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

Federal lawyer Emilie Taman defies PSC over political bid

BY KATHRYN MAY, OTTAWA CITIZEN, OTTAWA CITIZEN, JULY 5, 2015

Emilie Taman. Photo by Bruno Schlumberger/Ottawa Citizen

A federal prosecutor is openly defying a Public Service Commission decision that denied her leave to become a candidate in the upcoming federal election and is seeking the NDP nomination in the riding of Ottawa-Vanier.

Without the PSC's blessing, she is taking an 'unauthorized' leave from the public service. She has already received a letter from her bosses warning her that they expect her to be at work on Monday.

Taman hasn't formally resigned but she expects to lose her job. She turned over her files to colleagues, surrendered her security pass, Blackberry and cleared out her office Friday. The next day she tweeted: "It is official. I am throwing my hat in the ring."

She is also giving up a job for a run at an NDP nomination in a Liberal stronghold.

"When I expressed an interest in engaging in federal politics as a candidate, I was not authorized to take an unpaid leave for that purpose. So, here I am! " she wrote on Facebook.

"This election is simply too important for me to stand on the sidelines. I have put everything on the line, which demonstrates my commitment to becoming your next MP."

In an interview, Taman said she felt she had no option but to risk her job. She is challenging the PSC's decision in Federal Court but she is running out of time because that hearing – which was expedited – isn't until Sept. 1. By that point, the nomination meeting could be over. No date has been set for the meeting. With Taman, three are seeking the nomination.

She appealed to the PSC several weeks ago to reconsider its decision and grant her leave until the Federal Court determined her case. The PSC refused.

The PSC has the exclusive authority to decide who can seek nominations and run in elections. Public servants who get approval can take leave without pay during the election period. If elected, they must leave the public service.

Taman graduated from law school in 2004, following in the footsteps of her well-known mother. Arbour also served as the chief prosecutor for war crimes tribunals in the former Yugoslavia and Rwanda. Arbour was courted by the Liberals to run for office in the mid- and late-2000s but did not do so.

Taman worked as a law clerk at the Supreme Court before becoming a federal prosecutor handling what she called routine regulatory prosecutions under such legislation as the Immigration and Refugee Protection act, the Fisheries Act and the Income Tax Act. She has also prosecuted two cases under the Lobbying Act.

But Taman argues there's more at stake here than her job. Her situation has become a touchstone for the political rights of prosecutors and the Association of Justice Counsel — which represents 2,700 lawyers working in government — has taken on the case.

The union fears the commission's decision sets the stage for a "blanket prohibition" on federal prosecutors ever running for office.

Taman wants the Federal Court to set aside the PSC decision as "unreasonable" because it fails to balance her obligations as a public servant — to be loyal and politically impartial — with her constitutional right to seek public office.

The union is also concerned that senior PPSC management recommended to the commission that Taman be denied leave to run because an "allegiance to a political party" would undermine the office's independence and affect perceptions of her impartiality should she lose and return to work.

Taman still has hope the hearing will happen before she finally would have to resign or be terminated.

Another public prosecutor Maureen Harquail was in the same boat as Taman when the PSC refused to grant her leave to run in 2004 federal election. By time the court heard her case, the election was over and judge dismissed the challenge as moot.

The judge did, however, say that the PSC's decision was "unreasonable" particularly because the then Justice deputy minister recommended it approve Harquail's request.

Harquail has left the public service and is running as the Conservative candidate in Don Valley East.

Peter MacKay, the minister of Justice and Attorney General, was fired in 1997 as a Crown prosecutor in Nova Scotia for seeking Progressive Conservative nomination in his riding. MacKay, who won the election, eventually reached a settlement with the province, which included a review of the law.

Today, most provincial prosecutors are allowed to take leave to run in provincial and federal elections.

For example, Julie Bourgeois, an assistant Crown attorney for Ontario, ran as a Liberal candidate in the riding of Glengarry-Prescott-Russell during the 2011 election and went back to that job when she lost. She was recently appointed a judge in the Ontario Court of Justice.

Alex Burton, a Crown prosecutor for British Columbia, took a leave when he ran for the leadership of the federal Liberal party.

"(Former Conservative MP and cabinet minister) Vic Toews is a judge and if he can exercise his judicial function without the perception of impartiality then it is very difficult to see how I couldn't return and exercise my function with impartiality," Taman said.

Union finance bill passes, two others left to die as Senate wraps up business

Hamilton Spectator, The Canadian Press, June 30, 2015

The Senate's final vote before its summer break was a 35-22 result that passed Bill C-377 two years after senators originally gutted the legislation.
OTTAWA —Three bills passed by the House of Commons had their fates decided by the Senate on the eve of Canada Day — one was pushed through by the Conservative majority, while the other two died without a word being spoken.

A third didn't even get a mention, failing to come as far in the legislative process as it did two years ago.

Combined, they were the last acts of the Senate as it trudged into the summer after two years of scandal or questionable spending by 34 senators, and ethical questions surrounding one additional member of the upper chamber.

The Senate's final vote before its summer break was a 35-22 result that passed Bill C-377 two years after senators originally gutted the legislation — an act of defiance by 16 Conservatives against their own government.

On Tuesday, only three Conservative senators voted against the legislation — John Wallace, Nancy Ruth and Diane Bellemare — while a fourth, Doug Black, abstained.

The bill requires unions to publicly disclose all transactions over $5,000, reveal the details of officers or executives who make over $100,000, and provide that information to the Canada Revenue Agency, which would publicly post the information to its website.

Conservatives argued the bill will shed light on union finances. A group that lobbied for the Senate to pass the bill applauded the final vote.

"Transparency and accountability are fundamental to democracy," Terrance Oakey, president of Merit Canada, said in a statement.

"If labour organizations want to enjoy the dual benefits of mandatory dues collection and beneficial tax treatment, they must earn it by operating in a transparent manner."

The federal privacy commissioner raised concerns about the scope of the bill, seven provinces denounced it as unconstitutional and numerous other labour associations have called for its defeat.

That led Senate Liberals to argue the bill's passage would trigger a court challenge that the government would likely lose.

Opposition leader James Cowan told the chamber during the last few hours of debate on the bill that its passage "provide ammunition to those who argue for (the Senate's) abolition."

Former Conservative senator Hugh Segal, who led the uprising against the bill two years ago, had previously told The Canadian Press that the passage of C-377 could hurt the Conservatives in dozens of ridings where labour unions could influence the outcome of the fall vote.

"Why somebody would decide that kind of suicidal, ideologically narrow excess is in the national or the party's interests or the prime minister's interests is completely beyond me," Segal said in an interview last week.

In a statement Tuesday, minutes after the final vote on C-377, Liberal Leader Justin Trudeau vowed to repeal the law should his party form the next government.

Before the C-377 vote, the Senate allowed three other high-profile private member's bills to die Tuesday without giving two a word of debate and letting a third become buried at committee.

Government Senate leader Claude Carignan delayed debate in his name on a transgender rights bill introduced by NDP MP Randall Garrison that was passed with bipartisan support in the House of Commons, effectively killing the legislation.

That move spared senators from having to vote on a bill that supporters said had been effectively gutted and stripped of any power during Senate committee hearings.

Senators were also denied the chance to debate committee amendments to a bill aimed at stripping convicted parliamentarians of their pensions, which also died an unceremonious death.

A third bill passed by the House of Commons with bipartisan support — one that would allow single-game sports betting — was left to wallow in a Senate committee and was never referred back to the Senate for further debate.

All other bills the Senate didn't pass Tuesday will die on the order paper.

Conservative Senators just passed the anti-union Bill C-377. Here are 7 reasons to repeal it.

Press Progress, June 30, 2015

The Conservative-backed anti-union Bill C-377 finally passed the Senate Tuesday night, so expect a constitutional challenge to follow. Unless it's repealed first.

Here are seven good reasons to just repeal it and avoid wasting more taxpayer dollars defending bad laws:

1. It's likely unconstitutional:

Sheryl Beckford, Mandy L. Woodland, Michael Mazzuca of the Canadian Bar Association:

"The Bill appears to directly target activities protected by the Canadian Charter of Rights and Freedoms by requiring disclosure of time spent on political activity. Privacy is recognized as a fundamental constitutional right under Canadian law, and this Bill has the potential to invite constitutional challenge and litigation."

Constitutional, labour and administrative law expert Paul Cavalluzzo:

"Freedom of association ... guarantees that workers can get together and combine to promote their interest. It seems to me that when you give such an unfair advantage to the employer by asking, "How much does the union have in the bank? How much are they spending on this and that? I bet they can't afford to strike; therefore, I'm going to take a very hard position on bargaining," it will substantially interfere with the collective bargaining process, which the Supreme Court of Canada ... found is a violation of section 2(d)."

