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'I'm incredibly disappointed,' PSAC talks with government end on sour note

Other unions were looking for signals from PSAC talks.

Derek Abma, Hill Times, September 19 2016

Talks between the federal public service's biggest union and the Treasury Board last week—the first in many months—ended without progress and with a disillusioned union leader.

"I am incredibly disappointed with the Liberal government," Robyn Benson, president of the Public Service Alliance of Canada (PSAC), said in an interview on Friday, Sept. 16. "Their agenda has not changed. They're staying with the Conservative agenda, which is very disappointing to us."

These talks concerned 90,000 government workers who have been on expired contracts for about two years, representing the bulk of PSAC's 170,000 members.

Some of PSAC's main issues with the government's offers include its suggested 0.5 per cent annual raises over three years and the idea of rolling back the number sick days given to workers each year and limiting their ability to roll them over year-to-year. Instead, workers would have a short-term disability plan that would reportedly last no more than 26 weeks, with just the first 17 weeks covered at full pay.

Ms. Benson said the government returned to the bargaining table last week with no improvements to what has been previously offered.

"As far as I'm concerned today, what was on the table before is on the table now," she said Friday.

She said no further talks have been scheduled, but she's willing to have PSAC officials come in for more meetings if she gets the sense it can accomplish something.

Jean-Luc Ferland, a spokesman for Treasury Board President Scott Brison (Kings-Hants, N.S.), said in an email late last week that the government "has tabled a substantially improved sick-leave and disability proposal with bargaining agents to address concerns expressed by unions during previous

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negotiations, and we are committed to continuing to work with the bargaining agents to find areas of common ground to achieve progress toward an agreement.”

He added that the government is “committed to negotiating economic increases that are fair for them and that represent sound management of public resources.”

Ms. Benson said the union is asking for three per cent annual pay increases, and that it will not accept the short-term disability plan.

She said the Liberal government has been approaching collective bargaining almost the same way the previous Conservative government did, despite Prime Minister Justin Trudeau’s (Papineau, Que.) promise during last year’s election campaign that a Liberal government would show more respect to the public service.

“We believe that it’s time the Liberals turned the page from the Conservative agenda and come forward with something that would make them proud to be presenting to us,” she said earlier last week when talks were still ongoing. “One would think that the Liberals would want to put their own mark on collective bargaining.”

As is usual with PSAC, it has elected to reserve the option for strike action in the event of an impasse with the government rather than go to binding arbitration. After talks broke off last week, Ms. Benson said there are many steps that would need to be taken before any kind of strike action can take place, including a strike vote that alone would take about two months to arrange.

Meanwhile, an agreement was announced last month for about 25,000 PSAC members who work for the Canada Revenue Agency that applied to the four years that end Oct. 31 this year. A deal was negotiated that gave these workers annual raises of, respectively 1.75 per cent, two per cent, and one per cent for each of the last two years of the contract.

The Professional Institute of the Public Service of Canada (PIPSC), for which about 40,000 members are working for the government on expired contracts, will be holding its own talks with the government over the next month or so.

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PIPSC president Debi Daviau said talks happening last week between the government and PSAC were anticipated to set the tone for negotiations with other unions.

“It’s clear that the government wants to have the same agreement on the common stuff for everybody,” she said. “They want the same sick-leave regime and they want the same economic increases and various assorted other things. So obviously whatever they do with PSAC is going to have an impact on our own bargaining.”

She said solidarity between the different unions is better than it’s ever been, and she’s “not worried that the PSAC will set a trend that I can’t live with.”

Ms. Daviau said there were no negotiations between PIPSC and the government over the summer, though there had been some communication between herself and the Treasury Board to clarify the union’s positions and its rationales before formal negotiations were to restart in the coming weeks.

“It remains to be seen whether or not we will see fruits from those efforts made during the summer, but we are hopeful that we will start to make more progress as soon as we get back to the table,” she said.

While the Liberals are offering a similar deal to what the Conservatives did, she said the Liberals have approached negotiations differently.

“They present it as being a starting place, a place that we can negotiate from, and not an ending place, a place where we had a gun to our heads to get to,” she said.

Like other unions, PIPSC does not look favourably toward the government’s offer of 0.5 per cent raises, and has instead asked for four per cent raises in each year of a three-year contract. She said that proposal is “well founded” and based on cost-of-living increases, losses workers have experienced in recent years due to increased pension and benefit contributions, and comparison with similar jobs in other sectors.

As for the government proposal for short-term disability, Mr. Daviau said PIPSC is not opposed to “modernizing” the sick-leave system, but she said she is against an idea that doesn’t result in full pay for sick employees and does not want to deal with a third-party manager of any disability administration program.

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She said PIPSC units representing about 80 per cent of its membership have opted to reserve that right for strike action if talks fail. She said if no deal is reached by the end of this year, an impasse will be declared, though a strike is seen as “a last resort.”

The Canadian Association of Professional Employees (CAPE) has meetings scheduled with the Treasury Board next week for its largest unit, which includes about 12,000 economists, policy analysts, sociologists, statisticians, and others. The following week, its groups representing about 860 translators, interpreters, and terminologists will be in negotiations.

“We’re looking forward to seeing some significant movement on the side of the employer,” CAPE president Emmanuelle Tremblay said in an interview last week.

Similarly to other unions, CAPE’s main issues with the government right now include its offer for raises of just 0.5 per cent annually—with a four-year contract, rather than three like other unions—and the rolling back of sick days with implementation of short-term disability plans.

“I want to be hopeful about this round,” she said.

Ms. Tremblay said she would be watching closely how the PSAC talks would unfold as that would be an indication of how the government would approach talks with CAPE.

“Over the last few rounds we’ve been used to a very generic type of bargaining from government toward all unions,” she said.

Mr. Tremblay called the government offer of 0.5 per cent raises “an insult,” given that MPs received raises of 1.8 per cent this year and Senators got 2.1 per cent. CAPE is seeking annual increases of three per cent.

CAPE has indicated to the government it will accept binding arbitration to determine contracts for its members if an agreement cannot be reached.

