adding that the lack of diversity is "quite noticeable" in the senior ranks.

Women make up 46.4 per cent of senior leadership roles in the public service, according to 2015 statistics from the Office of the Chief Human Resources Officer at the Treasury Board of Canada Secretariat.

Aboriginal Canadians comprise 3.4 per cent of executives, while 5.3 per cent are people with disabilities, and 8.8 per cent are members of a visible minority.

Compared with last year, the representation levels of designated groups at the executive level did not increase or decrease dramatically.

"We have work to do in all aspects of diversity, frankly," Wernick said. "A more open approach to governing means we'll need a more open public service."

That means actively recruiting people to both entry level and senior management positions, he said, especially as baby boomers "leave the stage in great numbers".

"I'm quite confident in a few years you'll see a very different looking — literally — senior public service."

'Deliverology will lead to better government'

As for the government's focus on "deliverology" — the concept created by consulting guru Sir Michael Barber to describe the science of measuring a government's progress on delivering what it told people it would, with metrics and timelines — Wernick said public servants are open to the method.

"Public servants have generally embraced the idea that you should try to be clear about what you're trying to do," he said.

"You should try to find ways to measure whether or not you're succeeding. It's a very good discipline, I think, and it will lead to better government."

For Wernick, the public service's role in making that happen is clear.

"I think our job is to do the very best we can, to deliver the agenda that Canadians elect."

Promotion to top ranks 'not an entitlement,' public-service group warns

Simon Doyle, Globe and Mail, June 14 2016

The internal promotion of public servants to top-level management positions is "not an entitlement," said the head of an association representing public service executives, as the government looks to recruit more senior managers from outside the federal public service.

The Privy Council Office, a central agency supporting the Prime Minister, issued a tender for headhunting firms to seek out candidates for deputy minister positions. The outside candidates would be stepping into executive positions in the public service that are typically filled by career bureaucrats who work their way up the ranks.

"Promotion is not an entitlement. It's a competitive process, and as long as our community is allowed to compete, I think they will perform well in those competitions," said Michel Vermette, head of the Association of Professional Executives of the Public Service of Canada (APEX).

"The public service doesn't have a lock on talented people. This is just one way to institutionalize a process to go looking for good people. It doesn't exclude the current [public service] executives from the process," he said.

The government tender, issued June 6, said PCO is looking for an executive search firm to create an "inventory" of deputy minister candidates from which the clerk of the Privy Council and the Prime Minister could draw on to fill senior-level posts.

Candidates would include "chief executive officers and senior or executive vice-presidents in the private and not-for-profit sectors (including universities, hospitals and comparable organizations) or heads or chief executive officers of federal, provincial/territorial or municipal government organizations or bodies in the Canadian public sector," said the tender, first reported on by CBC.

Michael Wernick, clerk of the Privy Council and head of the public service, has been busy managing changes to the senior ranks of the public service as government executives retire at a faster rate. Prime Minister Justin Trudeau has made more than 20 changes to the top levels of the bureaucracy since coming to power. The Prime Minister announced more changes to the senior bureaucracy this month, including the retirements of Margaret Biggs, Anita Biguzs and Ward Elcock.

"The dominant challenge of the next two years is moving, as smoothly and as orderly as we can, the baby boomers like me, off the stage, and recruiting and developing the next generation of public service leadership," Mr. Wernick said in a speech at an APEX event in Ottawa on June 1.

The clerk said he wants to capture "the creativity, the innovation, and the energy" of new leadership and talent. "So that is the takeaway. Baby boomers, it's time to go…myself included," he said.

Mr. Wernick said he will be reintroducing some training and leadership programs after their cancellation in recent years. One new program will place public service executives into academic institutions for about a year, he said.

Mr. Vermette said he welcomes more training, leadership programs and exchanges for senior officials. "We don't fear that [outside] competition, but we should also be given the opportunity to develop our own experience," Mr. Vermette said.

A senior public servant, Mr. Vermette is working as head of APEX on an executive exchange program, having last worked as deputy commissioner of the Canadian Coast Guard.

Machinery-of-government experts Peter Larson and David Zussman conducted interviews with executive recruits in the public service in 2006. Their resulting report, which highlighted the difficulties of success for senior recruits in Ottawa, noted a culture of careerism and competition for advancement among senior officials, mixed with a "climate of fear" and "self-censorship."

One former senior public servant, speaking on a background basis, said outside recruitment is a good idea, but there can be issues with private sector executives moving into the public service. Corporate executives are accustomed to making final decisions, the person said, whereas the role of senior officials is to advise the government for decisions by the PM and cabinet.

The former government executive suggested outside candidates may be better off starting at the the assistant deputy or associate deputy level, and would be better off having some government or public sector experience, such as in a hospital, provincial government or university.

PCO spokesman Raymond Rivet said by e-mail that the majority of deputy ministers are appointed from the federal rank of assistant deputy minister. There are about 70 senior officials at the deputy minister and associate deputy level.

"An executive search firm will complement the existing role of the clerk of the Privy Council and ensure that other candidates from outside the federal public service are identified for possible consideration," Mr. Rivet said.

This spring Mr. Trudeau also appointed Catherine Blewett, a senior official with the Nova Scotia government, as deputy minister of the federal Fisheries and Oceans Department. Dylan Jones, head of the Canada West Foundation, was also named deputy minister of Western Economic Diversification for the federal government.

They follow other outsiders appointed to leadership roles in the public service in recent years, including Richard Dicerni as deputy minister of the former Industry Canada, Glenda Yeates as deputy of Health Canada, and Paul Boothe as deputy of Environment Canada.

Mr. Trudeau, who has committed to a new "merit-based" selection process for government appointments, is going to name high-ranking former public servants to key diplomatic posts, according to a Globe and Mail report, including Janice Charette, former clerk of the Privy Council, as high commissioner to Britain. Deborah Lyons, Canada's ambassador to Afghanistan, was appointed as ambassador to Israel.

Before the introduction of the new appointments process, the Prime Minister named Matthew Mendelsohn, a former Ontario government deputy minister who last year worked on the Trudeau campaign, to a senior position in the Privy Council Office as head of a results and delivery unit.

Academics Mark Jarvis and Lori Turnbull, co-authors (with Peter Aucoin) of the 2011 Donner Prize-winning book, *Democratizing the Constitution: Reforming Responsible Government*, have also joined the public service to work on democratic reform.

Mr. Jarvis is policy adviser for the PCO and Ms. Turnbull is a departmental assistant for the office of Democratic Institutions Minister Maryam Monsef, according to the federal employee directory.

PS pay system woes: Foote setting up a satellite centre in Gatineau until Phoenix is fixed

Kathryn May, Ottawa Citizen, June 16 2016

The federal government is setting up a satellite pay centre in Gatineau to help deal with the backlog of pay problems caused by glitches in the rollout of the Phoenix pay system for Canada's public servants.

