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Press Clippings for the period of February 9 to 16, 2015
Revue de presse pour la période du 9 au 16 février, 2015

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

OTTAWA CITIZEN

Professionals on the picket line? Federal union training, just in case

Kathryn May, Ottawa Citizen, February 13, 2015

Federal scientists, doctors, geologists and other professionals who have never been on a picket line are going on "mobilization" and strike training so they'll be ready if contract negotiations with the Conservative government hit an impasse.

The Professional Institute of the Public Service of Canada (PIPSC) is holding a two-day conference and training sessions next week with about 150 local leaders on how to mobilize employees who, historically, have been cool to strikes and other militant labour tactics.

The union has also created a central mobilization unit at PIPSC headquarters. It consulted with strategists in the U.S. and Canadian labour movement with experience in mounting strikes, communications, and building support among union members and the public. Experts have been brought in from the Ontario Public Service Employees Union (OPSEU) and other provincial public service unions.

It's a major cultural shift for PIPSC, whose 55,000 professionals have largely preferred to settle disputes at the bargaining table with arbitration rather than strike. Computer specialists and auditors with PIPSC are the only major groups to have staged strikes and the last one was nearly 25 years ago.

The Conservatives, however, changed that with new labor legislation, buried in omnibus budget Bill C-4. It gave the government, not the union, the right to pick strike or arbitration to resolve impasses.

The only bargaining units that can insist on arbitration are those in which more than 80 per cent of employees have been designated as essential and prohibited from striking. The

government also blunted the impact of strikes by giving itself the "exclusive" right to decide which workers are essential.

The image of workers marshalling for a strike is at odds with the moral high ground unions recently tried to stake out at the bargaining table. They have made contract demands for integrity, transparency, wellness and mental health initiatives.

But PIPSC President Debi Daviau said the union has no choice but to be prepared.

"No matter how much we try to stick to the high road, we know who we are dealing with on the other side of the table and we are facing a situation many members have not faced in a very long time," Daviau said.

"The vast majority of our members have never been on strike and it's the furthest thing from their minds but we're being pushed into a corner and it would be irresponsible for us not to prepare for that eventuality."

Many argue the government's changes to the federal labour legislation will have the effect of limiting the right to strike for strong, militant unions while forcing smaller or weaker unions that, rarely, if ever, considered strikes to now face that prospect.

PIPSC argues that this round of bargaining is more than a battle over public servants' sick leave benefits.

Rather, the union says it is bargaining to protect the services public servants provide Canadians and is teaming up with advocacy groups to help spread that message.

Federal scientists want the right to talk freely about their work and have found allies with groups such as Scientists for the Right to Know and Evidence for Democracy.

PIPSC is clearly pushing the boundaries of traditional collective bargaining with demands to deal with the ongoing spending cuts in science and "interference" in the integrity of scientific work.

The union is also planning for a national advertising campaign on the importance of public services, from food inspection and weather forecasting to scientific research. It launched a smaller advertising campaign aimed at Atlantic Canada this week.

PIPSC, the largest union representing professionals in Canada's public service, is also preparing for an unprecedented "political" campaign in the runup to the 2015 election to ensure that public service issues are on the agenda.

Peter MacKay won't use notwithstanding clause to avoid assisted-suicide bill

CBC News, Canadian Press, February 11, 2015

One of the three possible routes the federal government could take to respond to last week's landmark Supreme Court of Canada ruling on doctor-assisted suicide appears to be off the table.

"I wouldn't count on that," federal Justice Minister Peter MacKay told The Canadian Press on Tuesday when asked whether invoking the notwithstanding clause is under consideration as an option in the wake of the unanimous decision.

The court's ruling Friday struck down the criminal ban on doctors assisting in the deaths of mentally competent but suffering and "irremediable" patients.

It gave the government 12 months to draft a replacement law.

Without it, Canada will simply have no clear rules on doctor-assisted suicide on the books, much like there is no law prohibiting abortion.

But the government also has the right to use the notwithstanding clause, a section of the Charter of Rights and Freedoms allowing Parliament or a legislature to override certain judicial rulings.

No federal government has ever invoked the clause.

