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Press Clippings for the period of June 15th to 22nd, 2015
Revue de presse pour la période du 15 au 22 juin, 2015

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

Rise of the rude: Public service executives urge 'civility' policy

Kathryn May, Ottawa Citizen, June 21, 2015

Nastiness is on the rise in Canada's public service and the federal government should consider a "civility" policy to help stop harassment, disrespect and interpersonal conflicts on the job, says the association representing federal executives.

Civility has emerged as a big issue with the Association of Professional Executives of the Public Service of Canada (APEX), whose own in-house studies flagged how a growing number of employees and executives are targets of "uncivil words and actions," said APEX chief executive officer Lisanne Lacroix.

Lacroix said incivility can poison a workplace and is related to the growing number of mental-health claims over the past decade, which can take public servants off the job for prolonged periods.

APEX has commissioned studies into the health and work of executives. It is also working on a compendium of "best practices" for the joint union-management task force that's studying what's making the public service an unhealthy workplace. APEX has a seat on that task force; its first report is expected in September

"Our health and work survey showed incivility is on the rise and engagement has dropped too, so we have to look at these issues and see what can be done and how to reverse the trend," Lacroix said.

APEX urged former Privy Council Clerk Wayne Wouters to make mandatory the Mental Health Commission of Canada's national psychological standard for a healthy workplace for all departments.

His successor, Janice Charette, has since made mental health one of her top priorities.

The task force is using the national standard to review the public service's workplace practices and policies. Civility and respect are among the 13 factors that define what the Mental Health Commission calls a "psychologically healthy workplace."

APEX also runs a confidential counselling service for executives, and last year's report showed harassment and bad relationships with superiors were among the leading reasons executives sought help. It urged Treasury Board then to consider a civility policy — along with a guide on how to deal with uncivil behaviour — as a companion to its harassment prevention policy.

At the same time, APEX commissioned its own "white paper" on the science and research into civility to help give executives some ideas on how to make the workplace "more respectful."

The paper, written by leadership consultant Craig Dowden, concludes the public service is not alone. He says studies indicate incivility has doubled in North America over the past decade, with half of all employees saying they were treated rudely at least once a week at work.

That trend is mirrored in the 2014 public service employees' survey, which found 20 per of public servants said they were harassed and 63 per cent said people in positions of authority were the culprits. Among executives, 11 per cent said they were harassed and 63 per cent laid the blame on those with authority over them, with 26 per cent fingering people who worked for them.

Similarly, APEX's health survey of executives found 22 per cent are "verbally abused" by superiors over the course of a year. About 10 per cent characterized the workplace as disrespectful, citing discourteous behaviour such as not sharing credit, breaking promises, getting angry, telling lies, blaming and making negative comments.

The health report noted the proportion of executives who reported harassment and incivility was consistent across the ranks, from Ex 1 to Ex 5.

Such responses from executives are worrisome, since they are the highest-paid public servants and are in charge of leading the modernization of the public service. Although the 2014 public service survey flagged uncivil behaviour, it also found most employees — including the vast majority of executives — felt their departments and colleagues were "respectful."

Dowden describes incivility as rude, insensitive and disrespectful behaviour or comments that can make a workplace toxic.

Last year's public service survey was the first to distinguish types of harassment.

The most common types reported were offensive remarks, unfair treatment and being excluded or ignored. Sexual harassment, a comment or gesture, was reported by nine per cent of those who felt harassed, and two per cent said they faced "physical violence."

Research suggests incivility in the workplace is caused by various factors — all of which the public service faces in spades. They include pressures associated with downsizing; constant budget restraint; the push to re-engineer; the drive to boost productivity; and top-down autocratic management.

Dowden said what makes incivility so insidious is that it is “seemingly inconsequential” and becomes “normalized” and accepted as part of the workplace culture.

Indeed, the public service executives who report harassment say they didn’t complain because they didn’t think it would make a difference, they feared reprisals, or they were unsure incidents even warranted a complaint.

The problem is compounded by a lack of trust in senior leadership. The public service survey showed only 47 per cent of employees felt essential information flowed effectively from senior leaders to the front line. Fewer than half felt management would do anything to address the problem.

Dowden said research shows the most common incivility complaints are: cellphones always on; talking behind someone’s back; doubting someone’s judgment; paying scant attention to opinions; taking credit for other people’s work.

Others include: not taking responsibility and blaming someone else; checking email or texting during meetings; using email rather than facing someone when delivering a difficult message; never saying please or thank you; not listening; and talking down to someone.

These slights may seem rather feeble or “ low-intensity” but Dowden said research shows they can have major impacts on individuals, their work teams and the organization.

For one thing, research shows 94 per cent of those treated uncivilly want to retaliate or “get even” with the offender and 88 per cent see the organization as equally responsible and want to get even with it.

“What is so powerful is that if someone is disrespected, they can’t differentiate between the person who disrespected (them) from the department employing them. They are seen as the same entity,” said Dowden said.

In some research, two-thirds of employees say their performance declines because of incivility, but what is startling is that 48 per cent who witnessed incivility say they were also more likely to put less effort into their own work.

So a big casualty is productivity. Those on the receiving end of incivility typically want to avoid the offender and may spend less time at the office. They waste time complaining and invariably fret and worry about the incident and how to dodge the offender.

Experiments suggest that those who are on the receiving end, or witness rudeness, are less likely to help colleagues, suggesting “rudeness begets rudeness and can set up a vicious cycle,” said Dowden.

On the other hand, teams that work civilly together have more energy, motivation, "vitality" and job satisfaction.

Research suggests that a tense supervisory relationship has physical consequences as well.

An uncivil boss can increase blood pressure, which can lead to heart disease, stroke or kidney failure. A study published in Occupation and Environmental Medicine found those who spend years with a toxic boss are 30-per-cent more likely to develop heart disease regardless of the workload, education, social class, income or supervisory status.

A study of those who were targets of incivility found one-quarter admitted they took out their frustrations on customers. Dowden said they tend to be less committed, engaged and satisfied with the job and become a "flight risk." The highly conscientious — usually the high performers who want to do a good job — are affected the most.

Electronic communication is a big problem because it doesn't come with the body or voice cues to judge the tone of messages. Messages are misread and people are more uninhibited, saying things they would never dream of saying in person. Evidence suggests electronic incivility is as damaging as a face-to-face interaction, said Dowden.

Dowden said workplaces should have discussions about acceptable and unacceptable behaviour and interview employees to see why they are leaving.

It is unclear whether drafting a new "civility policy" will work in a public service that is already swamped with policies and codes of behaviour and is actively trying to reduce the number of them.

Sir Cary Cooper, an international workplace and Professor of Organizational Psychology and Health at Lancaster University Management School, said incivility is bullying. It takes a toll on culture and partly explains why absenteeism and productivity are big problems in the public service.

He said studies show the bullied typically take five to seven days more of sick leave annually than employees who aren't bullied. Those who witness colleagues being bullied are also absent more often — taking an additional three days off compared with others.

Typically, women are bullied more than men, and the harassing bosses are usually men. Also, workers who are bullied or witness bullying are also more likely to suffer mental illness — primarily depression and anxiety.

Cooper said a civility policy would be "nice to have" but questions what it would change. The United Kingdom even toyed with "dignity to work" legislation, which never got off the ground largely because existing anti-harassment legislation was considered sufficient.

Rather, Cooper argued for a "safe" and trusted system that would investigate complaints. If founded, the culprits would be moved, retrained or lose their jobs.

Harassment as viewed by public service executives

11: Percentage of executives who say they were harassed in the past two years

63: Percentage of these who say they were harassed by those with authority of them

26: Percentage who say there were harassed by people working for them and.

25: Percentage who said they were harassed by co-workers

75: Percentage of executives who say they are happy with how harassment is resolved in their departments

81: Percentage who say their department works hard to create a workplace that prevent harassment.

Most common types of harassment reported:

- Offensive remarks — 54 per cent
- Aggressive behaviour — 54 per cent
- Unfair treatment — 44 per cent
- Excessive control and personal attacks — 42 per cent for each
- Among executives, 56 per cent discussed the matter with a superior; 37 per cent discussed it with the offender and 21 per cent took no action

Five most common reasons among executives for not reporting or filing a harassment complaint:

- Didn't believe it would make a difference: 52 per cent
- Afraid of reprisal: 45 per cent
- Concern about complaint process: 21 per cent
- Offender left or changed jobs: 16 per cent
- Victim changed jobs: 14 per cent

Source: 2014 Public Service Employees Survey

Public servants mark start of National Public Service Week with noon protest

By Michael Woods, Metro News Ottawa, June 15, 2015

National Public Service Week — usually a week of backslapping and barbecues — kicked off Monday with public servants protesting outside the Prime Minister's Office, and one union releasing a plan to "restore Canada's public service."

Since 1992, the third week in June has been devoted to recognizing value of federal public service employees and the services they provide. But this year, with a federal election only months away and unions ramping up campaigns against the current Conservative government, things have taken a different flavour.

A crowd of about 200 public servants, blasting music and waving flags, gathered outside the Prime Minister's Office at Elgin and Wellington streets to protest provisions in Bill C-59, the government's omnibus budget bill, which unions say would impose a new sick leave regime and undermine their collective bargaining rights.

Meanwhile, the Professional Institute of the Public Service of Canada (PIPSC), which represents 55,000 professionals in the public service, released a 10-point plan Monday aimed at "the next federal government" to "restore Canada's public service and preserve the integrity of federal programs and services."

"Our members are deeply concerned about preserving and protecting the integrity of the public services they deliver," PIPSC President Debi Daviau said in a release. "We believe our 10-point plan is a good starting point."

The plan includes targeting tax cheats rather than charities, strengthening the Parliamentary Budget Office and restoring the mandatory long-form census. The union is delivering copies of the report to all five party leaders.

On Sunday, Prime Minister Stephen Harper issued a statement marking National Public Service Week inviting Canadians to join him in "extending our appreciation and thanks to all public servants for their important contributions to our country."

"In Canada, we are fortunate to have a high-quality public service that is professional, non-partisan and trustworthy," he said, adding that public servants deliver services that

support the government and meet Canadians' needs "while committing to core Public Service of Canada values – integrity, dedication, and excellence."

LeDroit

Les conservateurs démonisent la fonction publique

Paul Gaboury, Le Droit, le 16 juin 2015

Les députés néo-démocrates Mathieu Ravignat et Paul Dewar reprochent au gouvernement Harper de démoniser la fonction publique et de s'attaquer au droit de négociation des fonctionnaires fédéraux.

Profitant de la Semaine nationale de la fonction publique, qui se déroule jusqu'à vendredi, les deux députés, respectivement de Pontiac et d'Ottawa-Centre, ont défendu lors d'un point de presse au Parlement mardi matin le principe d'«une fonction publique forte pour un gouvernement fort».

En prévision de la prochaine campagne électorale, ils promettent qu'un gouvernement néo-démocrate rétablirait une relation fondée sur le respect du professionnalisme non partisan des fonctionnaires et de leur dévouement envers les Canadiens.

«La fonction publique du Canada, non partisane et fondée sur les mérites, est un excellent modèle de gouvernance stable. Malheureusement, les conservateurs font comme le gouvernement libéral avant eux en politisant la fonction publique et en minant son indépendance et son intégrité» a indiqué le député Ravignat, porte-parole du Conseil du Trésor pour le NPD.

CBCnews

Watch a clip of federal lawyer and AJC member Barbara Winters, who was honoured by St. John Ambulance, who comforted Corporal Nathan Cirillo, after the October 2014 attacks in Ottawa:

http://www.cbc.ca/player/News/Canada/Ottawa/ID/2669998517/

Heroes of Oct. 22 honoured by St. John Ambulance

Blair Crawford, Ottawa Citizen, June 18, 2015

When she heard the gunshots, when she saw the shooter standing in front of her — "very theatrical … this long gun, the scarf, the pseudo Middle Eastern clothes" — when she saw Cpl. Nathan Cirillo lying on the ground, another soldier already giving first aid, Margaret Lerhe asked herself a question.

"Am I up for this?"

When Martin Magnan heard the shots — "ba-bang, ba-bang, ba-bang" — and saw a soldier taking cover, he turned and ran straight toward the danger. "I honestly don't know why. I wasn't really thinking anything," he said. "In my head it was just, 'Go, go go! Just get there. Look and listen, but just get there."

Lerhe and Magnan were among the six people who provided immediate first aid to the mortally wounded Cirillo. Six strangers brought together by chance on that gorgeous October morning, who chose action over inaction.

On Saturday, Magnan and Lerhe will be joined by another civilian, Barbara Winters, and soldiers Cpl. Kyle Button, Cpl. Anthony Wiseman and Col. Conrad Mialkowski to be awarded the Gold Life-saving Medal of the Order of St. John "for their heroic and selfless acts of bravery and for their knowledge and use of first aid while attempting to save a life."

The ceremony will take place in the Senate of Canada, not far from where the shooter, Michael Zehaf-Bibeau, was eventually shot and killed.

Lerhe, a former nurse who retired in January as an administrator with Bruyère Continuing Care, was walking to an appointment the morning of Oct. 22. At first, she thought it was a practice drill or movie scene and looked around to see who was filming. Then she saw Cirillo lying on the ground. Button was already trying to stem the blood from one of two gunshot wounds in Cirillo's back.

"He looked up and said, 'Call 911,'" Lerhe said. "I thought to myself, 'Am I up for this? I'm not a nurse anymore, but nobody else was there so I knew I could do something. I knelt down and asked what I can do."