L'AFPC reprend les négociations avec le fédéral

La Presse Canadienne, le 12 septembre 2016

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L'Alliance de la fonction publique du Canada (AFPC) est de retour à la table de négociations face au gouvernement fédéral cette semaine.

Les principaux points de mécontentement concernent les congés de maladie, mais aussi les salaires des quelque 80 000 travailleurs représentés par l'AFPC. Les négociations ont débuté il y a plus de deux ans.

Le regroupement syndical soutient que sa relation avec le gouvernement s'est détériorée avec la récente affaire du nouveau système de paie Phoenix. La plupart des ratés de ce mode de paie touchent des fonctionnaires qui n'ont pas reçu les bonnes rémunérations pour des heures supplémentaires ou autres indemnités.

Par ailleurs, au moins 1100 employés fédéraux se sont plaints, selon les autorités, d'erreurs dans leurs indemnités de maternité et autres congés. Enfin, plus de 700 employés n'auraient même pas reçu de chèque de paie.

Les négociateurs du Conseil du Trésor entendent remplacer l'actuel système de congés de maladie par un programme d'invalidité de courte durée. L'AFPC estime toutefois qu'un tel mécanisme forcerait les travailleurs de la fonction publique à devoir choisir entre recevoir une paie et aller travailler en étant malades.

Judy Foote to face grilling over federal pay problems

**Judy Foote to testify Monday at committee hearing on Phoenix
Katie Simpson, CBC News, September 19 2016**

As far as committee meetings go, this one is expected to be intense.

MPs will get the chance today to grill the minister responsible for modernizing the government's payroll, for the first time since major problems emerged with the Phoenix system.

"One of the questions that I don't think has ever really been answered, is why the federal government is not just writing cheques to the people who have gone without pay," said Erin Weir, the NDP public services and procurement critic.

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Weir plans to put that question and several others, to Judy Foote, the minister of public services and procurement, at the Government Operations and Estimates committee this afternoon.

For the Conservatives, the questions will be more pointed.

"How can we trust you, now that you've failed us so many times and that you've failed thousands of Canadians with a system that is broken?" said Conservative critic Stephen Blaney, during a phone interview with CBC News.

Although Blaney did not outright call for Foote's resignation, he added "some ministers over the past have resigned for much less than this big mess that is impacting tens of thousands of Canadians."

"Since the beginning, Minister Foote has been open and transparent on this unacceptable situation, while ensuring all possible solutions, regardless of cost, are considered," said Annie Trepanier, a spokeswoman from Foote's office.

"We are listening to concerns and issues raised by our employees and we are committed to working collaboratively at all levels to resolve them as quickly as possible."

Blame game

Since Phoenix was brought online in April, more than 80,000 public servants have experienced pay problems.

The majority of workers have been underpaid, while some have been overpaid or not paid at all.

The department has chipped away at the backlog, but 67,500 workers are still waiting for their issues to be resolved.

Public servants have been promised that all of those cases would be dealt with by Oct. 31.

Public Safety Minister Stephen Blaney
Conservative Public Services and Procurement critic Stephen Blaney blames the Liberal government for bungling the roll out of its new payroll system. (Adrian Wyld/Canadian Press)

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Even though the Liberals OK'd the full roll out of Phoenix, they have accused the Conservatives of letting the federal public pay system deteriorate under their watch.

"Minister Foote is responsible for ensuring the men and women of the public service are paid the money they are owed on time and she is committed to fixing the system we have inherited," Trepanier said.

When asked about the blame, Blaney shifted focus back on the Liberals

"When they got in power, they had clear signs the system was not ready to be implemented. This Liberal government made the decision to implement a system that is broken, they are fully responsible for this mess," Blaney said.

Phoenix Falling - Federal government argues pay problems 'an honest administrative error,' as tribunal wraps

**Public Service Alliance of Canada filed a complaint in June over payroll mess
Ashley Burke, CBC News, September 15 2016**

The Phoenix pay problems affecting 80,000 workers is an "honest administrative error," the federal government argued as a labour tribunal came to a close on Thursday.

The four-day hearing in front of the Public Service Labour Relations Board wrapped up with closing arguments from both sides.

During the tribunal, union representatives and senior officials testified, including the associate assistant deputy minister responsible for the roll out of government's new Phoenix pay system. Rosanna Di Paola testified yesterday that the root cause of the problems are insufficient training, not the technology itself.

The Public Service Alliance of Canada filed a complaint in June arguing the Treasury Board of Canada broke the law by not paying public servants accurately or on time after the roll out of Phoenix.

"The human suffering that has been exposed in this case is real," Patricia Harewood, the legal officer for PSAC, said during closing arguments.

'We are physically doing everything we can to resolve that issue.'- *Sean Kelly, government lawyer*

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"We have heard stories of public service workers in dire straights after months of being paid inaccurately or not at all," she added. "There is nothing normal or every day about these stories."

But the government's lawyer said the labour complaint is in "the wrong forum" and should be thrown out.

Sean Kelly, the lawyer representing the Treasury Board of Canada, said that the case is "strictly a contract dispute" that should be dealt with through the grievance process, not through a board hearing.

"We are being asked to compensate unknown individuals," argued Kelly. "We don't know how many there are. We don't know their names. We don't know their circumstances."

Adjudicator must now rule

The union argues the government violated the Public Service Labour Relations Act that states an employer is not allowed to change the terms and conditions of employment while it is in collective bargaining with the union.

The union wants the labour board to issue a written statement that orders the government to:

- Pay public servants accurately and on time.
- Not refuse workers security clearances because of bad credit ratings caused by Phoenix-related financial hardship.
- Compensate workers for psychological harm they suffered because they weren't paid properly.

A government document submitted at the hearing shows that 27 workers at the Miramichi Pay Centre are on sick leave, that's roughly five percent of all workers.

But Kelly argued the root of the problem is "untimely data entry coupled with slower than expected processing times," Kelly said.

"We are physically doing everything we can to resolve that issue," Kelly said.

Adjudicator John Jaworski said he hopes to come to a decision on the case as soon as possible.