2. It's an invasion of privacy:

Privacy Commissioner Daniel Therrien:

"I must say that I am particularly troubled by the fact that Bill C-377 proposes to associate the name of specific individuals with political activities. These activities are clearly of a sensitive nature. Why require this disclosure when other schemes adopted in the name of accountability to taxpayers do not?

Although less sensitive, the public naming of individual payers and payees associated with transactions having a cumulative value over $5,000 is also, I believe, disproportionately intrusive from the privacy perspective as it would catch not only union members but also many third party contractors as well... I think it goes too far."

And it won't just violate the privacy of unions, it will also violate the privacy of individual union members and businesses who provide services to a Union:

Laurie Channer, Director of Industrial Relations, Writers Guild of Canada:

"Payments to almost every party we transact with, including the writers' insurance and retirement carrier, will be reportable, thereby exposing our members' income. Also, our landlord, our Internet provider and office cleaners, et cetera, will have their invoices disclosed for public scrutiny. Additionally, who would want to provide services to us when we are forced to collect intrusive information on their political and non-labour relations activities?"

3. Seven of Canada's ten provinces say they are opposed to it:

Alberta Labour Minister Lori Sigurdson:

"The Alberta Government wishes to express our opposition to Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations). We believe this Bill infringes on provincial jurisdiction over labour relations legislation and, if passed it will compromise the capacity of unions to advocate effectively on behalf of their members."

4. It will damage labour relations:

UNIFOR President Jerry Dias:

"We usually know little about the financial situation of employers, especially those that are privately-owned. The disclosure requirements would greatly upset the balance of power between unions and employers, and limit the ability of union members to meaningfully exercise their right to collectively bargain."

5. Even the National Hockey League's Players Association is against it:

NHLPA President Donald Fehr:

"The NHLPA also administers a licensing program on behalf of our members under which third parties are granted the right to use players' names and/or images in products such as video games, player trading cards, and NHL team jerseys and apparel. In the ordinary course the parties with whom we work have a reasonable expectation that the terms of such agreements will not be made public, and requiring disclosure could well make it more difficult for us to conduct those negotiations, reach and administer those agreements."

6. It's anti-conservative (according to a former Conservative senator):

Former Conservative Senator Hugh Segal:

"Conservatism in the Canadian Tory context is not about the protection of class or the oppression of labour by capital or capital by labour; it is about a freedom tied to mutual respect, whatever legitimate disagreements, between all the participants in the mixed

free-market system. This bill before us, whatever may have been its laudable transparency goals, is really — through drafting sins of omission and commission — an expression of statutory contempt for the working men and women in our trade unions and for the trade unions themselves and their right under federal and provincial law to organize. It is divisive and unproductive."

7. Conservative MPs and Senators are hypocrites for backing C-377

CUPE President Paul Moist:

"Bill C-377 is also, in my view, extraordinarily hypocritical, given that MPs fully paid by the public purse only publicly disclose one schedule with 14 lines of information, and the government amended a private member's bill recently requiring disclosure of public sector salaries; only those over $444,000, quadruple the amount of the forced disclosure in Bill C-377 for labour officials, because labour dues are tax deductible."

Conservative Senator Donald Plett, who was later flagged for inappropriate expenses by the Auditor General:

"This institution is transparent. Quarterly you can go on the website and check every dollar I spend. Canadians deserve that. They deserve nothing less than to know where their tax dollars are going. They know exactly where my tax dollars are going. "

Unions file Charter challenge on government's right to determine sick leave deal

Kathryn May, Ottawa Citizen, June 29, 2015

Federal unions are challenging the constitutionality of the recently passed budget bill that allows the Conservative government to bypass collective bargaining and limit public servants' right to strikes so it can impose a new sick leave and disability regime.

The long-anticipated lawsuit was filed in Ontario Superior Court Monday by 12 of the 17 unions representing Canada's public servants, alleging the Conservatives' legislative changes violate employees' right to free and fair collective bargaining and limits the right to strike.

The lawsuit is aimed at the part of the budget bill in which the government gave itself the power to override the Public Service Labour Relations Act and impose a new sick-leave and disability regime for public servants at any time.

The legal action is led by the Professional Institute of the Public Service of Canada (PIPSC) and Canadian Association of Professional Employees (CAPE), the two largest unions for professional public servants, from scientists to economists. The giant Public Service Alliance of Canada is expected to file a separate challenge Tuesday.

Unions argued from the start that the changes are unconstitutional. PIPSC earlier asked Treasury Board negotiators for their word that these new powers wouldn't be used while the court is reviewing the constitutionality of the law or until a deal is reached at the bargaining table. Treasury Board has not yet replied.

"This government is giving itself the power to directly violate the constitutionally-protected right to meaningful collective bargaining," said PIPSC President Debi Daviau.

"They have left us no choice but to take legal action to defend these rights and we are asking that they commit not to use this power until a court has ruled on its constitutionality."

The lawsuit is the latest in a series of outstanding constitutional challenges the various unions have taken against legislation passed by the Conservative government.

A number of significant Supreme Court rulings have changed the landscape for labour rights in Canada. The high court has recognized the right to meaningful collective bargaining as part of the Charter of Rights protection of freedom of association.

In court documents, the unions argue the legislative changes "interfere" with meaningful collective bargaining by reducing the negotiating power of unions.

The Supreme Court also ruled that the right to strike is a corollary to meaningful collective bargaining. The threat or withdrawal of services to improve conditions of employment is an "indispensable" part of the collective bargaining process.

"(Bill C-59) …fundamentally upset the balance of power in collective bargaining, reducing employees negotiating leverage and denying employees any control or influence over the bargaining process with respect to sick leave coverage, a vital and important collective bargaining right to employees and Treasury Board's key concern for this round of bargaining."

The unions also noted that the legislative changes contravene international labour law, which also recognizes collective bargaining as part of freedom of association.

The unions argue that sick leave is a "critically important" benefit that has been enshrined in employees' contracts for 40 years. They claim the existing regime is the result of "numerous trade-offs" made at the bargaining table and salary protection in event of illness and disability is a key piece of public servants' compensation packages.

With the changes, the government can eliminate sick leave altogether, including the 15 million days that public servants have saved in their sick leave banks.

Treasury Board can also dictate terms of the three most contentious issues around sick leave – the amount of annual sick leave public servants will be entitled to, the amount they can carry over to the next year and how the existing sick-leave banks will be handled.

The unions argue Treasury Board's 'unilateral power' to impose a sick leave deal extends to creating a short-term disability plan and modifying the existing long-term disability

plan. With this power, Treasury Board has effectively removed sick leave as an issue that public servants can strike over.

The government can also now override the “statutory freeze” provisions of the Public Service Labour Relations Act, which unions say undermines collective bargaining. This clause ensures expired contracts are frozen or remain in place until a new agreement is reached.

Arbitrators would also be bound by whatever sick leave terms the government wants when it is ruling on an impasse in bargaining. The changes also forbid any changes to sick leave for four years after the new short-term disability plan is implemented.

The budget bill immediately had a chilling impact on the ongoing round of bargaining but the two sides have so far continued to meet and scheduled bargaining sessions into July. Bargaining has historically slowed or stopped during the summer but Clement has publicly said he wants a sick leave deal before the election.

The timing for the government to initiate its new powers is wide open. That period begins when cabinet decides and sets the date, and ends when the new short-term disability plan comes into effect, which isn’t expected before 2017.

Under the legislation, if sick leave is imposed, the government and unions can continue contract negotiations on any other outstanding issues. Unions can strike on any issue other than sick leave.

Public service unions file charter challenge over sick leave changes

12 unions filed a challenge Monday, largest union plans to file its legal challenge Tuesday

CBC News, June 29, 2015

Twelve federal public service unions have filed a legal challenge to the budget bill passed earlier this year — and the country's largest such union plans to file its own challenge Tuesday — arguing that the bill's plan to save $900 million by overhauling sick leave and disability programs violates the country's Charter of Rights and Freedoms.

The budget bill was passed in April, and its proposed changes to federal civil servants' sick leave provisions are one of the most contentious issues in talks with public service unions.

Those talks were temporarily stalled in May when the Public Service Alliance of Canada walked away from bargaining meetings, but Bill C-59 would give the government the

ability to act before the conclusion of that process, something unions argue contravenes the Public Service Labour Relations Act.

"In our view, the portion of this legislation dealing with sick leave bargaining is unconstitutional," said a media release issued Monday by the Professional Institute of the Public Service of Canada, one of the 12 unions that filed Monday's challenge.

"It fundamentally undermines the constitutionally protected process of collective bargaining and the right to strike."

The $900 million in savings expected with the changes to sick leave was a major piece of Finance Minister Joe Oliver's framework for reaching a $1.4-billion budget surplus for 2015-16.

The budget also said reducing long-term disability costs and other savings from unwinding the liability related to sick leave would result in savings of $200 million in 2016-17 and 2017-18 and $100 million in the following two years.