Other help arrived within seconds. Winters, a lawyer with Canada Revenue Agency, began cardiopulmonary resuscitation, and comforted Cirillo, telling him he was loved and he was brave. Magnan, kneeling at Cirillo's feet, lifted the wounded soldier's legs — "like two tree trunks" — while the others worked on his upper body.

Although Lerhe figured the group would never see each other again, over the following days — in part because of the intense media coverage — the group reached out to each other and reconnected. Cathy Cirillo, Nathan's mother, invited them to Hamilton for the funeral. The group has met regularly since then.

The weeks after the shooting were hard.

"I had a rough month,"Lerhe said. "I'm not going to speak for anyone else, but I think for anyone who went through that incident, you think you're handling it and all of a sudden you're not handling it."

Both Magnan and Lerhe sought counselling.

The day after the shooting, Magnan was back at his desk where he works as a communication's adviser to the Minister of Veterans Affairs.

"That probably wasn't a good idea," he conceded. "I thought I was fine. People were really gracious. I had lots of support from friends, but you end up just staring at your screen and the day goes by. It's when I really started to appreciate the importance of mental health.

His employer encouraged him to begin counselling. "It eventually went away," he said, "but that first month I didn't sleep a lot."

Lerhe says the tragedy of Oct. 22 — and the grace and strength of Cathy Cirillo — are the inspiration behind a new adventure. She leaves in July for a nine-month assignment as a support worker with Médecins Sans Frontières in the Central African Republic.

"Mrs. Cirillo is an extraordinarily strong woman. At the funeral she asked me, 'How has this event transformed you?' I was stunned. How could she ask that question? How could she be thinking of me in her moment of grief?" Lerhe said.

"There's a saying that says something like, after trauma there is growth. This, for me, has been an awakening. It's a very positive outcome. I knew that I still wanted to give.

"I will be turning 62 in three weeks. I want other people to see that there are still great opportunities to contribute as a volunteer when one hits retirement. It's really important to find your niche. Maybe not everyone wants this level of adventure, but examine your life and realize that you can still contribute in a very positive way."

Magnan says he's changed, too. In some way, he's a harder man, but he's also more forgiving and less inclined to worry about small matters. And he's immensely proud of the soldiers he works for through Veterans Affairs and grateful to be a Canadian.

Does he consider himself a hero?

“Everybody wants to be a hero. If the outcome had been different, I’d be a lot happier about it,” he says, his voice breaking. “It’s quite an honour. I’m very proud and happy — for my kids and my family — but it’s going to be a hard one to swallow.”

Turmel veut mieux protéger les divulgateurs

Paul Gaboury, Le Droit, le 19 juin 2015

La députée de Hull-Aylmer, Nycole Turmel, a déposé une motion demandant au gouvernement d'entreprendre une révision complète de la Loi sur la protection des divulgateurs d'actes répréhensibles.

La motion a été déposée jeudi, en pleine Semaine nationale de la fonction publique organisée pour souligner le travail des fonctionnaires fédéraux.

«Dans le service public, et même dans les partenariats privés, tout le monde le sait: dénoncer des mauvaises pratiques équivaut presque à chaque fois de faire une croix sur sa carrière. Cela ne devrait jamais être le cas», a indiqué la députée néo-démocrate. Les divulgateurs sont essentiels pour la santé de nos institutions. Il est grand temps de leur donner la protection qu'ils méritent.»

Multiples lacunes

La députée Turmel souligne que dans sa forme actuelle, la loi contient d'importantes lacunes, notamment au chapitre de la préservation de l'anonymat des dénonciateurs et de leur protection face aux représailles, ainsi que des pouvoirs d'enquête et de sanction du Commissaire à l'intégrité du secteur public.

Les divulgateurs doivent prouver que les représailles qu'ils subissent sont en lien direct avec la divulgation pour avoir droit à la protection que prévoit la Loi, a expliqué la députée de Hull-Aylmer.

«Le fardeau de la preuve est bien trop lourd dans ce genre de cas, surtout lorsqu'on sait que plus de 75% des plaintes déposées pour représailles sont jugées non recevables par le Commissaire.

Une provision spéciale pour contrer ce problème a déjà été proposée par le passé et existe dans plusieurs autres juridictions», a dit la députée Turmel.

Adoptée en 2007, la loi a fait l'objet de nombreuses critiques des syndicats, des partis d'opposition et surtout des groupes de défense de divulgateurs. La loi prévoyait une révision après cinq ans, mais le gouvernement Harper n'y a jamais donné suite.

«Une révision permettrait de mettre en lumière ces lacunes et de les corriger efficacement», a fait valoir l'ex-présidente de l'Alliance de la fonction publique du Canada.

Place du Portage workers warned again of presence of Legionella bacteria

Blair Crawford, The Ottawa Citizen, June 16, 2015

Just two weeks after getting the all-clear on the presence of Legionella bacteria at Place du Portage, some federal government workers are again being warned that the potentially deadly bacteria have been found in the complex.

A memo sent this week to workers at 200 Promenade du Portage says that Legionella bacteria are present in the building's hot water supply. Routine samples of the water were taken on June 2, the memo said, and test results received June 12 showed "the presence of Legionella bacteria in the … Place du Centre."

The hot water has been turned off until further tests show it has been disinfected, the memo said.

Public Works and Government Services Canada would not confirm the findings Monday, but a spokesman promised a response by late Tuesday afternoon. Meanwhile, the union representing Public Service workers said it's been kept in the dark.

"At this point, we have more questions than answers," said Robyn Benson, national president of the Public Service Alliance of Canada. "Our members on the workplace health and safety committees are requesting information and have made it clear that they will need to be involved in any potential investigations and response measures."

In mid-May, when Legionella bacteria were found in the cooling system of Place du Portage Phase III, Canada's chief public health officer, Dr. Gregory Taylor, joined senior staff from PWGSC to make the announcement and reassure workers.

The water in the cooling towers was treated with chlorine and tests released June 1 showed Legionella bacteria were back within safe levels.

The Legionella bacteria — named after a 1976 outbreak in Philadelphia that killed 29 U.S. Legionnaires — can lead to a form of pneumonia called Legionnaires' disease, or the less serious, flu-like Pontiac fever. Both illnesses have symptoms that include fever, cough, muscle pain and headaches. Symptoms usually appear from two to 14 days after infection. Most cases are treated by antibiotics. Those most at risk from Legionella are the elderly, pregnant women and people with compromised immune systems.

The disease is not contagious and people are most likely to be infected when they breathe in bacteria carried in airborne water droplets. For that reason, the presence of Legionella bacteria in a building's cooling towers is considered to be a higher risk. The systems extract heat through towers in which tiny water drops are sprayed through circulating air. That air is not supposed to mix with the air inside buildings, but can find its way in through breaches in ductwork.

This week's memo says, "Health Canada has performed a risk assessment of this situation and has concluded that the risk to public health is low. The action taken to disinfect the hot water supply today addressed the immediate threat posed by the bacteria and PWGSC is confident that Place du Centre is safe for employees to work in."

Results from followup tests should be available in two to three weeks.

Meanwhile, testing for Legionella bacteria is also being done at the Jean Edmonds Tower North on Slater Street in Ottawa after a Citizenship and Immigration Canada worker fell ill with Legionnaire's disease. The person has since recovered.

"While nothing indicates that the source is Jean Edmonds Tower North, the department is proactively working with Public Works and Government Services Canada to test the ventilation system," department spokesman Rémi Larivière told the Citizen in an email.

"A message was sent to all employees of the Department to inform them of the situation."

Un fonctionnaire d'Ottawa atteint de la bactérie légionellose

Justine Mercier, Le Droit, le 16 juin 2015

Alors que des bactéries Legionella ont récemment été découvertes dans des tours de refroidissement et des réservoirs d'eau chaude d'édifices gouvernementaux du centre-ville de Gatineau, des analyses sont en cours dans un autre immeuble d'Ottawa après qu'un fonctionnaire eut appris, la semaine dernière, qu'il était atteint de la légionellose.

Selon les informations obtenues auprès de Travaux publics et services gouvernementaux Canada (TPSGC), Citoyenneté et Immigration Canada a signalé, mercredi dernier, qu'un employé oeuvrant dans la tour Jean-Edmonds, au centre-ville d'Ottawa, «avait reçu le diagnostic de la maladie du légionnaire». Une épidémie de cette maladie avait causé 13 décès, en 2012, dans la région de Québec.

«Bien qu'il n'y ait aucune raison de tenir pour acquis que la bactérie provient de la tour Jean-Edmonds, TPSGC a pris des mesures préventives en travaillant de manière proactive avec le locateur de l'immeuble en vue de soumettre les tours de refroidissement et d'autres systèmes d'eau libre à des tests, a indiqué Pierre-Alain Bujold, relationniste pour TPSGC. Les premiers résultats sont attendus le 17 juin.»

Un entretien préventif des tours de refroidissement des immeubles Jean-Edmonds avait été réalisé en avril dernier, précise TPSGC.

La présence de bactéries pouvant causer la légionellose a aussi été détectée plus tôt ce mois-ci dans deux édifices du centre-ville de Gatineau. Vendredi dernier, Brookfield Global Integrated Solutions a fait savoir que les résultats d'«une inspection d'entretien périodique» réalisée le 1er juin au 30, rue Victoria, «indiquaient la présence d'une quantité de bactéries Legionella supérieure au niveau acceptable dans la tour de refroidissement». Le système a aussitôt été mis hors service afin d'être désinfecté. D'autres analyses ont été effectuées et les résultats obtenus dimanche ont indiqué que le niveau de bactéries était descendu «bien en deçà des seuils établis conformément à la norme de TPSGC».

Des bactéries Legionella ont également été découvertes dans une douche d'une salle de toilettes située au 12e étage de la tour fédérale de la Place du Centre, au 200, promenade du Portage. L'analyse avait été effectuée le 2 juin, et les résultats ont été connus dix jours plus tard. L'alimentation en eau chaude a été coupée, le temps que des travaux de décontamination aient lieu. Les résultats d'une nouvelle analyse sont attendus jeudi. L'alimentation en eau chaude restera interrompue jusqu'à ce que les résultats des analyses soient concluants.

Le directeur général de la Place du Centre, Alain Fournier, a précisé que le réseau de distribution d'eau du centre commercial est totalement indépendant de celui desservant la tour fédérale. La Legionella ne se trouvait donc pas dans le réseau du centre commercial, indique-t-il, en ajoutant que des inspections préventives sont tout de même menées sur une base régulière dans le réseau alimentant les commerces.

La porte-parole du Centre intégré de santé et de services sociaux de l'Outaouais, Geneviève Côté, a indiqué que les risques associés aux bactéries Legionella dépendent de l'endroit où leur présence a été détectée.

«Il y a davantage de risques lorsque la bactérie est détectée dans une tour de refroidissement, puisque la bactérie se propage par voie aérienne, tandis qu'il est fréquent d'en trouver dans des réservoirs à eau chaude, explique-t-elle. Les risques de contamination sont vraiment minimes lorsque la bactérie provient de l'eau.»

À la mi-mai, TPSGC avait signalé la présence de «quantités anormalement élevées» de Legionella dans une tour de refroidissement du complexe Portage III. Les ventilateurs avaient aussitôt été arrêtés afin de procéder à la décontamination.

En Outaouais, un cas de légionellose a été rapporté l'automne dernier. Une femme travaillant à l'édifice Jos-Montferrand, tout près de la Place du Portage, avait été admise à l'hôpital après avoir contracté la bactérie. Entre un et deux cas de la maladie du Légionnaire sont rapportés chaque année en Outaouais.

Union confident public service pay issues will be resolved

Michael Woods, Metro News, June 18, 2015

A top official in the largest union representing federal public servants says he's confident that pay issues will be resolved after meeting with Public Works this week.

"I'm confident that we're going to see the number of complaints diminish over the next little while," said Chris Aylward, national executive vice-president of the Public Service Alliance of Canada.

Wednesday's meeting came after PSAC said it received hundreds of complaints from public servants who haven't been paid on time, with some waiting for up to 10 weeks.

The federal government is migrating to a new, centralized payroll system run out of a pay centre in Miramichi, N.B.

Aylward said the sides agreed to certain protocols and there's a meeting in Miramichi on Monday, with senior public works officials, PSAC officials and the pay centre employees. He didn't want to discuss the specifics before that meeting takes place.

"We did agree on the number of protocols, basically changes that they're prepared to make," he said. "I believe that it will improve."

PSAC represents the 550 employees at the pay centre.

"Public Works was very open, they understood that we have something here that needs to be addressed," he said. "They are certainly very eager to … address the issues of people not being paid."

There was also acknowledgment that some of the problem is stemming from the paperwork is being delayed in the home departments, Aylward said.

Public Works had said the pay centre wasn't experiencing widespread issues in admnistering pay services. But Aylward said they acknowledged that Agriculture Canada was affected and they were in frequent contact with the department.

The government says the new pay centre will service 46 departments and agencies, saving $70 million per year starting in 2016-17.

Under the government's new Phoenix pay system – to be rolled out in October – the pay centre in Miramichi will be responsible for about 180,000 approximately pay accounts, Aylward said.

Another 120,000 accounts will stay in their home departments, such as the Canada Revenue Agency and Canada Border Services Agency, he said.

Plus de 10 000 fonctionnaires de plus dans la région

Paul Gaboury, Le Droit, le 18 juin 2015

Malgré les cures minceur imposées à la fonction publique fédérale, dont la taille a diminué de 5 % en dix ans, il y a aujourd'hui 10 000 fonctionnaires de plus qu'en 2005 dans la région d'Ottawa-Gatineau. Pendant cette période, la proportion d'employés fédéraux qui résident à Gatineau a augmenté, alors que la part des Ottaviens a diminué.