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Foote to testify at House Government Operations Committee on ongoing Phoenix pay problems

Months into the new pay system, there are nearly 68,000 public servants still not being paid properly.

Rachel Aiello, The Hill Times, September 14 2016

As thousands of public servants continue to deal with pay problems at the hand of the beleaguered new federal pay system, and the cost to manage the situation continues to rise, the federal minister responsible for Phoenix, Public Services and Procurement Minister Judy Foote, will appear before the House Government Operations and Estimates Committee on Monday to field questions from MPs on her department's handling of the ordeal.

Her appearance—which according to the notice of the meeting will be televised from Centre Block—comes after a successful motion from NDP critic on the file and vice-chair of the committee Erin Weir (Regina-Lewvan, Sask.) at the end of an emergency meeting called by committee members on July 28 at the peak of the Phoenix fiasco.

Mr. Weir and the other opposition members on the committee motioned at the time to have Ms. Foote (Bonavista-Burin-Trinity, Nfld.) appear at that meeting, unsuccessfully. Now, Mr. Weir says he wants to hear clear commitments to resolve the issue as soon as possible, and answers as to why the government can't just issue cheques to employees who are not being paid through Phoenix.

"I'd be hoping for an update on what the government is doing, I would also hope for some clarity on timelines... Really, we're looking for the Minister to take responsibility for the situation and clearly explain what the government is doing and on what timeline."

He anticipates this meeting to be part of ongoing hearings on the Phoenix pay system "boondoggle," and wants the committee to hear from more union representatives and federal employees who have not been paid correctly, mentioning the members of the Canadian Coast Guard, specifically.

"I would expect several meetings on Phoenix... certainly Phoenix is a huge problem for the functioning of government and our committees mandate is to get to the bottom of that," said Mr. Weir.

Ms. Foote's director of communications, Annie Trepanier, confirmed Ms. Foote's appearance but said she doesn't expect the Minister to have much more to say than what Deputy Minister

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of Public Works and Government Services Marie Lemay (who will be joining her at committee) has not already communicated publicly. She said for now, Ms. Foote and her staff are just “working their way out of this.”

As of the department’s last update on Sept. 7—another briefing is expected next week— there are still nearly 68,000 employees experiencing some form of issue with their pay. Of those, there were 59 newly-reported cases of employees receiving no pay. These cases are the top priority for the department, which says those in this position can expect to have their issues resolved within two pay periods after bringing it to their manager’s attention.

As of Sept. 7, there were 335 new cases of priority two pay problems, which are people who are at risk of their pay being disrupted. According to a press release from the Sept. 7 briefing, “these cases are employees whose pay has been affected because they are going on leave or exiting the public service.”

These employees are being told their issues will be sorted within four to six weeks. In addition there is a 67,500-person backlog going back to the beginning of the Phoenix system that officials say will take through to the end of October to be cleared up.

“It continues to be a mess... there seem to be new cases of unpaid employees coming on to the record each time the Department of Public Services and Procurement reports... I think there are a lot of unanswered questions and I look forward to working with the committee to get to the bottom of it,” said Mr. Weir.

At the height of Phoenix’s issues, the department reported around 82,000 employees affected by incorrect pay, of the 300,000 being paid through the system after a two-phase rollout in February and March.

During the Sept. 7 briefing Ms. Lemay said that over time the number of high priority cases are decreasing, as they’re able to deal with more cases each pay period after setting up satellite offices and hiring more than 200 additional employees to address the backlog, with more expected to be hired.

In addition, the department revealed the expected total cost for this year to address the pay issues has nearly doubled to between \$45 and \$50-million, up from the last departmental estimate of \$25-million. On top of this, the government is pursuing a claims process through the Treasury Board to reimburse those impacted for related out-of-pocket expenses incurred as a result of improper pay, which will add to the overall cost of this ordeal.

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Initially the adoption of the new pay system, initiated by the previous Conservative government to replace a 40-year-old payment system, was touted to save the government \$70-million annually, which is not expected to happen this year.

Ms. Foote has said she wants the massive problem fixed as soon as possible, and in July travelled to Miramichi, N.B. to visit the main Phoenix pay centre in an effort to boost low morale amongst the employees there.

Treasury Board readies to reimburse PS expenses from Phoenix debacle

Kathryn May, The Ottawa Citizen, September 14 2016

Treasury Board's new claims office is expected to be up and running this week to reimburse the out-of-pocket expenses of public servants who faced financial hardship when they weren't paid by the troubled Phoenix pay system.

Renée Lafontaine, Treasury Board's assistant secretary, corporate services and chief financial officer, released preliminary details on about the new claims process while testifying at a labour board hearing into a union complaint about foulups of the Phoenix pay system.

She said the claims process was designed to reimburse people as quickly as possible and departments will have the authority to pay any claims under \$500. Larger and more complex claims will have to go to Treasury Board to be settled.

Treasury Board brought in Alfred Tsang, a former Treasury Board executive, to help set up the office and process.

The process is built on the existing claims process departments already have, such as for travel claims, which will help ensure "consistency" in handling them across departments. Each department will have a claims officer.

The government will not pay for interest on late pay or outstanding pay but it will pick up interest on credit card payments or lines of credit that employees took out to pay bills and payments when they were not paid. It will also pay late charges.

Receipts and other documents must be filed with any claims.

The process will neither compensate for mental or psychological anguish caused by financial pressures nor forgone opportunities.

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Public servants can file grievances if they are unhappy with the settlements they are offered.

The claim forms will be available on the Canada.ca website, as well as the website created about the Phoenix pay system.

The government has also created a new joint union-management committee that will meet for the first time Thursday to discuss Phoenix issues and share concerns.

The committee's co-chairs are Robyn Benson, president of the Public Service Alliance of Canada, and Yaprak Baltacioglu, secretary of Treasury Board. The committee also includes Marie Lemay, deputy minister of Public Services and Procurement Canada, and chief Human Resources officer Anne-Marie Smart.

The unions pushed for a claims process as pay problems mushroomed after the second rollout of Phoenix in April.