Public Services and Procurement Minister Judy Foote confirmed Wednesday the department expects to hire about 100 people to work at the new centre, which will remain in operation for as long as needed to reduce the backlog and to make sure all public servants are being paid properly.

"We will do whatever we have to do to deal with this situation so that people do not go without a paycheque," Foote told the Citizen.

"People shouldn't have to go without pay."

She said the new centre should be up and running within the month and will be recruiting experienced compensation advisers from among the hundreds who were laid off when the Conservative government launched a pay-transformation project and moved operations to Miramichi, N.B.

Foote said a centre in the National Capital Region can more easily work with the human resources staff of departments, which are mostly headquartered here. HR staff are key players in feeding the information that Phoenix needs. The centre will be housed in the Place du Portage office complex where the department is located.

The new automated pay system has created major headaches for the department, which has dealt with a deluge of complaints from an untold numbers of public servants across the country who were either not paid, paid too much or paid too little.

The rollout began in February with the first round of 34 federal departments, followed by the second phase of 67 departments.

Until now, the department has said the system is working because most people are being paid and the glitches haven't been out of line for a project of such scale and complexity. The

department has also encouraged those who aren't paid to seek emergency or advance payments from their departments.

The system seemingly functions well enough for anyone who works nine-to-five and gets a regular paycheque with no extra-payments, such as overtime or leave.

The glitches have revolved around changes, adjustments and supplementary payments such as overtime, acting pay, increments or leave. There have been problems with casual and term contracts, new hires and terminations and students.

Creating the new centre is a major step in response to those concerns. Foote said she recognizes the new system is complex but decided further measures had to be taken, particularly to handle the backlog of files that Miramichi has been unable to reduce since the rollout.

Foote said she expects the centre will be a temporary but stressed it will remain in operation "for as long as it takes to get the job done."

The department previously boosted training at the Miramichi pay centre, where all pay is now processed, and hired 50 additional compensation advisers. It also had a team of Phoenix specialists on-site and on call to handle any glitches.

The giant Public Service Alliance of Canada has made several unsuccessful appeals to the department to delay or slow down the rollout of Phoenix, but last week, fed up, publicly called on the department to shut down the system until it is fixed.

Foote, who inherited the pay project when she became minister, said a new system was definitely needed to replace the previous, outdated, 40-year-old regional pay system, which also experienced problems and delays in paying employees.

The modernization of the government's pay system was one of the Conservative government's pet projects, touted for coming in on time and budget. It was booked to deliver $70 million in annual savings by this year.

Some argue the project got off on the wrong foot when the Harper government decided to put the pay centre in Miramichi as a political trade-off for jobs that disappeared when that government closed the gun registry.

A frustrated Foote said she was assured Phoenix had been rigorously tested and that staff were well-trained but questioned whether such a complex and large project was given the resources and training needed to successfully get it off the ground.

In fact, she has asked the department to determine if it was adequately resourced as it did with Shared Services Canada, to which the Liberals gave an additional $383 million in the most recent budget.

Foote said the new centre will eat into the project's expected $70 million a year savings "but I am prepared to cut into those savings to get this right and make sure all employees get paid."

"This is a (temporary) measure being taken to fix a problem and I don't anticipate that problem continuing but we will make sure we have the resources to take care of the (problem) for as along as it continues," Foote said.

Former compensation advisers have argued the department, driven to save money, underestimated the amount and complexity of work when it decided to reduce the number of advisers.

Departments used to manage their own pay in-house with some 2,400 compensation advisers. Few experienced compensation advisers moved to the pay centre in Miramichi, which opened with about 550 compensation advisers.

Nouvelle loi sur l'équité salariale recommandée

Paul Gaboury, Le Droit, le 14 juin 2016

Un comité parlementaire recommande au gouvernement libéral de présenter « d'ici 18 mois » un projet de loi proactive sur l'équité salariale, qui s'appliquerait aux employés qui relèvent de la compétence fédérale dans les secteurs public et privé.

Si les recommandations du comité ont été saluées par l'Alliance de la fonction publique du Canada (AFPC), le Syndicat des travailleurs et travailleuses des postes (STTP) estime que « 18 mois, c'est beaucoup trop long ». Ce dernier a réclamé, mardi, que le gouvernement Trudeau remédie immédiatement à la « discrimination salariale » à Postes Canada, principal enjeu des négociations en cours pour le groupe des factrices rurales et suburbaines. « Plusieurs témoins cités dans le rapport du comité ont déclaré que "justice différée est justice refusée". C'est pourquoi nous devons obtenir justice pour ces travailleuses dès maintenant », a indiqué le président du STTP, Mike Palecek, par voie de communiqué.

Lors de ses travaux, le comité spécial présidé par la députée libérale Anita Vandenbeld a pu entendre plus de 50 témoins. Parmi ses 31 recommandations, le comité propose d'abroger la Loi sur l'équité dans la rémunération du secteur public, adoptée en 2010 par l'ancien gouvernement conservateur. Il recommande aussi la création d'une commission et d'un tribunal de l'équité salariale, deux entités distinctes, à qui le gouvernement devrait confier des pouvoirs clairs, incluant celui d'ordonner des indemnisations.

L'AFPC, qui a déposé plusieurs plaintes d'équité salariale, a salué les recommandations du comité. Le syndicat a déploré que ses membres aient souvent à attendre plusieurs décennies dans des causes pour l'équité salariale. Des membres, qui ont maintenant 80 ans, n'ont toujours pas reçu l'argent qui leur est dû, alors que d'autres sont décédées avant de toucher quoi que ce soit, avait rappelé la présidente de l'AFPC, Robyn Benson, lors de son témoignage devant le comité spécial.

Senators remove controversial bargaining limits in RCMP union bill

Senate committee strikes all exclusions from collective bargaining

Alison Crawford, CBC News, June 14 2016

A committee of senators has scrapped the most controversial elements of the government's bill to allow Mounties to form a union.

Among the committee's proposed amendments to bill C-7, the senate committee on national security and defence removed a long list of workplace issues — from harassment and conduct to equipment and staffing levels — that the legislation had excluded from collective bargaining.

"We have taken a look at a range of other police services that do not have exclusions listed precisely like this. We had the benefit of testimony yesterday from the Commissioner who made a point of telling us that these exclusions are superfluous," said Liberal-appointed Senator Colin Kenny.

- **Conservatives pull support for RCMP union bill**
- **RCMP union bill moves forward without changes to health benefits**
- **RCMP officers have right to collective bargaining, Supreme Court rules**

"I don't see any reason to keep them here in the bill other than they would severely inhibit a union in arbitration or in its normal course of operation."

The next step is a vote on the amended bill by the full Senate vote. If it passes, it go back to the House of Commons.

For weeks RCMP Commissioner Bob Paulson and other senior managers had told MPs and senators that the exclusions were necessary to maintain the authority granted to the commissioner under the RCMP Act.

