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ASSOCIATION OF JUSTICE COUNSEL
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Press Clippings for the period of November 10 to November 17, 2014
Revue de presse pour la période du 10 au 17 novembre, 2014

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

CBC news

Public service, government battle rages over sick leave

PSAC, government like 'two scorpions in a bottle going at each other'

By Karin Wells, CBC News, November 17, 2014

"We don't have to be disagreeable to disagree," Treasury Board president Tony Clement said on the eve of the third round of bargaining talks with unions representing federal civil servants.

Clement has consistently maintained that there is "excessive absenteeism" in the civil service.

"He's out there saying we abuse sick leave, that we're slackers," counters Robyn Benson, president of the Public Service Alliance of Canada (PSAC). "This is the first president of the Treasury Board who treats his employees with such disdain and disrespect."

Ian Lee at Carleton's Sprott School of Business calls it a dysfunctional relationship, "two scorpions in a bottle going at each other trying to claw out the other person's face."

Get past the name calling and there are indeed substantive issues dividing the two sides as they prepare to head back to the bargaining table Monday.

Statistics Canada has reported a loss of 37,000 jobs in the public service in recent years – a reduction, according to a recent paper from the Canadian Centre for Policy Alternatives, of 8 per cent of civil service positions. Now the focus is on cutting back benefits, specifically sick leave.

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For more background on sick leave, click on the links below:

- **Sick days in Canada's public service by department,**
- **Civil servant sick leave costs minimal for taxpayers, report says**
- **The fight for paid sick leave is making strides in the US, but what about Canada?**

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Clement wants to reduce civil service paid sick days from 15 to five a year, and eliminate the sick leave bank. His proposed changes would require civil servants to take up to seven days of unpaid leave after they have used up their five paid days, and then apply to their insurance company for sickness benefits if more time away from work is needed.

The fear of labour unions is that rather than losing pay for a week, employees will go to work sick, risk getting sicker themselves, and potentially spread illness to others. That's something that flies in the face of public health campaigns and the push for a sustainable work-life balance.

PSAC, the largest of the 17 unions that represent federal workers, has rejected the proposal out of hand.

"We have said no to concessions. That is a huge concession," Benson says.

The numbers game

More than 120 countries in the world mandate paid sick leave by law, and 98 guarantee more than a month's paid sick leave a year.

In Canada, the only jurisdiction that guarantees paid sick leave – one day a year – is Prince Edward Island. In this country, paid sick leave is granted by the grace and favour of employers and the bargaining strength of unions.

Benson's position is that in the current round of bargaining, the federal government - traditionally in the vanguard of progressive employment practices - is not showing much grace and favour towards its employees on this issue.

Clement, in response, has said repeatedly that civil servants take 18 days of sick leave a year. "Excessive absenteeism", he maintains, "reduces morale, productivity and affects the ability to do the job on behalf of the taxpayer."

The Parliamentary Budget Officer suggested in his latest report that the Minister played fast and loose with the numbers. Civil servants, according to the PBO, take closer to 12 paid sick days a year. Clement included unpaid sick leave and workplace injuries in his calculations.

The PBO report also points out that the federal civil service employs older workers, more women and has a unionized work force. Older workers tend to take more sick days due to health conditions that arise as people age, and so do women – often to stay home with sick children.

Clement and the Treasury Board are putting the issue at the feet of civil service managers. He argues that handing over the monitoring of anything beyond occasional sick leave to an insurance company would guarantee more active management of an employee who is off due to illness.

This is what happens “in 90 per cent of the private sector work force,” Clement told CBC News.

“Show me the beef, Tony,” counters Linda Duxbury, who teaches workforce management at the Sprott School of business. “Show me where you get your data for that whacking huge generalization.”

Some of the biggest and most profitable companies in the country actually give more flexibility around absenteeism than five days, Duxbury says.

“Some oil companies, it's like - 'Hey your dog died. Good enough, take a day. We understand,'" she says. "And quite frankly, the data’s clear that organizations that demonstrate trust in employees get trust back from employees.”

Lee expects that paid sick leave and benefits will turn into a major plank in next year’s federal election, aimed at appealing to the Conservative base as the law and order agenda has in previous elections.

“The underlying text, and I’ve heard Tony Clement say this, is this isn’t fair - that these people are getting befits that the rest of us don’t get.”

The government and the unions go back to the bargaining table on Monday Nov. 17. Bargaining sessions are scheduled into the new year.

PS jobs disappearing faster than expected, report says

Kathryn May, The Ottawa Citizen, November 11, 2014

Canada's Conservative government has wiped nearly 37,000 people off the federal payroll and reduced key services for Canada's veterans and the unemployed and budgets for food safety in the "rush" to pay for its promised tax cuts, according to a new report.

The report, by the Canadian Centre for Policy Alternatives, concludes that the Conservatives are able to realize their promised surplus and tax breaks at the expense of front-line services, corroded by steady spending cuts that will continue for another two years — even after the books have been balanced.

"Those cuts to services aren't being reversed. There are no plans to bring back any of those services," said David Macdonald, senior economist at the CCPA.

"Instead those cut services are paying for the tax package announced last week. The surplus was made possible by those substantial cuts."

Macdonald said the cuts appear to have been rolled out faster than expected. An analysis of departments' reports on plans and priorities show they expected to shed 28,600 positions — or full-time equivalents — between 2012 and 2016.

But Statistics Canada's monthly employment and payroll reports show nearly 37,000 people have already lost jobs. Macdonald argued that means the number of people working for government has fallen by eight per cent — compared to the 4.5 per cent the government estimated in the 2012 austerity budget.

"The rush to balance the budget has also impacted federally delivered services … It is not a stretch to say that veterans and the unemployed, for example, will be deprived of services for the sole sake of hurrying a return to federal surpluses. The cuts were implemented much more quickly than initially projected," wrote Macdonald.

The government has been criticized from the start for refusing to reveal the nature of the billions of dollars in cuts, and their impact on jobs and the quality of services. The Parliamentary Budget Office has led the charge for that information and took the government to court to get it.

Without that information, analysts have had to deduce the impact by tracking staffing levels and the changing budget levels in departments. By next year, the cumulative impact of the Conservatives' spending cuts will hit $14.5 billion a year.

The government has been cutting spending for five years by a combination of freezing budgets, slashing budgets and eliminating programs, which are still working their way through the system.

The report said the full impact of the cuts won't be known for years but analysis of the spending and staffing reductions "debunks" the Conservatives' assurances that the cuts will be small, short-lived and with little impact on the quality of front-line services. The government insisted that Canadians wouldn't notice the cuts, which would be concentrated in "back-office" operations.

Veterans Affairs, for example, will lose about a quarter of its workforce between 2011 and 2017 and largest proportional cut — about 32 per cent — will be among the public servants who provide benefits for disabled and other veterans.

By 2016, Canadian Food Inspection Agency will have lost 20 per cent of its workforce and 24 per cent of its budget. The food safety program, which handles inspections of packaging and facilities, is facing a 22-per-cent budget cut.

Employment and Social Development Canada, one of the largest federal departments, could lose about a quarter of its workforce. The branch, which helps Canadians access programs such as employment insurance, is facing significant cuts and reports show a growing number of calls from the public are left unanswered or unconnected.

The Conservatives, however, can go to the polls in 2015 with a balanced budget and a promise of tax cuts while touting themselves as good managers for cutting spending and returning the public service to the size it was when it came to power in 2006.

Estimated Job Losses 2012-2016 (Reports on Plans and Priorities)

- **Statistics Canada: 2,230 or 35 per cent of full-time positions**
- **Human Resources and Skills Development Canada: 5,716 or 24 per cent.**
- **Veterans Affairs: 872 or 24 per cent.**
- **Aboriginal Affairs and Northern Development Canada: 1,094 or 20 per cent**
- **Canadian Food Inspection Agency: 1,407 or 20 per cent.**

OTTAWA CITIZEN

Harassment persistent among public servants: study

Kathryn May, The Ottawa Citizen, November 16, 2014

Canada's public servants report high and persistent levels of harassment on the job that some experts say can be tied to mental health concerns, which account for nearly half of the workforce's disability claims.

The triennial public service employee survey has consistently found that nearly 30 per cent of public servants say they have faced some kind of harassment over the past two years.

The last survey, in 2011, found they felt harassed by — ranked in order — superiors, co-workers, the public, people working for them or people in other departments.

The survey hadn't distinguished among types of harassment until this year when — at the urging of MPs on the Status of Women committee — the government added a specific question about sexual harassment. The 2014 survey wrapped up in October with a 69-per-cent response rate, but the results won't be available for months.

The Status of Women committee's own report on sexual harassment in the federal workplace, made public in February, garnered little attention until recently, when two Liberal MPs were suspended after being accused of harassing two NDP MPs.

Sir Cary Cooper, an international expert on workplace harassment and professor at the Lancaster University Management School, said a workforce where 30 per cent of employees feel they have been harassed is "very high" and should be a red flag for the government about its culture.

He said the reported harassment levels, coupled with the fact that mental health issues (led by depression and anxiety) account for nearly half of all disability claims, "should be a signal to government that they have to do something about it."