C'est ce que révèlent les plus récentes données de l'Enquête sur la population active de Statistique Canada.

Aujourd'hui, les résidents d'Ottawa et de Gatineau sont 123 000 à travailler dans la fonction publique, incluant ceux de la Défense nationale, soit 39,2 % de tous les employés fédéraux du pays. Par comparaison, il y en avait 112 800 en mai 2005, soit 34,1 %.

Ainsi, pendant que le nombre d'employés de la fonction publique chutait de 16 700 au pays ces dix dernières années pour atteindre son plus bas niveau en mai 2015, la part d'employés fédéraux de la région a connu une hausse de plus de cinq points de pourcentage.

Plus de Gatinois

La même enquête indique que le poids démographique des Gatinois dans la fonction publique fédérale s'est accentué en dix ans, alors que celui de leurs voisins ottaviens a régressé.

Le nombre de Gatinois oeuvrant pour le gouvernement fédéral est passé de 29 600 en mai 2005 à 35 700 en mai 2015, ce qui représente une hausse de 20,6 % au cours de la dernière décennie.

De leur côté, les Ottaviens travaillant pour le gouvernement fédéral sont peut-être encore plus nombreux que les Gatinois, mais leur poids démographique a diminué en dix ans. Ils sont passés de 83 200 à 87 500 entre 2005 et 2015. Si la part des Ottaviens représentait 73,7 % des fonctionnaires fédéraux de la région en 2005, elle en constitue aujourd'hui 70,9 %, en baisse 2,8 points de pourcentage.

Les données de Statistique Canada ne permettent pas de dire si les fonctionnaires gatinois travaillent à Gatineau ou à Ottawa, puisque cette question n'est pas posée dans l'Enquête sur la population active.

Basés sur le lieu de résidence, les récents chiffres de Statistique Canada diffèrent du nombre d'emplois fédéraux à Ottawa et Gatineau qu'avait obtenu la députée néo-démocrate de Gatineau, Françoise Boivin, en 2014.

Ces données révélaient que, malgré la construction de plusieurs nouvelles tours à bureaux loués par le gouvernement fédéral à Gatineau, le nombre de fonctionnaires y avait légèrement diminué, de 30 676 en mai 2012 à 30 538 en mai 2014. La part d'emplois fédéraux à Gatineau par rapport à Ottawa était de 20,6 % en 2014, encore en deçà de l'objectif de 25 % fixé par le gouvernement. On comptait ainsi un total de 148 368 emplois fédéraux dans la région de la capitale nationale le 1er mai 2014. De ce nombre, 30 538 emplois (20,58 %) se trouvaient sur la rive québécoise, alors qu'Ottawa en comptait 117 830 (79,4 %).

Plus de 190 fonctionnaires fédéraux honorés

Paul Gaboury, Le Droit, June 18, 2015

Plus de 190 fonctionnaires fédéraux travaillant dans des domaines aussi variés que la sécurité des pipelines, les télécommunications dans le Grand Nord canadien, la commémoration du Jour J ou de la lutte contre le virus Ebola, ont été honorés du Prix d'excellence de la fonction publique 2015. Les prix ont été remis par le Secrétariat du Conseil du Trésor dans plus de 14 catégories, à l'occasion de la Semaine nationale de la fonction publique.

On a notamment souligné la «carrière exceptionnelle» de Rachel Corneille Gravel d'Anciens Combattants Canada, Béatrice Gagné Plourde de Statistique Canada, Paul Mills de l'Agence de promotion économique du Canada Atlantique, Derek C. G. Muir d'Environnement Canada, et de Dale Cindy Sharkey du Tribunal des anciens combattants.

Le prix Joan Atkinson, qui reconnaît les qualités de courage, de sagesse et de compassion d'un employé à l'échelon de sous-ministre adjoint, a été remis à Jacques Paquette, d'Emploi et Développement social Canada. Un prix spécial a été remis à George Stewart, de la Défense nationale, pour récompenser ses 60 années de service.

LES MEMBRES DE L'AJJ RÉCIPIENDAIRES SONT SOULIGNÉS EN JAUNE/ AJC MEMBERS WHO ARE RECIPIENTS ARE HIGHLIGHTED IN YELLOW

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Carrière exceptionnelle

Rachel Corneille Gravel - Anciens combattants CanadaBéatrice Gagné Plourde - Statistique Canada

Paul Mills - Agence de promotion économique du Canada Atlantique

Derek C. G. Muir - Environnement Canada

Dale Cindy Sharkey - Tribunal des anciens combattants (révision et appel)

Excellence en gestion

Roula Eatrides - Service administratif des tribunaux judiciaires

Peter L. Estey - Agence du revenu du Canada

Peter Larose - Emploi et Développement social Canada

Innovation des employés

L'équipe du Centre d'instruction des Forces armées canadiennes dans l'Arctique

Chantal Audet - Ressources naturelles Canada

Colin Carson - Ressources naturelles Canada

Bill Chambré - Ministère de la défense nationale

Owen Crabbe - Ministère de la défense nationale

R. Knapik - Ministère de la défense nationale

Michael Kristjanson - Ressources naturelles Canada

Donald N. Parker - Ministère de la défense nationale

Luc St-Denis - Ministère de la défense nationale

Les Thomlinson - Ministère de la défense nationale

Lori Wilkinson - Ressources naturelles Canada

Stephen R. Wright - Ministère de la défense nationale

Camp de carrière 2015 Comité directeur

Robert Armstrong - École de la fonction publique du Canada

Chantal Beaudin - École de la fonction publique du Canada

Alexandre Desharnais - École de la fonction publique du Canada

Erin Gee - Agence du revenu du Canada

Srishti Hukku - Emploi et Développement social Canada

Jean-François Leduc - Services partagés Canada

Kenneth Loy - Emploi et Développement social Canada

Megan Masters - Ressources naturelles Canada

Sarah Teresa Wicks McCallum - Services partagés Canada

Heather McClelland - Services partagés Canada

Isabelle Montpetit - École de la fonction publique du Canada

Kazia Peplinskie - Secrétariat du Conseil du Trésor du Canada

Isabelle Renaud - École de la fonction publique du Canada

Amanda Troupe - Secrétariat du Conseil du Trésor du Canada

Jan-Mark van der Leest - Citoyenneté et immigration Canada

Équipe de fabrication additive par projection à froid

Frédéric Belval - Conseil national de recherches Canada

David de Lagrave - Conseil national de recherches Canada

Bernard Harvey - Conseil national de recherches Canada

Dr Eric Irissou - Conseil national de recherches Canada

Dr Jean-Michel Lamarre - Conseil national de recherches Canada

Dr Dominique Poirier - Conseil national de recherches Canada

Équipe de la Réingénerie stratégique

Adam Ali - Travaux publics et Services gouvernementaux Canada

Ahmad Ali - Travaux publics et Services gouvernementaux Canada

Matthew Ball - Travaux publics et Services gouvernementaux Canada

José Banos - Travaux publics et Services gouvernementaux Canada

Éric Boulanger - Travaux publics et Services gouvernementaux Canada

Daniel M. Caron - Travaux publics et Services gouvernementaux Canada

Steven Dupont - Travaux publics et Services gouvernementaux Canada

Nancy Gauthier - Travaux publics et Services gouvernementaux Canada

Angela Hagar - Travaux publics et Services gouvernementaux Canada

Christine Hug - Travaux publics et Services gouvernementaux Canada

Caroline-Soledad Mallette - Travaux publics et Services gouvernementaux Canada

Sandra Pelletier - Travaux publics et Services gouvernementaux Canada

Anne-Louise Perreault - Travaux publics et Services gouvernementaux Canada

Marc Tessier - Travaux publics et Services gouvernementaux Canada

Ian Van Audenhaege - Travaux publics et Services gouvernementaux Canada

Objectif 2020

Jimmy Ammoun - Emploi et Développement social Canada

Devon Bartley - Ministère de la justice Canada

Dr Lauren Hunter - Ressources naturelles Canada

Catégorie : excellence dans la prestation des services axés sur les citoyens

Jeffrey de Fourestier - Ministère de la défense nationale

Équipe des opérations cybernétiques

Sean R. Adam - Sécurité publique Canada

Carl J. C. Berger - Sécurité publique Canada

Christopher Briffett - Sécurité publique Canada

Patrick Clow - Sécurité publique Canada

Tamara Critch - Sécurité publique Canada

Patrick Desnoyers - Sécurité publique Canada

Brandon Hum - Sécurité publique Canada

Marc William Landry - Sécurité publique Canada

Eric Lauzier - Sécurité publique Canada

Chad McNamara - Sécurité publique Canada

Bruce Moore - Sécurité publique Canada

Rene Mulder - Sécurité publique Canada

Vireak Phlek - Sécurité publique Canada

Julia Scouten - Sécurité publique Canada

Sandra Williston - Sécurité publique Canada

Service en ligne des subventions et contributions (SELSC)

Katie Alexander - Emploi et Développement social Canada

Mario Bégin - Emploi et Développement social Canada

Lacey Campbell - Emploi et Développement social Canada

Julie Chartrand - Emploi et Développement social Canada

Zeljko Delic - Emploi et Développement social Canada

Nancy Gardiner - Emploi et Développement social Canada

Anik Goodie - Emploi et Développement social Canada

Stephen Hadley - Emploi et Développement social Canada

Polly Jones - Emploi et Développement social Canada

Donna McCharles-Gyetko - Emploi et Développement social Canada

Nina Muraviova - Emploi et Développement social Canada

Mario Séguin - Emploi et Développement social Canada

Lemonte Squibb - Emploi et Développement social Canada

Chris Stevenson - Emploi et Développement social Canada

Marguerite Vaillancourt - Emploi et Développement social Canada

Équipe de personnes vulnérables

Sheikh Mohamed Attar - Ministère des Affaires étrangères, Commerce et Développement Canada

Ibtissam Hammoud Alsahli - Ministère des Affaires étrangères, Commerce et Développement Canada

Guiseppe R. Basile - Ministère des Affaires étrangères, Commerce et Développement Canada

Kiran Kaur Bhinder - Ministère des Affaires étrangères, Commerce et Développement

Sean Blane - Ministère des Affaires étrangères, Commerce et Développement Canada

Neeta Chhibber - Ministère des Affaires étrangères, Commerce et Développement

Nancy Guy - Ministère des Affaires étrangères, Commerce et Développement Canada

Doaa Hassan - Ministère des Affaires étrangères, Commerce et Développement Canada

Tom MacDonald - Ministère des Affaires étrangères, Commerce et Développement Canada

Aliya Mawani - Ministère des Affaires étrangères, Commerce et Développement Canada

Simon Milne-Day - Ministère des Affaires étrangères, Commerce et Développement Canada

Tanya Prévost - Ministère des Affaires étrangères, Commerce et Développement Canada

Rhonda Raby - Agence des services frontaliers du Canada

Diala Shibl - Ministère des Affaires étrangères, Commerce et Développement Canada

Shaun Patrick Smith - Gendamerie royale du Canada

Équité en matière d'emploi et diversité

Kathryn L. Horrelt - Ministère de la défense nationale

Langues officielles

Comité national des champions des langues

David R. Bedford - Agence du revenu du Canada

Annie Boudreau - Agence du revenu du Canada

Eric Byrne - Agence du revenu du Canada

Michel Gravelle - Agence du revenu du Canada

Tamara Kluke - Agence du revenu du Canada

Micheline Leduc - Agence du revenu du Canada

Lyne Levac - Agence du revenu du Canada

Stephen Lunney - Agence du revenu du Canada

Cheryl MacLellan - Agence du revenu du Canada

Guy Mathieu - Agence du revenu du Canada

Gillian Pranke - Agence du revenu du Canada

Sherry E. Sharpe - Agence du revenu du Canada

J. Paul Vienneau - Agence du revenu du Canada

Petra Vidican - Agence du revenu du Canada

Patricia Whitridge - Agence du revenu du Canada

Excellence en politiques

Faire progresser le système de sécurité des pipelines de classe mondiale, ainsi que la sureté et sécurité des secteurs extracôtier et nucléaire (C-22 et C-46)

Norma L. Beech - Ministère de la Justice Canada

Tyler Cummings - Ressources naturelles Canada

Timothy Gardiner - Ressources naturelles Canada

Laura Farquharson - Environnement Canada

Stephen Hawley - Ressources naturelles Canada

Jacques Hénault - Ressources naturelles Canada

Terry Hubbard - Ressources naturelles Canada

Jeff Labonte - Ressources naturelles Canada

Anna Larson - Ressources naturelles Canada

Abigail Lixfeld - Bureau du conseil privé

David McCauley - Ressources naturelles Canada

Samuel Millar - Ressources naturelles Canada

Donald S. Reed - Affaires autochtones et Développement du Nord Canada

Me Jean-François Roman - Ministère de la justice Canada

Jonathan Timlin - Office national de l'énergie

Loi sur les mesures de transparence dans le secteur extractif

Vincent Klassen - Ressources naturelles Canada

Ron Lyen - Ressources naturelles Canada

Ekaterina Ohandjanian - Ressources naturelles Canada

Mark Pearson - Ressources naturelles Canada

Susan Weston - Ressources naturelles Canada

Robyn H. Whittaker - Ressources naturelles Canada

L'équipe de la modernisation des télécommunications du Nord

Christine Bailey - Conseil de la radiodiffusion et des télécommunications canadiannes