"Instead of being seen as transparent, the list has drawn heat and light"- *RCMP Commissioner Bob Paulson*

While Paulson continued to defend that position this week, he also acknowledged the exclusions have drawn overwhelming criticism.

"Instead of being seen as transparent, the list has drawn heat and light," the commissioner told senators.

The bill's Senate sponsor, Independent Senator Larry Campbell, who is a former Mountie, has been in favour of removing all of the exclusions since he introduced the bill in the Upper House last week.

"This has always been the sticking point. This has always been the point that we were advised that if there was a constitutional challenge, it would be on this point," said Campbell.

"And so I think that by removing them we aren't taking anything away from the management and we are, I believe, effectively negating the need for yet another constitutional challenge on this."

Many frontline Mounties lobbied for changes

Online, where Mounties have done most of their agitating for change to bill C-7, members of the RCMP were jubilant about Tuesday's proposed amendment on bargaining.

"It's a better bill," Brian Sauvé told CBC News. He's co-chair of the National Police Federation, which along with the Mounted Police Professional Association, is vying to be certified as the union for members of the RCMP.

Sauvé said that for many Mounties, after years of having wages frozen and struggling to police some communities while short-staffed, the bill was a tipping point.

"We are not going to put up with the imbalance of give and take anymore and we need to take a stand."

Another amendment made by the Senate committee is that any future certification vote take place by secret ballot. That's something Conservative MPs unsuccessfully asked for when the proposed legislation was before the House of Commons.

The government rejected that amendment, saying the process for certification would be addressed separately in Bill C-4. That bill seeks to reverse controversial public service labour relations changes made by the previous Conservative government, including that all applications for certification be decided by secret-ballot votes.

The House of Commons has already made its own amendments to Bill C-7. Last month MPs deleted two clauses that would have altered Mounties' health benefits.

The Supreme Court struck down a previous law that prevented RCMP officers from unionizing and set a deadline for a new legislation, a deadline that came and went last month.

Parliament passes Bill C-14, House rises early, leaving remaining legislative agenda to Senate

The Liberals say they've passed enough legislation in their first sitting, but opposition sees the early rising an opportunity for the government to 'get out of dodge

Rachel Aiello, The Hill Times, June 14 2016

Despite all the hype over a busy legislative agenda, the House adjourned on Friday after the Senate passed the government's controversial physician-assisted dying bill, Bill C-14, leaving the Senate to pass the remaining bills, while holding up a number of government bills in the House until MPs return in the fall.

Sources said all sides agreed to adjourn for the summer because progress made late last week on Bill C-14 changed the dynamic. The House sitting calendar previously had MPs scheduled to

sit until June 23. They will still be coming back on June 29 for U.S. President Barack Obama's scheduled and historic joint address of Parliament.

Last week, Liberal MP Kevin Lamoureux (Winnipeg North, Man.), parliamentary secretary to the government House leader, told *The Hill Times* that the feeling among the House leadership teams were that if Bill C-14 could pass, and a few other measures got through, they could wrap things up and get "back to attend the graduations and other events."

In the unanimous consent motion to adjourn the House, the government deemed the House to have sat through Monday to Thursday next week for the purpose of meeting the Thursday, June 23 deadline on naming the special members to the electoral reform committee. As well, it deemed Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act to be read at third reading and passed into the Senate. As well, it deferred other private members' business and motions to the week the House returns.

Mr. Lamoureux said the government took into consideration achieving the government agenda in deciding to go early, but that as soon as Bill C-14 and the budget passes, the government will have completed the "two most significant achievements of the session," and would be comfortable rising.

Conservative House Leader Andrew Scheer (Regina-Qu'Appelle, Sask.) told *The Hill Times* that because the offer the government put together pleased all parties, they got unanimous consent to rise.

"There's always a little bit of conversation back and forth about what they'd like to see," he said.

He added: "From an opposition perspective, the less legislation that the government passes, the better. So the fact that we're able to prevent the Liberals from doing some of the things they promised during the campaign that we think would be very bad for the economy is a good thing."

In Mr. Scheer's view, the government was "getting embarrassed" during Question Period so it wanted to "get out of dodge" with less chances to be held to account in the House. The Conservatives agreed to the unanimous consent to adjourn.

On Friday, after debating for the majority of the day, the Senate accepted the government's response to the Senate's amendments on Bill C-14. Because the momentum was there to rise, the House suspended the House at the usual Friday time of 2:30 p.m. and resumed at 3:30 to buy the time the Senate needed to complete debate and pass Bill C-14.

In response to the Senate's seven amendments, the government agreed with its proposals to impose a two-year deadline for reports to be submitted to both the House and Senate on issue of physician-assisted dying in Canada, instead of five years. It changed the wording on a palliative care amendment, and an amendment calling upon the health minister to make regulations and guidelines on the information provided on death certificates and for the collection and disposal of information regarding monitoring medically assisted dying.

The government "respectfully disagreed" with aspects of an amendment restricting the beneficiary of a person seeking a medically assisted death from helping in the death or signing a request on the behalf of someone who is unable to sign. As well, it did not support the largest amendment to expand the eligibility criteria for physician-assisted dying from the bill's "reasonably foreseeable" death to a "grievous and irremediable medical condition." The government argued this undermined the objectives of the bill, defending the government's original language.

"We did what we felt was right respecting the Supreme Court of Canada decision and the importance of the issue," said Mr. Lamoureux.

However, leaving early puts another government bill in the lurch until the fall. Last week, the Senate National Security and Defence Committee amended **Bill C-7**, which responds to a Supreme Court ruling on RCMP collective bargaining. As of deadline. it was still in the Senate at Third Reading. Before being able to pass, it has to come back to the House to consider the amendments.

"The RCMP and the different stakeholders have seen a genuine effort on the part of the government to try the best they can in terms of getting C-7 passed through the House," said Mr. Lamoureux.

Now the bill won't be brought back to the House until the fall.

There are other bills before the Senate that are expected to pass and won't require the House's presence. The Senate is scheduled to rise on June 30, giving them another week or so to get things through. These measures include the budget implementation bill, **Bill C-15**, which as of deadline was still before the Senate Finance Committee, and **Bill C-11**, An Act to amend the Copyright Act (access to copyrighted works or other subject-matter for persons with perceptual disabilities). Bill C-11 passed unanimously in the House and was not amended in the Senate. It was at third reading as of deadline.

Before the House adjourned, the government wanted to pass **Bill C-2**, An Act to amend the Income Tax Act, and possibly **Bill C-4**, which repeals controversial labour measures passed in private members' bills last Parliament. However, that did not happen and will have to wait until the House returns.