"Those numbers are too high, even for the naysayers who could say people are lazy and say they are harassed or bullied to get off work. But the numbers are too high to ignore … If the government wants an efficient civil service, they will have to get at it."

Cooper said persistent harassment leads to absenteeism, more sick leave and mental health problems, and with that come physical ailments, such as heart disease.

He said studies show that all workers suffer when exposed to harassment and bullying. Employees who witness the harassment of colleagues are half as likely as the victims to develop mental health problems, he said.

Treasury Board President Tony Clement is bent on cracking down on absenteeism and improve "wellness" and is trying to do it with an aggressive overhaul of the public service sick-leave regime, replacing it with a new short-term disability plan.

Treasury Board officials told the committee during its hearings into workplace harassment earlier this year that the survey results were "disappointing" and worrisome because those levels have persisted for a few years. In the 2002 and 2005 surveys, the percentage of employees who reported they were harassed hovered at 21 compared with the 30 per cent in 2011.

Ross MacLeod, then assistant deputy minister at Treasury Board, said the government is committed to a healthy and "respectful workplace" and acknowledged that, if left unchecked, harassment has "adverse effects on the mental health and engagement of employees and on the quality of their work."

The number of formal complaints, however, is small. MacLeod said he was puzzled about why people don't come forward with complaints and noted that in a separate survey question, about 40 per cent said they would be reluctant to initiate a formal complaint.

"That's something we need to drill down on a little more the next time around, because I'm worried that if the processes are there to help people and they're not using them, then it's hard to get at it."

Treasury Board has revised its harassment policy three times since 1982 and introduced its latest policy in 2012 aimed at giving deputy ministers the "flexibility" they need to deal with harassment unique to their workplace. The focus is prevention and "informally" resolving complaints.

"Culture is the key. We think that culture underlies respect for people. Lack of respect underlies harassment. If you change the culture and create a respectful work environment, then we'll see change. That's very much the theme we're pursuing in dealing with departments on this issue," said MacLeod.

The reporting of harassment is influenced by many factors: occupation, nature of work, gender, race, age, tenure and even the wording of the question. The kind of harassment policy analysts might confront is different from that faced by call-centre employees dealing with frazzled Canadians, or prison guards with inmates.

The 2011 survey found female, visible minority, aboriginal and disabled employees are more likely to feel harassed. Half of the disabled respondents reported harassment compared with 42 per cent of aboriginals, 31 per cent of women and 31 per cent of visible minorities.

Executives reported the lowest levels while as many as 39 per cent of employees in the broad operational and administrative jobs said they felt harassed.

Some bureaucrats speculate the rate has remained high because of the tense and sometimes distrustful relationships between bureaucrats and politicians. A recent health survey of executives found a growing number of complaints about incivility and harassing bosses.

"Ministers put a lot of pressure on their senior civil servants and what do they do, delegate that pressure and stress and pressure downward," said Cooper. That's where it comes from, the top."

Harassed employees typically have more negative reactions to questions probing their perceptions of the workplace, such as of their supervisors, the leadership, fairness in staffing, job satisfaction, commitment and recognition.

New employees tend to have a rosier picture of the workplace than older workers, which could affect the findings of the 2014 survey. It captured a higher proportion of new employees as large numbers of baby boomers retired or left with the downsizing. At the same time, "harassment thrives during cutbacks, leaving fewer people to do more work," said Cooper.

New questions on harassment

The public service employee survey, which began in 1999, was sent to 250,000 employees in 90 departments and agencies. (The military and RCMP are not included.) The survey has always questioned employees about harassment but the 2014 is the first to probe the nature of the harassment. The following questions were added to get a handle on sexual harassment and what stops employees from formally complaining.

Q. Please indicate the nature of the harassment you experienced. (Mark all that apply.)

- **01 Aggressive behaviour**
- **02 Excessive control**
- **03 Being excluded or being ignored**
- **04 Humiliation**
- **05 Interference with work or withholding resources**
- **06 Offensive remark**
- **07 Personal attack**
- **08 Physical violence**
- **09 Sexual comment or gesture**
- **10 Threat**
- **11 Unfair treatment**
- **12 Yelling or shouting**
- **13 Other**

Q. What action(s) did you take to address the harassment you experienced? (Mark all that apply.)

- **1 I discussed the matter with my supervisor or a senior manager.**
- **2 I discussed the matter with the person(s) from whom I experienced the harassment.**
- **3 I contacted a human resources adviser in my department or agency.**
- **4 I contacted my union representative.**
- **5 I used an informal conflict resolution process.**
- **6 I filed a grievance or formal complaint. a Go to question 68**
- **7 I resolved the matter informally on my own.**
- **8 Other**
- **OR**
- **9 I took no action.**

Q. Why did you not file a grievance or formal complaint about the harassment you experienced? (Mark all that apply.)

- **01 The issue was resolved.**
- **02 I did not think the incident was serious enough.**
- **03 The behaviour stopped.**
- **04 The individual apologized.**
- **05 Management intervened.**
- **06 The individual left or changed jobs.**
- **07 I changed jobs.**
- **08 I did not know what to do, where to go or whom to ask.**
- **09 I was too distraught.**
- **10 I had concerns about the formal complaint process**
- **(e.g., confidentiality, how long it would take).**
- **11 I was advised against filing a complaint.**
- **12 I was afraid of reprisal**
- **(e.g., having limited career advancement, being labelled a troublemaker).**
- **13 Someone threatened me.**
- **14 I did not believe it would make a difference.**
- **15 Other**

The fight for paid sick leave is making strides in the US, but what about Canada?

CBC's The Current, with Anna Maria Tremonti, November 11, 2014

Listen to the segement by clicking here.

A growing number of U.S. cities and states impose paid sick leave for a growing number of people and in fact last week's midterm elections added more to the list. But in Canada, many are discovering we have a patchwork quilt of sick day coverage that can leave vulnerable workers without cover. Today, we're comparing the two nations.

Flu season is just around the corner...but many Canadians may not have the luxury of recuperating in bed. Thousands of Canadians do not have the benefit of paid sick days... they often face loss of wages and even their jobs if they fail to show up at work.

Paid sick leave is a contentious issue right now for many Canadians. The federal government is proposing cutting civil servants' sick days to five a year. Paid sick days are often a point of tension in union negotiations.

But there are also many Canadians who have no protection or coverage when they call in sick. Most people in part-time or minimum wage jobs feel they have little choice but to go to work even when they are not feeling well.

"I got sick one day. I had a little bit of strep throat. I informed my managers for the one shift I had that week that I wouldn't be in. After it got communicated to them that I was sick, they pulled me completely off the schedule, deleted me from any of the online message boards that the company uses for communication and I was just jobless. I went to the ministry of labour though the employment standards act and filed a claim."

- *Jacob Insley, actor who supplements income working in a restaurant.*

Jacob Insley was awarded his claim and yesterday he received a cheque from his previous employer.

It's not known exactly how many Canadians could find themselves in Jacob`s situation, but a Conference Board of Canada study last year found only a third of employees between the ages of 18 and 24 have any paid sick days; and fewer than half of Canadians young and old are covered by employer sick leave.

In the U.S., there's an active campaign to improve sick day benefits, and its gaining momentum. There, nearly 40% of private sector employees have no access to paid sick leave for themselves or to take care of a sick relative.

Last week, voters in the state of Massachusetts and the cities of Trenton and Montclair in New Jersey and Oakland, California voted for everyone to get the benefit of paid sick leave. So far, 3 U.S. states and 15 cities have agreed to similar legislation.

Ellen Bravo is the Executive Director of Family Values at Work. We reached her in Milwaukee, Wisconsin.

To examine the different laws and realities in Canada surrounding sick leave, we were joined by Kendra Coulter, Associate Professor at the Centre for Labour Studies at Brock University. She is also the author of "Revolutionizing Retail: Workers, Political Action and Social Change". She was in our Toronto studio.

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Tony Clement's Orwellian 'open government' plan: Editorial

Treasury Board President Tony Clement claims to be opening up government while citizens faced slammed doors and secrecy.

Toronto Star Editorial, November 10, 2014

Seeking to combat his government's reputation for secrecy, suppression of information and closed-door decision-making, Treasury Board President Tony Clement unveiled an ambitious "action plan on open government" last week. It was so totally disconnected from reality that the initial reaction in the nation's capital was incredulity. Bitter criticism followed.

He pledged to "maximize access to federally funded scientific research," with no explanation of how this will happen when all 20,000 scientists on the federal payroll are muzzled by his government.

He promised to "publish expanded information on federal spending to help Canadians understand and hold government for the use of public monies." Meanwhile, his government refuses to provide parliamentarians, the Parliamentary Budget Officer and members of the public with basic budgetary information.

He said the government would "strengthen the openness and transparency of its procurement process." Ottawa's procurement process prevents the disclosure of any commercially sensitive details about its contractors.

And he undertook to "improve public services" even as he slashes departmental spending and eliminates thousands more jobs in the public service.

What was missing from his blueprint was as important as its contents.