The Public Service Alliance filed an unfair labour practices complaint, which is being heard in a hearing by the Public Service Labour Relations and Employment Board this week. It alleges the government breached the labour laws governing the public service by not paying people on time.

It argues Phoenix's pay glitches amount to an unfair labour practice because they have effectively changed the terms and conditions of employment for public servants during a period of collective bargaining.

The union sought reimbursement of public servants out-of-pocket costs as one of the remedies it is seeking from the labour tribunal.

Phoenix Falling - Lack of training, not Phoenix, responsible for pay issues, tribunal hears

Union accuses senior official of 'blaming everybody else, except the pay system itself'
Ashley Burke, CBC News, September 14 2016

A senior official responsible for rolling out the federal government's Phoenix payroll system told a labour tribunal Wednesday the issues that led to pay problems for some 80,000 employees are due more to a lack of training than any problem with the software itself.

"As long as people enter [information] wrong, it will be wrong. It could be wrong ten years from now," testified Rosanna Di Paola, the associate assistant deputy minister responsible for the federal government's Phoenix pay system.

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'You may have heard 80,000 people are having pay problems. Those are not Phoenix related issues.'-
Rosanna Di Paola, the associate assistant deputy minister for Public Services and Procurement Canada

"To do it over again, I would have made training absolutely mandatory," she said.

"We underestimated the time it took people to adapt to the new technology. The learning curve just seemed to be much longer that we expected."

Di Paola was testifying at the Public Service Labour Relations Employment Board tribunal hearing concerning the Public Service Alliance of Canada's complaint that the government broke the law by not paying public servants accurately or on time due to the Phoenix pay system fiasco.

Since the new Phoenix payroll system "went live" in February, more than 80,000 public servants have been underpaid, overpaid, or not paid at all.

But Di Paola testified that the Phoenix technology isn't to blame.

"You may have heard 80,000 people are having pay problems. Those are not Phoenix-related issues," testified Di Paola. "What those 80,000 employees had are cases or pay requests for — acting

Her department identified two root causes for the issues.

"The information is not being entered into the departmental HR system in a timely way or correct way," said Di Paola. "The second root cause we found is the processing time in Miramichi has been slower than expected."

Di Paola says four satellite pay centres were opened to deal with the backlog of pay requests and ease up the workload at the Miramichi pay centre.

Payroll and HR now linked

Before Phoenix, if human resources staff didn't input data into the system in a timely or accurate matter, it didn't affect employees pay. Di Paola says a separate department would duplicate that work and enter the information into its payroll system for workers to get their pay cheques.

The biggest change with Phoenix is that HR and payroll are now integrated. HR staff must input the data, it flows into Phoenix, and Phoenix pays it out, explained Di Paola.

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Di Paola testified that for the past three years she warned HR departments "just how critical their work had now become" and "would bring this point home" at monthly meetings with the HR council.

"Once we're integrated what they do in HR is really crucial because it could mean that employees don't get paid or don't get paid correctly," Di Paola said she told HR staff.

Di Paolo said she didn't have the authority to make training mandatory.

Each deputy head for the 101 departments that transitioned to Phoenix had to decide if the training was mandatory or not. Most opted it wasn't, she said. Compensation advisors were the only staff that had to carry-out instructor-lead training.

The rest could access the Canada School of Public Service and take the web-based training. Di Paola said she also provided some departments with a CD with all the training modules so they could make them available on the department's own servers.

Public servants returning from disability leave had issues

As well, she pointed to a wiki for the government of Canada where they posted dozens of documents such as tips and trick on how to do things for managers, HR staff, and compensation advisors in Phoenix.

Di Paolo said that if she could "do it over again" she would have worked with the deputy minister and her deputy colleagues to make training mandatory for all users.

Di Paolo also said people returning from disability leave had troubles getting the accurate pay because they weren't filling out their timecards properly.

"[In] many cases there was a little education on part of the department to let them know about their gradual return to work. If they can only work a day, they need to put in their time or they don't get paid."

Prior to Phoenix employees would fill out paper timecards to get paid and a compensation advisor would key it into the system, she said. Phoenix moved the process online, but Di Paolo said training is also online and available.

Testimony 'embarrassing' says union

The union that launched the labour complaint was "embarrassed" by "Di Paola's testimony and called parts of it "deplorable."

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"It's embarrassing," said Chris Aylward, the national vice-president of the Public Service Alliance of Canada.

"We have the manager responsible for the implementation of a new pay system who is basically blaming everybody else, except the pay system itself."

"80,000 people didn't input their information properly — I find that very hard to believe," he said. "And there is no problem with the pay system — I find that extremely hard to believe."

"She even went as far as to blame people coming back from disability," added Aylward. "That's unconscionable. How can you blame the victims because they're not getting paid. That is totally unacceptable. She is failing to acknowledge any of the issues."

The Treasury Board Secretariat is launching a claims process sometime this week to reimburse public servants for out-of-pocket expenses incurred because of the Phoenix problems, the tribunal also heard Wednesday.

"A claimant can complete their claim by going to the web site, filling out the form...including receipts that should be attached to rationalize or explain the expenses they have occurred," said Renée Lafontaine, who is in charge of setting up the office.

"We have set up an operational claims officer in each department to guide them through and help them complete the claim."

LaFontaine testified that the main priority is to make sure workers across the federal government are all treated equally and reimbursed in the same way,

For most straight-forward claims under \$500, workers will be paid out immediately by an operational claims officer in each department.

More complicated claims will be sent to the Treasury Board Secretariat's claims office and may take longer for reimbursement.

Out-of-pocket expenses include interest that accumulated on credit cards, loans, or lines of credit because workers weren't getting paid properly, as well as any interest paid because employees had to withdraw investments.

LaFontaine said the government at this point will not be reimbursing people for items they can't prove with a receipt. For example, if a child couldn't attend summer camp, or a worker missed out on an investment opportunity because of the Phoenix pay problems.

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Closing arguments will be delivered Thursday in front of the Public Service Labour Relations Employment Board. It could take the board three months or more to make its decision.