All last week, the government continued to put new bills on notice and introduce new legislation into the House, adding more to the roster for when they return in the fall. These include **Bill C-21**, An Act to amend the Customs Act from Public Safety Minister Ralph Goodale (Regina-Wascana, Sask.), and **Bill C-22**, An Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts from Government House Leader Dominic LeBlanc (Beauséjour, N.B.). On notice to be introduced is another bill from Mr. LeBlanc seeking to amend the Salaries and Financial Administration Acts, and one from Justice Minister Jody Wilson-Raybould (Vancouver Granville, B.C.) amending the Criminal Code around victim surcharges.

Opposition House leaders agree the substance of the session was light, but there has been improvement in the tenor in the House.

NDP House Leader Peter Julian (New Westminster-Burnaby, B.C.) told *The Hill Times* last week he found the tone "very bad around the time Motion M-6, but I think the government is attempting to be more respectful of opposition parties and I certainly appreciate that."

During the last Thursday question in the House, Mr. LeBlanc said in French that the past few months were a learning experience, and despite "some well-intentioned clashes," there has been cooperation among the three House leaders.

The Liberals implemented some parliamentary reforms this session, like removing parliamentary secretaries from the formal committee process, informally agreeing to hold votes after Question Period, and sending ministers over to the Senate for questioning.

However, in an interim report from the Procedure and House Affairs Committee on "Moving Toward a Modern, Efficient, Inclusive and Family-Friendly Parliament," were suggestions to take things further, including refraining from holding votes later than after Question Period on Thursdays, and in drafting the House calendar, avoiding the scheduling of too many consecutive sitting weeks.

It's expected these measures will be discussed further when MPs return. As of now, the House is scheduled to resume on Monday, Sept. 19.

Ottawa légalise enfin l'aide à mourir

Hélène Buzzetti, Le Devoir, le 18 juin 2016

L'affaire était entendue et ce n'était plus qu'une question de temps. N'empêche, vendredi soir, le Canada s'est officiellement doté d'un cadre légal pour l'aide médicale à mourir. Après deux semaines et demie de débats parfois déchirants, souvent passionnés et toujours de haut niveau, le Sénat a abdiqué et endossé le projet de loi tel que soumis par la Chambre des communes. Les non-élus ont renoncé à imposer ce que les élus refusaient, soit l'admissibilité à cette aide des personnes n'étant pas déjà en fin de vie. Ce débat aura lieu plus tard.

C'est donc l'aboutissement d'un débat parlementaire entamé en janvier, et la fin d'un bras de fer qui opposait le Sénat et la Chambre des communes depuis neuf jours. Plusieurs sénateurs

ont affirmé dans leur ultime discours vendredi que les élus devaient avoir le dernier mot en matière de législation, et qu'il fallait donc voter la version du projet de loi C-14 préférée des députés.

« Le gouvernement fait une grave erreur, mais c'est le gouvernement qui devra en répondre au peuple, a lancé l'ex-journaliste et sénateur André Pratte. *Aussi, bien que cela m'attriste, je vais voter pour. »* Le sénateur David Tkachuk a dit que cela lui *« brise le coeur »*, mais que *« la Chambre des communes nous a envoyé un message et on doit l'entendre ».* Frances Lankin a parlé du devoir de *« respecter le droit de gouverner »* d'une Chambre *« démocratiquement élue ».*

Le Sénat avait renvoyé C-14 à la Chambre des communes pour qu'elle élargisse les critères d'admissibilité de l'aide médicale à mourir. Dans la version sénatoriale, il n'aurait plus été nécessaire, pour se qualifier, que la *« mort naturelle »* d'un malade *« soit devenue raisonnablement prévisible »* ni que ses capacités soient en déclin avancé et irrémédiable.

La Chambre des communes, qui dès le départ avait étudié puis rejeté cette idée, l'a repoussée à nouveau. Le Sénat devait décider vendredi s'il s'entêtait. Il a choisi de ne pas le faire après un débat de six heures au cours duquel le sénateur Serge Joyal a tenté, dans un ultime — et vain — effort, d'exiger du gouvernement qu'il soumette sous forme de renvoi cette portion du projet de loi à la Cour suprême. Le vote final s'est soldé par 44 voix pour et 28 voix contre.

Les opinions étaient très divisées. Quelques sénateurs aimaient la version de C-14 et ont voté pour (le leader du gouvernement au Sénat, Peter Harder, de même que George Baker et Mike Duffy). D'autres ont voté pour afin de clore le ping-pong législatif tout en étant insatisfaits du projet de loi, soit parce qu'il n'allait pas assez loin (André Pratte, l'ex-juge Murray Sinclair), soit au contraire parce qu'il allait trop loin (Don Plett, Bob Runciman). Certains ont voté contre le projet de loi parce qu'ils s'opposent à l'aide médicale à mourir (Denise Batters, Raynell Andreychuk). D'autres enfin ont voté contre parce que le projet de loi n'allait pas assez loin. C'est le cas notamment de plusieurs Québécois : Joan Fraser, Claude Carignan, Pierre-Hugues Boisvenu, Jean-Guy Dagenais et Ghislain Maltais.

Cette multiplication des motifs n'a pas échappé au sénateur Jim Munson, ancien journaliste et ex-directeur des communications du premier ministre Jean Chrétien. *« Je trouve ironique que les gens qui votent contre ce projet de loi le fassent pour des raisons opposées »*, a-t-il dit.

Une première loi au Canada

La loi qui a reçu la sanction royale vendredi soir permet légalement aux médecins, aux infirmières praticiennes, ainsi qu'à ceux qui les assistent d'aider un patient à mourir. Cette aide peut aussi prendre la forme d'un médicament que le patient s'administre lui-même à domicile. Pour se qualifier, un patient doit être âgé de 18 ans ou plus, être lucide et avoir fait une demande écrite signée devant deux témoins indépendants (qui ne sont pas susceptibles de recevoir un héritage à sa mort).

Le patient doit aussi être affecté par des problèmes de santé *« graves et irrémédiables ».* Ce dernier concept est défini en quatre points : l'affection doit être grave et incurable, elle doit causer des souffrances persistantes intolérables, la personne doit subir un déclin avancé et irréversible de ses capacités, et sa mort naturelle doit être devenue raisonnablement prévisible.

Cette loi a été rendue nécessaire à la suite du jugement de la Cour suprême, en février 2015, qui a invalidé l'interdiction mur à mur contenue dans le Code criminel. Dans une déclaration écrite commune, les ministres fédérales de la Justice et de la Santé, Jody Wilson-Raybould et Jane Philpott, se sont réjouies de l'adoption de C-14, qui garantit *« un accès sûr et cohérent à l'aide médicale à mourir dans tout le Canada ».*

« Nous remercions tous les parlementaires pour le travail acharné qu'ils ont accompli afin de mener cette tâche à bien dans des circonstances aussi exigeantes. L'aide médicale à mourir est un enjeu difficile, complexe et profondément personnel. » Les ministres réitèrent que leur loi respecte la Charte des droits et libertés et qu'elle établit un *« juste équilibre »* entre l'autonomie des patients et le besoin de protéger les personnes vulnérables.