Nowhere in Clement's 28-page list of commitments – bring Canada into the digital era, create new information platforms, devise innovative applications – was there a word about updating Ottawa's 29-year-old Access to Information Act, a pre-Internet relic so slow and cumbersome that it frustrates anyone who tries to obtain government records, spending figures or the evidence backing up policy decisions.

Nor did the treasury board president board mention restoring the mandatory, detailed census – the most comprehensive source of reliable information about this country – that he axed in 2010; renouncing the use of mandatory, detailed census bills that jam together dozens of pieces of legislation preventing proper scrutiny; producing comprehensible

versions of basic documents such as the national accounts and the inventory of corporate hand-outs; or allowing federal agencies to release factual information without the approval of the Prime Minister's Office.

These gaping holes – combined with the overt contradiction between the government's words and actions – gave Clement's enthusiastic avowals of openness and transparency an almost Orwellian air. "The sky is truly the limit – and we are proud to play an important role in leading our citizens into the next stage of the global information age," the minister proclaimed. No one cheered.

Federal books are balanced, but the cuts are hitting home: Tim Harper

As Joe Oliver delivers his fiscal update, the austerity program Jim Flaherty famously called "back room" cuts are started to pound on the front door.

Tim Harper, National Affairs Columnist for the Toronto Star, November 11, 2014

As Finance Minister Joe Oliver rises Wednesday to deliver a fiscal update to a blue-chip business audience that trumpets balanced books and a surplus on the way, it might be a good time to remember how we got here.

It's also a good time to remember how quickly a surplus can be vacuumed up.

It was after the deep cuts unveiled in his 2012 budget that the former finance minister, the late Jim Flaherty, told Canadians that those cuts were to "back office operations" of government that would not be noticed by Canadians.

It was all about fat, not delivery of services, he told us. A quest to test that theory by the former Parliamentary Budget Officer, Kevin Page, ended up in court, unresolved.

But there is at least anecdotal information — and lots of it — that some of those back office cuts are banging on the front door in 2014.

A simple tally of recent reports, some gleaned by this newspaper and The Canadian Press and testimony before Parliamentary committees, gives us a partial sense of what we are sacrificing to ensure this government could get to surplus and offer its tax breaks in a pre-election period.

This week alone there was a report from the government's public accounts showing the Harper government's spending on marine safety had plunged 27 per cent since 2009-10 while aviation and rail safety were both down 20 per cent or more.

Transport Canada says the cuts were made on overhead, administrative and support services, but opposition critics find it hard to believe safety is not being compromised while oil shipments by rail skyrocket.

Another document obtained by CP showed Aboriginal Affairs had to shift $505 million in money earmarked for infrastructure over a six-year period to social and educational spending.

The money has bled the infrastructure fund and still not covered the shortfall on education and social spending. The infrastructure shortfall means fewer schools and more boil water orders in First Nations communities.

The information commissioner, Suzanne Legault, has also gone public, complaining she cannot keep up with complaints over the antiquated Access to Information Act.

Her $11.2 million budget has been sliced by nine per cent over five years while complaints are soaring, up by 31 per cent last year alone.

The Star's Alex Boutilier has reported extensively on cuts at Parks Canada, which is dealing with a $27 million shave from its planned $659.7 million 2014-15 budget, meaning shorter seasons at national parks and restricted hours at historic sites.

Money will also be saved by moving away from guided tours, making them "self-guided visitor activities."

Tuesday, in a published opinion piece, Colin Kenny, the former chair of the Senate Committee on National Security and Defence, points to a $44-million cut from the budget at the Canadian Security Intelligence Service two years ago and a 15 per cent dip in the RCMP budget over four years.

RCMP Commissioner Bob Paulson, in testimony to the committee on which Kenny sits, did not ask for more money — not in public — but he said he had to reallocate resources to anti-terror duties.

Just last week, Page's successor, Jean-Denis Frechette, warned that the package of tax breaks and increases to child benefits leave no room for permanent tax cuts or spending increases for Oliver in the next federal budget.

He also called for long-term thinking regarding the needs of an aging population, particularly when it comes to health-care costs. Federal transfers to the provinces for health care increase by six per cent per year until 2016-17, but will then be tied to national economic growth, a take-it-or-leave-it edict passed down by Flaherty early in Stephen Harper's majority mandate.

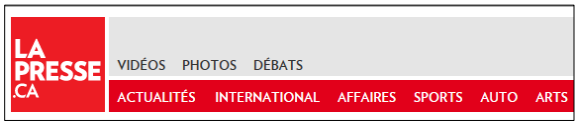
Frechette says billions of dollars of health-care costs will be downloaded on the provinces.

The Conservative government is exactly where it wants to be, using a surplus to target families with children in an election year, daring its political opponents to cancel those breaks if they want to spend a surplus elsewhere.

But that doesn't mean we didn't get to where they wanted to be with no damage to services.

Those who analyze government spending always knew it would take service cuts, not salary and hiring freezes, attrition and reduced travel to get to this point — at this pre-election point in time.

While you await your cheques, you might want to remember they didn't come free. It may have already cost you from health care to security, from access to parks to treatment of our First Nations.



Importantes coupes dans la sécurité des transports

BRUCE CHEADLE, La Presse, La Presse Canadienne, le 10 novembre 2014

Le gouvernement Harper a procédé à des réductions importantes de ses dépenses pour la sécurité des transports aériens, maritimes et ferroviaires au cours des cinq dernières années, même s'il a fait la promotion de nouvelles mesures de sécurité dans le secteur du transport.

Les plus récentes données, provenant des comptes publics du gouvernement du Canada, révèlent que les dépenses actuelles de Transport Canada pour la sécurité maritime ont chuté de 27 pour cent depuis 2010, alors que celles en matière de sécurité aérienne et ferroviaire étaient toutes deux en baisse de 20 pour cent ou plus.

Les coupes budgétaires dans la sécurité maritime et ferroviaire sont survenues au cours d'une période particulièrement délicate, pendant laquelle les convois transportant du pétrole sur les rails ont augmenté de façon exponentielle. De plus, le gouvernement a dépensé des millions pour promouvoir le transport sécuritaire de bateaux-citernes sur ses côtes afin de soutenir les approbations d'oléoducs.

Le mois dernier, la ministre Lisa Raitt a annoncé que dix inspecteurs supplémentaires seraient embauchés à travers le Canada, en réponse au désastre de Lac-Mégantic qui a fait 47 morts.

Mme Raitt a affirmé que Transport Canada avait suffisamment d'espace budgétaire pour gérer les nouvelles embauches sans financement supplémentaire.

«Il y a eu des compressions dans les dépenses, mais les activités concernant la supervision de la sécurité ferroviaire n'ont pas été coupées (...) La sécurité des Canadiens demeure une priorité pour notre gouvernement», a souligné la porte-parole de la ministre Raitt, Ashley Kelahear, par courriel.

Les responsables de Transport Canada ont indiqué que les «services essentiels» étaient toujours financés adéquatement et que les économies provenaient de coupes dans les frais généraux et l'administration.

C'est précisément ce que veut mettre à l'épreuve le Bureau du directeur parlementaire du budget, mais celui-ci a été continuellement évité par plusieurs ministères, dont Transport Canada, qui refusent de dévoiler comment et à quel endroit ils réduisent leur budget.

«Il y a des contradictions frappantes entre les déclarations de la ministre dans la Chambre, qui dit donner la priorité à la sécurité des Canadiens, et la façon dont elle administre son ministère», a déploré le porte-parole adjoint néo-démocrate en matière de transports, Matthew Kellway.

Selon lui, il est invraisemblable que le ministère améliore les normes de sécurité tout en subissant des coupes dans ses budgets.

«En même temps qu'ils coupent, l'enjeu qu'ils doivent affronter devient de plus en plus urgent, particulièrement en ce qui concerne la sécurité ferroviaire», a regretté M. Kellway.

L'Association des producteurs de pétrole du Canada estime que, d'ici 2016, 700 000 barils de pétrole de l'Ouest seront transportés quotidiennement sur les chemins de fer. En 2009, les trains transportaient moins de 300 000 barils par jour.

«Difficile de croire qu'un ministère puisse réaliser des gains d'efficacité dans une période où le transport de matières dangereuses, comme le pétrole, a augmenté de plus de 1600 pour cent au cours des trois dernières années», a indiqué le critique libéral en matière de transports, David McGuinty.

En février dernier, un audit de Transport Canada avait évalué que les «réductions de budget continuelles avaient eu un effet important sur la direction (du transport de matières dangereuses) et que plus de financement serait nécessaire pour la charge de travail additionnelle».

En fait, le budget précis du transport de matières dangereuses a été effectivement bonifié de 2012 à 2013, passant de 12,7 millions $ à 14,7 millions.

Union for federal scientists breaks neutrality, will campaign against Harper

CTV News, The Canadian Press, November 10, 2014

The union representing scientists and other professionals in the federal public service is abandoning its tradition of neutrality in elections to actively campaign against Prime Minister Stephen Harper.