Government 'will take the time to examine the decision in detail': MacKay

While the notwithstanding clause doesn't appear to be an option, what the government will do and how it will arrive at that decision hasn't been finalized, MacKay said, fresh from speaking before the Supreme Court as it welcomed its newest justice, Suzanne Cote.

"We'll obviously take the time to examine the decision in detail, we'll look at what Quebec is doing, we'll look at private members' bills that are currently before Parliament," he said.

His department was preparing contingency plans well in advance of the ruling he said.

Legislation is a possibility the government is considering, as is not legislating at all.

"The court obviously and respectfully did much of the introspective research and respectful deliberation that is incumbent upon our department and the government to now do as well," MacKay said, standing in the same lawyers' robes he wore to argue a case before the court many years ago.

There have been widespread calls for a non-partisan approach to deciding how the government should respond to the ruling, with many suggesting the government mirror what Quebec did when it spent nearly four years in consultation before putting forward its own bill.

MacKay said the Conservatives do intend to solicit a range of views, including from the medical profession and from those living with disabilities, but how they'll seek that input also hasn't been decided.

"(We will) take the time to consult, hear the many perspectives that are important in considering an issue of such consequence," he said.

"This is a deeply, deeply emotional personal issue for many and has far-reaching consequences, to say the least."

CBCnews

Peter MacKay's friends, colleagues make up 6 of 9 judge appointees

Many recent members of Nova Scotia judiciary have political, professional or personal ties to MacKay

By Jennifer Henderson, CBC News, February 13, 2015

A news site connected to the Broadbent Institute is raising questions about why six of the nine judges appointed to Nova Scotia courts since October 2013 have personal, professional or political connections to Justice Minister Peter MacKay.

MacKay was appointed attorney general and justice minister in 2013. Since then, he's made provincial Supreme Court justices of:

- Josh Arnold, a friend who served as best man at MacKay's 2012 wedding. He was also a regular financial donor to the Central Nova Progressive Conservative Association from 2008 to 2010.
- Cindy Cormier, Arnold's wife and a friend of MacKay's.

- James Chipman, a past president of the Conservative Party's Halifax West riding association and regular donor to the Central Nova Conservative Association from 2008 to 2010.
- Ted Scanlan, a past president of the Central Nova riding association and a former campaign manager for Elmer MacKay, Peter MacKay's father.
- Jeffrey Hunt, former executive vice-president of the Nova Scotia Progressive Conservative Association.
- LouAnn Chiasson, a colleague of MacKay's at the Dalhousie Law School.

MacKay has held the Central Nova seat for the Conservatives since 1997.

Press Progress, a news blog project of the Broadbent Institute, posted its findings on its website. The Broadbent Institute is named for former NDP leader Ed Broadbent.

CBC News asked MacKay's office about the appointments.

"In the case of lawyers applying to be judges, committees assess them, provide comments, and also recommend them or not for appointment. The minister of justice only appoints those recommended by such committees," a spokesperson replied.

Connections vs. expertise

Professor Wayne MacKay, a Dalhousie University constitutional law expert, has published a paper about the impact of recent changes on judicial appointments. He said they were designed to ease concerns too many judges were being appointed based on their connections, rather than their expertise in the law.

"We've generally moved away from the strict party politics more to concerns about ideology," noted Wayne MacKay. "But I suppose the optics of some appointments still raise questions of politics, as well."

Lawyers with 10 years of experience can become a Supreme Court judge. In Nova Scotia, that means about 1,200 lawyers are eligible for the job, which pays about $300,000 annually.

Prime Minister Stephen Harper's government changed the rules for appointing judges.

Formerly, the justice minister received a list of names marked "not recommended," "recommended," or "highly recommended." Now, they are marked simply as "recommended," or "not recommended."

'Completely' at minister's discretion

Wayne MacKay said under the old system, most judicial appointments were made from the "highly recommended" pool.

"The 'highly recommended' category was dropped altogether, so now there is just two: 'recommended' or not," the professor said.

"Now, where it's 'recommended' only, whatever names go forward, it's then completely within the minister's discretion to appoint any of those people, even though on the ranking they might be seen as the least qualified of the group."

Eve Adams confirms she'll seek Liberal nomination in Eglinton-Lawrence

Daniel Leblanc and Adrian Morrow, The Globe and Mail, February 11, 2015

Eve Adams has confirmed that she will seek the Liberal nomination in the Toronto riding of Eglinton-Lawrence, despite early opposition from her new colleagues in the party.