PSAC takes Phoenix pay glitches to labour tribunal, as sick-leave negotiations loom

Kathryn May, The Ottawa Citizen, September 13 2016

The foulups of the Phoenix pay system are at the centre of a labour tribunal hearing into whether the federal government is breaking the law by not paying thousands of people properly and on time.

The Public Service Alliance of Canada is arguing at a hearing of the Public Service Labour Relations and Employment Board this week that Phoenix pay glitches amount to an “unfair labour practice” because they have effectively changed the terms and conditions of employment for public servants during a period of collective bargaining.

“This government put in place a process where our members are not getting paid properly or on time, which is part of their terms of employment,” said Chris Aylward, vice-president of the Public Service Alliance of Canada.

The union filed the unfair labour complaint in June after the second phase of the rollout when complaints from public servants who were being underpaid, overpaid or not paid at all began to mushroom.

Public Services and Procurement Canada, the federal paymaster and department responsible for Phoenix, has been holding regular public briefings on efforts to fix the system and updating the size of the backlog of 80,000 files, which it has promised to eliminate by Oct. 31.

The tribunal hearing, however, is calling union officials and senior bureaucrats to testify, offering an inside look at how the project was designed, planned, implemented and rolled out in two phases in February and April.

A key witness is Rosanna Di Paola, Public Services associate assistant deputy minister of accounting, banking and compensation, who oversaw the project, starting in 2013.

Di Paola explained how Phoenix worked and how it got its name from a departmental naming contest.

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She also outlined the backstop of many internal and external advisory committees created to monitor the project and to ensure problems were resolved before giving the green light to “go live” with it — including the minister’s advisory group, which included financial and IT executives from Tim Hortons and Loblaws.

She said the department’s recommendation to “go live” was approved by the powerful public service management committee of deputy ministers.

“Going live was a collective decision and we can’t make a decision that impacts 300,000 public servants and 101 departments unilaterally,” she said.

The union had made several appeals to delay or stop the rollout of Phoenix, but Alyward said he had no idea how badly it was working until the Public Services and Procurement Canada confirmed in July that more than a quarter of its employees were not getting paid properly.

“We didn’t think the number was that high. ... We had indications of thousands, but when it was stated more than 80,000 affected, that was a surprise.”

The hearings come as Treasury Board and the 18 unions are in the midst of one the most protracted rounds of collective bargaining, stalled by the government’s proposal for the sick leave regime in the public service.

Under the labour laws governing the public service, the existing contracts are frozen and all terms and conditions remain in place to ensure the employer doesn’t unilaterally change them. The union argues that failure to pay employees properly breaks that law.

The union is seeking various key remedies from the tribunal, including an order that the government should pay people accurately and on time, as well as compensate employees for damages they face because of Phoenix.

It also wants assurances that employees who ends up with bad credit ratings because they couldn’t pay their bills won’t lose the security clearance needed for their jobs.

The government has already provided some of these measures. Treasury Board has created a claims office and process to reimburse out-of-pocket expenses for those who face financial hardship. That process is expected to be up and running this week, with forms available for all departments.

The government has also promised employees that no one’s security clearance will be jeopardized.



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But Alyward said he believes more could be done to make sure that employees who aren't paid get money into their hands faster. He said the priority and advance payments the government is offering still take four to six days.

"They can put more resources into the department to make sure on Wednesday, which is payday, when people say they didn't get paid that within 24 hours they can issue a paycheque,"

At the same time, the union is back at the bargaining table this week with Treasury Board negotiators for what PSAC president Robyn Benson called a "make-it-or-break-it round." The big issue is sick leave. The unions have so far refused to bend on the government's bid to replace it with a short-term disability plan.

Benson said the union and management relations have been strained by the Phoenix fowlups.

"Unfortunately, after the debacle with the Phoenix pay system, the relationship between the government and public service workers is severely damaged," she said. "How can we now trust the government to 'modernize' sick leave?"

It's 'make-or-break' time as PSAC and federal government wrestle over sick days, says union

Failures of the Phoenix pay system loom over contract negotiations with public service, says PSAC president

Terry Pedwell, CBC News, September 12 2016

Contract negotiations between the country's biggest civil service union and the federal government are at a "make-it-or-break-it" stage, the Public Service Alliance of Canada said Monday.

Negotiators returned to the bargaining table this week for the first time in nearly three months after the Treasury Board of Canada, which bargains on behalf of the government, signalled in June that it was not prepared to back away from proposed changes to sick leave for about 80,000 workers. The proposal was initially fronted by the previous Conservative government and the Trudeau Liberals campaigned in last year's election on a platform that promised a new working relationship with organized labour.

"This session represents a make-it-or-break-it opportunity for the Liberal government," the union said in a statement.

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"Despite promises of 'sunnier days,' Treasury Board seems insistent on continuing to take direction from the former Conservative government's play book."

Treasury Board negotiators have been holding firm on a proposal to replace the existing sick leave system with a new short-term disability plan.

The proposal would force workers to choose between a pay cheque and going to work sick, said PSAC.

After the debacle with the Phoenix pay system, the relationship between the government and public service workers is severely damaged- *PSAC national president Robyn Benson*

The government, however, said it was seeking a fairer system for all of its employees.

"The employer has tabled a substantially improved sick leave and disability proposal with bargaining agents to address concerns expressed by unions during previous negotiations, and we are committed to continuing to work with the bargaining agents to find areas of common ground to achieve progress toward an agreement," said Treasury Board spokesman Jean-Luc Ferland.

"The proposed modernization of the disability and sick leave management system aims to provide all employees with equitable access to adequate income support and services for absences due to illness (or) injury."

Phoenix and a lack of faith

Recent troubles with the federal government's new payroll system have added pressure to the talks, with the union saying the problems have reinforced its concerns about whether the government could manage any major benefit changes.

"After the debacle with the Phoenix pay system, the relationship between the government and public service workers is severely damaged," said PSAC national president Robyn Benson.

"How can we now trust the government to 'modernize' sick leave?"