The Professional Institute of the Public Service of Canada (PIPSC) says delegates to its annual general meeting have agreed the union should be more politically active heading into next year's federal election.

In particular, delegates have agreed that the union should energetically expose the damage they believe the Harper government has done to federal public services.

Members of the union have complained bitterly about what they claim is the muzzling of federal scientists and political interference with their work.

The union, which represents some 55,000 professionals in the public service, has traditionally chosen to stay at arm's length from elections.

But union president Debi Daviau says the government's war on labour unions and its cuts to public service jobs have forced a change in strategy.

"Extraordinary times call for extraordinary actions," Daviau said in a written statement Friday.

"This government has forced non-partisan organizations such as ours to make a very difficult choice: to remain silent or to speak out. We have chosen to speak out."

Daviau cited several controversial bills as proof that the government has targeted "the very existence of unions and collective bargaining."

A survey commissioned by the union last year found hundreds of scientists who claimed they had been asked to exclude or alter information in government documents for non-scientific reasons. And thousands more said they'd been prevented from talking freely about their work with the media or the public.

"Canadians deserve to know the damage this government is inflicting --unnecessarily and often underhandedly -- to their services, their programs and even to their democracy," Daviau said.

Supreme Court of Canada ruling makes honesty the law for businesses

JACQUIE MCNISH, The Globe and Mail, November 14, 2014

Lying in business will be a lot more expensive after a Supreme Court of Canada ruling that establishes a ground-breaking new doctrine in contract law.

“The tide has come in,” said veteran Toronto litigator Paul Pape, who frequently represents shareholders and other parties against businesses in class-action lawsuits. “If you lie, it’s going to cost you now.”

Speaking in Beijing on Saturday, Prime Minister Stephen Harper stressed the importance of growing economic ties with China. Harper and Chinese officials signed trade and currency deals worth $2.5 billion.

In a unanimous ruling, a panel of seven Supreme Court justices rewrote centuries-old common law to clarify bewildering Canadian case law about the legal duty of businesses to act in good faith with companies and people with whom they have contracts. Some areas of contractual law, such as employment, franchise and insurance agreements, already require a duty of good faith, but no such standard exists in the broader arena of commercial contracts.

“Enunciating a general organizing principle of good faith and recognizing a duty to perform contracts honestly will help bring certainty and coherence to this area of the law,” Supreme Court Justice Thomas Cromwell wrote in the decision released on Thursday. One of the legal pillars of acting in good faith, Justice Cromwell wrote, is a duty to be honest about business conducted under a contract.

“It is a simple requirement not to lie or mislead the party about one’s contractual performance,” he said.

With the exception of Quebec, which imposed a duty of good faith years ago in contract law, Canadian courts have trailed other countries such as the United States in defining the legal standard. The courts have historically been reluctant to handicap businesses with rules that might interrupt the progress of commerce.

The Supreme Court’s decision marks a bold shift from that tradition.

In their ruling, the justices said an Alberta financial company now known as Heritage Education Funds Inc. breached its contract with Edmonton-based dealer Harish Bhasin when it “acted dishonestly,” “misled” and withheld information about its reasons for ending a contract with Mr. Bhasin in 2001. The lost contract cost Mr. Bhasin his business and set off a 13-year legal odyssey that included a five-week trial and appeals that culminated in Thursday’s decision.

“This is a very significant case,” said Neil Finkelstein, a McCarthy Tétrault lawyer in Toronto who argued for Mr. Bhasin before the Supreme Court in February. It has been difficult to hold businesses accountable for acting in bad faith, he added, unless contracts contain specific language requiring parties to act and communicate honestly. Language in contracts that do require a duty of good faith typically is inconsistent.

Mark Gelowitz, a litigator with Osler Hoskin & Harcourt, said that, in light of the decision, he is advising clients to be more mindful of what they say. “Parties are going to have to be dramatically more careful in how they communicate with other parties to a contract.”

In Mr. Bhasin’s case, an Alberta trial judge ruled Heritage Education Funds improperly breached its contract by acting dishonestly. The decision was overturned by an Alberta appeal court, which ruled no specific language in Mr. Bhasin’s contract required Heritage Education to act in good faith.

Mr. Bhasin was an independent dealer who sold education savings plans on behalf of Heritage Education. According to the Supreme Court, the Edmonton company was untruthful about its dealings with one of Mr. Bhasin’s competitors, which later hired away the dealer’s sales team. The Supreme Court upheld the trial judge’s award of $87,000, plus interest, and legal costs.

In an interview Mr. Bhasin, now retired, said he was determined to fight his case to right a wrong. “I felt that something wrong was being done to me. I had to fight it to make sure that justice was done and that this won’t happen to others.”

A spokesman for Heritage Education could not be reached for comment.

Does Justin Bourque face cruel and unusual punishment?

LYSIANE GAGNON, Globe and Mail columnist, November 12, 2014

Is there in this land a lawyer brave enough to bring Justin Bourque's case to the Supreme Court on a pro bono basis?

Mr. Bourque, 24, is the young man who killed three RCMP officers and wounded two others in a shooting rampage that terrified the city of Moncton last June. On Oct. 31, he was sentenced to life in prison with no chance of parole for 75 years. If he lives that long, Mr. Bourque will be 99 before he can become eligible.

Even though it made legal history, this sentence – the harshest punishment since the last hanging on Canadian soil in 1962 – went largely unnoticed because it coincided with the attacks in Quebec and Ottawa.

This extraordinary sentence results from a "tough on crime" law passed in 2011 by Prime Minister Stephen Harper's Conservatives. It used to be that 25 years without chance of parole was the maximum jail sentence for first-degree murders. But nowadays, judges can impose consecutive 25-year parole ineligibility periods for multiple murders.

What's especially amazing is that Mr. Bourque's own lawyer, David Lutz, fully agreed with the sentencing, saying the judge had no choice given the way the law is written. (He himself had asked for 50 years without chance of parole.) Moreover, Mr. Lutz sees no reason for appeal, even though many legal scholars believe that such a sentence goes against the Charter of Rights and Freedoms, which stipulates that no one should be subjected to "cruel and unusual punishment."

The new sentencing law breaks with a long Canadian judicial tradition focused on rehabilitation – a tradition that works, contrary to popular belief, since the recidivism rate for murderers is very low – and leads the country down the path of a U.S.-style justice system based on the primitive principle of retaliation. Locking up an offender and throwing the key in the river is a denial of a basic reality: that some of the worst offenders can change later in life, provided they have a bit of hope and some institutional help. Those who don't take the opportunity are refused parole.

When representing clients accused of grave crimes, defence attorneys often call in a psychiatric expert to testify. Mr. Lutz didn't. The routine psychological evaluation ordered by the judge concluded that Mr. Bourque was fit to stand trial, and he pleaded guilty.

According to his father, the young man's mood abruptly changed a year and a half ago. He became paranoid, aggressive and consumed by rage against authority. After his arrest, he rambled about an invasion by the Chinese and bragged about being in a war. For most of the short trial, he showed no emotion and his lawyer says he was resigned to the idea of spending the rest of his life in jail. But what if a serious, in-depth psychiatric evaluation had diagnosed a psychotic episode?

What if Mr. Bourque, instead of being a loser with a troubled mind, had come from a privileged background? His family would have been able to hire a more combative lawyer and he might have been handed a more humane sentence.

Large law firms sometimes take up interesting legal causes on a voluntary basis. It's good for their public image, but in this case, less so, since killers of police officers are among the most despised of criminals. Still, bringing this sentence up the steps to the Supreme Court would be a public service in a country that used to pride itself on taking a balanced approach to crime and punishment.

CBCnews

Wiretap privacy appeal dismissed by Supreme Court in drug trafficking case

Case relates to B.C. man, who says his rights were violated when RCMP shared wiretap evidence with U.S.

CBC News British Columbia, November 14, 2014

The Supreme Court of Canada ruled on Friday to dismiss the appeal of a B.C. man, who says his rights were violated when the RCMP handed over the results of wiretaps to U.S.authorities.

Andrew Wakeling, of Lillooet, B.C., has been fighting extradition to the United States since 2007, when he was arrested and charged with trafficking and exporting ecstasy to Minnesota from Ontario.

Those charges were based on evidence from intercepted phone calls collected by the RCMP and passed on to U.S. authorities. Wakeling wasn't charged in Canada, but was ordered to be extradited to the U.S.

Ahead of the decision, Michael Feder, of the B.C. Civil Liberties Association, said says the provision that allows police to hand over wiretap evidence is a violation of the charter of rights.

"You go and you do the wiretap. Maybe you get what you thought you were going to get. Maybe you get some other good stuff," said Feder.

"The idea that the police are empowered, they're given permission to share this with anyone anywhere, for essentially any reason. It's a little bit scary. Because this is a very powerful invasion of privacy."

The Supreme Court ruling means the previous rulings of an extradition judge and the B.C. Court of Appeal are upheld, rejecting Wakeling's argument that the RCMP should not have turned over the wiretap evidence without a court order.

The appeal court judged the wiretaps were conducted legally and the Mounties followed international policing policies in giving the material to the U.S..