Plusieurs des opposants à C-14 (le NPD, le Bloc québécois, au moins deux députés libéraux, plusieurs sénateurs) soutiennent au contraire que le gouvernement crée un déséquilibre entre

les personnes en fin de vie et les personnes souffrantes dont la mort n'est pas raisonnablement prévisible.

La lutte continue

Le débat n'est pas terminé, tant s'en faut. D'ici six mois, Ottawa devra lancer une étude pour déterminer si les mineurs et les personnes atteintes d'une maladie mentale doivent y avoir accès et pour voir s'il faut autoriser les demandes anticipées. Le fruit de cette étude devra être partagé avec les parlementaires deux ans plus tard.

Le sénateur Claude Carignan exhorte le gouvernement à soumettre sa loi par renvoi à la Cour suprême pour vérifier s'il peut, comme il le fait, limiter l'aide à mourir aux personnes en fin de vie. *« C'est certain que ça ira devant les tribunaux,* dit-il. *Ce que je veux éviter, c'est que ce soient les citoyens, qui sont déjà démunis, vulnérables, malades, qui doivent prendre de leur argent pour contester jusqu'en Cour suprême pendant cinq ans. »*

Aide à mourir: le gouvernement rejette le principal amendement du Sénat

Mélanie Marquis, La Presse, le 16 juin 2016

Sans surprise, le gouvernement fédéral a écarté l'idée de retirer de son projet de loi sur l'aide médicale à mourir le critère de mort naturelle raisonnablement prévisible, comme l'avait réclamé le Sénat dans sa version amendée de C-14.

La partie de ping-pong législatif entre les deux chambres s'est officiellement mise en branle, jeudi. Les députés ont renvoyé la balle dans le camp des sénateurs en adoptant par 190 voix contre 108 une motion stipulant que la Chambre approuve une bonne partie des amendements sénatoriaux.

Mais sur le plus substantiel d'entre eux, les libéraux se sont montrés inflexibles, la ministre de la Justice, Jody Wilson-Raybould, demeurant convaincue que la notion de mort naturelle raisonnablement prévisible est essentielle à C-14, et que celui-ci est constitutionnel.

La présence du critère permet d'établir «le juste équilibre (...) entre la protection des personnes vulnérables et le choix de ceux et celles dont les circonstances médicales leur causent des souffrances persistantes et intolérables à l'approche de la mort», a-t-elle déclaré.

Le Sénat avait adopté par 41 voix contre 30 un amendement demandant la suppression du concept. Et pour certains membres de la chambre haute, il est tout simplement hors de question d'approuver la mesure législative si cette notion y figure.

«Jamais je n'appuierai un projet de loi qui retirerait à un groupe de citoyens un droit qui leur a été reconnu par la Cour suprême», a réitéré jeudi le sénateur Serge Joyal. Son collègue James Cowan a affirmé la même chose, disant ignorer si cette position est partagée par une majorité.

Ultimement, le projet de loi pourrait rallier les sénateurs conservateurs opposés à l'aide médicale à mourir, qui préfèrent le cadre plus restrictif de C-14 aux dispositions de l'arrêt Carter de la Cour suprême, où la fin de vie n'est pas identifiée comme un critère d'accès à cette aide.

Ce sera vraisemblablement le cas du sénateur Don Plett. «Je dis depuis le début que nous avons besoin de quelque chose de mieux que Carter. (...) Je ne peux pas, en mon âme et conscience, voter contre un projet de loi qui serait mieux que de ne rien avoir», a-t-il exposé.

Le Sénat devrait débattre vendredi matin de la motion adoptée en Chambre. Diverses issues sont envisageables en vertu des procédures parlementaires.

La plus simple, et probablement la plus plausible: les sénateurs donnent leur aval à la motion des Communes, ce qui viendrait clore le dossier et assurer que la mesure législative obtienne sous peu la sanction royale.

Ils pourraient aussi carrément défaire le projet de loi. Ils pourraient également renvoyer l'amendement - à répétition, s'ils le veulent, jusqu'à ce que l'une des chambres flanche -, ou encore refuser de voter tant que le gouvernement ne renvoie pas C-14 à la CSC pour tester sa constitutionnalité.

Le député libéral Rob Oliphant juge qu'un tel suspense serait intenable à la lumière de la décision rendue jeudi par un tribunal ontarien. Ce jugement stipule qu'en l'absence d'une loi fédérale, les Ontariens doivent s'adresser aux tribunaux pour avoir accès à l'aide à mourir.

«Nous avons besoin d'une loi pour éviter aux gens d'avoir à s'adresser aux tribunaux. Ce n'est pas une loi parfaite, mais c'est une loi. On l'améliorera ensuite», a dit celui qui avait voté contre C-14 aux Communes, mais qui a voté jeudi pour la motion gouvernementale.

La ministre de la Justice n'a pas voulu dire, jeudi, si elle s'inquiétait du sort de la mesure législative qu'elle marraine. Sa collègue à la Santé, Jane Philpott, a cependant tenu à prévenir les sénateurs qu'il était urgent et impératif de se doter d'un cadre réglementaire pancanadien.

«Le problème en ce moment est qu'il n'y a pas de loi fédérale en place pour la protection des personnes vulnérables, ni même pour assurer que les gens qui ont besoin de l'aide médicale à mourir auront cet accès qu'ils désirent», a insisté Mme Philpott en point de presse.

Le refus de biffer le critère du texte de C-14 a été bien accueilli par les députés conservateurs qui sont intervenus lors du débat sur la motion, dont le leader parlementaire du parti en Chambre, Andrew Scheer, qui a par ailleurs dit craindre un élargissement de l'accès à l'avenir.

«Je suis très inquiet de ce qui nous attend. Quand les gens disent que c'est un premier pas, ça me préoccupe. (...) J'espère certainement que le régime restrictif que nous avons créé ne sera pas élargi, et je vais faire tout en mon pouvoir pour m'en assurer», a-t-il indiqué.

La réaction a été diamétralement opposée dans les rangs néo-démocrates. Le député Murray Rankin a bien tenté de faire éliminer le paragraphe où il est écrit que la Chambre rejette la proposition de supprimer le critère, mais sa motion a été battue à plate couture.

S'ils ont écarté cet amendement substantiel, les libéraux ont manifesté leur ouverture à l'idée d'accepter certaines suggestions en provenance du Sénat, notamment celle portant sur les soins palliatifs (avec certains aménagements dans le libellé de l'amendement).

Ils ont aussi accepté de se plier à un échéancier pour déposer un ou des rapports sur les études entourant l'élargissement de l'accès aux mineurs matures, aux personnes dont la maladie mentale est la seule condition invoquée, ainsi qu'au recours aux directives anticipées.

Le gouvernement a cependant dit non à l'amendement du sénateur Plett, qui visait à interdire à un héritier d'une personne voulant se prévaloir de l'aide médicale à mourir de participer à l'administration de cette aide.