Julie Boivert - Conseil de la radiodiffusion et des télécommunications canadiannes

Emilia de Somma - Conseil de la radiodiffusion et des télécommunications

Martin Daigle - Conseil de la radiodiffusion et des télécommunications canadiannes

Céline Legault - Conseil de la radiodiffusion et des télécommunications canadiannes

Catherine Lemieux - Conseil de la radiodiffusion et des télécommunications canadiannes

James N. MacKay - Conseil de la radiodiffusion et des télécommunications canadiannes

John Macri - Conseil de la radiodiffusion et des télécommunications canadiannes

Hersha Malkani - Conseil de la radiodiffusion et des télécommunications canadiannes

Balasubramanian Natraj - Conseil de la radiodiffusion et des télécommunications canadiannes

Kevin Pickell - Conseil de la radiodiffusion et des télécommunications canadiannes

Jade Roy - Conseil de la radiodiffusion et des télécommunications canadiannes

Lynda Roy - Conseil de la radiodiffusion et des télécommunications canadiannes

Christopher Seidl - Conseil de la radiodiffusion et des télécommunications canadiannes

Robert Thompson - Conseil de la radiodiffusion et des télécommunications canadiannes

Jeunesse

Leila El-Khatib - Travaux publics et Services gouvernementaux Canada

Lesley Ann Facto - Ministère de la défense nationale

Contribution exemplaire dans des circonstances extraordinaires

Équipe conjointe Ébola

Ryan Baker - Santé Canada

Alain Boucard - Agence de la santé publique du Canada

Steve Buckles - Transport Canada

Dominique Charron - Centre de recherche pour le développement international

Christine Fournier - Agence des services frontaliers du Canada

Martin Gagnon - Service correctionnel Canada

Drew Heavens - Secrétariat du Conseil du Trésor du Canada

Lillian Hopkins - Bureau du conseil privé

Michael MacDonald - Citoyenneté et immigration Canada

Gary O'Neil - Ministère de la défense nationale

Dr Marc Ouellette - Instituts de recherche en santé du Canada

Stephen Salewicz - Ministère des Affaires étrangères, Commerce et Développement

Prix Joan Atkinson

Jacques Paquette - Emploi et Développement social Canada

Contribution au corpus scientifique

Dr Jeremy F. Mills - Service correctionnel Canada

L'équipe de production de nanotubes du CNRC

Stéphane Dénommée - Conseil national de recherches Canada

D. Jingwen Guan - Conseil national de recherches Canada

Dr Michael Jakubinek - Conseil national de recherches Canada

Dr Keun Su Kim - Conseil national de recherches Canada

Christopher T. Kingston - Conseil national de recherches Canada

Mark Plunkett - Conseil national de recherches Canada

Dr Benoit Simard - Conseil national de recherches Canada

Événement ou projet spécial de grande envergure

Équipe 2014 Jour J et de la bataille de Normandie

Jason Broussard - Anciens combattants Canada

Jean (John) Desrosiers - Anciens combattants Canada

Corey Downey - Anciens combattants Canada

Judy Gallant - Anciens combattants Canada

Beverly Gerg - Anciens combattants Canada

Hélène Halatcheff - Ministère des Affaires étrangères, Commerce et Développement

Dr Hai Thong Nguyen - Anciens combattants Canada

Caitlin Rochon - Anciens combattants Canada

Paulette Ryan - Anciens combattants Canada

Anthony James Slack - Ministère de la défense nationale

Willemina Squires - Anciens combattants Canada

Arend teRaa - Anciens combattants Canada

Melissa Walsh - Anciens combattants Canada

Geoff Wood - Anciens combattants Canada

Prix spécial récompensant 60 années de service

George A. Stewart - Défense nationale

Hacker group 'Anonymous' claims credit for federal cyber attacks

Jason Fekete, Ottawa Citizen, June 17, 2015

The Hacker group Anonymous claimed responsibility Wednesday for a cyber attack on the federal government's computer servers that shut down federal emails and several department websites. The government said no personal information was compromised.

"On June 17, Government of Canada websites were affected by a denial of service attack impacting email, Internet access and information technology assets," said a statement issued late in the afternoon by a Treasury Board official. "We are working on restoring services as soon as possible.

"We continue to be vigilant in monitoring any potential vulnerabilities," added the statement from Dave Adamson, the department's acting chief information officer.

Websites for Justice, Public Works and Government Services, the main Canada.ca page, Shared Services Canada (the government's super-IT department) and even the Canadian Security Intelligence Service (CSIS) were among those affected.

Public Safety Minister Steven Blaney said no one's personal information was jeopardized, adding "law-enforcement agencies" were looking into the matter.

Many public servants first heard of the problem when Treasury Board President Tony Clement tweeted: "Confirmed today that Govt of Canada GC servers have been cyberattacked. Until full service is restored please use 1-800-OCanada."

Government email access for some ministerial staff was also down, with political staffers handing out their personal email addresses to media. A number of sites came back online later.

Internet hacker group Anonymous posted a YouTube video and statement claiming responsibility for the attack. The group said it was responding to the government's Anti-Terrorism Bill C-51, recently passed in Parliament.

"Greetings citizens of Canada, we are Anonymous. Today, this 17th of June 2015 we launched an attack against the Canadian senate and government of Canada websites in protest against the recent passing of bill C-51," the group said.

In the video, the group said it launched an attack on both the Senate's and Government of Canada's websites. Anonymous called on Canadians to stand up and take to the streets

this Saturday to protest Bill C-51, which the group says targets minority groups and dissidents.

“Do we trade our privacy for security?” says the voice-over on the video. “Stand for your rights. Take to the streets in protest this 20th of June, 2015. Disregard these laws which are unjust, even illegal.”

Blaney said the cyber attack was an inappropriate way to express dissent. “We are living in a democracy,” he said. “And there are many ways to express your views.”

C-51 refers to the Anti-terrorism Act of 2015, which redefines threats to national security to include, among other things, interference with critical infrastructure — including cyber systems — and to the “economic and financial stability” of Canada.

It provides exceptional policelike powers to Canadian spies to disrupt suspected threats to the nation, in many instances without the need for judicial warrants. It establishes a new category of crime, making it illegal to promote terrorism, and gives authorities the power to seize “terrorist propaganda.” It lowers the legal threshold required for police to detain suspected extremists without charge and to impose conditions on their release.

It also allows 17 federal departments and agencies to share and collate personal and other information about Canadians suspected of “activity that undermines the security of Canada.” It creates a no-fly list for individuals suspected of planning to join extremist fighters overseas.

And in exceptional cases, it gives the Federal Court authority to issue warrants exempting the Canadian Security Intelligence Service (CSIS) from breaking the law in order to disrupt and “reduce” national security threats.

The bill was to receive royal assent this week.

The Communications Security Establishment (CSE), responsible for the protection of government computer systems and electronic information, says thousands of attempts are made every day to infiltrate government networks.

The system includes more than 57,000 servers, 9,000 Internet connections and is accessed by more than 377,000 public servants and millions of Canadians.

The agency did not offer any immediate comment on Wednesday’s attack.

Last Friday, employees of the House of Commons were also thought to be targeted. They were warned to be on the lookout for suspicious emails from hackers seeking personal information.

Two memos sent from Commons IT staff at that time said its employees, along with private sector workers, were “currently being targeted by several cyberattacks.”

The first alert, sent Friday morning, said hackers had stolen large volumes of personal data in the attacks. A later alert said there was no evidence personal data had been stolen from Commons accounts, but did say they had been targeted.

It appears from the memos that hackers were sending phishing emails that look like they come from official accounts, but instead were a technological ruse to trick recipients into giving up personal information.

Commons IT officials, in the most recent memo, warned workers not to hand out their passwords to anyone and to delete any suspicious-looking messages.

Last year, a phishing scam that had the hallmarks of a state-sponsored attack allowed hackers into the systems of the National Research Council.

The government blamed China for the attack that forced the NRC to shut down its computer system last July and use a temporary network while a new $32.5-million system was built to better withstand further attacks.

The NRC's systems were also isolated from other federal systems. The NRC was one of several agencies in Shared Services Canada's national security and science portfolios — groups that include Health Canada, the RCMP, Department of National Defence, Transport Canada and the Canadian Food Inspection Agency — that have among the most complex and sensitive IT infrastructure in the country.

The intrusion came from "a highly sophisticated Chinese state-sponsored actor," said the Treasury Board.

In January 2011, "spear-phishing" attacks are believed to have been perpetrated using servers in China. Hackers gained access to the Finance and Treasury Board networks by sending malicious emails to high-ranking department officials that contained a link to a webpage infected with a sophisticated virus.

It then opened a pathway deep into the government networks and installed spy malware. Hackers also sent infected Adobe Systems PDF files that, when opened, unleashed more malicious code to target and download government secrets.

How were federal websites shut down?

Ottawa Citizen, June 17, 2015

The hacker group Anonymous claimed responsibility Wednesday for a cyber attack that brought down several federal government websites. The group said it was protesting the recently passed anti-terrorism bill.

How did it make the sites crash?

It used what's called a distributed denial of service attack (DDOS).

What's that?

Basically, it means arranging to have millions of computers try to open a given homepage at the same time, often prompting the overloaded site to simply shut down and "deny" service to further requests. This blocks legitimate users from accessing those sites until web traffic returns to normal.

How do they get that many computers?

Various viruses and worms making their way through cyber space can infect a computer, rendering it a slave to something called a botnet. A user might not know the computer is infected with a botnet virus. The people behind botnets infect huge numbers of computers around the world and, in many cases, sell the use of their botnets to anyone willing to pay. For as little as $200, a person can rent a botnet for a day and use it to attack any website they'd like to bring down. It takes no technical skill to perform this task, just a credit card.

How do you stop them?

There are two solutions. The first falls to computer users everywhere: keep computers updated with the latest software patches and scan for viruses regularly. Ensuring a machine isn't infected restricts the number of computers that would-be botnet operators can access. The second falls to companies that fear their websites might be targeted. There is software and other technologies that can filter out traffic from computers that has been identified as being part of a botnet, allowing legitimate users to continue to access the products and services they're accustomed to reaching online.

Des sites du gouvernement fédéral victimes d'une cyberattaque

Le Droit, Presse Canadienne, le 17 juin 2015

Les serveurs informatiques du gouvernement fédéral ont été la cible d'une cyberattaque, a annoncé le président du Conseil du Trésor, Tony Clement, mercredi.

M. Clement avait indiqué, sur son compte Twitter, que la population devait utiliser la ligne téléphonique 1 800 O-Canada jusqu'à ce que les services complets soient rétablis.

Ce message a été publié après que des internautes ont eu de la difficulté à accéder à certains sites du gouvernement.

En fin de journée, le ministre de la Sécurité publique, Steven Blaney, a cherché à rassurer la population en affirmant qu'à aucun moment «des informations personnelles ont été compromises».

Le collectif Anonymous a publié une vidéo sur YouTube pour revendiquer l'attaque, décrite comme un moyen de protestation contre l'adoption récente du projet de loi antiterroriste. M. Blaney n'a pas voulu confirmer que le groupe était effectivement l'auteur de la cyberattaque, préférant «laisser le soin à nos agences d'application de la loi d'identifier la source de l'attaque».

Pressé de questions par les journalistes voulant savoir s'il trouvait la situation préoccupante, le ministre Blaney a préféré insister sur l'obsession sécuritaire de son gouvernement. Pour lui, cette attaque est un «signe qu'il faut être très vigilant». Il a ajouté que cette nouvelle attaque justifiait la stratégie mise en place par son gouvernement pour contrer les pirates informatiques et les investissements annoncés en 2010, en 2012 et dans le dernier budget pour atteindre ce but.

M. Blaney a dénoncé les auteurs de l'attaque. «Il n'y aucune justification pour s'attaquer à la propriété publique en notre pays. Il y a plusieurs moyens d'exprimer par des voies démocratiques son point de vue. Tous ceux qui enfreignent la loi feront face à la loi», a-t-il souligné.

PSAC calls for halt to Service Canada job cuts

Kathryn May, Ottawa Citizen, June 17, 2015

The Public Service Alliance of Canada tabled a new demand at the bargaining table Wednesday for a moratorium on job cuts at Service Canada's pay and processing centre until an independent probe determines whether it can deliver services with existing staff.

The union made the proposal at the latest session of talks with Treasury Board negotiators for its largest group of nearly 80,000 program and administrative staff after documents obtained under Access to Information revealed a backlog last year of 253,800 employment insurance claims that didn't meet the 28-day processing deadline.

The government promised in December to hire an additional 400 employees to eliminate a backlog then of more than 300,000.

PSAC has made several unusual demands in this round of contract talks that are outside the normal scope of bargaining. It made a similar proposal for the creation of a joint labour-management committee to examine mental health in the public service, to which Treasury Board President Tony Clement agreed. In fact, it is the only significant win so far in this contentious round of bargaining.

The EI proposal is very similar. PSAC is seeking a memorandum of understanding to stop further cuts and launch an independent investigation to determine if Service Canada can live up to its mandate.

Among the issues the union wants reviewed are the waiting period for processing EI claims, income security applications, the response times of call centres and walk-in offices, and any other factors that could affect the timeliness of payments and the health of employees.

PSAC members work in Service Canada offices and staff the phone lines. They are typically the first contact when Canadians are trying to fill out an EI claim or find out why their payments have been delayed.