There was no need for a court order and no violation of Wakeling's rights, the appeal court said.

Speaking ahead of the decision, Feder had called on the Supreme Court to strike down the provision in the criminal code that currently permits the sharing of wiretap evidence.

"I think Canadians can reasonably agree that we don't want to have our private communications intercepted by the Canadian government...for reasons having nothing at all to do with Canada."

Supreme Court building needs major renovation

JORDAN PRESS, The Ottawa Citizen, November 12, 2014

It is the highest seat of Canada's justice system – and it is falling apart.

The Supreme Court of Canada building, which opened almost 75 years ago, faces a major rehabilitation project to update and repair crumbling infrastructure.

“The Supreme Court of Canada building is aging, and consequently there is a growing risk of infrastructure and building systems failure as a result of continuing property deterioration,” reads a recently released report from the court.

The court says it has started talks with Public Works and Government Services Canada on major upgrades to the building, along with smaller projects. According to the court’s planning report for the current fiscal year, there continues to be “regular investigative work” to find problems needing fixing in a building that is getting creaky.

Neither the court nor Public Works provided details of what infrastructure in the building is at risk of “failure.”

“While (the building) has been maintained adequately, it is reaching the point, after more than 70 years of service, where major interventions will be required to preserve it,” Public Works said in an emailed statement to the Citizen.

“Preliminary planning for the rehabilitation of the building is being developed to ensure that all costs are reasonable, necessary and provide the best value for taxpayers. The project will have to follow the standard approval process. No definitive options have been selected at the moment.”

The historic building was first erected in 1939. The art deco stone structure was supposed to have a flat roof to match similarly designed buildings, but the Liberal government said the courthouse had to match other buildings in the parliamentary precinct, and therefore needed a pitched, gothic roof.

The building received its first major upgrades in 1995. The $21.5-million renovation improved fire systems, renovated the third floor, made the building accessible, and replaced the copper roof and antiquated electrical and mechanical systems.

When the federal government started renovating the buildings on Parliament Hill, a billion-dollar project that will take years to complete, the Supreme Court building wasn’t included.

As the court tries to pull its building into the 21st century, it also is looking to do the same for operations that take place inside it. The court’s annual performance report says it has started testing a new internal system to store, sort and search through court documents, and plans to become more digital in the coming year.

The court also appears to be aware that its systems need more robust defences against cyber-attacks and, in the wake of the Oct. 22 shooting of Cpl Nathan Cirillo, a stronger police presence around the building.

“Due to the sensitive nature of the Court’s business and its high level profile as the court of last resort in Canada’s judicial branch of government, it is essential to continue enhancing the Court’s security program which has many components, such as physical security, information technology security and business continuity planning,” the report says.

Federal authorities seek peace bonds for two suspected extremists

Colin Freeze, The Globe and Mail, November 10, 2014

Federal authorities have taken steps to impose 'preventive' conditions on two suspected extremists in Canada as security officials resort to an array of seldom-used legal methods to fight domestic terrorism.

In addition to measures such as passport seizure and attempts to deport suspected extremists, officials have also been pressing the federal government for greater investigative and prosecutorial powers.

Senior Crown prosecutors told Parliament last week they are seeking peace bonds in the two new cases, though details, including names, are not being disclosed.

Peace bonds, which are sought in a variety of criminal cases, force individuals to promise judges they will maintain public order, or risk jail time for breaching conditions.

The burden of proof is low, and suspects need not necessarily be charged with any crimes.

Since 2001, a rarely used version of this power has allowed Canadian authorities to pursue constraints – which could include house-arrest curfews or electronic monitoring – against alleged extremists who are feared to be gravitating toward terrorist offences.

RCMP Commissioner Bob Paulson told Parliament last month that the legal thresholds remain too high for counterterrorism detectives to obtain peace bonds. Officials have been pressing for greater powers since two Canadian Forces soldiers were killed in separate attacks by alleged extremists last month.

The public knows of peace bonds mostly from cases where judges have attempted to neutralize threats posed by organized-crime gangs or perpetrators of domestic violence.

In 2001, Parliament passed the Anti-Terrorism Act, which adapted the pre-existing power for terrorism cases. The Criminal Code now reads that any "person who fears on reasonable grounds that another person will commit … a terrorism offence may, with the consent of the Attorney General, lay an information before a provincial court judge." These judges can, in turn, summon the suspects to court and compel them to agree to conditions.

This power is distinct from “preventative arrest” anti-terrorism powers Parliament also passed in 2001. Legal critics and MPs have always been apt to focus on that never-used tool and overlook the terrorism peace-bond clause. “As absurd as it is to think that a recognizance could be efficacious in the circumstances … this amendment is unobjectionable,” Gary Trotter, now a judge, wrote in an essay at the time the law was passed.

Yet police and prosecutors now seem inclined to see the power as a tool that may succeed where others fail. Peace bonds can, for example, impose restraints on an individual’s movements and associations, and it is also a signal that authorities are keeping a watchful eye.

Public Prosecution Service of Canada (PPSC) officials made mention of the two new cases last week when they testified to a Senate committee on national security and defence. At the time, they were explaining that authorities had imposed only six peace bonds in 13 years, nearly all of them as part of a plea deal against fringe members of the 2006 “Toronto 18” conspiracy.

“In addition to the Toronto 18 … I have signed consents for two others,” George Dolhai, a senior PPSC lawyer, told the Senate Monday. He and his colleagues added that they had ‘recently’ secured top-level clearance on the two new peace-bond bids, the first step in the process.

PPSC director Brian Saunders told the Senate that, compared with a prosecution, “the standard is lower, but there has to be credibly based evidence presented to a judge to convince a judge that restrictive measures should be placed on an individual.”

It is not known whether any judges have signed off on the new bids to curb the unnamed suspects’ freedoms. The Globe has asked the PPSC, the RCMP, and the Attorney-General of Ontario for specifics, yet government officials will not provide any.

“Only in the event that an investigation results in the laying of criminal charges would the RCMP confirm its investigation, the nature of any charges laid and the identity of the individual (s) involved,” Sergeant Greg Cox said in an e-mail.

Mississauga lawyer Anser Farooq represented one of the Toronto 18 accused who was offered a peace bond as prosecutors dropped charges. In an interview, he said his client’s recognizance – to keep the peace – was no different than an allegedly abusive husband might face.

Mr. Farooq added that a peace bond can be a face-saving move by the prosecutors if a case is otherwise falling apart.

Le Barreau dénonce une «justice parallèle dangereuse»

Hugo Pilon-Larose, La Presse, le 14 novembre 2014

Le Barreau du Québec condamne les dénonciations anonymes de personnes qui seraient rendues coupables d'agressions sexuelles et compare le vandalisme des bureaux de trois professeurs de l'UQAM, où l'on a placardé leurs portes d'autocollants les associant à la culture de viol, à «une forme de justice parallèle extrêmement dangereuse».

En entrevue avec La Presse, le bâtonnier du Québec, Me Bernard Synnott, n'a pas mâché ses mots. Lorsqu'il est question d'agressions sexuelles ou de harcèlement psychologique, les victimes doivent faire confiance au système de justice et «impérativement dénoncer leurs présumés agresseurs», a-t-il martelé.

«Quand une personne dépose une plainte pour une agression sexuelle, le système travaille de façon confidentielle et un processus d'enquête indépendant est entamé. Cette façon de faire empêche que l'on voie se multiplier des épisodes de lynchage sur la place publique sans que la personne accusée puisse se défendre», a ajouté Me Synnott.

Samedi dernier, La Presse rapportait qu'un groupe anarcho-féministe publie sur les réseaux sociaux des allégations d'agressions sexuelles dévoilant le nom de ceux qui en seraient les auteurs, proposant aussi une solution de rechange aux tribunaux: la «justice transformatrice».

Deux profs ont porté plainte

Au début de la semaine, trois professeurs de l'UQAM ont vu leur porte de bureau placardée d'autocollants où il était écrit «Harcèlement, attouchements, voyeurisme, agressions: tolérance zéro!». L'université a confirmé hier que deux des trois professeurs visés avaient porté plainte après que les photos eurent été partagées sur les réseaux sociaux par une association étudiante. Une enquête est en cours.

«Avant de condamner quelqu'un, il faut connaître les faits. À ce que je sache, il y a toujours au Canada la notion de présomption d'innocence. Et c'est important!», a vivement soutenu Me Synnott.

«Dans la présente situation, les gens qui ont fait [cette action à l'UQAM] semblent dire: «Tu n'auras pas de procès, on ne croit pas au système de justice, on agit ainsi, on publie ton nom et on ne fait aucune distinction dans les faits. Tu es un agresseur, personne ne va t'entendre et tu es coupable.» C'est dangereux. Tout cela a un impact sur la réputation des gens, sur leur vie et sur celle de leur famille», a ajouté le bâtonnier.

Selon lui, si le système de justice canadien peut être amélioré, notamment en matière de délais, les lois et les façons de faire en matière de harcèlement et d'agressions ont

heureusement évolué au fil du temps. Reste que la notion de présomption d'innocence est capitale, a-t-il rappelé à plusieurs reprises pendant l'entrevue.