Ms. Adams, who successfully ran as a Conservative in 2011 in Mississauga Brampton-South, crossed the floor to the Liberal Party on Monday. She announced her intentions at the time to run in the Greater Toronto Area, and has now officially set her sights on the seat currently held by Finance Minister Joe Oliver.

"I can tell you that I have received a great deal of local support but it is going to come down to meeting with people, winning them over and ensuring them that in fact I am here to work awfully hard and to advocate for them," Ms. Adams said in an interview with CP24 on Wednesday.

Ms. Adams added she has family in the riding and wants to purchase a house there.

"I worked there and I volunteered for the Red Cross there for about a decade," she said. "It is a wonderful riding and I am just looking forward to working hard for them."

Mike Colle, who has represented Eglinton-Lawrence at Queen's Park for nearly 20 years, had harsh words on Tuesday for Ms. Adams.

"Over my dead body," Mr. Colle wrote on Facebook on a link to a Huffington Post article about Ms. Adams's intention to run in Eglinton-Lawrence.

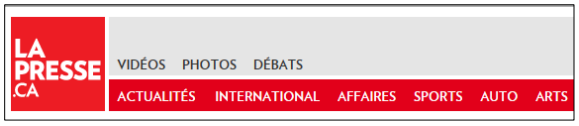
In an interview, Mr. Colle accused the Liberal Party of giving local members in Eglinton-Lawrence the "back of the hand" by looking to bring Ms. Adams in as a candidate.

"Imposing someone or someone coming in out of the blue with no knowledge of the issues here or ever involved in any issues here, to think they could come in and take the nomination, is a real back of the hand to the regular people who vote Liberal and volunteer for the Liberal Party in Eglinton-Lawrence," Mr. Colle said.

Lawyer Marco Mendicino, a former Crown attorney, has declared his candidacy for the nomination.

“I am looking forward to an open and fair race. I hope to earn the privilege of being the Liberal candidate on the ballot for Eglinton-Lawrence and to being the next MP for this great riding, representing my family, friends and neighbours,” he said in an email to The Globe and Mail.

“I live here with my wife and our two girls. I know the people, the neighbourhoods and the issues. I am a dedicated volunteer, both in my community and as a long-time Liberal member. Because of that, I have been able to build significant grassroots support over the last six months. My team and I are enthusiastically continuing our hard work, and will be knocking on every door in the riding.”



Eve Adams veut affronter Joe Oliver

JOËL-DENIS BELLAVANCE, La Presse, le 11 février 2015

(Ottawa) La nouvelle députée libérale Eve Adams souhaite clouer le bec à ses détracteurs, qui l'accusent d'opportunisme pour avoir changé de camp à huit mois du scrutin, en affrontant le ministre des Finances Joe Oliver dans la circonscription torontoise d'Eglinton-Lawrence aux prochaines élections.

Selon des informations obtenues par La Presse, Mme Adams était déjà à pied d'oeuvre hier matin au sein de son nouveau parti. Elle a rencontré des militants libéraux de cette circonscription, qui a longtemps été un bastion libéral avant de basculer dans le camp des conservateurs aux élections du 2 mai 2011 à la suite de la victoire de Joe Oliver.

Lundi matin, Mme Adams a causé une commotion à Ottawa en annonçant, en compagnie du chef libéral Justin Trudeau, qu'elle claquait la porte du Parti conservateur afin de briguer les suffrages sous la bannière du Parti libéral aux élections générales du 19 octobre.

En confirmant cette décision, Mme Adams a décoché plusieurs flèches à l'endroit du premier ministre Stephen Harper, l'accusant de diriger un gouvernement «mesquin» et d'épouser des politiques fiscales, notamment le fractionnement du revenu pour les couples ayant des enfants de moins de 18 ans, qui favoriseront les riches au détriment de la classe moyenne.

«Ceux qui affirment qu'elle a fait preuve d'opportunisme en annonçant qu'elle se joint au Parti libéral vont se rendre compte que cela est faux. Elle va le démontrer en se présentant contre le ministre des Finances Joe Oliver», a indiqué une source qui a requis l'anonymat.