Many work in call centres, which come with major human resource challenges. Morale can be low, employees are stressed and unsatisfied because they have little control over their work. PSAC said the workers in the EI call centre have 10 seconds between calls.

The working conditions of these centres has been a big issue for PSAC and the union may press for some improvements.

PSAC president Robyn Benson said the union's members have to face both the pressure of the backlog and Canadians who are waiting for their EI payments.

"Our demand at the PA table is designed to ensure that all Canadians receive timely access to a crucial public service," said Benson.

"PSAC members work directly with the Canadian public and are just as frustrated about the Service Canada backlog as the people who are being forced to wait weeks, even months."

This is PSAC's first bargaining session since the Conservatives announced in its budget that it had booked $900 million in savings this year because of its plans to get rid of much of the 15 million days of unused sick leave accumulated by employees. Sick leave, which the government wants to replace with a short-term disability plan, is the hot-button issue in the ongoing round of bargaining with the 17 federal unions.

In the same budget, the union was similarly outraged that the government used $1.8 billion in surplus EI funds to help balance the books.

Marco Angeli, president of the Canadian Employment and Immigration Union, said employees are frustrated with their jobs. People can wait on the phone for up to three hours before they reach an agent, and there are cases of claims taking up to eight months to process.

"The $1.8 billion taken out of the EI program by the Harper government in the April budget to balance the budget should have been used to hire people to process claims in a timely manner," Angeli said.

PSAC says the delays are compounded by the changes in eligibility that made it harder than ever for unemployed Canadians to get EI. By 2013, the proportion of employed receiving EI benefits slipped to 37 per cent.

Conservatives spend almost $7M defending unconstitutional legislation

By Amy Minsky, Global News, June 17, 2015

OTTAWA —The Harper Conservatives have spent no less than $6.5 million defending high profile and contentious pieces of legislation ultimately deemed unconstitutional, recently disclosed documents show.

But that sum only tells the beginning of the story, said one criminal defence lawyer.

The $6.5 million price tag was arrived at after Liberal MP Scott Simms asked six ministers to release how much they'd spent fighting 16 specific constitutional court challenges.

The government lost each of the challenges at various levels of court, said Michael Spratt, partner at Abergel Goldstein & Partner in Ottawa.

"But they do not represent all the losses," he said. "That is the tip of the iceberg for this government defending unconstitutional laws."

The specific cases Simms cited run the gamut from imposing mandatory minimum sentences to retroactively changing parole provisions, and from determining the eligibility of Supreme Court nominee Marc Nadon to shutting down supervised injection sites.

This so-called tip of the iceberg suggests a problem within the Department of Justice, where political bodies are strong-arming the experts, said Liberal justice critic Sean Casey.

There is an obligation under the Department of Justice Act to run legislation through a constitutional filter, he explained.

Still, the Liberals have repeatedly asked for opinions with respect to the constitutionality of various pieces of legislation, but found resistance at every turn, Casey said in an interview Tuesday.

"I think this speaks to the political arm not listening to the experts within the Department of Justice, not listening to the experts in the academic community," the critic said. "In many respects they think they're above the law. We see that when they repeatedly introduce unconstitutional legislation and then we see it in their reaction when it's found to be unconstitutional by the courts."

Justice Minister Peter MacKay's office said that at any given moment the government is involved in about 40,000 litigation files.

"Last year we were successful in nearly 70 per cent of cases," the minister's spokesperson wrote in an email, adding that the department has successfully cit down on the number of hour spent on litigation files.

"We remain committed to defending the rights of Canadians."

The most expensive of the 16 cases Simms requested —it has run the government more than $1 million to defend — centred on cuts to refugee health care.

Ottawa trimmed medical benefits for newcomers in 2012, leaving most immigrants with basic, essential health care only.

Rejected refugee claimants, as well as refugee claimants from countries the government considers safe, were offered health care only if they became public health threats.

The million dollars the Conservatives spent didn't get them much; in July last year, the Federal Court ruled the cutbacks amounted to "cruel and unusual" treatment, particularly to children. The court gave the Conservatives four months to change the law.

With the government's recent appeal of the Federal Court decision, however, taxpayers can expect to spend a lot more before the matter is settled.

Lawyers for refugee claimants say that case is not scheduled to be heard until after the federal election, scheduled for Oct. 19. In the meantime, however, the government has been forced to reinstate some of the benefits in order to comply with the court ruling.

Doctors and refugee advocates who took part in a cross-Canada protest Monday said the current system still doesn't meet the requirements laid out by the Federal Court last summer.

Among the specific cases noted in the documents, Casey said he can't quibble with the Senate reference at the Supreme Court, which topped $660,000.

"The expense was justified because they posed a question to the court, they didn't go forward and do something they knew was wrong, then get slapped down," he said.

But that case is an anomaly among the others, he said.

"With all the others, it's never mind the law, never mind the Charter and never mind the evidence. This is the way we want to go and we'll try to bleed our opponents dry in court."

ANALYSIS: Conservatives' doomed legislation will be back during the campaign

More than a dozen new bills were tabled in June alone, most with no chance to pass. But that's not the idea

By James Fitz-Morris, CBC News, June 19, 2015

A Conservative cabinet minister said recently of the flurry of late-session legislation that some of it was for housekeeping, some of it was to campaign on and the rest was just to "wedge" the opposition.

In just over two weeks, with the end of the 41st Parliament fast approaching, the government introduced more than a dozen pieces of legislation.

That's an impressive clip — if there was time (and a desire) to examine, debate and pass these things.

This month, the House unanimously passed a bill finalizing a long-negotiated self-government deal for the Déline First Nation in just one day.

That is a rare exception of cross-party cooperation on a complex issue, and perhaps inspired Transport Minister Lisa Raitt and Defence Minister Jason Kenney to ask for the same for two of their bills — at least publicly.

"Well, I believe we're going to get all-party consent," Raitt said of bill C-62, which would give regulators greater power over recalls in the automotive industry.

Opposition sources say they are open to pushing the bill through — but no one has asked them directly yet, nor has the government brought the bill up for debate in the House.

Of course, with the House expected to rise for the summer — and the election — as early as today, there isn't much time left.

Kenney introduced C-71, the Victims Rights in the Military Justice System Act, on Monday.

While acknowledging there is no time for a thorough examination of the bill, he said opposition critics had been given a preview of it the week before and he hoped to "find a way to fast-track the adoption of the bill in the House."

Opposition sources, again, say the preview of the bill they were given provided very little detail and they will need some time to go through the 80 or so pages of legislative changes.

More to come

Last week, Minister of State for Multiculturalism Tim Uppal announced the government would table legislation to bar Muslim women from wearing a niqab during citizenship ceremonies.

We don't know yet how many pages the anti-niqab legislation will stretch — because it hasn't yet been tabled.

But that's not the point.
By criticizing the unavoidable unconstitutionality and discriminatory nature of any such law, the government hopes the opposition parties will find themselves on the wrong side of public opinion.

It's a similar case with C-53, which allows for sentences of life without parole in some cases.

Experts agree the courts would quickly reject such a law.

But who wants to run an election campaign arguing against tough sentences for murders and rapists?

Introduced in March, the Life Means Life Act quickly fell from the government's priority list and Justice Minister Peter MacKay acknowledged weeks ago the government had "run out of runway," and the bill would die.

Not to worry, said Government House Leader Peter Van Loan on Monday, all the bills can come back.

"We have introduced a number of bills, as you know, rather late in the session," he told reporters at an end-of-session news conference, "that demonstrate what will be the core of an agenda of a Conservative government re-elected when we return in the Fall."

Expect all of this doomed legislation to be mentioned frequently during the campaign.

New Democrats and Liberals will be blamed for not giving unanimous consent for the less-contentious bills.

They will be vilified and portrayed as weak on [insert issue here] because of the bills they fought against or sought to change.

Politics of fear?

Liberal Leader Justin Trudeau called out the Conservatives for playing politics with C-51, the anti-terror legislation.

"We know that, tactically, this government would be perfectly happy if the opposition completely voted against this bill," he told a group of University of British Columbia students in March, "because it fits into their fear narrative."

As obvious as some of these traps may be — they are not easily side-stepped.

The Liberals supported the bill even after the government rejected all of their proposed amendments.

"This conversation might be different if we weren't months from an election campaign, but we are," Trudeau acknowledged.

The NDP fought the bill from the beginning and suffered through the accusations of being "soft on terror" hurled at them from the Conservative benches.

Now that public sentiment about the bill seems to have soured, it's these divergent stances often cited by pollsters as contributing to the NDP's recent rise, seemingly at the Liberals' expense.

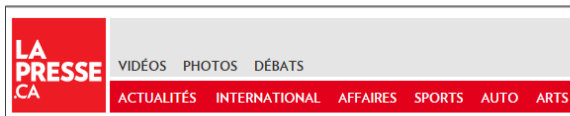
Which might have Conservative strategists wondering if they wedged that one too hard.

Driving Stephen Harper's many opponents into one camp would be bad news for him and his party in the election — leaving, potentially, a new government to sift through all those dead bills and only resurrect the ones they like.

A look at government bills introduced in June:

- **C-61** - Lake Superior National Marine Conservation Area Act - Introduced June 2, 2015. Fast-tracked and passed June 17, 2015.
- **C-62** - Safer Vehicles for Canadians Act - Introduced June 3, 2015. Never brought forward for debate.
- **C-63** - Déline Final Self-Government Agreement Act - Introduced June 3, 2015. Fast-tracked and passed same day.
- **C-64** - Georges Bank Protection Act - Introduced June 5, 2015. Never brought forward for debate.
- **C-65** - Support for Canadians with Print Disabilities Act - Introduced June 8, 2015. Never brought forward for debate.
- **C-66** - Appropriation Act No. 2, 2015-16 - Introduced June 8, 2015. Fast-tracked and passed same day.
- **C-67** - Appropriation Act No. 3, 2015-16 - Introduced June 8, 2015. Fast-tracked and passed same day.

- **C-68** - Protection Against Genetic Discrimination Act - Introduced June 9, 2015. Never brought forward for debate.
- **C-69** - Penalties for the Criminal Possession of Firearms Act - Introduced June 10, 2015. Never brought forward for debate.
- **C-70** - Protection of Communities from the Evolving Dangerous Drug Trade Act - Introduced June 11, 2015. Never brought forward for debate.
- **C-71** - Victims Rights in the Military Justice System Act - Introduced June 15, 2015. Never brought forward for debate.
- **C-72** - Qausuittuq National Park of Canada Act - Introduced June 15, 2015. Never brought forward for debate.
- **C-73** - Dangerous and Impaired Driving Act - Introduced June 16, 2015. Never brought forward for debate.
- **C-74** - Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord Implementation Act - Introduced June 18, 2015. Never brought forward for debate.



Erreur judiciaire: Ottawa n'aura pas à payer Réjean Hinse

Hugo de Granpré, La Presse, le 19 juin 2015

(Ottawa) Réjean Hinse perd son combat contre le gouvernement du Canada : la Cour suprême a refusé vendredi de forcer le gouvernement fédéral à le compenser pour sa condamnation et son emprisonnement injustifiés dans les années 60.

« L'analyse des circonstances n'appuie pas la conclusion que le ministre a agi avec mauvaise foi ou fait preuve d'insouciance grave », a tranché la Cour dans un jugement unanime.

M. Hinse a été condamné à 15 ans de prison pour un vol à main armée commis en 1964 à Mont-Laurier. Il a purgé le tiers de sa peine avant d'être libéré sous condition et a tenté pendant les 20 années suivantes de faire confirmer son innocence.

La Cour suprême du Canada l'a finalement acquitté en 1997 et il a intenté un recours en dommages et intérêts contre le gouvernement du Québec, la Ville de Mont-Laurier et le gouvernement du Canada.

En 2011, la Cour supérieure du Québec a condamné le fédéral à lui verser 5,8 millions de dollars en dommages pécuniaires, non pécuniaires et punitifs, et plus de 500 000 $ pour payer ses honoraires d'avocats.

Québec et Mont-Laurier ont convenu dans une entente hors cour de lui verser 5,5 millions de dollars.

La Cour d'appel a infirmé le jugement en 2013. La Cour suprême du Canada vient donc confirmer en grande partie cette dernière décision.

Quebec man denied federal compensation for eight-year wrongful imprisonment

Sean Fine, The Globe and Mail, June 19, 2015

The Supreme Court of Canada says the federal government owes no compensation to a man wrongly convicted in Quebec 51 years ago, ruling that Ottawa did not act in bad faith in denying to exercise "the power of mercy." A lower court had awarded the man nearly $6-million for the eight years he spent in jail for armed robbery between 1961 and 1969.

Réjean Hinse was found guilty in 1964 of participating in a violent armed robbery of a couple in the small Laurentians community of Mont-Laurier, and spent eight years in prison. He was 24 at the time of his conviction, had just a Grade 9 education, had been refused legal aid and tried on his own to appeal.

It would be more than three decades before the Supreme Court of Canada unanimously declared him not guilty, in 1997.

His lawyers say Mr. Hinse, now in his mid-70s, spent his life in a "psychological prison" because of federal justice ministers' refusal to conduct a serious review, under a Criminal Code section providing for overturning guilty findings where a serious miscarriage of justice has occurred. The section is known as the power of mercy. (The first justice minister Mr. Hinse sent a letter to was Pierre Trudeau. Jean Chrétien was another one, and Kim Campbell a third – all would become prime ministers.)

Mr. Hinse protested his innocence from the outset, and Quebec's Police Ethics Commission, after investigating, agreed that police investigators and a court made major errors. After launching legal action, Mr. Hinse reached a settlement with the province of Quebec for $5.3-million, and the town of Mont-Laurier for $250,000.