The pay system troubles have resulted in thousands of government workers being improperly paid, or in some cases not paid at all. The government has said it expects to deal with a backlog of pay problems, which still number in the tens of thousands, by the end of October.

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The union has taken the pay issues to the Public Service Labour Relations and Employment Board, accusing the government of violating the Public Service Labour Relations Act by changing the conditions of employment when it didn't provide timely and accurate pay to its employees during collective bargaining.

Eliminating 15 million sick days

PSAC said it's seeking to reverse damage done to public services by years of Conservative cuts through the contract talks, which have dragged on for more than two years.

The government has proposed allowing its employees eight days of sick leave annually, with the ability to carry over two days into the next year.

Public servants currently get 15 days a year of paid sick leave, which they can roll over and bank from year to year.

Treasury Board's plan would see the existing bank, which has about 15 million days of unused sick leave, abolished.

The union said it has proposed contract language that would result in fairer treatment for workers when changes are made to the delivery of government services.

It has also asked for wage increases totalling nine per cent over three years.

Earlier this year the government had offered 0.5 per cent wage increases in each of three years, pay hikes it has already promised its executives.

PSAC is also seeking new collective agreement language on workplace childcare and an expansion of the definition of "family" to make benefits more inclusive.

Les fonctionnaires reprennent les négociations avec Ottawa

La Presse Canadienne, La Presse, le 12 septembre 2016

L'Alliance de la fonction publique du Canada (AFPC) est de retour, cette semaine, à la table de négociations face au gouvernement fédéral.

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Les principaux points de mécontentement concernent les congés de maladie, mais aussi les salaires des quelque 80 000 travailleurs représentés par l'AFPC. Les négociations ont débuté il y a plus de deux ans.

Le regroupement syndical soutient que sa relation avec le gouvernement s'est détériorée avec la récente affaire du nouveau système de paie Phoenix. La plupart des ratés de ce mode de paie touchent des fonctionnaires qui n'ont pas reçu les bonnes rémunérations pour des heures supplémentaires ou autres indemnités.

Par ailleurs, au moins 1100 employés fédéraux se sont plaints, selon les autorités, d'erreurs dans leurs indemnités de maternité et autres congés. Enfin, plus de 700 employés n'auraient même pas reçu de chèque de paie.

Les négociateurs du Conseil du Trésor entendent remplacer l'actuel système de congés de maladie par un programme d'invalidité de courte durée. L'AFPC estime toutefois qu'un tel mécanisme forcerait les travailleurs de la fonction publique à devoir choisir entre recevoir une paie et aller travailler en étant malades.

‘Go slow,’ says leader of task force on legalization of pot in Canada

McLellan said there are “important lessons” to be taken from places that have already loosened marijuana laws — chief among them to introduce change slowly.

Tonda MacCharles, The Toronto Star, September 12 2016

Anne McLellan, leader of the federal task force on how to legalize pot, says it’s critical that Canada “go slow” on reforming marijuana laws.

In an interview with the Star as the task force concluded public consultations and begins to winnow recommendations to government, McLellan said there are “important lessons” to be taken from places that have already loosened marijuana laws — chief among them to introduce change slowly.

“One of the things we have learned, or we have heard . . . , from states like Washington and Colorado . . . is take your time because it’s much harder to pull something back than it is to perhaps be a little bit more restrictive out of the box and then, as you learn, you maybe loosen things up a bit,” she said Monday.

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The Canadian Medical Association has urged the task force to adopt a phased-in approach toward legalizing marijuana, including possibly starting with pilot projects in smaller regions. The group representing Canada's physicians also wants a strict minimum age of 21 for marijuana consumption with other controls on users under 25.

McLellan, who has served in previous Liberal governments as health, justice and public safety minister, said the task force is still working through what approach it will recommend.

She said the question of whether to have separate recreational and medical marijuana regimes is "one of toughest issues." She said the task force will have a recommendation for the government but "we haven't come to ground on it" yet.

McLellan said no matter how much planning all levels of government do, it is clear "there will be surprises" that will require government to adapt any regime. She said she was not speaking for the task force as a whole but said it has learned from approaches adopted by other jurisdictions, as well as from a series of domestic consultations.

Any system that lifts criminal sanctions on marijuana and legalizes sales must be a "robust regulatory system" accompanied by "very robust and co-ordinated public education campaigns focused on public health messaging" — for parents and schools about the impacts of marijuana use on children, she said.

And all levels of government must be closely work together — with some experts recommending a national co-ordinating agency that would act as "an early warning system" for developments that will require the system to change, she said.

"There has to be a high degree of collaboration and co-ordination and I can tell you the task force will talk about that as a general principle."

In Colorado, lawmakers did not foresee the popularity and explosive growth of edible marijuana products — in chocolate, lollipops, candies or gummy bears. McLellan said the state didn't have rules around advertising, around whether producers could make "THC-infused lollipops or jujubes that were particularly attractive to children." The state didn't require, for example, producers to "score the chocolate bar and on the label, require people to see how much THC was in each one of those squares," she said.

"They were surprised, they were caught off guard by how edibles as opposed to the smoked product, how quickly the edibles grew," McLellan said.

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State legislators had to go back to private sector to say “and say, ‘You know what — we’re going to change the regime on you.’ So you can imagine that was not easy. So lesson learned,” she said.

“That’s part of a message the task force wants to share not only with the government of Canada, but with Canadians and other levels of government which is don’t box yourself in, and create the impression what we put in place initially is the whole story because it won’t be.”

McLellan acknowledged the legalization agenda “poses problems for countries and individuals beyond our border.” Canada’s signature is on three international law treaties that require criminalization of marijuana. And while four states — Washington, Oregon, Alaska and Colorado along with the District of Columbia have legalized access, U.S. federal law means admitted or convicted marijuana users are barred from entry.

Yet McLellan said the Canadian government has “an important narrative” articulated by Prime Minister Justin Trudeau and in the Liberal party platform — that “there’s going to be strict regulation. And that should be very reassuring to the international community.”

McLellan “never thought it was going to be simple.”