«C'est perdu d'avance»

Dans les rangs conservateurs, on a accueilli cette nouvelle avec un sourire. «C'est perdu d'avance si elle décide de se présenter contre le ministre des Finances», a-t-on affirmé, rappelant que Mme Adams s'était fait dire, il y a deux semaines, qu'elle ne pourrait pas être candidate conservatrice aux élections d'octobre à cause des tactiques qu'elle avait utilisées pour remporter l'investiture dans la circonscription d'Oakville - North-Burlington l'an dernier.

Si elle est choisie comme candidate libérale par les militants libéraux dans la circonscription d'Eglinton-Lawrence, Mme Adams compte utiliser les déclarations de l'ancien ministre des Finances Jim Flaherty pour déranger M. Oliver, selon nos informations. Quelques jours après la présentation de son dernier budget, en février 2014, M. Flaherty avait ouvertement mis en doute le bien-fondé de la promesse des conservateurs de permettre le fractionnement du revenu. Il avait repris à son compte les conclusions de certaines études selon lesquelles cette mesure serait inique, coûterait une fortune au Trésor fédéral et favoriserait surtout les familles les plus fortunées, alors que les moins nantis n'obtiendraient pas leur juste part.

Mais il est loin d'être acquis que Mme Adams remportera l'investiture sans égratignure. Car un avocat de Toronto, Marco Mendicino, a manifesté l'intérêt d'être candidat dans cette circonscription. En outre, le député libéral provincial de cette circonscription, Mike Colle, a dit être farouchement opposé à ce qu'elle porte la bannière du PLC aux prochaines élections.

Cela dit, la décision de Mme Adams a aussi fait des vagues parce qu'elle a l'appui sans équivoque de son conjoint, Dimitri Soudas, qui a été pendant près d'une décennie un proche collaborateur de Stephen Harper. M. Soudas a notamment été directeur des communications du premier ministre avant de quitter ses fonctions après l'obtention d'un mandat majoritaire des conservateurs, en 2011.

M. Soudas a fait savoir aux stratèges libéraux qu'il appuie la décision de sa conjointe, mais qu'il n'a pas l'intention de leur dévoiler quelque secret que ce soit au sujet des conservateurs, selon nos informations.

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Trudeau's chief of staff held teleconference with Liberal MPs 15

minutes before Adams' floor-crossing news conference Monday

Liberal MPs learned only 15 minutes prior to party leader Justin Trudeau's Ottawa news conference Monday that he was set to announce former Conservative MP Eve Adams was joining his caucus and would seek nomination as a Liberal candidate for the 2015 election, The Hill Times has learned.

By TIM NAUMETZ, February 11, 2015

PARLIAMENT HILL—Liberal MPs learned only 15 minutes prior to party leader Justin Trudeau's Ottawa news conference Monday that he was set to announce former Conservative MP Eve Adams was joining his caucus and would seek nomination as a Liberal candidate for the 2015 election, The Hill Times has learned.

Mr. Trudeau's chief of staff, Cyrus Reporter, informed the caucus by teleconference at 8:45 a.m. Eastern Time on Monday morning, with British Columbia MPs rising early to take part at 5:45 a.m. Pacific Time, as Mr. Trudeau (Papineau, Que.) kept the dramatic conversion as closely wrapped as his decision last year to expel Liberal Senators from the Liberal Parliamentary caucus.

Despite caucus shock at the development, at least two members of the caucus—Liberal MPs Hedy Fry (Vancouver Centre, B.C.) and Joyce Murray (Vancouver Quadra, B.C.)—Tweeted hearty welcomes to Ms. Adams (Mississauga-Brampton South, Ont.) moments before she and Mr. Trudeau met media representatives in the National Press Theatre in Ottawa.

Though Ms. Adams' decision to contest the Liberal candidacy in Finance Minister Joe Oliver's Toronto electoral district of Eglinton-Lawrence has angered the Ontario Liberal who represents the riding in Queen's Park, Ms. Fry and Ms. Murray told The Hill Times they believe Ms. Adams has "more in common'' with the Liberal Party than with the Conservative Party under Prime Minister Stephen Harper's (Calgary Southwest, Alta.) leadership.