Un prix à payer

Hier, La Presse publiait une entrevue avec la présidente de l'Association des juristes progressistes, Me Sibel Ataogul, qui, contrairement à d'autres juristes qui se sont prononcés par le passé, croit qu'«il y a un prix à payer pour renverser une tendance».

«Je suis juriste, je suis pour la présomption d'innocence, mais je pense qu'on expose en ce moment un fléau de société et qu'il est important de le faire. Ça fait des années que des femmes agressées sont incapables de dénoncer ces situations. Je pense donc que le bien que ça fait est plus important que le mal que ça engendre», avait-elle affirmé.

S'abstenant de commenter directement les propos de Me Ataogul, le bâtonnier du Québec a rappelé que tous les membres de l'ordre professionnel «ont prêté serment en devenant avocats de soutenir l'autorité des tribunaux».

«En matière d'agressions sexuelles, il faut s'adresser au système de justice, dénoncer, qu'une enquête indépendante soit faite et que des accusations soient portées», a conclu Me Synnott.

Supreme Court rejects Diab appeal, academic to be extradited to France

Chris Cobb, The Ottawa Citizen, November 13, 2014

A “deeply shocked” Hassan Diab issued a statement from jail Thursday hours after hearing that Canada’s top court had refused to hear his appeal against extradition to France, where he is a prime suspect in the fatal 1980 bombing of a Paris synagogue.

“I have been living a Kafkaesque nightmare for over six years, fighting false allegations against me, enduring detention, strict bail conditions, the loss of my employment and enormous stress on my family,” Diab said.

“It is beyond devastating that the Supreme Court would allow my extradition for a crime that I did not commit based on a handwriting analysis that was shown by world-renowned handwriting experts to be wholly unreliable, totally erroneous and biased.

“It is a shock that this would happen in Canada.”

The Supreme Court’s decision means that Diab will be taken to Paris by French police within the next 45 days.

Once in the French capital, the 60-year-old academic will appear before an investigating judge — the beginning of an investigation that his lawyers say could last two years.

Although he is yet to be charged with an offence, the lawyers fear he will be convicted with tainted evidence and spend the rest of his life in a French prison.

“It’s tragic,” said his lawyer, Donald Bayne. “We now have the classic recipe for the wrongful conviction of a Canadian citizen.”

Diab, 60, was originally ordered deported by an Ottawa judge based on analysis of five handwritten words, written in capital letters in a Paris hotel register.

French authorities say the person who wrote the fictitious Greek name in the register was the person who planted a bomb in a motorcycle saddle bag outside a synagogue in downtown Paris.

Four passersby were killed and about 40 were injured.

Ontario Superior Court Justice Robert Maranger ordered Diab’s extradition in 2011 after saying that he found the handwriting evidence “illogical, very problematic, convoluted, very confusing with conclusions that are suspect.”

If a fair trial was held, it would be unlikely Diab would be convicted, the extradition judge said, but added that the extradition law left him with no choice.

“Does this sound like reliable evidence to you?” Bayne asked reporters Thursday on Parliament Hill.

Two French experts originally compared the writing in the register with samples of what they thought were Diab’s writing from Syracuse University, where the Ottawa academic studied for his PhD.

After announcing that the samples of handwriting matched the hotel register, they discovered that the Syracuse samples were written by Diab’s first wife and not him.

“Embarrassed, France had to withdraw the evidence of these two alleged experts,” said Bayne, “but instead of withdrawing their application to Canada to extradite Dr. Diab, France then, much later, offered a replacement expert.”

The third French analyst using Diab's handwriting said it more or less matched the register.

Five international handwriting experts commenting on the third analysis said it was "wholly unreliable, fatally flawed," said Bayne.

Crucially, he added, France will use intelligence evidence that was withdrawn by Canadian federal prosecutors acting for France because the French did not know its source and couldn't prove that it wasn't gleaned from torture — hence violating the Canadian Charter of Rights and Freedoms.

"France uses secret intelligence from unknown sources, in unknown circumstances, as evidence," said Bayne. "Yet we're sending a Canadian to trial where he can't possibly know the case against him or have a real and meaningful opportunity to answer that case."

However, Shimon Koffler, chief executive officer of the Centre for Israel and Jewish Affairs in Canada praised the decision.

"We are pleased that the highest court in the land will honour the French extradition request and allow the accused to return to France so the victims may have their day in court,' he said.

The French embassy in Ottawa also issued a statement, saying that Diab is presumed innocent by France until proven otherwise.

The former Carleton University and University of Ottawa sociology professor had been in custody since Wednesday afternoon awaiting the top court's ruling.

The Paris attack came at the height of terrorist activity by the Popular Front for the Liberation of Palestine – an organization the Lebanon-born Diab denies ever belonging to.

He has also denied being in France the day the synagogue was bombed and there is no passport evidence to suggest that he was.

Carleton Prof. Jacqueline Kennelly, one of dozens of Diab's academic supporters, said Diab had got caught in "a terrorist witch hunt" spurred by the war on terrorism and that the decision to extradite him was political.

Bayne refused to speculate why the top court had refused to hear the appeal. The Supreme Court does not offer explanations for its decisions on whether it will hear cases.

"Our system of justice is a wonderful system," he said, "but wrongful convictions occasionally occur and I'm terribly concerned that this case has wrongful conviction written all over it."

Diab has two grown children and a daughter who is two years old on Saturday. His wife, Carleton University professor Rania Tfaily, is pregnant with their second child, due in January.

“I vow to never give up,” Diab said in his statement. “And I will always remain hopeful that I will eventually return to my home in Canada and be reunited with my wife and children.”

MP’s question about cost of answering MP questions cost $6,500, Ottawa says

BILL CURRY, The Globe and Mail, November 14, 2014

It cost government officials $6,500 to answer an MP’s question about how much it costs to answer MPs’ questions, government figures show.

The disclosure is the latest twist in an ongoing spat playing out in the House of Commons over written questions, a key tool used by the opposition to uncover information on a wide range of topics, including details on government spending.

The answers can sometimes prove embarrassing to the government. Conservative Members of Parliament have lately been filing their own questions, asking how much the government spends answering these questions. Answers obtained earlier this year by Conservative MP Mike Wallace revealed that answering one question from a Liberal MP cost the government $117,188 in staff time.

NDP MP Mathieu Ravignat fired back with what he calls “a shot over their bow” by asking how much it cost the government to answer Mr. Wallace’s question. The $6,500.76 answer he received was based on an estimate of hours worked by public servants assuming an average salary and benefits worth $116,160 a year or $60 an hour.

“Spending money like that in order to put into question a tool that is essential to our democracy is foolish and doesn’t make sense,” said Mr. Ravignat.

Mr. Wallace had argued his question was about ensuring transparency and raising a discussion about whether the process is being run efficiently.

“I think it’s just important that it’s on the record,” Mr. Wallace told The Globe in September.

Another Conservative MP – John Carmichael – had followed up Mr. Wallace's request with another question asking for the cost of answering more recent questions. However Mr. Carmichael's question was worded in a way that omitted asking how much was spent answering Mr. Wallace's question.

Mr. Ravignat said he felt that too should be on the record.

"That a government would spend money to put into question the legitimacy of a democratic tool is really what concerns me and that's why I put in this tongue-in-cheek question," he said. "This is kind of a shot over their bow."

Neither Mr. Wallace nor Mr. Carmichael could immediately be reached for comment Friday.

Mr. Wallace's question was number 263 in a process called questions on the Order Paper. In June, Mr. Carmichael asked for how much it cost the government to answers questions 264 through to 644. Mr. Ravignat's question was filed later and is number 684. To date, no MP has asked how much it cost the government to answer Mr. Ravignat's question about how much it cost the government to answer Mr. Wallace's question about how much it cost the government to answer earlier questions.

Gouvernement du Canada | Government of Canada

Public Service Labour Relations and Employment Board established

Merging of the Public Service Labour Relations Board and the Public Service Staffing Tribunal

News Release Article from Canadian Heritage, November 2014

The Honourable Shelly Glover, Minister of Canadian Heritage and Official Languages, is pleased to announce the coming into force of the Public Service Labour Relations and Employment Board Act, which establishes the Public Service Labour Relations and Employment Board, an independent quasi-judicial tribunal that operates at arm's length from Government.

Today, the Government of Canada is pleased to confirm the appointment of David Olson and Margaret Shannon as vice-chairs of the Board. Merri Beattie, Nathalie Daigle, John Jaworski, Steven Katkin, Catharine Rogers, Michael McNamara and Stephan Bertrand have been appointed full-time members of the Board.

Quick Facts

The Public Service Labour Relations and Employment Board (PSLREB), which will remain in the Canadian Heritage portfolio, will deal with matters that were previously dealt with by former boards under the Public Service Labour Relations Act and the Public Service Employment Act.

The new Board results from the merger of the Public Service Labour Relations Board and the Public Service Staffing Tribunal, as announced in the Economic Action Plan Act, 2013, No. 2.