Canada's largest public sector union, the Public Service Alliance of Canada, confirmed Monday evening that it plans to file its challenge on Tuesday.

"The Supreme Court has confirmed that the right to collective bargaining is a protected right under the charter and we are defending that right through all legal means at our disposal," said Robyn Benson, PSAC's national president, in a media release.

Read the full legal challenge filed Monday below:
http://s3.documentcloud.org/documents/2124273/bill-c-59-challenge-filed-by-12-federal-public.pdf

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Les syndicats contestent la loi C-59

Paul Gaboury, Le Droit, le 30 juin 2015

Plusieurs syndicats du secteur public fédéral contestent devant les tribunaux la loi C-59 qui permet désormais au gouvernement fédéral de modifier unilatéralement le régime de congés de maladie des 300 000 employés fédéraux.

L'Alliance de la fonction publique du Canada (AFPC) a confirmé mardi qu'elle avait déposé une contestation constitutionnelle devant la Cour supérieure de l'Ontario contre la loi C-59.

Selon le syndicat, cette loi modifie le droit des fonctionnaires fédéraux à négocier collectivement.

«La Cour suprême a confirmé que la négociation collective est un droit protégé par la Charte et ce droit, nous le défendrons par tous les moyens juridiques à notre disposition», a indiqué Robyn Benson, présidente nationale de l'AFPC, un syndicat qui compte à lui seul plus de 175 000 membres.

Une dizaine d'autres syndicats du secteur public fédéral, incluant l'Institut professionnel de la fonction publique et l'Association canadienne des employés professionnels (ACEP), ont également entamé des actions en justice au début de la semaine contre la loi C-59, qui a reçu la sanction royale la semaine dernière.

Dans sa contestation juridique, l'AFPC demande à la Cour d'attester sur-le-champ la violation des droits de ses membres, garantis par la Charte. La contestation soutient que la loi «abolit le droit des employés à la négociation de bonne foi en autorisant l'employeur à établir unilatéralement toutes les conditions liées aux congés de maladie, y compris l'adoption d'un régime d'assurance invalidité de courte durée et la modification du régime actuel d'assurance invalidité de longue durée».

De plus, la loi C-59 «permet au Conseil du Trésor d'invalider les dispositions des conventions collectives en vigueur sans avoir à consulter les agents négociateurs, et donne à l'employeur le pouvoir de contourner plusieurs dispositions de la Loi, dont la période de gel des conditions de travail qui maintient le statu quo pendant les négociations collectives».

«Négociations futiles», selon l'ACEP

Pour sa part, l'ACEP soutient qu'avec la sanction royale du C-59, les «négociations seront futiles» puisque le gouvernement pourra imposer son régime d'assurance invalidité en contournant le processus de négociations. «Les syndicats devront négocier avec un pistolet sur le tempe: acceptez cette offre ou risquez qu'on vous impose quelque chose de pire, par voie de législation» rappelle-t-on à l'ACEP. Nous croyons que cela est contraire à la Constitution; la loi viole le processus de négociation collective, protégé par la Constitution, ainsi que notre droit de grève».

Dans l'intérim d'une décision des tribunaux, les syndicats souhaitent que le Conseil du Trésor s'abstienne d'utiliser ces nouveaux pouvoirs autorisés dans la loi.

Key PS executive overseeing sick leave overhaul moving to new job

Kathryn May, Ottawa Citizen, July 3, 2015

The top human resource executive who oversees the Conservative government's contentious sick leave and disability overhaul is moving to a new job as part of another shakeup at the upper ranks of Canada's bureaucracy.

Prime Minister Stephen Harper announced Daniel Watson, the government's Chief Human Resources Officer, will be heading to the Parks Canada Agency as the chief executive officer. Watson's appointment is effective August 7 and comes at a critical point in the ongoing round of collective bargaining between the 17 federal unions and Treasury Board negotiators where sick leave is the big issue.

Watson was also key player in the talks that led to the creation of the joint union-management committee on mental health, which is probing the practices and policies in

the public service that may be contributing to the government's rising mental health claims – which now account for half of all disability claims.

Since then, Privy Council Clerk Janice Charette has made mental health one of her top priorities. The committee's first report is due in September.

Watson will be replaced as the government's chief human resources boss by Anne Marie Smart, who has been the associate deputy minister at Veterans Affairs since 2012. Her appointment is effective Aug. 10. Treasury Board President Tony Clement has said he wants a sick leave deal before the October election and the government has made legislative changes that will ensure it gets the deal it wants.

Watson takes over the Parks agency job from its long-time boss Alan Latourelle who is retiring from the public service after 32 years.

The moves come a week after a larger shakeup of the senior ranks that appointed new bosses at the Canada Revenue Agency, Transport Canada, Canada Border Services Agency and the Canada School of the Public Service.

Other changes in Friday's shuffle include:

Karen Ellis, president of the Federal Economic Development Agency for Southern Ontario, becomes associate deputy minister of Veterans Affairs, effective Aug. 10.

Nancy Horsman, senior assistant deputy minister of tax policy at Finance Canada, becomes president of the Federal Economic Development Agency for Southern Ontario on Aug. 10.

Des fonctionnaires fédéraux impayés depuis des semaines

Annabelle Blais, La Presse, le 6 juillet 2015

Des fonctionnaires de partout au Canada continuent à vivre des moments d'angoisse en raison des retards de paiement qui s'accumulent, depuis plusieurs semaines parfois, causés par les difficultés du nouveau Centre des services de paye de la fonction publique de Miramichi, au Nouveau-Brunswick. La situation est telle que le gouvernement et le syndicat doivent se rencontrer cette semaine à ce sujet.

En avril, La Presse rapportait divers problèmes de versement du salaire, des erreurs dans les sommes versées ou encore des indemnités de maternité ou des congés maladie non payés qui touchaient des fonctionnaires de partout au pays et notamment ceux de Santé Canada au Québec. Or les problèmes perdurent, selon l'Alliance de la fonction publique du Canada (AFPC).

Le regroupement des services de paye de 46 ministères fédéraux a été mis en chantier en 2010. Ce projet de modernisation qui coûtera près de 300 millions a entraîné l'abolition

de 1000 postes de conseillers en rémunération. Lorsque le transfert au centre de paiement de Miramichi sera complété, en décembre prochain, 550 employés traiteront les payes de 182 000 des 300 000 employés rémunérés par Ottawa.

En raison des problèmes persistants et du processus de transferts qui doit être complété sous peu, l'AFPC rencontrera cette semaine la sous-ministre adjointe pour Travaux publics et services gouvernementaux Canada, Rosanna Di Paola, a indiqué Chris Aylward, vice-président exécutif national de l'AFPC.

Une récente demande d'accès a permis à La Presse d'apprendre que les services de paye de Miramichi ont reçu 377 plaintes depuis 2012-2013. On compte notamment 197 plaintes pour l'année 2014-2015.

Parmi les problèmes les plus souvent évoqués, on compte en tout 127 plaintes pour retards de paiement. On voit aussi 170 plaintes pour erreurs de procédure, mais aussi des absences de paiement ou des erreurs dans les sommes versées. Pour une raison que le syndicat ignore, les employés de Santé Canada et Agriculture Canada sont les plus touchés.

«Un employé d'Agriculture Canada en Alberta n'a pas été payé pendant 11 semaines! Ça cause beaucoup de stress et de frustration, le moral est au plus bas dans la fonction publique», insiste M. Aylward.

Pas de problème, dit Ottawa

Le gouvernement soutient qu'il n'y a pas de problème.

«La transition à un seul centre de paye n'a pas eu de conséquences négatives sur le traitement de la paye des employés», indique Annie Trepanier, porte-parole de Travaux publics.

Elle souligne au passage que les employés de Miramichi ont suivi une formation «exhaustive» et travaillent avec diligence.

Or selon M. Aylward, ces problèmes s'expliquent précisément par le manque d'expérience des employés du centre de paye et un coaching insuffisant.

Le gouvernement a établi le nouveau centre à Miramichi pour compenser les pertes d'emplois à la suite de l'abolition du registre des armes d'épaule en 2012, dont la gestion était assurée par le centre national d'enregistrement des armes à feu situé dans cette ville. Les nouveaux employés n'ont jamais travaillé dans les services de paye pour la plupart et doivent apprendre de A à Z le métier de conseillers en rémunération.

«Et il manque des ressources, explique-t-il. On supprime des emplois, mais la charge de travail reste la même. C'est difficile pour les employés de Miramichi et tous ceux des différents ministères qui subissent les erreurs sur leur paye», dit-il.

Chris Aylward a d'ailleurs fait des représentations auprès de Mme Di Paola, pour la sensibiliser à la nécessité d'embaucher davantage de personnes. «Elle semblait ouverte à

engager plus de coachs, mais elle n'a pris aucun engagement pour les conseillers», a-t-il dit.

Why do we cling to an outdated Senate that does the government's bidding?