Ms. Adams publicized her decision to seek the Liberal nomination in Eglinton-Lawrence early Wednesday on Toronto's CP24 news channel, after Mike Colle, the Liberal MPP who represents the same electoral district provincially, called the choice "preposterous'' and "over his dead body," if Ms. Adams, "a Harper Tory from Mississauga" becomes the federal Liberal candidate in the Toronto riding of Eglinton-Lawrence.

"You don't buy into Liberal values in 24 hours,'' Mr. Colle told CBC's Rosemary Barton on Power & Politics in the late afternoon Tuesday. "You work, you volunteer in the community, you fighter for causes.'' Mr. Colle called Ms. Adams' chances of winning the Liberal nomination in Eglinton Lawrence as "slim to none.''

A prominent Toronto lawyer who has already registered as a candidate for the Liberal nomination and has also already been campaigning in Eglinton-Lawrence, Marco Mendicino, did not respond to two telephone calls from The Hill Times.

Mr. Mendicino, former head of an association representing 3,000 lawyers and Crown prosecutors working for the federal government, was a volunteer and legal counsel for Mr. Colle's campaign for re-election to the Ontario legislature last June. Pietro Cugilari, the president of the provincial Liberal riding association in Eglinton-Lawrence who also worked on Mr. Colle's campaign, supports Mr. Mendecino's candidacy, as does Lisa Blais, a past president of the Association of Justice Counsel Mr. Mendicino led.

Ms. Adams told a CP24 interviewer on Wednesday morning she was meeting Mr. Mendicino later in the day.

Though Ms. Adams has Mr. Trudeau's approval to seek the Eglinton-Lawrence candidacy, her candidacy has likely not yet received the ''green light'' approval she requires from a small committee of Liberals representing the party's national campaign committee and the party in Ontario. Among other things, any Liberal who wants to contest a nomination in the federal election requires the signatures of at least 100 party members of the party electoral district association where they want to run.

Ms. Adams' criticism on Monday of a controversial income-splitting program that Mr. Oliver introduced in November, which the Liberals and the NDP oppose on grounds that wealthier families stand most to gain from a maximum $2,000 income tax cut the scheme offers, stands out in hindsight, following her intention to run against Mr. Oliver.

"As you know, I resigned as Parliamentary secretary, left government to join the third party of the opposition, and I'm seeking the open nomination in Eglinton Lawrence, and if successful will be taking on the current representative, Canada's finance minister,'' Ms. Adams said during the CP24 interview.

Ms. Adams avoided a direct answer when she was asked why she would want to take on such a high-profile Cabinet minister, whom Mr. Harper personally recruited to run for election as a Conservative in 2011.

"You know, it's critical to reach out and take back riding after riding that has now gone Conservative and bring them back into the red fold, and it's going to take hard work at the local riding level, one riding after another and that's how we're going to form government again,'' Ms. Adams replied.

Ms. Adams went on to list several federal Liberals who have told her they support her decision to leave the Conservatives for the Liberals and support her as a nomination candidate.

"Justin Trudeau offers just a strong optimistic leadership, and I can tell you that I've had nothing but an incredibly warm welcome from the Liberal party, from Dr. Hedy Fry and Judy Foote [Random-Burin-St. George's, Nfld.], who immediately said, 'Welcome, welcome to the family. You're finally going to know what it's like to have some family support, and Adam Vaughan [Trinity Spadina, Ont.] and Chrystia Freeland [Toronto

Centre, Ont.] and Ms. Duncan,'' Ms. Adams said, referring at the end of her statement to Liberal MP Kirsty Duncan (Etobicoke Centre, Ont.).

Ms. Foote, Liberal MP Carolyn Bennett (St. Paul's, Ont.), and Liberal MP Judy Sgro (York West, Ont.) either did not respond to The Hill Times, or, in the case of Ms. Bennett, were unavailable for comment on Ms. Adams joining the Liberal Party and its caucus.

Ms. Fry said Ms. Adams approached Mr. Trudeau, possibly through an interlocutor, to ask about crossing the floor.

"She came and said she felt that she had more in common with where we were going and how our leader was and she was disillusioned, having been 14 years old when she joined the Conservative Party and this is not the party that she joined, that it's getting more, as you heard her say, getting more mean-spirited, and she looks at Justin and she sees a man who is compassionate, and who can make decisions on tough issues with decisiveness when it needs to happen, but he also has compassion and a sense of humanity to what he does,'' Ms. Fry said.