Quebec's Superior Court, citing federal "inaction as implacable as it was inexplicable," ordered the Canadian government to pay Mr. Hinse $5.8-million, but Quebec's Court of Appeal overruled that order, saying that Mr. Hinse had not proven federal authorities failed to conduct a serious review of his case, or acted in bad faith.

His lawyer in the current case, Guy Pratte, said the Quebec appeal court's dismissal of Mr. Hinse's claim against Ottawa set the bar so high that the right to compensation for a lack of federal diligence becomes "purely hypothetical."

"There exists no documentary or testimonial evidence attesting to any review whatsoever of Hinse's file," as the Quebec Superior Court noted, Mr. Pratte said in a document filed with the Supreme Court.

The federal government replied that the government's discretionary power is similar to that of a prosecutor, and its decisions are entitled to protection from lawsuits, except where it acts in bad faith. It said there is no evidence it acted in bad faith in Mr. Hinse's case. It also said that, even if the court finds it acted in bad faith, the $5.8-million damages award ordered by the Quebec Superior Court was excessive, since the federal government was not directly involved in the conviction of Mr. Hinse.

The Association in Defence of the Wrongly Convicted, which intervened, said the case is about "compensation for a lack of decision making, a lack of review, and a lack of reasonable action. It is about the ability of a wrongly convicted person to sue the federal government for its negligence in handling ministerial reviews."

SCC dismisses appeal of exonerated convict, finds no abuse of process

Tali Folkins, Legal Feeds Blog, Canadian Lawyer, June 19 2015

The Supreme Court of Canada's decision today in the Réjean Hinse case, although disappointing, does include "a slight progression of the law in favour of the wrongly convicted," says a lawyer for the Association in Defence of the Wrongly Convicted, an intervener in the case.

In Hinse v. Canada (Attorney General), the court dismissed Hinse's appeal of a Quebec Court of Appeal ruling from last summer. The appeal court had overturned a 2011 Quebec Superior Court decision ordering the federal attorney general to pay him nearly $5.8 million in damages and other costs. The SCC's decision means he will not receive any of those damages or costs.

As summarized in today's decision, the 2011 ruling against the attorney general was on the grounds the minister had "committed a fault of 'institutional inertia' or 'institutional indifference,' and that a sustained, concerted and extensive review would have uncovered the errors" involved in his review of Hinse's case.

Last summer's Court of Appeal ruling, on the other hand, clarified that "the Crown can be held liable only if the decision was made in bad faith, and with malice," the summary adds.

In its ruling today, the Supreme Court appears to offer a further clarification: "It would be inappropriate to apply a standard of fault that limits bad faith to malice..

Nevertheless, it continues, "In this case, H has failed to prove, on a balance of probabilities, that the Minister acted in bad faith or with serious recklessness in reviewing his applications for mercy. The documentary evidence negates the trial judge's inference that there was no review whatsoever of H's initial application for mercy. Although there are only a few documents in the record, they attest to the fact that a certain review was conducted and that certain actions were taken in this regard."

Responding to the ruling, Brian Greenspan, who represented the Association in Defence of the Wrongfully Convicted, says he was disappointed the Supreme Court failed to recognize a distinction advanced in the trial both by Hinse's own counsel and the team representing AIDWYC, between "the decision-making and policy function exercised by the minister and the failures which occurred here attributable to the bureaucracy.

"What was argued was a standard of negligence appropriate in civil cases to the failings of the operational side of the ministry — in other words, the way in which the application was treated by the bureaucrats," Greenspan says. "And we argued that here there were serious failings, serious delays, a serious failure to provide the minister with the appropriate materials in a thorough and comprehensive review essential to the minister's decision-making.

"The focus was directed at the bureaucracy's response, and it was our view, which obviously the court hasn't accepted, that that's where the damages attributable to the federal government, should flow [from]."

However, Greenspan adds, the Supreme Court's clarification that bad faith in deciding the liability of ministers should not be limited to malice could have some impact in similar cases where wronglfully accused are seeking compensation.

"Certainly they're saying that you don't need malice to find liability for the minister. So this case does at least clarify the fact that the minister doesn't have to demonstrate malice to be civilly responsible."

Hinse was sentenced to 15 years in prison for armed robbery in 1964, and was granted parole after serving five years. Maintaining his innocence, between 1967 and 1981 he applied three times for mercy to the federal minister of justice and applied as well to the Governor General in Council for a pardon. All these requests plus a fourth application for mercy in 1990 were denied.

A Quebec Police Commission ruling in 1989 declared he was the victim of a botched investigation, and finally, in 1997, the Supreme Court of Canada acquitted him.

Hinse then sued both the province of Quebec, the town of Mont-Laurier, and the federal attorney general. In out-of-court settlements, Quebec and Mont-Laurier agreed to pay him $5.55 million. After a lawsuit heard by the Quebec Superior Court, the attorney general was ordered to pay Hinse nearly $5.8 million. But the federal government appealed the decision with the Quebec Court of Appeal, leading to last summer's ruling.

"We are honoured to have had the privilege to represent Mr. Hinse in fighting the gross miscarriage of justice of which he was a victim. However, we are very disappointed that a happier conclusion to an ordeal that has lasted some 50 years was not reached," said Guy Pratte, a partner Borden Ladner Gervais. "We are grateful to all those who supported Mr. Hinse, and sincerely hope that any lawyer who has the chance to assist victims of injustice will seize the opportunity to do so. There is no greater calling for a lawyer than to try to right wrongs."

Conservative government illegally pushed for speedy destruction of long-gun registry, court documents allege

Bruce Cheadle, The Canadian Press, National Post, June 16, 2015

OTTAWA — The Conservative government was pushing for the speedy — and illegal —destruction of long-gun registry records even as it was promising the information commissioner it would preserve the data, a new court affidavit alleges.

The duplicity alleged in the Federal Court filing by investigator Neil O'Brien goes right up to the Prime Minister's Office, and helps sets the stage for a constitutional challenge.

Federal information commissioner Suzanne Legault is seeking a court order to preserve any remaining records from the now-defunct long gun registry, part of a wider court challenge contesting the RCMP's handling of records under the Access to Information Act.

The dispute goes back to April 2012 when the Conservative government had passed a law ending the registry, leaving in Legault's hands an unresolved complaint about access to registry records.

On April 13, 2012, Legault informed then-public safety minister Vic Toews and the RCMP that she was investigating, and that all documents had to be preserved pending the outcome.

Toews agreed, in writing, on May 2, 2012, that the government and RCMP would respect the Access to Information Act rules.

The very next day, according to O'Brien's affidavit, emails between two senior officials at the Canadian Firearms Program, housed within the RCMP, discuss "pressure from senior RCMP to move up delete date."

"Between you and me, someone will owe us lots of drinks at PMO if they want this to happen by end of August," responded Jacques Laporte, a program manager.

Just for the record, the minister's office is putting a lot of pressure on me to destroy the records sooner
By May 29, Pierre Perron, the assistant commissioner of the Canadian Firearms Program, was emailing director Robert MacKinnon: "Just for the record, the minister's office is putting a lot of pressure on me to destroy the records sooner."

The Mounties did destroy the records in late October 2012 — following further pressure from the Privy Council Office, the bureaucracy that supports the prime minister and cabinet.

After an investigation, Legault ended up recommending this spring that charges be laid against members of the RCMP for the data destruction.

The Conservatives responded by rewriting the law, backdating the changes to the day legislation proposing to end the gun registry was first tabled in Parliament in 2011, and burying the unannounced changes in a 167-page budget bill that's expected to pass Parliament this week.

The bill also nullifies any "request, complaint, investigation, application, judicial review, appeal or other proceeding under the Access to Information Act or the Privacy Act" — effectively sending the entire dispute into what Legault calls a history-erasing "black hole."

The Ontario Provincial Police are now investigating the RCMP's actions.

The latest court filing sparked angry words Monday in the House of Commons.

Liberal deputy leader Ralph Goodale said the affidavit shows government pressure on the Mounties "to break the law and cover it up."

"Who in the minister's office counselled that illegal behaviour?" Goodale said.

Public Safety Minister Steven Blaney responded that the retroactive law simply fixes a "loophole."

"We reject any claim that the RCMP did anything wrong by following the express will of Parliament to destroy the data from the long-gun registry," Blaney said.

Legault has argued that the right to access government information is protected under the charter.

In his affidavit, O'Brien says Legault has affirmed she will challenge the constitutionality of the retroactive law in Ontario Superior Court as soon as Bill C-59, the omnibus budget bill, enters into force. That should happen within the next two weeks.

Blaney, like Toews before him, has promised to respect the ongoing court applications and preserve the remaining Quebec registry data until the matter is resolved.

But trust in the government's word appears low, which is why Legault is seeking an emergency court order.

"Based on the speed at which the RCMP has destroyed the long-gun registry records, it is my belief that the record in issue in this application will be destroyed within minutes of sections 230-231 of Bill C-59 coming into force," O'Brien states in his affidavit.

Watchdog alleges Conservatives pressed for speedy gun registry deletion

Canada's information watchdog has signalled she'll take the Conservative government to court over the deletion of long-gun data.

Alex Boutilier, The Toronto Star, June 15 2015

OTTAWA—Bureaucrats felt pressured to speed the destruction of the long-gun registry from the senior ranks of the Conservative government, the public service, and the national police force, Canada's information watchdog alleges in new court documents.
The allegations, the result of a lengthy investigation by Information Commissioner Suzanne Legault, are expected to form part of the basis for a court challenge alleging the deletion of the data violated Canadians' charter rights.

The sworn affidavit suggests public servants were ordered to speed up the deletion of the long-gun data, including backups, after Legault's office told the Conservative government that copies must be kept for an outstanding access to information request and investigation.

Deleting the data before she finished her investigation would violate access to information laws and Canadians' Charter-protected rights to government documents, Legault warned in April 2012.

But through numerous emails and documents obtained by the office, and included in the affidavit, it appears the Conservatives were pushing to hasten the destruction of the records.

“Just for the record, (the) Minister’s Office is putting a lot of pressure on me to destroy the records sooner,” wrote Pierre Peron, the assistant commissioner to the Director General of the Canadian Firearms Program, wrote in a May 29, 2012 email to a colleague.

“Between you and me someone will owe us lots of drinks at PMO (Prime Minister’s Office) if they want this to happen by the end of August (2012),” another email, sent by manager of CFP applications Jacques Laporte, reads.

In addition to the Conservative government, the affidavit also includes sections that suggest the Privy Council Office and unnamed “senior” Mounties were also pressuring for the quick deletion of the data.

None of the allegations have been tested in court.

The Star requested an interview with PMO concerning the affidavit late Friday afternoon. Spokesperson Stephen Lecce responded in an email that the PMO would not comment on matters that are before the court.

Lecce added that the Conservatives “fulfilled (their) commitment to Canadians to end the wasteful and ineffective long-gun registry, while toughening laws against gun related crimes.”

Liberal Leader Justin Trudeau accused the Conservatives of using government to further purely political interests.

“Canadians expect transparency and real change after a decade of Harper’s Conservatives using the government to further their own political interests,” Trudeau wrote in an email. “Canadians do not trust their government, and rightly so, because we have a government that doesn’t trust Canadians.”

The affidavit, sworn by investigator Neil O’Brien on June 3, stated the Canadian Firearms Program website and call centre had to be temporarily shut down to delete the registry data between Oct. 26 and Oct. 28, 2012. Citing an RCMP briefing note, the affidavit suggested there were explicit instructions to cover up the real reason for the outage.

Perron, the assistant commissioner with the program, wrote that someone in Public Safety had instructed them “to call it a system outage/upgrade.”

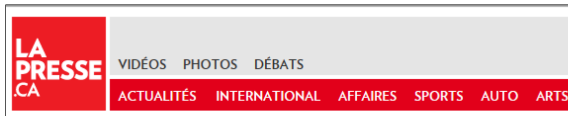
“We are to make no references to C-19 (Ending the Long-gun Registry Act) or data deletion,” Perron wrote on Oct. 18, 2012.

A spokesperson for Legault’s office said they could not comment on the matter, and the affidavit spoke for itself.

The RCMP were not immediately available to comment, and efforts to reach Vic Toews, the former minister of public safety, now a judge in Manitoba, were unsuccessful.
In their most recent omnibus budget bill, currently before the House of Commons, the Conservatives included changes that would retroactively make the destruction of the long-gun data legal, and shield those responsible from criminal and civil liability.

Despite vocal concerns from Canada's legal community, the government appears ready to move those changes through the House of Commons and the Senate before Parliament recesses for the summer. That could be a matter of days as Ottawa winds up its last sitting before the next federal election, slated for October.

The affidavit stated Legault plans to challenge the constitutionality of the charges, arguing retroactively changing the law infringes on Canadians' Charter rights and the rule of law.



Destruction prématurée du registre: Ottawa a fait pression

La Presse, Presse Canadienne, le 15 juin 2015

Le gouvernement a exercé d'importantes pressions sur la Gendarmerie royale du Canada (GRC) et des fonctionnaires en vue de la destruction prématurée des données du registre des armes d'épaule.

C'est ce que l'on comprend à la lecture d'une déclaration solennelle faite par un enquêteur du bureau du Commissariat à l'information fédérale dans le cadre d'une demande de contrôle judiciaire en Cour fédérale.