Still, she said she has realized after several weeks of travelling to other jurisdictions, holding expert roundtables, and receiving some 30,000 submissions (about 500 from organizations) that it is a massively complicated project.

“The word legalization is a big word, it’s an easy word to say, but when you start to deconstruct what that means for Canadian society as we from prohibition to legalization, the complexity of the issue I think is what has surprised me the most.”

Asked whether it is realistic for the promise to be fulfilled on the government’s timeline, McLellan said the deadline “is what it is.”

The government is working backwards from a self-imposed deadline to introduce legislation sometime in the 2017 spring session of parliament, which goes into June, and has given the task force until Nov. 30 to report.

The task force contracted Hill and Knowlton to assess the submissions received. The agency has analyzed 25 per cent of them, and gave an interim report in Ottawa Saturday. McLellan said a majority of the submissions is in favour of “moving from a prohibitory model towards legalization” with a “distinct minority” opposed to legalization.

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National security consultation opens door to repealing Bill C-51 but framing of issues raises concerns

David Christopher, rabble.ca, September 13 2016

After over 18 months of campaigning, it looks like Canadians finally have a chance to repeal Bill C-51. On September 8, Public Safety Minister Ralph Goodale and Justice Minister Jody Wilson-Raybould launched a wide-ranging public consultation on C-51 and other privacy and security issues.

However, advocates are expressing concerns about the wording of the consultation, which appears far more focused on addressing the concerns of the police rather than the needs of the public. Questions have also been raised about whether the government will actually follow through and repeal Bill C-51 when Canadians tell it that's what they want.

This consultation is a huge opportunity for Canadians to ensure a future where all of us can experience privacy and security online. Sadly, 300,000 people called for this consultation, but the government does not appear to have addressed it to them. Instead, their language focuses on the concerns of police rather than the needs of Canadians. We worry Ministers Goodale and Wilson-Raybould don't quite know their target audience.

Much of this consultation reads like it's been written by police for police. Many of the issues are framed in a highly one-sided way that ignores the reasons why the public is so concerned about Bill C-51 in the first place, notably its impact on the health of our democracy. That said, this consultation is a step in the right direction and we'll be encouraging as many Canadians as possible to take part.

We have been calling for such a consultation since last fall's federal election and believe it represents the country's best chance to completely repeal Bill C-51 and address many other long-standing weaknesses in Canada's privacy protections. In recent years, spy agency scandals, Stingray surveillance, and government data leaks have left everyday Canadians afraid for their personal security.

Key points made by Ministers Goodale and Wilson-Raybould include:

- Five specific changes the government wants to make to Bill C-51, including: ensuring CSIS warrants comply with the *Charter*, safeguarding legitimate protest, addressing false

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positives with Canada's no-fly list, narrowing the definition of "terrorist propaganda," and requiring a review of Bill C-51 after 3 years.

- Potential for further changes to Bill C-51, based on what the government hears from Canadians in this fall's consultation.
- The consultation focuses on 10 specific areas, including the highly controversial "information sharing" provisions of Bill C-51 which enable Canadians' sensitive private information to be shared between multiple government agencies.

Last year, we published a pro-privacy [action plan](#), crowdsourced from over 100,000 Canadians. The plan sets out 24 [key recommendations](#) designed to address Canada's privacy deficit, including ending warrantless access to our private information, putting a stop to mass surveillance, and embracing accountability for our security agencies.

The government's public consultation will run from now until December 1, 2016. The government will then consider the results, before bringing proposed legislation to Parliament.

Canada Supreme Court case could shape future of Internet

Critical Supreme Court case could shape future of the Internet

OpenMedia is intervening in Supreme Court of Canada case that will have vast implications for global free expression online

Scoop World, 14 September 2016

An upcoming [case](#) at the Supreme Court of Canada could have a major impact on the ability of Internet users across the globe to access information and express themselves freely. The court will be considering an appeal to a [decision](#) made last year by the British Columbia Court of Appeal in *Equustek Solutions Inc. -v- Jack* that required Google to deindex results from its global search engine.

OpenMedia has been granted leave to intervene in this critical case. While it will not take sides on the original ruling, it will argue that when restricting access to content, online free expression requires particular attention from the Court, and that the Internet should be a protected medium of communication under Canada's *Charter of Rights and Freedoms*. Among [other groups](#) granted intervenor status are the B.C. Civil Liberties Association, the Canadian Civil Liberties Association, and the Electronic Frontier Foundation.

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“We’re intervening in this case to defend free expression online and the right of people everywhere to access information freely,” said OpenMedia’s Executive Director **Laura Tribe**. “The Internet is an essential tool for free expression for people across the globe. That’s why we’re fighting to establish the explicit protection of free expression online in one of the most influential courts in the world.”

Tribe continued: “The stakes couldn’t be higher, as the outcome of this case will be felt worldwide. This case has the potential to set a precedent for perfectly legal and legitimate links to disappear off the web because of a court order in the opposite corner of the globe. But we’re intervening to argue that we should all benefit from clear rules that ensure we can express ourselves freely and have essential access to information online.”

The case was recently [highlighted](#) by Beverley McLachlin, Chief Justice of the Supreme Court of Canada, as one of the most significant the court will be hearing this fall. The case has global implications because:

- It is one of an increasing number of cases worldwide where web platforms are being asked to implement restrictions on expression online that reach far beyond the borders of the country where the case was heard;
- The online free expression legal safeguard we’re trying to establish will set a new standard we hope will be looked to as a model when courts in other countries consider censoring content on the Internet;
- If this case goes badly, then it could lead to a domino effect, where foreign governments and commercial entities justify censorship of search results by pointing to the precedent set in Canada;
- If this case goes well, Canada will show leadership and set a positive example for other nations wrestling with these issues.

The deadline for factums from intervenors to be submitted to the Supreme Court of Canada is October 5. Arguments from the appellants and respondents are due by October 19, with oral hearings commencing on December 9.