Jerry Dias, The Globe and Mail, July 2 2015

Jerry Dias *is the national president of Unifor, Canada's largest private-sector trade union.*

We have now reached the point that Canadian senators are even questioning the validity and value of the Senate.

Increasingly the chamber of sober second thought is proving itself to be less and less so – ruled by partisanship, embroiled in scandal. Last week, we saw an incredible scenario play out in the Senate chambers during the debate around Bill C-377, a private member's bill introduced by Conservative MP Russ Hiebert. It's a piece of legislation that claims to be about union transparency but, as is recognized by politicians of all political stripes, it is really an attempt to tie up unions in red tape, diverting resources from unions' efforts to protect workers, promote fair wages and decent working conditions, and foster greater equality.

To ensure Bill C-377 passes, the Conservative Party has taken dramatic action. Unless

The Senate is now being used not in the service of rigorous debate and the passionate defence of democracy, but to single out certain groups out of favour with the ruling government. That is the tragedy of it – that systems set up to protect and strengthen democracy are ultimately being used to squelch debate and discussion.

Conservative partisanship in the Senate is nullifying any remaining usefulness of the upper chamber. This sentiment is echoed by long-time Conservative and former senator Hugh Segal, who told The Canadian Press that Conservative partisanship and the overruling of its own Speaker on Bill C-377 "undermines the argument that a second parliamentary chamber is necessary to provide sober second thought to legislation."

"That defence – that on occasion the Senate will stand up and do the right thing by opposing something which is clearly impractical, not workable, unconstitutional and negative in terms of its impact on important things like the role of collective bargaining in a free and open, competitive economy – that defence is now gone," Mr. Segal said in an interview.

"So, whatever the defences were for the continuing existence of the institution and its relevance … those who voted against the Speaker have just cut a huge hole in that flag."

Mr. Segal wasn't in the Senate as this all unfolded. Liberal Senator Larry Campbell was, though, and said: "It's like watching the Roman Empire collapse."

Collapse. If the Senate can't follow its own rules, set up to help support and strengthen our democracy, the question is: Why are we keeping it? What purpose does the Senate continue to have? Surely after the experience of the Conservative majority overruling its own Speaker, few, if any, can argue it remains a bastion of sober second thought. Regretfully, it simply does not.

Syndicats, barreaux et provinces montent au créneau

Hugo de Grandpré, La Presse, le 1er juillet 2015

Après quatre années de débats au Parlement et de vives controverses, le Sénat a finalement adopté le projet de loi C-377 sur la transparence financière des syndicats, hier, au moment d'ajourner ses travaux jusqu'aux élections du mois d'octobre. Mais la victoire pourrait être de courte durée pour le gouvernement Harper : de nombreux syndicats, provinces, barreaux et autres groupes affirment que le projet est inconstitutionnel… Le point en cinq temps sur ce débat qui risque fort de se retrouver devant les tribunaux.

DIVULGATIONS OBLIGATOIRES

Appuyé par le bureau du premier ministre, le projet de loi déposé aux Communes par le député conservateur Russ Hiebert vise à forcer les syndicats canadiens à divulguer toute dépense de plus de 5000 $ au ministre du Revenu du Canada, qui à son tour rendra ces dépenses publiques. Les syndicats devront aussi rendre publics le nom et le salaire de tout employé qui gagne plus de 100 000 $ par année, de même qu'une évaluation du temps qu'ils consacrent à des activités de nature politique.

NOMBREUX OPPOSANTS

Les critiques à l'égard de C-377 sont venues de toutes parts, même du syndicat des joueurs de la Ligue nationale de hockey. Une demi-douzaine de provinces s'y opposent, dont le Québec. Le Barreau du Québec remet sa constitutionnalité en doute, de même que tous les partis de l'opposition à Ottawa et même une sénatrice conservatrice, Diane Bellemare, qui a voté contre. « C'est un mauvais projet de loi », a tranché Mme Bellemare. Le NPD et le Parti libéral ont promis de l'abroger s'ils prennent le pouvoir le 19 octobre. « Les organisations membres de l'Alliance sociale contesteront devant les

tribunaux la constitutionnalité du projet de loi C-377 », ont quant à eux fait savoir les syndicats membres de ce regroupement, dont la CSN, la FTQ et la CSQ.

CHAMPS DE COMPÉTENCE ET VIE PRIVÉE

Les principales préoccupations portent sur les champs de compétence et la vie privée. « C'est beaucoup trop invasif et ce n'est pas du tout équilibré. Et en plus, ça va à l'encontre du partage des pouvoirs entre les provinces », dénonce la sénatrice Bellemare. Beaucoup sont d'avis que le projet porte principalement sur les relations de travail et non sur la

fiscalité fédérale. À ce titre, il empiète sur les champs de compétence provinciaux. Le commissaire à la protection de la vie privée du Canada, Daniel Therrien, s'inquiète quant à lui de voir trop de renseignements personnels publiés par le gouvernement sur l'internet, comme le nom de fournisseurs de services de plus de 5000 $, les activités politiques d'employés des syndicats et le nom et le salaire d'employés gagnant plus de 100 000 $. Les syndicats s'insurgent aussi contre le fait qu'ils sont les seuls à être soumis à de telles obligations, auxquelles échappent les associations patronales, entre autres.

LONGUE SAGA PARLEMENTAIRE

Présenté aux Communes peu après les élections de 2011, C-377 a eu connu un parcours long et mouvementé au Parlement. En 2013, une quinzaine de sénateurs conservateurs ont refusé de l'adopter tel quel et l'ont renvoyé à la Chambre. Les troupes de Stephen Harper l'ont toutefois renvoyé à nouveau au Sénat, où l'opposition libérale a tenté de s'y opposer en multipliant les mesures dilatoires, mais en vain : les sénateurs conservateurs ont voté vendredi pour ignorer une décision du président de la Chambre haute et forcer un vote, qui a finalement passé hier par 35 voix contre 22.

CE QU'ILS ONT DIT

« Le dernier geste du gouvernement Harper au cours de la 41e législature est de violer les règles. Cela résume assez bien ce que tant de Canadiens reprochent au gouvernement Harper : il contourne les règles pour arriver à ses fins. »
— James Cowan, leader du caucus des sénateurs libéraux

« Notre gouvernement a toujours prôné une plus grande transparence de la part des syndicats en ce qui a trait aux cotisations obligatoires que versent les Canadiens qui travaillent fort. » — Catherine Loubier, directrice des communications du premier ministre Stephen Harper

« Au Québec, nous avons déjà une obligation de faire connaître nos états financiers en vertu du Code du travail. […] Donc, c'est purement par esprit de vengeance envers le mouvement syndical que le gouvernement Harper va de l'avant avec ce projet de loi là. »
— Daniel Boyer, président de la FTQ

« À l'évidence, il s'agit d'une tentative des conservateurs de discréditer les syndicats, notamment sur le plan des revendications sociales, pour bureaucratiser leur fonctionnement et donner des armes supplémentaires aux patrons pour qu'ils soient informés du portrait financier des syndicats avant d'entreprendre une négociation. » — Pierre Patry, trésorier de la CSN

Ontario law society's decision to refuse Trinity Western accreditation upheld

Simona Chiose, The Globe and Mail, July 2, 2015

An Ontario Superior Court has dealt a blow to Trinity Western University, ruling that Ontario's law society acted within its rights when it denied accreditation to the proposed law school from the Christian-based, B.C. university in an April, 2014, vote.

The decision by directors of the Law Society of Upper Canada infringed TWU's freedom of religion, but the court considered that it did so to protect individuals' rights to equal treatment. Since announcing its plans to open a new law school, TWU has been at the centre of a national debate over its Community Covenant, which asks students to agree to abstain from sexual intimacy outside of heterosexual marriage or face possible suspension or expulsion.

The ruling "points a knife at the freedom of faith communities across Canada to hold and practise their beliefs," said Guy Saffold, a spokesman from TWU, who added the school plans to appeal the ruling.

Judges Frank Marrocco, Ian Nordheimer and Edward Then of Ontario Divisional Court, resolutely came down on the side of critics who argue TWU's Covenant constitutes discrimination, as it effectively means the school is closed to lesbian or gay students. If LGBTQ students want to attend the law school, the decision states, they would have to "essentially bury a crucial component of their very identity, by forsaking any form of intimacy with those persons with whom they would wish to form a relationship."

That's too high a price to go to law school and violates equality of opportunity, "a value of fundamental importance to our country. It is a value that state actors ... are always entitled to respect and promote," the decision said.

"We're very pleased with the decision and how the court respected how the law society balanced these rights," said Janet Minor, treasurer for the Law Society of Upper Canada.

Courts in British Columbia and Nova Scotia where TWU is waging other legal battles for accreditation will look at the decision with interest, she added.

During court appearances in June, the school's lawyer had argued that the issues being debated were decided by the Supreme Court 14 years ago.