Selon cet enquêteur, un commissaire adjoint de la GRC a écrit dans un courriel que «le bureau du ministre (de la Sécurité publique)» lui mettait «beaucoup de pression pour détruire les données plus rapidement».

Ce message a été écrit environ deux mois après que le citoyen et militant Bill Clennett eut effectué une demande d'accès à l'information pour obtenir les données du registre d'armes d'épaule avant sa destruction planifiée en vertu d'une loi adoptée au Parlement.

La commissaire à l'information Suzanne Legault a déposé une demande en contrôle judiciaire contre le ministre de la Sécurité publique en vertu de l'article 42 de la Loi sur l'accès à l'information.

Alors que le dossier cheminait dans les méandres des procédures d'accès à l'information, les pressions se faisaient de plus en plus importantes.

Face aux explications entourant les délais requis pour supprimer définitivement les données, Rob MacKinnon, du Programme canadien des armes à feu de la GRC, a écrit le 3 mai 2012 dans un courriel à un collègue qu'il «comprenait» la situation.

Mais il «y aura de la pression des hauts gradés de la GRC pour devancer la date de la suppression», écrit-il à Jacques Laporte.

Ce dernier réplique notamment: «Entre toi et moi, quelqu'un au bureau du premier ministre va devoir nous payer bien des verres s'ils veulent que cela se produise d'ici la fin du mois d'août (2012)».

La mesure rétroactive est contenue dans le projet de loi omnibus sur le budget C-59, que le gouvernement Harper dit avoir bonne confiance de faire adopter d'ici la fin de la session parlementaire, prévue mardi prochain.

L'adoption, par les parlementaires, de C-59 signifierait donc probablement la destruction définitive de ce qu'il reste de traces du registre des armes d'épaule, selon le Commissariat à l'information.

«Si l'on se fie à la rapidité avec laquelle la GRC a détruit les données du registre des armes à feu, il est de mon avis que les données en lien avec cette demande de contrôle judiciaire seront détruites en l'espace de quelques minutes lorsque les sections 230 et 231 du projet de loi C-59 auront force de loi», écrit l'enquêteur du commissariat dans sa déclaration signée, datée du 3 juin.

Dans un rapport spécial déposé il y a quelques semaines, la commissaire Suzanne Legault a expliqué avoir indiqué au ministre de la Justice en mars qu'il y avait des motifs pour déposer des accusations contre la GRC en vertu de la Loi sur l'accès à l'information.

Mais plutôt que de prendre des mesures contre ces actes illégaux, le gouvernement conservateur a réécrit rétroactivement la loi, fait le changement rétroactif à octobre 2011 et enterré l'amendement dans un projet de loi omnibus qu'il a déposé plus tôt ce mois-ci.

Il s'agissait là d'un acte de révisionnisme législatif, que Mme Legault a qualifié de «précédent périlleux» dans son rapport.

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Toe the line or lose your Canadian citizenship

Kim Covert, National Legal Insights and Practice Trends, Canadian Bar Assocation, June 16, 2015

Kim Covert *is a writer and editor at the CBA.*

Some of the last bits of Bill C-24, Strengthening Canadian Citizenship Act, which was passed into law a year ago, came into effect relatively quietly earlier this month.

These provisions include stricter residency requirements for adult applicants for citizenship, and requiring adults to declare their intent to reside in Canada after they receive citizenship status; there are also stronger penalties for fraud and misrepresentation.

"Among the many of the benefits of the government's citizenship reforms, the new provisions will deter citizens of convenience – those who become citizens for the sake of having a Canadian passport to return to Canada to access taxpayer-funded benefits that come with citizenship status, without having any attachment to Canada, or contributing to the economy," Citizenship and Immigration Canada said in a news release announcing that the provisions were coming into force.

The most controversial of the new provisions is the one that allows the government to revoke the Canadian citizenship of dual citizens "quickly, decisively and fairly," if they have "(taken) up arms against Canada and the Canadian Armed Forces, whether as a member of a foreign army or in non-state terrorist groups like ISIS."

The department promises to implement the new measures immediately.

In a submission to CIC last year, the CBA's Immigration Law Section noted a number of concerns with the residency and revocation provisions, among others.

"The CBA supports clarifying the meaning of 'residence' under the Citizenship Act (the Act). However, the Bill achieves clarity at the expense of the flexibility required to address the circumstances of those who have a strong attachment to Canada but are unable to satisfy the proposed physical presence requirement," the CBA submission says. "Defining 'residence' exclusively as physical residence gives absolutely no flexibility for many deserving potential citizens."

With regard to revocation of citizenship, the submission says;

- Fundamentally changing the concept of citizenship to permit those born here to be excluded because they have committed an offence and may have a claim to citizenship in another state, is of very serious concern to the CBA Section. It appears to impose exile as an additional form of punishment. It introduces levels of citizenship rights for the first time in Canada. It is unfair and discriminatory.

- The CBA Section supports Canada's tradition of allowing dual citizenship. This tradition is undermined if dual citizens face the prospect of banishment.

Moreover,

- The proposed grounds for revoking citizenship are broad. The rationale for the list of offences subject to revocation appears to be connected to loyalty to Canada or certain Canadian ideals. However, it is not clear why the loyalty of dual nationals should be put into question more than that of other Canadians. Once the precedent is established for banishing dual nationals, other forms of conduct may be added to the list.

- One offence that would permit the Minister to revoke citizenship, under proposed s. 10(2)(b), is a terrorism offence under the Criminal Code or the Canadian equivalent for an offence committed outside of Canada, for which the citizen received at least a five-year sentence. In many countries, allegations of terrorism are used to punish political opponents, facilitated by low thresholds for convictions and harsh sentences. An analysis of whether the conviction is the equivalent of a terrorism offence in Canada is complex, and would be at the discretion of an individual officer.

In a response to Bill C-24 when it was introduced, a group called the Canadian Association of Refugee Lawyers said:

- The new law proposes to give elected officials the power to strip Canadian citizenship of people who commit unlawful acts. But it is not the job of elected officials to make these judgments. Canadian law already has established mechanisms by which to punish criminal wrongdoers. Unlike the Conservative government, CARL has full confidence in the Canadian criminal justice system's ability to effectively punish individuals who violate the law. We do not need to revive the medieval practice of banishment to achieve the goals of punishment, namely deterrence, retribution, denunciation, and rehabilitation. We now have the benefit of a modern judicial process that includes prosecution, trial before an independent judge and, in the event of conviction, a punishment that expresses society's condemnation with the full weight of the law.

Law student plans to wrap herself in First Nations heritage at graduation

Simona Chiose, The Globe and Mail, June 21, 2015

It won't be hard to spot the trailblazer when this year's law students are called to the bar in Ontario on Tuesday.

Among the hundreds of black robes at Toronto's Roy Thomson Hall, Christina Gray will be wearing a Tsimshian button blanket and cedar hat, her tribute to the First Nations community that helped her reach that stage. It is the first time that the traditional barristers' robes worn at graduation will be replaced with the ceremonial clothing of another legal tradition.

"It sends a message to aboriginal law students and graduates that they are not only welcomed, but that they have unique experiences and traditions and they don't have to leave that at the door," said Emily Hill, senior staff lawyer at Aboriginal Legal Services of Toronto. Ms. Hill was Ms. Gray's articling principal and supported her petition to wear the regalia.

The Law Society allows religious and cultural symbols to be worn along with the black barrister's robes, such as hijabs, turbans and eagle feathers. At first, however, Ms. Gray was told she would be able to wear the ceremonial dress only after the call to the bar.

She decided to ask to wear the regalia during the ceremony after attending the release this month of the Truth and Reconciliation Commission's report on the legacy of the residential school experience.

"It was such a powerful experience for me to be around other people like myself," said Ms. Gray, who is from the Lax Kw'alaams First Nation, a Tsimshian village in Northern British Columbia. "When I wear my blanket, I feel the strength of my community and ancestors with me, even though they may not be there physically."

In a letter to the law society, Ms. Gray explained that the clothing is worn by Tsimshian chiefs during the potlatch gift-giving and exchange ceremony and signifies her community's legal and cultural heritage. The survival of the potlach is a triumph over what Supreme Court Chief Justice Beverley McLachlin has termed "cultural genocide," she wrote in her letter.

Ms. Gray is the daughter of a residential school survivor. Her father and his siblings were sent to residential school: Her father did not testify during the commission's years of gathering evidence from former students, but attended its hearings in Vancouver.

"It is incredible that he did survive, so many people did not, so many physically died in the schools. Others were affected for their entire lives, like I was," she said.

Ms. Gray grew up in Vancouver, with her mother and her aunt. They lived in a First Nations co-op in the city's southeast. She says the connection she felt with her culture sustained her from childhood.

"I never felt like I was disconnected, I had my First Nations community around me."

She attended the University of British Columbia's Peter A. Allard School of Law because the university introduced an indigenous law program in 1975. It has also the largest number of aboriginal students of all Canadian law schools.

Still, Ms. Gray said that "every step of the way (in law school) was difficult. The competitive nature of law school, living away from home, studying for the bar exam. But reading about aboriginal law was such a pleasure, and talking to other First Nations students."

Eventually, she wants to practise in the area of aboriginal land and title. With the Tsilhqot'in decision from the Supreme Court last year affirming aboriginal title to land, there is renewed energy to reconcile native and Western law.

"This is an example of how we have tried to build bridges to aboriginal law and students," said Janet Minor, the Law Society's treasurer. Another student being called to the bar on Tuesday will be wearing a Métis sash, she added.

Ms. Hill, at Aboriginal Legal Services of Toronto, said the decision to recognize native legal protocols during the call to the bar sends a signal to the entire profession.

"We see black robes as neutral and, of course, they are not; they're colonial, they come from Britain. This is saying you can have both that tradition and aboriginal tradition."

Zero-tolerance conundrum

Lawyers say pendulum has swung too far against accused in domestic violence cases

Tali Folkins, Law Times, June 15, 2015

The justice system has taken the idea of zero tolerance in domestic assault to such an extreme that it's unfair to defendants and no longer works in the best interests of Ontario families, says a 40-year veteran of criminal law.

It's an opinion, however, vociferously opposed by at least one lawyer who helps victims of domestic violence.

Leo Adler, of Adler Bytensky Prutschi Shikhman, says the issue of domestic assault has become "political football" over the last 25 to 30 years with largely undesirable results.

While Adler emphasizes he doesn't want to diminish the tragedy of family violence, he says the situation has now reached a point where police called to family violence situations are unduly afraid to release the defendant even in cases that don't appear serious. "Nobody wants to be the person who says, 'O.K., I'm going to release you,' because you might be the one in a million or whatever the statistic is who might end up killing your spouse," says Adler.

"In a lot of these cases, there's no sign of violence, there's no sign of anything having occurred. You simply have the word of the complainant. And the person gets arrested and I can tell you that again in the majority of cases, the police don't even bother to try to take a statement from the accused, usually the male. . . . They don't ask because it doesn't make a difference because they're going to arrest you no matter what."

Bail hearings in domestic violence cases, he says, are "always run on the presumption of guilt" and, if the court does grant bail, it's generally under strict conditions with the defendant required to live with a surety. The result, according to Adler, is often a divided family with the added financial strain of having to pay for two residences regardless of whether the victim is under a real threat or not.

"The pendulum has swung too far," says Adler. "The concept of zero tolerance is admirable, but that presumes that everyone who makes a complaint is not only telling the truth 100 per cent of the time but is perceiving it properly and doesn't have any motivation to lie. The way the current bail works just hurts everybody."

Instead, Adler says, the system should make a sharper differentiation between serious incidents where there are "ongoing abusive issues" and cases involving first-time offenders dealing with less serious incidents such as pushes, shoves, and "so-called threats."

Family lawyer Murray Maltz agrees with Adler that the pendulum has swung too far in the family law sphere as well. "Despite the idea that it is an allegation that the individual has committed an assault, in family law purposes they will err on the side of caution in many cases . . . to ensure that he is removed from the house and it certainly plays a role in cases of custody and access," he says. "You have to have zero tolerance . . . but in many many cases it is used to obtain financial advantage or advantage concerning children in the family courts."

Adler's views, however, meet with strong disagreement on the part of at least one advocate for victims. "None of these things are true in my experience," says Mary Lou

Fassel, director of legal services at the Barbra Schlifer Commemorative Clinic that provides help to women who have been victims of domestic violence.

Family violence has indeed become a political issue, says Fassel, due to the need to better protect women and children from harm. Fassel says it's simply not true that police called to the scene of an alleged domestic violence offence don't listen to the alleged perpetrator. "Most of the time, our clients — and we do have a particular client group who come to us for assistance when they're having problems in the criminal justice system — their experience generally is that the police don't want to listen to them, that they speak with the alleged abuser, they do hear his side of the story, and quite often they don't lay charges at all. So my client group would have the exact opposite experience."

When police arrest someone over an alleged incident of domestic violence, she says, they usually do so with good reason. And the system, she adds, already differentiates between very serious and less serious cases. For example, in cases where the defendant has a criminal record or has allegedly assaulted the victim with a weapon, the court may not grant bail. But for those who don't fall into that category, it will generally grant bail with the defendant required to stay away from the alleged victim.

Police use tools to assess the likelihood of the accused committing further violence and the risk, according to Fassel, covers much more than the issue of defendants simply wanting to kill their spouse.

"In the vast majority of cases, there isn't going to be any risk of lethality. That's probably true . . . but there could be some other very serious risks of harm, including harm to kids," she says.

The system, according to Fassel, also contains generous allowances for spouses who want to reconcile with each other and victims who decide they don't want to have the defendant separated from the family.