Nadon appointment rejected on technicality, Justice Cromwell says

Laura Stone and Sean Fine, The Globe and Mail, September 14 2016

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Retiring Supreme Court Justice Thomas Cromwell says the court's historic rejection of Stephen Harper's judicial nominee Marc Nadon was "very unfortunate" and had nothing to do with the judge's suitability to sit on the highest court.

Instead, Justice Cromwell said Justice Nadon was turned down for technical legal reasons. Justice Cromwell, who retired on Sept. 1 but will complete his caseload for the next four to six months, said he feels "very sorry" for what happened to the semi-retired Federal Court of Appeal judge two years ago.

"Justice Nadon is an experienced and highly respected judge. The case was about some very technical requirements in the Supreme Court Act and the Constitution, for the composition of this court. It had absolutely nothing to do with his suitability. And I think it's regrettable that that seemed to get lost often in the discussion," Mr. Cromwell told The Globe and Mail in an exit interview at the court on Wednesday.

[Read more: Supreme Court rejects Harper appointee Marc Nadon](#)

"I would feel bad for that happening to anybody, of course. It's an unfortunate, very unfortunate, thing. And I thought that, No. 1, the court exhibited its independence and impartially, both the majority and the dissent, I think we showed we were doing our job. But I feel very sorry that that happened to any judicial colleague."

In March of 2014, Supreme Court justices ruled in a 6-to-1 decision that Mr. Nadon, the former prime minister's pick to sit to fill one of three Quebec vacancies on the Supreme Court, was not eligible for the appointment. Justice Cromwell agreed with the majority decision. At the time of Justice Nadon's appointment, some legal observers questioned why a semi-retired judge who specialized in maritime law, and had been outside Quebec for almost 20 years, was chosen to fill the vacancy. When contacted Wednesday, Justice Nadon did not wish to comment.

Justice Nadon's rejection set off a public rift between Mr. Harper and Supreme Court Chief Justice Beverley McLachlin, with the prime minister accusing the chief justice of attempting to interfere with a case before the courts because she warned the government the appointment of a federal court judge could raise a constitutional issue.

Justice Cromwell said the showdown did not affect the court's work. "The court has an important constitutional duty to perform, and it has to do it, whatever people may or may not be saying outside the court," he said.

He also rejected the suggestion that Mr. Harper's government lost in court more than its predecessors. "I frankly feel that whole narrative is a media-driven narrative," he said. "The

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court's not against anybody. The court is in favour of the rule of law and the Constitution, period."

The Nova Scotia judge wouldn't comment, however, on the Liberal government's new Supreme Court appointment process, or the possibility that his replacement may not come from Atlantic Canada, as has been the custom.

But he said efforts to diversify the bench, as Prime Minister Justin Trudeau's government has expressed a desire to do, is an important first step.

"My son was a rugby player, and one of the things his coach would always shout at him from the sidelines was, you've got to want it," the married father of one said. "If you don't want to have a more diverse institution, you're not going to have one. Even the articulation of the goal I think will be helpful over the long run."

The 64-year-old judge, appointed in December, 2008, said he's leaving the court early because he always planned to retire by 65 (he turns 65 in May.)

"I went to my 40th undergrad reunion a couple years ago and I was the only guy still working, let alone working 80 hours a week," he said. "I don't think of it as early. I've been a judge for 19 years, so I think it's time to let somebody else carry the load."

But he said he'll continue to pursue his passion of access to civil and family justice as chair of a national committee on the subject. "There's recognition that to me is quite new in our country that this is a systemic problem," he said.

Justice Cromwell was the second judge appointed by Mr. Harper to the Supreme Court, but no public hearing was held for him. At the time, Mr. Harper said there was no time for him to face the questions of parliamentarians; Justice Marshall Rothstein was the first to be questioned at one, in 2006. The Conservative government eventually cancelled the hearings, and the last three appointees joined the court without one.

"Justice Rothstein's hearing was a very positive thing for the court, in that I think it humanized and gave people a little bit of insight into the person that they don't often get to see, because we sort of come in in our funny clothes and ask a few questions of the lawyers and then go out the back door," he said.

"People don't get to know the judges of the court that way. But I think that the public respect for the court has stayed high whether there were hearings or not."

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The UNDRIP, drip, drip of Liberal native rights policy

The Globe and Mail Editorial, September 12 2016

Jody Wilson-Raybould, the Minister of Justice, is at the centre of the federal government's emerging policies on native affairs. And the Trudeau government is determined to bring major improvements to the lives of the indigenous peoples of Canada. In last fall's election, it made a number of very specific promises – such as pledging to adopt UNDRIP, the United Nations Declaration on the Rights of Indigenous Peoples.

That promise sounded as clear as can be, yet nearly a year after the election, it remains far from settled what the government meant by it, or what Ms. Wilson-Raybould is going to do about it. The former Conservative government felt UNDRIP could end up overriding existing constitutional arrangements – a concern that is not without foundation – and declined to enact it into law.

On Wednesday, Ms. Wilson-Raybould took part in an annual meeting of First Nations leaders and provincial cabinet ministers. She repeated something she's said before: that UNDRIP can't be simply inserted "word for word" into Canadian law.

Back in July, she spoke at the annual meeting of the Assembly of First Nations at Niagara Falls, saying that such "simplistic approaches" are "unworkable." That's probably true – though it's not quite what the campaigning Liberals promised.

Some interpret her speeches as striking reassuring notes of caution. But in fact these two speeches taken together in their entirety express a bewildering juxtaposition of radicalism and moderation.

At times, Ms. Wilson-Raybould seems to emphasize a thoroughgoing overhaul of Canadian-First Nations institutions. Rather than trying to figure out what the rights and powers in UNDRIP would mean for Canadian law, it is suggested that the dreadful Indian Act itself be torn apart and replaced with whole new sets of regimes for self-government.

"Our current realities do not align" with UNDRIP, she says, and "as such they must be systematically and coherently dismantled." Sometimes it sounds as if the Minister has



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reservations about UNDRIP because it doesn't go far enough. Sometimes, it sounds as if she's
saying the opposite.

How the Liberals will go from where we are now, to "systematic dismantling," and then on to
building something better, is as yet a mystery.