In 2001, the Supreme Court ruled that the B.C. College of Teachers could not deny accreditation to TWU's education faculty because there was no evidence that its teaching college graduates discriminated against students.

"There is no reason to believe that the Supreme Court's willingness to protect religious freedom has diminished," Robert Staley, a lawyer representing TWU, said on the first day of hearings in June.

Thursday's court decision rejected Mr. Staley's argument, pointing out differences in the impact of the two cases. As well, the judges suggested, the Supreme Court could change its ruling if it revists the case. Attitudes "toward LGBTQ persons, have changed considerably in the last 15 years. As such, this area of law is probably the most fluid of any area of law in terms of the appropriate application of legal principles," the decision said.

“We’ve seen a LGBTQ trajectory of what we consider appropriate access to our institutions, you see a quickening pace of how we treat these issues,” said Douglas Judson, the director of Out on Bay Street, a LGBTQ advocacy group for new graduates and students, which intervened in the case.

TWU has said, in court and outside it, that if it fails to gain accreditation in Ontario, it will have to revisit opening a law school at all. That would be an economic decision, the three-judge panel said. “What TWU would then be essentially saying is that it not only wishes to operate its law school ... in order to advance its religious beliefs, but that it will only do so if it is guaranteed access to the single largest market for law school graduates.”

Opinion: Harper’s Rule Breaking Rush to Crush Unions

'Suicidal excess': A Tory says his party will pay for ramming anti-labour Act through Senate.

By Bill Tieleman, Today, TheTyee.ca, June 30, 2015

"There's nothing democratic about what's going on here. It's like watching the Roman Empire collapse." -- BC Liberal Senator Larry Campbell on Conservative senators imposing Bill C-377

Is there anything more undemocratic than Canada's most tainted organization -- the Conservative-controlled Senate -- breaking its rules and then overturning its own Conservative Speaker's ruling, all to hurriedly impose anti-union legislation before the federal election?

That's what happened last week with Bill C-377, an odious private members' bill shepherded from beginning to end by Prime Minister Stephen Harper's own office, passed by Parliament's Conservative majority and sent to the Senate for approval.

When Liberal, independent and even Conservative senators tried to delay passage of the legislation through extended debate, the Conservative Senate majority moved a motion to end debate.

And after Senate Speaker Leo Housakos -- a Conservative appointed by Harper only last month -- said their motion was "inconsistent with the basic principles of our rules and practices,” they simply challenged Housakos' ruling and voted it down.

The rules of the Senate don't apply if inconvenient to Harper's political goals.

'Suicidal' strategy: Segal

But the move may badly backfire, says the former Conservative senator who led a successful revolt against it in 2013 when it first went to the Senate.

"Why somebody would decide that kind of suicidal, ideologically narrow excess is in the national or the party's interests or the prime minister's interests is completely beyond me," Hugh Segal said last week.

And Segal, a lifelong Conservative who also served as former Prime Minister Brian Mulroney's chief of staff, said overruling the Senate speaker further undermines its already battered credibility -- disgraced as it has been with Mike Duffy charged and Pamela Wallin, Patrick Brazeau and other Conservative senators under investigation.

"So, whatever the defences were for the continuing existence of the institution and its relevance...those who voted against the Speaker have just cut a huge hole in that flag," says Segal. A final vote on Bill C-377 should come this week.

C-377 will cost millions to administer

So why are the Harper Conservatives so fixated on C-377?

And why do seven provinces, every union and labour organization in Canada, the National Hockey League Players' Association, the Canadian Bar Association, police associations and many others all strongly object to the legislation?

Bill C-377 is clearly intended to tie unions up with costly bureaucratic administrative costs, though Conservatives say it is about "transparency".

Every union expenditure over $5,000 must be publicly reported and posted online – something no other group faces – not organizations for lawyers, doctors, architects, engineers or indeed any professional association.

That means not only salaries of staff but also fees for lawyers, accountants, contractors and consultants (including firms like mine). Plus the cost of collective bargaining, pension funds, education and political action, administration and much more.

And taxpayers can expect the legislation will cost the federal government itself $20 million to administer in its first two years. As York University law professor David Doorey says: "Bill C-377 is government red tape on steroids."

Yet it's the work of a Conservative government that says it opposes bureaucracy -- unless it applies to its political opponents.

Breaking their own rules and voting down their own representative to crush their opponents with red tape they profess to hate -- the Conservatives are running all the red lights on their own morality.

Government is too big — and it's breeding incivility among public servants

National Post Editorial, June 29, 2015

The latest bad news from the public service of Canada is an outbreak of incivility on top of widespread depression and illness. It really is a toxic workplace and it's time to try genuine reform.

Earlier this year the triennial Treasury Board survey said nearly one-in-five public servants reported harassment at work in the last two years. According to various studies, rudeness and harassment come largely from within, from superiors, co-workers, the public, subordinates and other departments in that order. Even executives, according to a new study by the Association of Professional Executives of the Public Service of Canada (APEX), are increasingly the target of abusive behaviour and increasingly disengaged as a result.

Canadians in the private sector might feel moved to some incivility of their own at such complaints from public servants, who enjoy pay, pensions and job security strongly at odds with their own experience. But man does not live by bread alone and federal public servants are hurting.

They stay home sick at 2.5 times the private sector rate and nearly twice that of their provincial colleagues. While the federal bureaucracy has among Canada's most aggressive policies respecting promotion and well-being of women, female public servants take sick leave at nearly twice the male rate, and more frequently for depression.

To be frank, some of the complaining reflects hypersensitivity to the normal friction between human beings anywhere. But the dismal work environment of Canada's public service fosters both rudeness and hypersensitivity, placing a very real burden on its members and the public, who pay directly for sick leave and overstaffing and indirectly in diminished service.

The problem is not outmoded thinking or structures. Canada's public service is run according to the latest management theories and dominated by powerful unions. Nor is it mainly hostile interactions with an angry, cynical public or obtuse politicians; this morale crisis is mostly internally generated.

What then is to be done? Naturally the APEX study endorses current management fads like "best practices," the Mental Health Commission of Canada's national psychological standard for a healthy workplace across departments, technique-heavy civility policies and guides for dealing with rudeness. And the unions want more money and benefits. But the problem is not a lack of suitable memos or sick leave. It is frustration and futility breeding incivility and depression throughout the public service.

Almost no one could be happy attending endless meetings, quibbling over trite memos, involving dozens of people across departments on boilerplate press releases, writing reports no one reads. Not that the actual work doesn't matter, from defence to social services. But it is too often done in dismally pointless ways and those involved know it.

Canadian governments are too big. They do too much. And they do far more in-house than they need to, crushing talented idealists under countless layers of management, petty rules and worthless regulations.

It's a problem for citizens and taxpayers, and governments who desperately need to get a handle on staffing costs, especially looming pension liabilities. But it's also a problem for public servants.

That's why privatization, contracting out and the elimination of useless activities need serious consideration. It must be done with due care and attention, of course. But while genuine slimming down of the public service is reflexively opposed by public-sector unions and many management gurus, it would benefit workers who leave to do real meaningful work, and those who stay and find themselves doing urgent tasks that matter.

It would also serve the public, not a trivial consideration when discussing the public service.

Ontario's top court makes inmates eligible for early parole

Harper abolished accelerated parole review for non-violent offenders in 2011 but an Ontario Court of Appeal has ruled that inmates who committed their crimes before the new rules came into effect should be eligible to apply under the old regime.

Rachel Mendleson, Toronto Star, July 5, 2015

For Souphin Inlakhana, early parole is the second chance she almost didn't get.

"It's a surprise to everybody," said Inlakhana, 35, who was released on parole from Grand Valley Institution in Kitchener in December, after being sentenced to more than six years in late 2011 for drug trafficking and related offences.

"It feels amazing," she said. "I've started my life again."

The London, Ont. resident is among a dozen prisoners who recently won their right to apply for early parole at Ontario's highest court in a series of decisions that could open a similar door to other inmates across Canada.

It is a prospect that seemed all but dead in March 2011, when Prime Minister Stephen Harper's Conservative government abolished Accelerated Parole Review (APR) for first-time, non-violent federal offenders.

However, in May the Court of Appeal for Ontario concluded in several cases that inmates who committed their crimes before the legislation was passed are entitled under the Charter of Rights and Freedoms to be eligible early parole under the old regime.

Justice Russell Juriansz wrote the decision on behalf of a unanimous three-judge panel in the case of 10 women, including Inlakhana, serving sentences at Grand Valley for a variety of offences, including importing drugs, trafficking and fraud.

"The (Abolition of Early Parole Act) infringes the (Charter) rights of non-violent offenders serving a first sentence of imprisonment in a federal penitentiary," Juriansz wrote. "The changes to the parole system have the effect of appreciably increasing the amount of time such offenders would be incarcerated in comparison to what they would have expected under the regime in place at the time they committed their offences."