"The defendant can always bring a variation application for bail and if his partner really believes that the charges by the police were unjust or misguided or heavy-handed, she can always appear at a bail hearing and give that evidence," says Fassel.

"Generally speaking, those cases aren't going to result in charges by the police," she adds. "But if they do . . . in those kinds of situations, in my mind, there'd be no way that a prosecutor would persist in a vigorous prosecution."

Fassel also sits on the community advisory committee for Ontario's integrated domestic violence court. The court, she says, has a lot of potential to successfully resolve less serious cases. "It's generally going to be inclined to dismissing criminal charges against offenders because what they're really trying to ensure is . . . protection of the women and her children into the future but also ensuring the individual offender continues to have some rights to continue a relationship with his kids."

HARVARD LAW Today

Teaching & Learning Faculty Scholarship Student Spotlights Alumni Focus

Harvard Law School scholar explores the complicated legacy of the Magna Carta

By COLLEEN WALSH, HARVARD STAFF WRITER, June 12, 2015

For centuries Magna Carta, or “The Great Charter,” has been held up as an enduring symbol of freedom and democracy.

It was signed, or more accurately sealed, by England’s King John on June 15, 1215, in a field 20 miles outside London. By all accounts the move was a capitulation, not a heartfelt act of good will. The monarch was pressured into it by barons unhappy with his reign, and in particular with the taxes he levied on them to pay for his disastrous military campaigns in France.

Though initially created to appease only a select few, today the document is considered influential in the establishment of democratic governments and legal systems worldwide — an affirmation that no man, not even a king, is beyond the rule of law. But are the celebrations and the hype surrounding the 800th anniversary warranted? Many scholars argue that the Magna Carta’s importance through the centuries has been greatly exaggerated. Yet for others, its status as a symbol of freedom and a check on absolute power is undeniable.

Elizabeth Papp Kamali ’07, sees merit in both arguments.

“When it was first issued in 1215, Magna Carta was really about the 1 percent, to put it in modern parlance,” said Kamali, a scholar of medieval law who will join Harvard Law School in July as an assistant professor. The document largely addressed property rights for “very elite individuals,” she said. One had to dig to find the clauses “we now associate with due process and the things that we value.”

Complicating its legacy is the fact that King John quickly turned to Pope Innocent III to help him revoke the document, which led to civil war. But in the years that followed, the Magna Carta was repeatedly reissued. Though over the centuries it has become distanced from its roots, with large sections removed, “people just kept coming back to it,” said Kamali.

“People came to see it as all about due-process rights and all about limitations on the power of the monarch. Or later, when the American colonies took it up as something important, it was about the limited role of government and the inherent rights of the people.

“And so in that sense, I think Magna Carta has come to represent the importance of the 99 percent vis-à-vis the 1 percent. And for that reason I think, even if the meaning has drifted from its original import, it’s totally appropriate that we make a big fuss.”

The notion of trial by jury is often traced to the charter’s 39th clause. One look at the words and it’s easy to see why. An English translation posted on the British Library’s website reads: “No free man shall be seized or imprisoned, or stripped of his rights and possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.”

Those foundational principles have not lost their power, said Kamali.

“As a country we are dealing with issues of continuing racial injustice and the problem of mass incarceration. To the extent that Magna Carta calls us back to our first principles — even if, again, it’s at a remove from what the charter was originally about — I think that’s something really valuable.

“If the ‘myth’ of Magna Carta helps bring clarity and urgency to issues of current concern, reminding us of fundamental principles,” she added, “then maybe Bad King John will have inadvertently left a worthwhile legacy.”

The Magna Carta turns 800

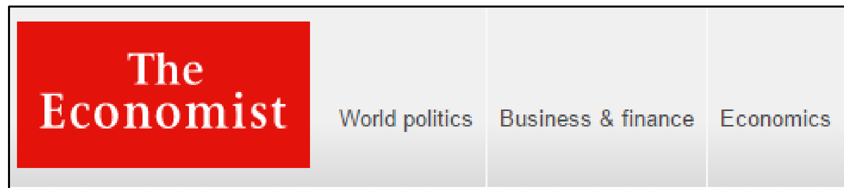
The Harvard Law School Library has approximately 30 copies of the document, almost all of which are included in compilations of English statutes dating from around 1300 to 1500.

The library is planning an exhibit to coincide with the anniversary and to highlight its copies, which include those found in a small volume only 3.5 inches long, as well as a sheriff’s copy that would have been read aloud yearly in a public square.

Those unable to make it to Cambridge can browse the library’s online material. Early this year staff members completed the digitization of the collection with help from the Ames Foundation, which is also supporting a project to fully describe the contents of the various statutes.

Reflecting on the anniversary, Karen Beck, manager of Historical and Special Collections at the library, said that the best part of working with the rare documents is the chance to bring them to a wider audience.

“For me, the most exciting thing has been to digitize all of these to make them available,” said Beck. “It feels like … a present, a present that we are giving to the world.”



The Economist explains: The Magna Carta

The Economist, June 14, 2015

IN 1215 England's King John was in trouble. He had spent heavily on a failed attempt to regain bits of France; the French were threatening to invade; rebellious barons, whom he had been fleecing to finance his wars, were marching against him. He had no choice but to sue for peace with the rebels; the peace treaty, sealed at Runnymede on the Thames on June 15th, was called the Magna Carta. Since the barons had the upper hand, its main thrust was to protect their rights against monarchical abuse. It did not, as some suppose, spawn democracy (which only started to emerge even in embryonic form rather later) or trial by jury (which was already in use). But its chapter 39 (29 in subsequent versions) asserted the right to due process of law—"no free man shall be seized or imprisoned...except by the lawful judgment of his equals or by the law of the land"—for which it has been revered ever since.

As a peace treaty, it was a failure: John reneged on it a month later. But the charter survived because the king died the following year and William Marshal, regent to the nine-year-old Henry III, reissued it to persuade the rebel barons to support the young king against the French. It worked: the barons rallied round and the charter was revised and reissued several times.

Still, the Magna Carta might have disappeared into the mists of medieval history were it not for two political turning points at which revolutionaries found it convenient to present themselves as traditionalists. The first was the English civil war, when Sir Edward Coke, former chief justice, dug up the charter and used it in service of his argument that there was precedent for limiting the power of the monarch. It thus formed the basis of the Petition of Right, a proto-constitution which the parliamentarians forced the king to sign. The second turning point at which the Magna Carta resurfaced was the American war of independence, when rebellious colonists cited the charter against parliament just as parliament had used it against the king.

There is not much of the Magna Carta left now. Hundreds of copies were probably distributed but only four—two in the British Library, one in Lincoln Cathedral and one in Salisbury Cathedral—survive. The great majority of its provisions have been repealed: of the original charter's 63 chapters only three—one confirming the freedom of the church, one confirming the liberties of the City of London and the crucial chapter 39—remain on Britain's statute book. But as an emblem of the long struggle of people everywhere against the excesses of an arbitrary ruler, it retains great power.

Man forbidden from filing legal documents has never been a lawyer: B.C. judge

By Canadian Press, Kamloops This Week, June 15, 2015

KAMLOOPS, B.C. — A 74-year-old man who wrongfully acted as a lawyer and created legal documents has been banned from entering any courthouse in British Columbia.

Charles Bryfogle has been found guilty on eight counts of being in contempt of court and is forbidden from filing legal documents on behalf of himself or others.

The ruling in B.C. Supreme Court in Kamloops came after a legal action by the province's regulator for lawyers.

The B.C. Law Society wanted to see Bryfogle go to jail for 21 days, but Justice Victoria Gray handed him a three-year suspended sentence and said he will jailed if he breaches his probation terms.

Brydogle has been declared a "vexatious litigant" in both B.C. and Arizona. The term applies to people who consistently engage in court actions that harass people or undermine the justice system.

Gray called Bryfogle's conduct troubling.

“Mr. Bryfogle is not a lawyer and has never been a lawyer,” she wrote in a decision released Friday.

Court records show Bryfogle's legal misadventures have included representing litigants in a case involving mercury poisoning from dental work, creating a trust document, and slander and defamation against his own family.

At times he has been paid for his work. He breached previous terms of orders requiring him to inform the B.C. Law Society of any legal action.

Speaker's Corner: Let paralegals act in arbitration matters

Michael Hassell, Contribution to Law Times, June 15, 2015

Michael Hassell *is a Toronto trial lawyer and arbitrator*

Can a paralegal represent a party in an arbitration pursuant to the Arbitration Act?

While it appears the answer to this question is yes and paralegals can represent parties where more than $25,000 is at stake, there is no concrete answer.

There are strong policy arguments in favour of paralegal representation in arbitrations and, given the uncertainty, the Law Society of Upper Canada should update its bylaws to confirm that paralegals can appear at arbitrations pursuant to the Arbitration Act.

More and more often, clients are asking for alternatives to litigation and they are turning to options such as arbitration. Recent growth in the demand for arbitration has in turn caused it to emerge as an attractive practice area for paralegals.

As I am not aware of any case law in Ontario that directly answers the question about paralegal representation in such matters, it is a matter of statutory interpretation. Subsection 6(2) of Bylaw 4 of the Law Society Act outlines the scope of activities a paralegal may engage in. This includes representing a party before “a tribunal established under an act of the legislature of Ontario.”

According to the paralegal rules of conduct, the definition of “tribunal” includes “arbitrators.”

Subsection 1(1) of the Law Society Act defines an “adjudicative body” to include “a tribunal established under an act of Parliament or under an act of the legislature of Ontario” as well as “an arbitrator.” Although there appears to be a distinction in this subsection, one or more arbitrators form an arbitral tribunal. The question becomes whether or not an act of the Ontario legislature established that arbitral tribunal.

The Arbitration Act is an act of the legislature that deals with arbitral tribunals and includes issues such as their composition, jurisdiction, and conduct as well as awards, enforcement, and appeals of their decisions.

An arbitral tribunal exercises statutory powers in decision-making. For example, pursuant to subsection 17(1) of the Arbitration Act, an “arbitral tribunal may rule on its own

jurisdiction.” As a further example, s. 31 of the Arbitration Act states that an “arbitral tribunal shall decide a dispute in accordance with law, including equity, and may order specific performance, injunctions, and other equitable remedies.”

Since the Arbitration Act is an act of the legislature that addresses fundamental issues and an arbitral tribunal exercises statutory powers in decision-making, it appears such a body meets the definition in Bylaw 4 of “a tribunal established under an act of the legislature of Ontario.”

In light of all of that, it appears paralegals can represent clients in arbitrations.

One argument against paralegals being able to act in arbitrations relates to the notion of consensual versus compulsory arbitration. Arbitrations pursuant to the Arbitration Act are consensual based on an arbitration agreement. Compare this with arbitrations at the Financial Services Commission of Ontario, which are not consensual and before which Bylaw 4 is clear a paralegal can appear. This argument may rely, however, on a historic viewpoint predating the Arbitration Act. Prior to the Arbitration Act, it appears parties in Ontario were at will to form any arbitration agreement they wanted to subject to the common law.

Another argument suggests the Arbitration Act regulates arbitral tribunals as opposed to establishing them. As outlined above, the Arbitration Act addresses fundamental issues and an arbitral tribunal exercises statutory powers in decision-making.

Furthermore, it is interesting to look at the Statutory Powers Procedure Act, which at subsection 3(1) explains that it applies, among other things, “to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an act of the legislature.”

The Statutory Powers Procedure Act would capture arbitrations pursuant to the Arbitration Act if it weren’t for subsection 3(2) that says it does not apply to arbitrations pursuant to the Arbitration Act.

When it comes to the question of whether paralegals can represent a client in an arbitration where the claim is for more than $25,000, it is worth looking at the rules in areas where we know they can act already.

Paralegals can represent clients before tribunals without a monetary limit. For example, the Human Rights Tribunal of Ontario has no such limit. When it comes to the Small Claims Court, the limit is specific to the Small Claims Court pursuant to the Courts of Justice Act. At the Landlord and Tenant Board, the $25,000 limit relates to the Small Claims Court limit pursuant to various sections of the Residential Tenancies Act. There is no monetary limit in the Arbitration Act.

As a $25,000 limit is specific to the Small Claims Court and the Landlord and Tenant Board due to legislation and regulations and there is no monetary limit in the Arbitration Act, it appears paralegals can represent clients in arbitrations where more than $25,000 is at stake.

There are many strong policy arguments as to why paralegals should be able to represent clients before arbitral tribunals. Paralegals and arbitration are extremely important in terms of access to justice.

In terms of protecting the public interest, paralegals already represent clients in court and before a large number of different tribunals. The law society regulates paralegals who owe duties to their clients and tribunals.

One of a paralegal's duties to clients in the paralegal rules of conduct is competence. Paralegals who take on arbitration cases must ensure they are competent. Familiarity with the applicable arbitration rules and the Arbitration Act is important.

With exceptions, arbitration is usually a voluntary forum for dispute resolution. Arbitrating parties should therefore also be able to decide whether to represent themselves or have a paralegal or lawyer represent them subject to any clauses in the arbitration rules.

As the law is now, it appears paralegals can represent clients in arbitrations and there is no monetary limit restricting a paralegal's representation.

But with conflicting views on the issue, the law society should consider clarifying paralegal rights of representation in arbitration proceedings. More specifically, it should clearly delineate in s. 6 of Bylaw 4 that paralegals can represent clients before arbitral tribunals to which the Arbitration Act applies. Such a change represents a wonderful and exciting opportunity to facilitate alternative dispute resolution across Ontario.