Le leader du gouvernement à la Chambre des communes, Dominic LeBlanc, a affirmé mercredi qu'il espérait faire adopter le projet de loi avant la fin de la session parlementaire, prévue dans une semaine exactement.

Si la situation l'exige, le gouvernement serait prêt à prolonger la session, a-t-il laissé entendre.

«Je peux vous dire que moi, je ne serais pas à l'aise d'ajourner la Chambre (tant) que nous n'aurons pas un projet de loi sur l'aide médicale à mourir qui est à quelques moments d'être signé par le gouverneur général», a exposé M. LeBlanc.

Aide à mourir: les provinces devraient tester la constitutionnalité de la loi

Joan Bryden, Le Devoir, le 20 juin 2016

Si Ottawa ne demande pas l'avis de la Cour suprême concernant la constitutionnalité de sa nouvelle loi sur l'aide médicale à mourir, Serge Joyal espère qu'un gouvernement provincial le fera.

Le sénateur québécois n'a pas renoncé à trouver une façon de déterminer rapidement s'il était constitutionnel d'interdire à des Canadiens vivant des souffrances intolérables à cause d'une maladie sans toutefois être en phase terminale de recourir à l'assistance d'un médecin pour mettre fin à leurs jours.

M. Joyal a essayé sans succès de convaincre les autres membres du Sénat d'adopter un amendement qui aurait obligé le gouvernement fédéral à interroger la Cour suprême pour savoir si la loi enfreint la Charte des droits et le propre jugement du plus haut tribunal du pays en permettant seulement aux patients mourants d'obtenir de l'aide médicale à mourir.

Mais l'avocat, lui-même un spécialiste du droit constitutionnel, a révélé qu'il songeait maintenant à exhorter l'une des provinces à utiliser sa cour d'appel pour initier un renvoi à la Cour suprême.

Il a expliqué que cette démarche éviterait à des individus souffrants le «cruel fardeau» de lancer eux-mêmes une coûteuse action en justice contre la loi.

De plus, Serge Joyal a estimé que cette manière de procéder donnerait probablement une réponse rapide puisque les tribunaux se sont déjà penchés sur cette question.

«Ce sujet est frais à la mémoire des cours alors je ne crois pas que nous aurions à attendre des années», a-t-il indiqué.

Cela est particulièrement vrai en Alberta, où un comité de trois juges d'appel a invalidé en mai le raisonnement sur lequel repose la nouvelle loi, rejetant l'argument du fédéral selon lequel le verdict historique de la Cour suprême levant l'interdiction de l'aide médicale à mourir pouvait

être interprété comme s'appliquant seulement aux malades en phase terminale.

«Même si c'est une référence provinciale, que ce soit en Alberta, au Québec, en Ontario ou dans une autre province, cela serait utile pour l'ensemble du Canada», a commenté M. Joyal.

Comme d'autres experts, Serge Joyal croit que la nouvelle loi sur l'aide médicale à mourir adoptée vendredi après que le Sénat se fut plié aux vœux du gouvernement ne respecte pas la charte des droits et la décision de la Cour suprême.

Dans son jugement rendu l'an dernier, le tribunal avait recommandé que l'aide médicale à mourir soit disponible pour les adultes consentants atteints d'un mal atroce et incurable leur causant des souffrances intolérables.

La nouvelle loi est plus restrictive, limitant l'accès à des adultes consentants dans un *«état de déclin avancé ne pouvant être inversé»* en raison d'une maladie ou d'un handicap incurable et dont la mort naturelle est *«raisonnablement prévisible»*.

The Commons, the Senate and C-14: It was never about gridlock

Believe it or not, this is how Parliament is supposed to work
L. Ian MacDonald, iPolitics.ca, June 18 2016

The Senate was sitting on Friday (which is unusual) to consider its response to the House insisting on the government's original language in Bill C-14 on medically assisted dying.

The House version says death must be "reasonably forseeable" before medical assistance and life-ending medication may be provided. The Senate amendment adopts the broader language of the Supreme Court's 2015 ruling — that medical assistance in dying is permissible when a patient's condition is "grievous and irremediable."

This was one of seven amendments adopted by the Senate Wednesday night in passing C-14 by a vote of 64-12. On Thursday, the House re-adopted the government's "reasonably foreseeable" line by a vote of 190-108, and sent the bill back to the Senate again.

This isn't necessarily a standoff, or a game of political ping-pong. At least, it needn't become one.

The government did accept the other amendments — four minor ones and two technical changes adopted by the Senate along bipartisan lines. One amendment is on consultations on palliative care before medical assistance in dying. Another concerns information to be provided on death certificates. A third prevents anyone signing on behalf of a patient from being a beneficiary of a will or estate. And the final amendment calls for a status report back to Parliament on medically assisted dying within two years.

So the Senate already has fulfilled its constitutional role as the chamber of "sober second thought." The government and the House, for their part, have accepted six amendments which clarify C-14 in some respects and improve it in others.

In other words, this isn't a stalemate — it's the essence of the Canadian compromise. It's also very much what the founding fathers had in mind in drafting the Constitution Act 1867, with an elected House and an appointed Senate. As the Supreme Court put it in its 2014 reference on the Senate: "The Senate is one of Canada's foundational political institutions. It lies at the heart of the agreements that gave birth to the Canadian federation." The Senate is *central* to the Canadian constitutional experience.

The question here always came down to the mood of the Senate. Did senators feel they'd played their role and were ready to bow to the will of the elected House, or would they carry on?

It's the former Senate Liberals booted from caucus by Justin Trudeau in 2014, now sitting as independent Liberals, who seemed determined to persevere with the Supreme Court's more permissive language on "grievous and irremediable" illness. Serge Joyal, author of the major amendment rejected by the government, called it a question of "solemn conscience." Jim Cowan, the onetime Liberal leader in the Senate, said that his "position would be that we should stick to our guns."

He went on: "I think we should broaden it. Otherwise, I don't think the bill will pass constitutional muster. I think it will be struck down."

Which is why Joyal suggested the government refer C-14 to the Supreme Court. Friday afternoon, the Senate voted 42 to 28 against an amendment put forward by Joyal that would have suspended the "reasonably foreseeable" phrase in the bill until the government got a reference from the Supreme Court. The senators decided they'd made their point. Showdown over — for now, at any rate.

The bill may end up at the high court anyway, but Justice Minister Jody Wilson-Raybould is correct in the sense that it's the government's role to write laws and the court's job to interpret them.

"Senators on the whole feel they have improved the bill and brought it to public attention where there has been debate and discussion," said Manitoba Conservative Senator Janis Johnson, who has been in the Upper House for the last 25 years and reads the place very well. "I think senators have to keep in mind the temper of the times and how the public views the Senate. It is a good opportunity to say we have done our job, made positive amendments, engaged public discourse and the House has the final say.