The same panel of appeal judges also sided with inmates in two cases of men serving sentences at Beaver Creek Institution in Gravenhurst, Ont., for conspiracy to import

cocaine, and other drug-related offences. (All three appeals were heard together; Inlakhana was released on parole after she and the other Grand Valley inmates won their case in Superior Court.)

The rulings follow a decision at the Supreme Court of Canada last year, which found that repealing accelerated parole retroactively was tantamount to punishing inmates twice. The old rules should apply to inmates who were sentenced before the Abolition of Early Parole Act came into effect, the court concluded.

Introduced in 1992, APR gave non-violent, first-time federal offenders an opportunity to be granted parole after serving one-sixth of their sentences. Unlike the normal rules for parole, an eligible inmate was considered automatically for APR, and the onus was on the parole board to find a reason not to grant it.

Under the new rules, these inmates are subject to normal parole provisions, which make them eligible to apply for parole after serving one-third of their sentences.

If the recent Court of Appeal decisions stand, "a fair number of people in the penitentiary system" will be eligible for accelerated parole, according to Kingston lawyer Brian Callender, who represented the female inmates at Grand Valley and one of the men at Beaver Creek.

"I can see other jurisdictions following (this) line of reasoning," Callender said. "It's generally accepted that Canadians repudiate the notion of retroactive laws and retroactive punishments. So the court's decision is consistent with that value."

A spokeswoman for the office of the federal public safety minister said in an email that the government "is carefully reviewing these judgments and considering next steps."
The Attorney General has until late July to seek leave to appeal to the Supreme Court in any of the recent cases.

In appealing the decision of the Superior Court in the case of the women at Grand Valley, the Attorney General argued in submissions that the inmates did not have a "Charter-

protected right to benefit from a statutory parole scheme that was repealed before they were convicted and sentenced."

The Attorney General also provided the government's rationale for scrapping APR.
"Mounting evidence suggested that APR had failed to achieve its sentence-management goals, and could actually jeopardize public safety, rehabilitation, reintegration and recidivism," the Attorney General wrote in its submissions to the court.

But some critics say getting rid of APR has caused prison populations to balloon at great cost to taxpayers.

Correctional Investigator Howard Sapers said the retroactive abolition of APR, which he sees as part of a "rush of criminal justice changes in Canada over the last half-dozen years," has created "a bit of a mess" in terms of sentence administration.

"You have different populations having their sentences administered subject to different rules," Sapers said.
Inlakhana was granted parole after she and the other Grand Valley inmates won their case at Superior Court.

She said she is now working in sales, seeking to acquire a real-estate licence and focusing on spending time with her son.

"I'm such a motivated person. Being in there was no good for me, because I felt like I wasn't accomplishing anything," she said. "My son keeps me staying positive. I just want to be a good role model for him."

Column: Changing the constitution is easy — if you're a Supreme Court Justice

Grégoire Webber, Contribution to the National Post, June 29, 2015

Grégoire Webber is *Canada Research Chair in Public Law and Philosophy of Law at Queen's University and Visiting Senior Fellow at the London School of Economics.*

Over the past year, the people of Canada have undertaken an important remaking of our constitution. We have given constitutional status to the Supreme Court, created a constitutional right to strike, and created a constitutional right to assisted death, among other changes.

That we have done all this in such a concentrated span of time contradicts the claim that our constitution is the hardest to amend in the world.

How have we done so? By employing a clever strategy. We have avoided the politically fraught constitutional amendment process that requires the consent of the Commons, Senate and provinces and instead appealed to that straightforward constitutional amendment process called the Supreme Court of Canada.

This exaggerates an important truth: our constitution has undergone a number of important reforms, all at the hands of the Supreme Court. Lest one be the sort of activist whose support for judicial intervention is unapologetically a “sometime thing” — valid when the going is good, withdrawn when the going is not — there is reason to express reservation with how these reforms were brought about.

We have avoided the politically fraught constitutional amendment process that requires the consent of the Commons, Senate and provinces and instead appealed to that straightforward constitutional amendment process called the Supreme Court of Canada. Those reservations are all the stronger when the Court’s reasons come up short and leave the impression of a Court guided less by the law than by its view of desirable outcomes.

In the Nadon Reference, the Court blocked not only a judicial appointment, but also eliminated Parliament’s ability to revise the criteria for appointment, ruling that essential features of the Court were now constitutionally protected.

The Court’s reasoning rests heavily on the following premises and conclusion. Premise 1: “The existence of an impartial and authoritative judicial arbiter is a necessary corollary of the enactment of the (Constitution’s) supremacy clause.” Premise 2: “The judiciary became the ‘guardian of the constitution.'” Conclusion: “As such, the Supreme Court of Canada is a foundational premise of the Constitution.”

Does this follow? No. Beyond the absence of relationship between the premises and the conclusion, it bears noting that the Supreme Court was only introduced, by Parliament, in 1875, some years after Canada’s founding in 1867. Claims about “foundational premise” are difficult to reconcile with history, a history otherwise appealed to by the Court to suggest that, over time, the Supreme Court “became constitutionally protected.” No one noticed until this judgment.

As these opinion pages have noted, the Court fares no better in its judgment introducing a right to strike. To overrule a trilogy of 1987 precedents, the Court refers to a selection of foreign jurisdictions and international law, in many instances citing to decisions or provisions that predate either the 1982 Charter or the 1987 precedents or both.

The impression that the only thing that explains the change of law is a change in the Court’s membership will not be allayed by how the Court formulates its conclusion: “It seems to me to be the time to give this conclusion constitutional benediction.” Few judgments are as transparent in staking the Court’s claim to be a roving law reform commission.

The Court’s own 1993 precedent on assisted suicide suffers a similar fate, being overruled because of changes in social science evidence over the last decade. When it comes time to evaluate just what that new social science evidence has to say about schemes for assisted suicide, however, the Court recoils from its own assessment, satisfying itself with: “We see no reason to reject the conclusions drawn by the trial judge.”

As a result of failing to engage with the evidence before it, the Court’s assertion that “the risks associated with physician-assisted death can be limited through a carefully designed and monitored system of safeguards” offers no comfort to Parliament that it will be able

to fashion such a scheme, nor to those vulnerable persons at risk if such safeguards are imperfectly designed.

These three judgments were arrived at by votes of 7-1, 5-2, and 9-0. When the Court's judgments are cogent and constrained by the law, there is no reason to have recourse to head counts.

But when the Court's judgments come up short and give the impression of making new law that can only be undone by way of constitutional amendment, we have reason to question whether we are best governed in this way.

Our constitution provides for its own amendment process and, for the most part, ensures that amendments are difficult to achieve. The lessons of Meech Lake and Charlotteown have cautioned many against pursuing constitutional re-negotiations again.

But all this can be avoided by appealing to a Court whose fidelity to its own precedents is weak and whose understanding of its role is constrained less by the law than by its view of what is best for the country and the constitution.

A mass of new judicial appointments

Some new positions created due to Bill C-31

By Jennifer Brown, Legal Feeds blog, Canadian Lawyer, June 29, 2015

If you're a lawyer in Canada, there's a good chance someone you know is on this very long list of judicial appointments.

Heading into pre-Canada Day celebrations Justice Minister Peter MacKay announced 39 new judges on June 26 for courts across the country including Nunavut, Quebec (14), Manitoba (4), British Columbia (2), Ontario (8), Alberta (3), the Federal Court (4), Federal Court of Appeal (2) and the Tax Court.

In several instances the appointments are said to be filling new positions created by Bill C-31.

Tax Court

Guy R. Smith, a sole practitioner in Ottawa, was appointed a judge of the Tax Court of Canada to replace Justice Joe E. Hershfield, who elected to become a supernumerary judge as of June 1, 2015.

Smith had been a sole practitioner since 2014. Previously, he had been the judicial affairs adviser for the federal Minister of Justice and Attorney General of Canada from March 2009 to July 2014. He practised administrative law, constitutional law and litigation with Perley-Robertson Hill & McDougall LLP from 1997 to 2005 and as a sole practitioner from 1991 to 1997. He was called to the Ontario bar in 1988.

Federal Court

Alberta Provincial Court Judge Robin Camp has been appointed to the Federal Court to replace Justice Yves de Montigny, who has been elevated to the Federal Court of Appeal.

Camp received his law degree in South Africa and successfully completed challenge exams to re-qualify to practise in Canada in 1998. He was appointed a judge of the Provincial Court, Criminal Division, in 2012. Prior to his appointment, he had been a lawyer at JSS Barristers from 2004 and a managing partner from 2008 to 2012. His main area of practice was commercial litigation. He was called to the Alberta bar in 1999.

E. Susan Elliott, a lawyer with Good Elliott Hawkins LLP in Kingston, Ont. has also been appointed to the Federal Court. She replaces Justice Mary.J.L. Gleason, who has been elevated to the Federal Court of Appeal.