The mandate of the PSLERB is to protect the integrity of the staffing, promotion and layoff function, to protect federal employees' human rights, and to contribute to and promote effective labour relations in the federal public sector across Canada. The Board's authority impacts all employees in the federal public sector, who are critical to the well-being of the country and its citizens.

Catherine Ebbs, former Chair of the Public Service Labour Relations Board, was appointed Chair of the Public Service Labour Relations and Employment Board on October 9, 2014, for a term of five years.

The Government is also creating the Administrative Tribunals Support Service of Canada (ATSSC) to provide administrative support to 11 tribunals, including the PSLREB. All financial and human resources that currently support the Public Service Labour Relations Board and the Public Service Staffing Tribunal will be transferred to the ATSSC. This new organization will be part of the Justice portfolio.

Quotes

"As a responsible government, we are committed to controlling the size and cost of government operations to ensure value for taxpayer dollars. The newly established Public Service Labour Relations and Employment Board will contribute to making government more efficient while providing the same level of service to public‑service employees."

—The Honourable Shelly Glover, Minister of Canadian Heritage and Official Languages

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Création de la Commission des relations de travail et de l'emploi dans la fonction publique

Fusion de la Commission des relations de travail dans la fonction publique et du Tribunal de la dotation de la fonction publique

L'honorable Shelly Glover, ministre du Patrimoine canadien et des Langues officielles, est heureuse d'annoncer l'entrée en vigueur de la Loi sur la Commission des relations de travail et de l'emploi dans la fonction publique, qui établit la Commission des relations de travail et de l'emploi dans la fonction publique, un tribunal autonome quasi judiciaire qui fonctionne sans lien de dépendance avec le gouvernement.

Aujourd'hui, le gouvernement du Canada est heureux de confirmer les nominations suivantes à la Commission : David Olson et Margaret Shannon, en tant que vice-présidents, et Merri Beattie, Nathalie Daigle, John Jaworski, Steven Katkin, Catharine Rogers, Michael McNamara et Stephan Bertrand, en qualité de membres à temps plein.

Les faits en bref

La Commission des relations de travail et de l'emploi dans la fonction publique, qui demeurera dans le portefeuille du Patrimoine canadien, traitera de questions qui étaient auparavant gérées par les anciennes commissions en vertu de la Loi sur les relations de travail dans la fonction publique et de la Loi sur l'emploi dans la fonction publique.

La nouvelle Commission résulte de la fusion entre la Commission des relations de travail dans la fonction publique et le Tribunal de la dotation de la fonction publique, conformément aux termes de la Loi no 2 sur le plan d'action économique de 2013.

Le mandat de la nouvelle Commission est de protéger l'intégrité de la fonction de dotation, de promotion et de mise à pied; d'offrir un forum unique aux employés pour contester une décision portant sur la discrimination dans la fonction publique; ainsi que de contribuer à des relations de travail efficaces et de les promouvoir au sein de la fonction publique canadienne. L'autorité de la Commission a une incidence sur tous les membres de la fonction publique fédérale, qui sont essentiels au bien-être du pays et de ses citoyens.

Catherine Ebbs, ancienne présidente de la Commission des relations de travail dans la fonction publique, a été nommée présidente de la Commission des relations de travail et de l'emploi dans la fonction publique le 9 octobre 2014, pour un mandat de cinq ans.

Le gouvernement crée également le Service canadien d'appui aux tribunaux administratifs afin de fournir un soutien administratif à 11 tribunaux, dont la nouvelle Commission. Toutes les ressources financières et humaines qui soutiennent actuellement la Commission des relations de travail dans la fonction publique et le Tribunal de la dotation de la fonction publique seront transférées au Service canadien d'appui aux tribunaux administratifs. Cette nouvelle organisation fera partie du portefeuille de la Justice.

Citations

« En tant que gouvernement responsable, nous sommes déterminés à contrôler l'ampleur et le coût des activités gouvernementales afin d'assurer une utilisation judicieuse de l'argent des contribuables. Nouvellement constituée, la Commission des relations de travail et de l'emploi dans la fonction publique contribuera à rendre le gouvernement plus efficace, tout en offrant le même niveau de service aux fonctionnaires. »

— L'honorable Shelly Glover, ministre du Patrimoine canadien et des Langues officielles

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Crown wins full hearing over merit pay denial due to poem

By Michael McKiernan, Law Times, November 10, 2014

Can the province deny a merit increase to a Crown prosecutor for reading a rhyme during closing arguments? An Ottawa assistant Crown attorney will soon find that out as he seeks to challenge the Ministry of the Attorney General's denial of merit pay that could leave him out of pocket by as much as $70,000.

The province denied John Ramsay, who works in the Crown office in Ottawa, a merit pay increase after he delivered his closing arguments in an impaired driving case in the form of a poem.

He challenged the denial and recently won the right to a full hearing of his grievance after the Ministry of the Attorney General sought to dismiss it on a preliminary basis without hearing viva voce evidence.

Arguing on Ramsay's behalf, representatives of the Ontario Crown Attorneys' Association claimed the merit pay denial amounted to a disciplinary sanction "without just and sufficient cause" in violation of his collective agreement. Over the course of his career, they said the decision could cost Ramsay up to $70,000.

Denying any disciplinary motive in its actions, the ministry argued the issue of merit pay comes within its exclusive purview and should fall outside of the grievance procedure.

But in his award on the matter, arbitrator Bram Herlich dismissed the ministry's motion, deciding a full hearing on the merits was necessary to settle the case. Although the facts remain in dispute, both sides agreed to argue the motion based on the association's version of events.

"If I were satisfied that the facts as pleaded by the association failed to disclose even a prima facie case of a violation of the collective agreement, I would have granted the employer's motion," wrote Herlich in the award.

“The characterization of motive can, even in the best of evidentiary circumstances, involve a complex assessment. This is particularly so where, as here, one party denies any improper motive on its part and the other alleges that the true motive has been disguised. It is a determination, in the circumstances of this case, which I prefer to make on the basis of evidence, not pleadings. . . . The matrix of factors relied on and pointed to by the association and the singular nature of the (alleged) facts before me make the association’s argument plausible, whether or not it may ultimately be persuasive.”

Lawyers for the ministry didn’t respond to a request for comment, while association president Kate Matthews, who appeared on its behalf at the arbitration, declined the opportunity. “As the matter is still before the arbitrator, we are not in a position to comment,” said Matthews in a statement.

Ramsay’s troubles began in August 2011, just over three years after his hiring as a CC1-level assistant Crown attorney. Closing a three-day trial in an impaired-driving case, Ramsay turned to poetry for emphasis. The rhyme, crafted the previous day during a long cross-examination by defence counsel, crammed references to witness evidence, a constitutional challenge by the defence, and more.

The poem went down without incident in court as neither defence counsel nor the judge expressed any concerns. While the court convicted the defendant, Joey Anderson, the case sparked a flurry of media coverage when Ramsay provided a reporter from the Ottawa Sun with a copy of the submissions. Not all readers, which included high-ranking ministry officials, appreciated Ramsay’s poetic efforts, something he would discover on his next day back at the office.

At a meeting with Ottawa Crown attorney Vikki Bair, she admonished him for the poem and his media contact and ordered him to write an apology to management at the ministry. An additional apology in court followed at the sentencing hearing at which Anderson received a sentence of 60 days in custody.

That was twice the minimum sentence for the offence.

“The format of my closing submissions was not intended to detract from the solemnity and dignity of these proceedings,” Ramsay said in court. He added that the Crown views impaired driving as a “great public concern,” according to an Ottawa Sun report of the sentencing proceedings.

According to the association’s account, with one of Ramsay’s performance reviews approaching in March 2012, Bair warned him she was under pressure from superiors to give him a rarely issued “needs improvement/development” rating, the lowest of three available merit measures, due to the poetry incident. The association says Bair promised to “go to bat” for Ramsay, recommending a higher “commendable rating” to her regional director, but the ministry overruled her.

In his first three years, Ramsay had always received a “commendable” rating, each of which came with a merit pay increase. The lower rating left him stuck on the sixth level of the CC1 pay scale, delaying his progress to the more senior CC3 classification that comes automatically with the 10th merit pay increase.

After Ramsay grieved the decision, Bair confirmed the "needs improvement/development" rating. The assistant deputy attorney general rejected a further appeal to the ministry.

The ministry resisted Ramsay's grievance by pointing out the collective agreement doesn't contemplate filing a grievance over merit pay denial. It also argued the denial was merely an exercise of its acknowledged managerial discretion.

The association, on the other hand, characterized the denial as disguised discipline. It pointed to the rarity of a "needs improvement/development" rating, the unusually high levels of management involved in the performance review process, and Ramsay's otherwise exemplary conduct.

Herlich sided with the association in deciding Ramsay's case requires a full hearing on the merits despite the ministry's concern it could encourage more merit pay-related grievances.

"I am sensitive, indeed sympathetic, to the employer's concern that allowing its motion to fail may lead to more grievances being filed challenging the denial of merit pay. However, I am comforted by the association's apparent acknowledgement that the denial of merit pay in an individual case is not, in and of itself, the proper subject of a grievance. Where, however, the facts alleged can be seen to plausibly support a claim of discipline, it may be that such cases need to be decided on their merits, not on the basis of preliminary motion," wrote Herlich.