"This will, I hope, give the Senate a boost in the public's mind. It is a start and reflects the new independent Senate."

For example, when the Senate sat as a committee of the whole on June 1, cameras were permitted to televise the proceedings as senators grilled Wilson-Raybould and Health Minister Jane Philpott for four hours on C-14. Conservatives, independent Liberals and independent senators alike put them through their paces, but both ministers made a solid account of themselves, giving as good as they got. The senators were inquisitive, the ministers were insightful and the entire four hours was informative, even illuminating.

There's no more sensitive medical or moral issue than assisted dying. In both houses of Parliament, a difficult and divisive conversation has been conducted with dignity and respect for the deeply held beliefs of others.

That's greatly to the credit of MPs and senators on all sides.

Standard for medically assisted death 'flexible,' says government Commons brief

Addendum may reveal that the government would allow medically assisted death earlier than some critics of the legislation believe to be the case.
Tim Naumetz, The Hill Times, June 16 216

Before the House of Commons rejected a Senate amendment Thursday that would have significantly expanded the threshold for access to medically assisted death under the government's controversial Bill C-14, Justice Minister Jody Wilson-Raybould released a new

legal view suggesting the original section the Senate deleted had been purposefully worded to allow medically assisted dying on a wider scope than previously thought.

A Justice Department attachment to a government motion from Ms. Raybould, who otherwise accepted several significant amendments the Senate made to the legislation, stated that the government had rejected existing models for assisted death in several European countries that emphasize "unbearable suffering" over proximity to death.

The commonly cited section in Bill C-14 set "reasonably foreseeable death" as one of the conditions for accessing doctor-assisted death in cases where patients had a "grievous and irremediable medical condition" that caused intolerable suffering. The section, in the form of amendments to the Criminal Code of Canada, also stated the medical condition, either an illness, disease or disability, had to be incurable.

As a majority of senators last week passed a motion from Independent Liberal Senator Serge Joyal striking out the entire section and limiting the main threshold for medically assisted death to diagnosis of a grievous and irremediable medical condition causing intolerable suffering, several senators argued the legislation would otherwise not conform to a 2015 Supreme Court of Canada ruling that struck down Criminal Code prohibitions against consented medically assisted death as unconstitutional.

But the document, an addendum to the motion that will be available to the Senate when it reviews the disputed legislation the Commons sent back in a 190-108 vote, may reveal that the government would allow medically assisted death earlier than some critics of the legislation believe to be the case.

Arguing that the original Bill C-14 conditions for medically assisted death provided safeguards the liberal European models do not, including for disabled persons and other vulnerable people experiencing poverty, social isolation or discrimination, the Justice Department legal addendum tabled by Ms. Wilson-Raybould said the government chose to be prudent.

"This means adopting an approach that is closer to existing end-of-life models then to the (Netherlands, Belgium and Luxembourg) approach – a model that restricts eligibility to

individuals who are declining toward death, allowing them to choose a peaceful death as opposed to a prolonged, painful or difficult one," says the Justice Department addendum to Ms. Wilson-Raybould's motion.

"At the same time, the flexible 'reasonably foreseeable death' standard, and the absence of a specific 'time remaining before death' requirement, make Bill C-14 broader then existing end-of-life regimes," the document says.

The other regimes cited by the Justice Department in the form of what could be a five-page legal brief are four U.S. States that allow legal medically assisted dying only for terminally ill patients with less than six months to live – Washington, Oregon, California and Vermont; Québec, where eligibility is limited to individuals "at the end of life" and in an advanced state of weakening with no chance of improvement; and Colombia, where medically assisted dying is limited to terminally ill adults whose death is approaching "in a short timeframe."

The Justice Department addendum includes Supreme Court of Canada judgement citations in its footnotes, along with footnoted references to House of Commons committee testimony, and will also be on the Hansard record should the Supreme Court of Canada eventually review the Parliamentary history of the legislation in a court challenge.

Ms. Wilson-Raybould disclosed in the Commons she had circulated the document to all MPs prior to the House vote on the Senate amendments on Thursday.

A total of 40 out of the 338 Members of Parliament were absent for the major vote, while 22 Conservative MPs broke ranks to support the bill. The NDP caucus, which supported wider access to medically assisted death, voted against the legislation.

Major Senate amendments the House of Commons voted to approve included a clause stipulating that any person who on request assists a person to administer a prescribed substance that will cause death cannot be a beneficiary in the person's will or be in a position to otherwise benefit financially or materially in the person's death.

Other accepted Senate changes included a requirement for palliative care consultation prior to medically assisted death as well as advice to patients on the "means" available to ease suffering. The House of Commons also agreed to a change setting a two-year time limit for

government reports from independent reviews on issues related to requests for medically assisted death from "mature minors," advance requests for medically assisted death, and in cases where mental illness is the sole underlying medical condition.

Ms. Raybould told the Commons that although the Senate expanded eligibility for medically assisted death under the legislation "it did not introduce new safeguards for the very circumstances where the most caution is required."

She added: "The result is that any serious medical condition, whether it be a soldier with post-traumatic stress disorder, a young person who suffered a spinal cord injury in an accident, or a survivor whose mind is haunted by memories of sexual abuse, could result in eligibility for medical assistance in dying."

Once the Senate reviews the government changes to its amendments and its rejection of others, it has the option of accepting the Commons version and approving it for proclamation into law, or amending the bill again and returning it to the Commons.

MPs call for Access to Information overhaul

Committee wants government to loosen cabinet secrecy

Jim Bronskill, iPolitics.ca, June 16 2016

A House of Commons committee wants the government to loosen the grip of cabinet secrecy, automatically publish more documents and create a duty to write things down as part of sweeping information reforms.

The 32 recommendations from the multi-party committee go much further than current Liberal government proposals for updating the Access to Information Act.

The access law allows requesters who pay $5 to seek a range of federal files — from correspondence and briefing notes to expense reports and meeting minutes — but critics say the system is slow and outdated.

In its report tabled Thursday, the Committee on Access to Information, Privacy and Ethics recommends scrapping the application fee but suggests other charges for requests that require considerable research.

The government has proposed several reforms to the access law, to be included in a bill later this year or early next.

They include giving the information commissioner — an ombudsman for requesters — the power to order release of government information and ensuring the act applies to the offices of the prime minister and his cabinet members, as well as to administrative institutions that support Parliament and the courts.

The Liberals have already eliminated search and copying fees, but opted to keep the $5 application charge — at least for now.

The government also promises an in-depth review of Access to Information to be completed no later than 2018.

The committee, chaired by Conservative MP Blaine Calkins, advocates pushing ahead with many additional changes in the first wave of reform, including steps to:

– Bring cabinet records — now completely excluded from access — under the law and reduce the 20-year period during which they are under wraps;

– Make purely factual or background information presented to cabinet and records of decision accessible;

– Broaden access to bureaucratic advice and recommendations by ensuring they are withheld only when there is proof of injury to the government;

– Limit time extensions for answering requests beyond the 30-day limit to a maximum of 30 additional days, with longer extensions available only after permission from the information commissioner;

– Make federal agencies proactively publish information that is clearly of public interest;

– Require documentation of government decision-making, with sanctions for non-compliance.