Elliott was called to the Ontario bar in 1981. She had been at Good Elliott Hawkins (formerly Good & Elliott) since 1981, and during that time she had been general counsel, legal line of business, Teranet Inc. She also served as treasurer of the Law Society of Upper Canada; as well as hearing commissioner, part time, for the Rent Review Commissioner of Ontario and a smalls claims court judge since 2009.

Sylvie Roussel, a lawyer with the Security Intelligence Review Agency in Ottawa, is appointed to the Federal Court as well, replacing Justice Marie-Josée Bédard, who was appointed to the Superior Court of Quebec.

Roussel was called to the Ontario bar in 1987. She had been senior general counsel with the Security Intelligence Review Agency since 2007. Previously, she had practised with the firm Noël & Associés, s.e.n.c.. Her main areas of practice were public/constitutional law, criminal law, Charter Law and human rights law.

Fredricton's Ann Marie McDonald, a lawyer with McInnes Cooper LLP, is also headed to the Federal Court. She replaces Justice R.T. Hughes, who elected to become a supernumerary judge, effective Sept. 1, 2015.

McDonald was called to the bar of New Brunswick in 1994. She became an associate with McInnes Cooper in 2000 and a partner in 2002, practising primarily in the areas of commercial litigation, employment law, administrative law and general litigation.

Federal Court of Appeal

Federal Court Justice Yves de Montigny has been elevated to the Federal Court of Appeal to replace Justice Robert Mainville, who joined the Quebec Court of Appeal last July.

Justice de Montigny was appointed to the Federal Court in 2004. Prior to his appointment, he had held various positions in the Department of Justice Canada, as well he was the director general of constitutional strategy and plans at the Privy Council Office; special adviser to the executive council of the Government of Quebec and counsel in the Quebec Ministry of Justice. His main areas of practice included constitutional law, administrative law, criminal law and international and public law. He was called to the Quebec bar in 1983.

Filling a new position created by Bill C-31, Federal Court Justice Mary J.L. Gleason is appointed to the Federal Court of Appeal.

Justice Gleason was appointed to the Federal Court in 2011. Prior to her appointment, she had been a senior partner with Norton Rose LLP, where she practised labour and employment law in Ottawa. She was called to the Ontario bar in 1986.

Nunavut

Paul Bychok, a former senior legal counsel with the Public Prosecution Service of Canada in Iqaluit, was appointed a judge of the Nunavut Court of Justice to replace Justice Andrew M. Mahar, who was appointed to the Supreme Court of the Northwest Territories on May 28, 2015.

Bychok was called to the Nova Scotia bar in 1985 and to the Nunavut bar in 2004. He had been a senior legal counsel for the Nunavut Regional Office of the Public Prosecution Service of Canada from 2003 until his retirement in April 2015. He practised in Halifax as senior Crown attorney from 1989 to 2003 and was in private practice from 1985 to 1989.

Quebec

In Quebec, Étienne Parent, a puisne judge of the Superior Court of Quebec in Quebec was elevated to the Court of Appeal of Quebec to replace Justice Lorne Giroux, who elected to become a supernumerary judge effective June 30.

Justice Parent was appointed to the Superior Court in 2006. Before that he had been a lawyer with Parent Doyon Rancourt & associés in Saint-Georges-de-Beauce since 1983. He practised in the general area of civil law, specializing in insurance law, agricultural law, and administrative law. He was admitted Quebec bar in 1983.

Marie-Josée Hogue, a lawyer with McCarthy Tétrault LLP in Montreal, was appointed to the Court of Appeal of Quebec to replace Justice Pierre J. Dalphond, who resigned in November 2014.

Hogue was called to the bar in 1987. She had been a partner with McCarthy Tétrault since January 2014 and was previously a partner with Heenan Blaikie LLP,. She was a law clerk to Justice Antonio Lamer of the Supreme Court of Canada from 1988 to1989. Her main areas of practice were corporate commercial litigation, civil litigation and professional liability.

Federal Court Marie-Josée Bédard was appointed to the Superior Court of Quebec, District of Gatineau, Labelle and Pontiac, to replace Justice Martin Bédard, who elected to become a supernumerary judge as of June 20, 2015.

Justice Bédard was appointed to the Federal Court in 2010. She has extensive experience in labour law, labour relations and human resources, as well as administrative law, civil rights and public law. In 2000, she joined the Société de transport de l'Outaouais, later becoming a special advisor to senior management until 2006. She was an associate with Bédard, Saucier, Lajoie, Avocats from 1993 to 1999. She was admitted to the Quebec Bar in 1993.

Jocelyn F. Rancourt, a lawyer with Norton Rose Fulbright Canada LLP in Québec, also joins the Superior Court, replacing Justice Michel Caron, who elected to become a supernumerary judge as of June 20.

Rancourt was called to the bar in 1985. He was with Norton Rose Fulbright (previously Ogilvy Renault) from 1988 until his appointment. His main areas of practice were employment and labour law, administrative law, and health and safety law.

Also appointed to the Superior Court was Bernard Tremblay, a lawyer with BCF s.e.n.c.r.l. in Quebec. He replaces Justice Etienne Parent, who was elevated to the Quebec Court of Appeal effective June 30, 2015.

Tremblay was called to the bar in 1986. He practised with BCF from 2001 until his appointment. He was previously with McCarthy Tétrault LLP. His main areas of practice were construction law, civil litigation, commercial law, insolvency and restructuring, real estate law, and arbitration and mediation.

Anne Jacob, a lawyer with AJ services juridiques inc. in Saint-Lambert, joins the Superior Court in the District of Longueuil to replace Justice Carole Julien, who elected to become a supernumerary judge as of July 20, 2015.

Jacob was admitted to the bar of Quebec in 1988. She formed AJ services juridiques inc. in 2010. Prior to that, she practised with Lapointe Rosenstein Marchand Melançon Forget (2002-2010) and with Pépin Létourneau (1988-2002. Her main areas of practice were professional liability, disciplinary law, health law, estates, civil responsibility, insurance law and construction law.

Silvana Conte, a lawyer with Osler Hoskin & Harcourt LLP in Montreal, was appointed to the Superior Court to replace Justice Jean-Pierre Chrétien, who elected to become a supernumerary judge as of July 5, 2015.

Conte was called to the bar in 1990. She had been a partner with Oslers since 2001. She previously practised with Davies Ward Phillips & Vineberg LLP and Heenan Blaikie. Her main areas of practice were class actions, international commercial arbitration, and alternative dispute resolution. Her appointment is effective July 5.

Danye Daigle, a sole practitioner in Victoriaville will sit on the Superior Court bench in Trois-Rivières, replacing Justice Michel Richard who resigned last December.

Daigle was called to the bar in 1991. She has been a sole practitioner since 2006. She was previously an associate with Moisan Aubert Gagné Daigle and Moisan Aubert et associés. Her main areas of practice were family law, youth law, civil litigation and criminal law.

Lavery de Billy J. Sylvain Provencher, of Sherbrooke, will be replacing Justice Suzanne Mireault on the Superior Court in the districts of Saint-François and Bedford. Mireault, who elected to become a supernumerary judge as of June 1, 2015.

Provencher was called in 1991. He has been a lawyer with Lavery de Billy since 2014. Prior to that, he had practised with Heenan Blaikie, Martel Brassard Doyon Provencher,

and Monty Coulombe (1991-1995). His main areas of practice were civil and commercial litigation, insurance law, civil liability, professional liability, and securities and insolvency law, disciplinary law, municipal law, penal law and construction law.

His colleague at Lavery in Sherbrooke, Claude Villeneuve has also been appointed to the Superior Court, replacing Justice Charles Ouellet, who was transferred to Sherbrooke.

Villeneuve was called in Quebec in 1993. He was an associate with Lavery de Billy from March 2014 until his appointment, practising civil, commercial, labour and employment law. Prior to he worked at a variety of firms and was the Bâtonnier de Saint-François from 2014 until his appointment.

Langlois Kronström Desjardins managing partner Chantal Chatelain will sit on the Superior Court in Montréal. She replaces Justice Eva Petras, who was appointed associate chief justice of the Superior Court of Québec.

Chatelain was admitted to the Quebec bar in 1993. She practised in the areas of general civil, administrative, constitutional and commercial law with Langlois Kronström Desjardins from 1997 until her appointment.

Babak Barin, of Barin Avocats in Montréal, will also sit in Montreal on the Superior Court. He replaces Justice Robert Mongeon, who goes supernumerary as of July 10, 2015.

Barin was called in Ontario in 1994, Alberta in 2006, and Quebec in 2002. He had been a lawyer with Barin Avocats since 2012 and with the firm BCF LLP (in Montréal) from 2006 to 2012. Prior to that, he practised with a vareity of other firms in Canada and Switzerland. His areas of practice were commercial litigation and arbitration.