Abridged version of Ramsay's poem, according to a Sun report

On July 16, 2010

Crashed his car, did Mr. Anderson

Without second thought, two citizens did stop

And called 911 for fire and cops

At 0220 Blanchette did arrive

To see if the lone occupant did survive

And peeking his head through the windshield did hear

Mr. Anderson's claim of "only drinking 15 beer"

From beginning to end no one can say

That police sat idle or created delay

As medics did work, the police withdrew

In consideration this was not just a flu

Beers at a cottage, 15 did he drink

And proceed to drive, rather than think

A marked departure from the reasonable driver

Mr. Anderson is fortunate he's a survivor

Reasonableness of their acts does exude

The samples of breath, you ought to exclude

His rights were respected by all those involved

This poem's near over, this crime is solved

And all that is based on a finding of breach

The existence of which the Crown doth impeach

After two days of trial your honour will see

The only verdict is guilty

The Law Society Gazette

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New targets for women partners

By Monidipa Fouzder, The Law Society Gazette (United Kingdom), November 10, 2014

International firm Taylor Wessing has become the latest major law firm to set a target figure for women in the partnership.

Last week it announced a programme of initiatives to help it reach a minimum of 25% female representation by 2018. These include a ‘reverse mentoring’ programme and ‘unconscious bias’ training. Earlier this year international firm Herbert Smith Freehills announced a similar target, as a step towards attaining a 30% female partnership by 2019.

Some 13 magic circle and City firms, including Allen & Overy, Clifford Chance, Freshfields Bruckhaus Deringer and Linklaters, have also joined the 30% Club, set up in 2010 with the goal of attaining 30% women on the boards of FTSE-100 companies by the end of 2015. The group met last week to share best practice in areas such as sponsorship, work allocation and agile working.

These areas were identified following a 2012 study showing that men were 10 times more likely than women to rise to partner level.

Meanwhile, the Association of Women Solicitors London voted unanimously to widen its membership to include women studying on the graduate diploma in law (GDL), or legal practice course, and any woman seeking a training contract to become a solicitor.

It also introduced an associate membership which includes paralegals, legal executives, lawyers qualified in other jurisdictions, barristers, and students on the Bar Professional Training Course or on the GDL intending to become barristers.

The association’s London chair Margaret Hatwood (pictured), partner at London firm Anthony Gold, said: ‘[I work in family law], which has a good, strong tradition of female lawyers. But there are areas where women are not well represented, such as commercial law. Anything that can be done to [help] career progression will be superb.’

She welcomed the setting of partnership targets, as efforts can otherwise ‘be very vague and unfocused’.

IRIS Institut de recherche et d’informations socio-économiques

Faut-il abolir la formule Rand?

Philippe Hurteau, Institut de rechercher et d’informations socio-économique

Pour plusieurs, la formule Rand devrait être abolie. En rendant obligatoire la participation au financement des activités syndicales pour chaque personne dont l’emploi est encadré

par une convention collective, cette formule serait en contradiction avec nos libertés individuelles. Au-delà des réactions exacerbées et de la démagogie des commentateurs sur cet enjeu, le mieux est peut-être de ne pas trop s'attacher aux principes, mais aux effets qu'aurait une telle abolition. Pour ce faire, une étude des conséquences des lois « right to work » (RTW) aux États-Unis s'avère des plus utiles.

En interdisant la cotisation obligatoire tout en maintenant l'obligation faite aux syndicats de défendre les employé.e.s non cotisants, ce genre de loi vise explicitement à restreindre l'autonomie et la capacité d'action des organisations syndicales. Il ne s'agit aucunement d'assurer un quelconque « droit au travail », mais bien de s'en prendre à un « pouvoir syndical » que l'on fantasme comme étant démesuré.

Aux États-Unis, l'abolition de l'obligation de cotisation n'a pas eu d'effets positifs, ni pour l'économie ni pour les travailleuses et les travailleurs. Portée par une coalition alliant des élu.e.s du Parti républicain, des chercheur.e.s travaillant dans différents think tanks et des porte-paroles d'associations patronales, les lois RTW ont plutôt participé à fragiliser les conditions matérielles d'existence de nombre de salarié.e.s.

Durant les décennies 1970-1980-1990, le recul de la syndicalisation aux États-Unis a été constant et le phénomène des « free riders » – les salarié.e.s qui profitent de la protection syndicale sans participer à son financement – a nourri un cercle vicieux. À mesure que le financement des syndicats repose sur de moins en moins d'épaules, il devient de plus en plus tentant, sur le plan individuel, de se dégager de cette responsabilité. Les lois RTW attisent une dynamique de désolidarisation qui sape la capacité effective des syndicats à négocier de bonnes conditions de travail pour leurs membres. Cela se produit non seulement en raison de pressions financières bien réelles, mais surtout par une perte de légitimité de l'acteur syndical, causée par l'érosion, au niveau très concret de l'entreprise, de son effectif et donc de sa représentativité.

Il existe bien entendu une foule de données permettant de déterminer l'effet sur les salaires des lois RTW. Aux États-Unis, les États ayant adopté ce type de loi ont un salaire moyen inférieur de 7 226 $ par rapport aux autres États du pays.

Ce décalage est également vérifiable à l'examen du revenu médian des familles étatsuniennes (50 221$ pour l'année 2009). Au niveau des États, le revenu médian des ménages est supérieur au niveau national seulement dans quatre des 24 États RTW (soit 17 %). En contrepartie, nous retrouvons 17 des 27 États sans lois RTW (63 %) dans cette catégorie privilégiée.

Au-delà des écarts salariaux existant entre les États RTW et les autres, on constate aussi que l'adoption de ce type de loi induit un retard quant aux chances qu'ont les salarié.e.s de pouvoir compter sur un régime de retraite offert par l'employeur. À ce niveau, on note un retard de 4,8 points de pourcentage dans les États RTW par rapport à la moyenne nationale.

Cette détérioration des avantages salariaux et non salariaux touche aussi de manière spécifique les travailleuses et travailleurs non syndiqués. Ils et elles souffrent généralement d'un retard de 3 % de leur rémunération dans les États RTW, en plus de subir une pénalité de 2,8 et 5,3 points de pourcentage en matière de couverture par une

assurance maladie et par un régime de retraite de l'employeur. Les exemples de l'Idaho et de l'Oklahoma sont particulièrement éclairants, ces deux États ayant respectivement adopté des lois RTW en 1985 et 2001. Le salaire des non-syndiqué.e.s a, depuis le passage aux lois RTW, connu une chute de 4,2 % en Idaho et de 1,7 % en Oklahoma.

En clair, les lois RTW participent à l'érosion du taux de syndicalisation et de la capacité syndicale à représenter l'ensemble des salarié.e.s d'une entreprise. Les importer au Québec ou au Canada comme le souhaitent plusieurs ne ferait alors qu'accélérer l'érosion de ce qu'il nous reste de classe moyenne.

The Atlantic
ENTERTAINMENT HEALTH EDUCATION SEXES NATIONAL

Union Membership: Very Sexy

In modern mating, job security, wages, and health benefits are important signals that boost one's chances in the marriage market.

By Bourree Lam, The Atlantic magazine, November 9, 2014

Who knew that a union card was a turn-on?

Well, that might not be literally the case, but a new study finds that for men, union membership can boost their chances of getting hitched.

Research shows that for men, income correlates with marriage rates: The decline in marriage is more pronounced for men in middle and lower income groups. This basic relationship caused sociologists Daniel Schneider and Adam Reich to wonder: Would union membership—which is supposed to lift a person's wages—also lift a person's chance at being married?

Using 25 years of data from a cohort of men and women from the 1979 cohort of the National Longitudinal Survey of Youth, they found evidence that union membership is positively associated with marriage for men, though the relationship was not statistically significant for women in unions.

"We argue that membership in a labor union may increase the marriageability of young men and women either by helping to secure economic benefits in the present or by sending a signal to potential mates about the stability and certainty of future economic prospects," they write. "We find that men covered by collective bargaining have a significant advantage in first marriage and that this relationship remains after adjusting for possible confounding characteristics such as age, education, region, and attitudes."

Additionally, they also found that for both men and women, there's a strong relationship between health insurance coverage and first marriage: Men with healthcare had 30 percent higher odds, and women 16 percent. At the end of the day though, the researchers conclude that it might be that union membership is a signal in the marriage market that a person is secure financially in the longterm.

Union membership has declined drastically in the last three decades: The Labor Department reports that 11.3 percent of wage and salary workers were union members. That number was 20.1 percent in 1983. With research like Schneider and Reich's in hand, it seems that more than a worker's job and compensation are at stake in these shifts.

After all, the landscape and expectations for marriage are changing for both men and women. The median age for a first marriage is 27 for women and 29 for men, and a recent Pew study found that 23 percent of men and 17 percent of women above 25 have never been married, up from 10 percent and 8 percent in 1960.