The committee has requested a comprehensive response from the government.

In his appearance at the committee, Treasury Board President Scott Brison suggested a government openness to including other elements in the coming legislation.

The Liberals should build the MPs' recommendations into the bill, said Duff Conacher, co-founder of the group Democracy Watch and chairman of the Open Government Coalition.

"Given that the Access to Information Act and system have been reviewed several times in the past 15 years, and that there is a consensus on key changes that must be made, there is no justifiable reason for any further delay in making the changes."

Ottawa seeks top court ruling on residential school records

Federal government asks Supreme Court to overturn decision that gives survivors control over their testimony
Alex Boutilier, The Toronto Star, June 18 2016

The federal government is asking the Supreme Court to overturn a decision that gives residential school survivors the ultimate say in what happens to their testimony.

Ottawa has asked the Supreme Court to determine if residential school survivors' testimony count as "government documents" and should remain archived with the federal government.

If the court agrees, it would overturn a recent decision by the Ontario Court of Appeal, which agreed survivors should have the opportunity to archive their testimony with the arm's-length National Centre for Truth and Reconciliation, a hub at the University of Manitoba that serves as the permanent repository for records related to the residential school system.

It would also mean the fate of the documents will rest with the government, not the survivors.

If survivors do not decide to have their testimony archived, the Ontario Superior Court ruled the testimony should be destroyed within 15 years.

It's a complex case that touches on Canada's obligation to recognize the horrors committed in the residential school system, while respecting the survivors right to privacy.

"The significant issue at stake is the proper balance between protection of and respect for individual privacy and confidentiality and the public interest in the necessary preservation of government records identified . . . as having historical and archival value," reads the federal government's submission to the Supreme Court, obtained by the Star.

"The Attorney General of Canada seeks leave to appeal this decision on the basis that these issues are of public importance and historic significance."

The documents in question include transcripts and decisions from the Independent Assessment Process, the mechanism through which survivors' gave their testimony and were assessed for government compensation.

In 2014, a judge ruled that the testimony, which detailed the physical and sexual abuse suffered by students, and the horrific conditions they were forced to endure, would be destroyed in 15 years, unless survivors opted to have it permanently archived with the national centre.

In a split decision in April, the Ontario Court of Appeal upheld that decision.

In their submission to the Supreme Court, the federal government leans heavily on the dissenting position in that case, arguing that the documents and testimony are and have always been considered "government records."

Officials from Indigenous and Northern Affairs Canada, speaking to provide background information on the condition they not be named, told the Star that the motivation behind the appeal is to preserve the historical records of the abuse inflicted at the residential schools.

But the officials conceded that, if their appeal is accepted by the Supreme Court, the ultimate fate of residential school survivors' testimony would rest in the hands of the government, rather than the survivors themselves.

The officials added that, because the documents would be subject to the Privacy Act, the testimony could not be used for any other purpose than it was intended — to settle compensation disputes — unless permission is granted to use it for other purposes.

The Star reported last week that the federal government has taken a broad view as to what counts as Independent Assessment Process documents.

NDP MP Charlie Angus, who has been advocating for survivors of Ontario's notorious St. Anne's school, accused the government of using the protections for survivors' testimony to keep secret internal records of how Ottawa has handled the residential school file.

In a written statement provided to the Star, media relations for Indigenous and Northern Affairs Canada said that preserving the testimony of survivors is "the right thing to do."

"Survivors and their families have long sought that this dark chapter in Canadian history be on the record," read the statement, attributed to Indigenous and Northern Affairs Canada Minister Carolyn Bennett.

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New Alberta judges will help ease burden in the court system, justice minister says

Claire Theobald, Edmonton Journal, June 17 2016

The federal government has made a few long-awaited judicial appointments in Alberta, a move Justice Minister Kathleen Ganley called a step to ease pressure on the province's overburdened court system.

"I think it will certainly help, anything helps, but certainly they continue to be under significant pressures," Ganley said. "Even without vacancies, Alberta has the lowest number of Queen's Bench justices per capita in the country, so we still are under significant pressure."

Federal Justice Minister Jody Wilson-Raybould announced two appointments to the Alberta Court of Appeal and four appointments to the Alberta Court of Queen's Bench.

Sheila Greckol, formerly a Court of Queen's Bench justice in Edmonton, will now serve as a justice on the Alberta Court of Appeal in the provincial capital.

Greckol has also been appointed as a justice of the Court of Appeal for the Northwest Territories and the Court of Appeal in Nunuvut.

Her appointment will fill a vacancy left after Justice Russell Brown was appointed last August to the Supreme Court of Canada.

Greckol's position will be filled by the appointment of John Henderson to the Alberta Court of Queen's Bench. Henderson had previously been a provincial court judge in Edmonton.

Sheilah Martin will move from her position as a Court of Queen's Bench justice in Calgary to the Alberta Court of Appeal in Calgary, replacing Cliff O'Brien, who retired in November 2014.

Martin was also appointed as a justice of the Court of Appeal for the Northwest Territories and the Court of Appeal in Nunuvut.

Gillian Marriot, a lawyer with Widdowson Kachur Ostwald Menzies LLP in Calgary, will take Martin's place on the Court of Queen's Bench.

Douglas Mah, who previously served as secretary and general counsel with the Workers' Compensation Board of Alberta in Edmonton, has been appointed to the Court of Queen's Bench in Edmonton.

Mah is taking the place of Justice Dennis Thomas, who went into semi-retirement last June.

Avril Inglis, formerly a prosecutor with Alberta Justice in Edmonton, has also been appointed a Court of Queen's Bench judge in Edmonton, filling a vacancy left after Judge Frederica Schultz was elevated to the Court of Appeal in August 2015.

"We have filled the urgent judicial vacancies by drawing on a list of recommended candidates who are of the highest calibre and who are as diverse as Canada. I have every confidence in the judgment of these appointees and in their commitment and ability to deliver just outcomes for Canadians," Wilson-Raybould said.

Even with these recent appointments, Alberta's Court of Queen's Bench has four open vacancies and Alberta's Court of Appeal still needs two more judges.

Alberta has the lowest number of Court of Queen's Bench judges per capita in Canada even without these vacancies and would need 11 more to match the ratio of judges to population in B.C.

"It is certainly getting quite difficult for them," Ganley said.

"Our Court of Queen's Bench has done a lot of work with scheduling to ensure that they are able to serve the maximum number of people and to ensure timely access to justice. But, really, they've gone as far as they can go without additional appointments.

"It is becoming a significant concern here in Alberta and it has been a concern for quite a while."

This announcement comes ahead of a promised overhaul of the federal process of judicial appointments