Suzanne Gagné, a lawyer with the firm Létourneau Gagné LLP in Québec, has been appointed to the Superior Court there. She replaces Justice Suzanne Hardy-Lemieux, who went supernumerary jas of April 20, 2015.

Gagné was called in 1995. In 2012. She was an associate lawyer with Létourneau Gagné LLP from 2002 until her appointment. She was previously a lawyer with Guy Bertrand & associés in Québec from 1995 to 2002. She practised in the field of civil and commercial litigation. .

Florence Lucas, of the Montreal office of Gowling Lafleur Henderson LLP, joins the Superior Court in that city. She is filling a new position created by Bill C-31.

Lucas was admitted in Quebec in 1998. She was a lawyer with Gowlings from 2000 until her appointment and at Walker & Associés in Paris from 1999 to 2000. Her areas of practice were civil and commercial litigation and intellectual property.

Manitoba

In Manitoba, Court of Queen’s Bench Justice Jennifer Ann Pfuetzner has been elevated to the Court of Appeal of Manitoba to replace Justice Barbara M. Hamilton, who elected to become a supernumerary judge as of Jan. 1, 2014.

Justice Pfuetzner was appointed a judge of the Court of Queen's Bench in 2014. Prior to that, she had been a lawyer with Taylor McCaffrey LLP in Winnipeg since 2009 and a variety of other firms. Her main areas of practice were wills and estates, corporate law, family law, real estate, and tax law. She was called to the Ontario bar in 1995 and Manitoba in 2008.

Associate Chief Judge of the Provincial Court of Manitoba Janice leMaistre has been appointed to the Court of Appeal of Manitoba to replace Justice Freda M. Steel, who elected to become a supernumerary judge as of May 1, 2014.

Justice leMaistre was appointed to the Provincial Court in 2006. At the time of her appointment, she was acting director of the Manitoba Prosecution Service, where she had been since 1992. She called to the Manitoba bar in 1992.

Kaye E. Dunlop, a sole practitioner in Winnipeg, is appointed to the Manitoba Court of Queen's Bench, Family Court Division, to replace Justice Laurie P. Allen, who elected to become a supernumerary judge as of April 13, 2015.

Justice Dunlop, from Sudbury, Ont., had been a sole practitioner since 1984. She also served as deputy chief adjudicator for the Office of Indian Residential Schools Resolution of Canada since 2007 and as an adjudicator from 2003 to 2007. She was called to the bar of Manitoba in 1984.

Regan Thatcher, a sole practitioner in Winnipeg, is appointed to the Manitoba Court of Queen's Bench, Family Court Division, to replace Justice Marianne Rivoalen, who was appointed Associate Chief Justice on May 21, 2015.

Thatcher, originally from Moose Jaw, Sask., had been a sole practitioner since 2002. He practised primarily in the areas of civil litigation and family, administrative and criminal law. He was called to the bar in 1994.

British Columbia

Supreme Court of British Columbia Justice Lauri Ann Fenlon was elevated to the B.C. Court of Appeal to replace Justice Sunni Stromberg-Stein, who went supernumerary on Sept. 1, 2014.

Justice Fenlon was appointed to the Supreme Court in 2008. Prior to her appointment, she had been associate counsel with Fasken Martineau Dumoulin since 1997. Her main areas of practice were civil litigation, family law, administrative law, commercial law, privacy law, and health law. She was admitted to the B.C. bar in 1985.

Barbara M. Young, the Master and Registrar of Bankruptcies (Central Okanagan) with the B.C. Supreme Court, was appointed to the Supreme Court bench to fill a new position created by Bill C-31.

Originally from St. Catharines, Ont., Young had been the Master and Registrar of Bankruptcies in Central Okanagan since 2006. Previously, she was a partner with Berge Horn and a number of other firms. She practised primarily in the areas of family law, personal injury, and bankruptcy. She was called to the B.C. bar in 1986.

Ontario

Replacing Justice Gloria Epstein on the Ontario Court of Appeal is Ontario Superior Court Justice Bradley Miller. Epstein elected to become a supernumerary judge as of Jan. 1, 2015.

Justice Miller was appointed to the Superior Court in January 2015. Prior to his appointment, he had been a tenured associate professor in the Faculty of Law at the University of Western Ontario in London. He was called to the B.C. bar in 1993 and the bar of Ontario in 2002.

Brian W. Abrams, a judge of the Ontario Superior Court of Justice, Family Division, in Kingston is to the Ontario Superior Court of Justice in London to replace Justice Lynda Templeton, who elected to go supernumerary effective July 6, 2015.

Justice Abrams was appointed in 2011. Prior to that he was a partner at Templeman Memminga LLP in Kingston and had been an ad hoc drug prosecutor for the Department of Justice Canada. He was called to the bar in 1998. His appointment is effective July 6.

Ontario provincial court Justice Margaret A. McSorley, of Woodstock, has been appointed to the Superior Court, Family Division, in Kingston to replace Justice Brian W. Abrams, whose position is being transferred to London effective July 6.

McSorley had been an Ontario Court judge since 2003. Previously, she served as in-house counsel at Family and Children's Services of St. Thomas and Elgin with Lerners LLP, practising solely in family law from 1982 to 1989. She was called in 1982. Her appointment is effective July 6.

J. Scott McLeod, a sole practitioner in Lindsay, Ont., is appointed to the Ontario Superior Court of Justice, Family Division, to replace Justice Alan P. Ingram (Peterborough), who went supernumerary last November.

McLeod had been a sole practitioner since 2001. Previously, he practised with McQuarrie Hill. He has practised family law, civil, criminal, real estate, and corporate and commercial law. He was called the bar in 1982.

Elizabeth C. Sheard, a lawyer with Evans Sweeny Bordin LLP in Hamilton, Ont. has been appointed to the Ontario Superior Court to replace Justice Hugh R. McLean (Ottawa), who went supernumerary on April 3.

Sheard had been a lawyer with Evans Sweeny Bordin LLP since 1994, where she has practised exclusively civil litigation with an emphasis on estate and mental incompetency litigation and mediation. She also practised as defence counsel for the Lawyers' Professional Indemnity Company. She was called to the bar in 1986.

Pamela L. Hebner, a lawyer with Madorin, Snyder LLP in Kitchener, Ont. also joins the Ontario Superior Court bench. She replaces Justice M.J. Nolan (Windsor), who reached the mandatory age of retirement on July 31, 2014.

Hebner hs been with Madorin Snyder LLP. She practised primarily family matrimonial litigation, mediation, and collaborative family law. She was called in 1988.

Pierre E. Roger, a case management master of the Ontario Superior Court in Ottawa, has been appointed to the Superior Court bench to replace Justice John A. McMunagle (Ottawa), who resigned in January.

Roger has been a case management master in Ottawa since 2010, sitting in civil and family matters. Previously, he was a partner with Borden Ladner Gervais LLP in Ottawa from 1991 to 2010, where he practised health law, insurance law, libel and defamation litigation, personal injury litigation, and professional negligence litigation. He was admitted in Ontario in 1991.

Annalisa S. Rasaiah, a sole practitioner in Sault Ste. Marie, is appointed a judge of the Ontario Superior Court of Justice to replace Justice Ian S. McMillan, who goes supernumerary as of July 7.

Richard A. Neufeldhas been appointed a judge of the Court of Queen's Bench of Alberta. Rasaiah has been a sole practitioner since 2006. She had also been a partner and mediator with ACG Mediation Services since January 2014. Her main areas of practice were family law, mediation, wills and estates, administrative law, and prosecution of regulatory offences and criminal code offences. She was called in Ontario in 1996.

Alberta

Alberta Court of Queen's Bench Justice Frederica L. Schutz has been elevated to the province's Court of Appeal to replace Justice Jean Côté (Edmonton), who reaches retirement age on Aug. 14.

Justice Schutz was appointed to the Court of Queen's Bench in 2013. Prior to her appointment, she had been with the firm Emery Jamieson LLP in Edmonton. Her main

areas of practice were personal liability litigation, personal injury and commercial law. She was called to the Alberta bar in 1991. This appointment is effective Aug. 14.

Richard A. Neufeld, a lawyer with Dentons Canada LLP in Calgary, was appointed a judge of the Court of Queen's Bench of Alberta to fill a new position created by Bill C- 31.

Neufeld has been with Dentons Canada LLP (under many previous names as well) since 1979. He practised primarily in the areas of energy regulatory, environmental, and Aboriginal law. He was admitted to Alberta bar in 1980.

John W. Hopkins, a sole practitioner in Rocky Mountain House, Alta., is also joining the Court of Queen's Bench. He replaces Justice Brian R. Burrows (Edmonton), who went supernumerary last November.

Hopkins was a sole practitioner from 2013 until his appointment. Previously, he had been with Woollard Hopkins & Co. He practised primarily in the areas of matrimonial and real estate law and wills and estates. He was called in 1987.