"She was looking for that in a leader,'' she said.

Ms. Murray, who came second to Mr. Trudeau in the Liberal Party's 2013 leadership election, said the fact that Ms. Adams was a Parliamentary secretary in the House of Commons up to the moment she quit the party and joined the Liberals, shows that she was motivated by a dislike of Mr. Harper and his leadership rather than the fact she had to drop out of a Conservative nomination bid in Oakville, Ont., last year after a high-profile battle with another nomination contestant and the local riding's executive.

"I welcomed her by Twitter as well, the day the announcement was made,'' said Ms. Murray, the Liberal party's defence critic. ''I think she's a Member of Parliament who eventually was sick and tired of having to deliver the Prime Minister's talking points to her constituency. Whatever else may have been going on, she was still a Parliamentary secretary in the Conservative party, which hardly supports the idea that this was a move of desperation.

"It supports the idea that she was someone who was respected in her own party and by the Prime Minister, that she had had enough, and that is why I welcomed her as I did. Her values are more aligned with Liberal values than with this Prime Minister, who is widely regarded to have brought a different approach and a different set of values compared with the Progressive Conservatives of previous years,'' Ms. Murray said.

The Library of Parliament website already includes Ms. Adams in its count of 36 Liberal Members of the House of Commons.

Ms. Adams is now first on the Liberal Party's web page of MPs.

The page lists the MPs alphabetically by their family names.

Adams welcome to run in Eglinton-Lawrence: riding president

By Elizabeth Thompson, iPolitics, February 11, 2015

Former Conservative MP Eve Adams is welcome to seek the Liberal nomination in Finance Minister Joe Oliver's riding of Eglinton-Lawrence, says the head of the local Liberal riding association.

However, Rocco Piccininno says neither Adams nor the Liberal Party have approached him yet about the prospect.

"If she wants to run with us I welcome her," Piccininno said in an interview with iPolitics. "I haven't spoken to anybody or her but all the power to her."
"It's an open nomination. We haven't picked a candidate yet."

Piccininno's comments come following news reports that Adams may be planning to seek the Liberal nomination in the Toronto riding of Eglinton-Lawrence after her spectacular defection Monday from the Conservatives to Justin Trudeau's Liberal Party.

While Trudeau praised her as passion and commitment to her constituents, the president of the Conservative Party promptly set out to discredit her, pointing out he had informed Adams as recently as Jan. 29 that she would be barred from seeking a Conservative nomination in any riding in the country in the wake of a nasty nomination fight in a riding she had hoped to represent.

It is not yet known whether Adams has gone through the "green light" process the Liberal party has imposed on all its prospective candidates. Monday, she was coy when asked where she planned to run, saying she wanted to first talk with local Liberals.
Piccininno said a date has not yet been set for the riding's nomination meeting and it must first hold an annual general meeting.

Lawyer Marco Mendicino has launched a website and social media sites saying he is seeking the Liberal nomination in the riding. He did not return phone calls Tuesday from iPolitics.

Piccininno said he has not yet spoken with Mendicino.

"Whoever is in the race, that's fantastic. We need all the support and publicity we can get."

While Piccininno said anyone is welcome to seek the Liberal nomination for Eglinton-Lawrence, not everyone is welcoming Adams with open arms. Canadian Press reported

Tuesday that local MPP Mike Colle posted “Over my dead body” on Facebook in response to the news Adams was considering Eglinton Lawrence. In an interview, Colle told Canadian Press that Adams has no connection to the riding and local Liberals were “flabbergasted.”

Piccininno was taken by surprise by Colle’s comment. “Wow. Funny, he never called me.”

While Eglinton-Lawrence voted Conservative in 2011, it was the first time since the riding was created in 1979 that it didn’t send a Liberal to Ottawa. Most recently, that Liberal was former cabinet minister Joe Volpe.

Piccininno said Oliver’s win took the riding’s Liberals by surprise but he is confident the Liberals can win it back. Among the issues resonating with local residents are the budget, the Canadian economy and health care, he said.

“We’ve got sophisticated voters, they’re not stupid and they know what is going on in regards to Canadian politics.”

“I’m very confident that we’ll take this election,” he added. “It’s just a matter of who’s going to be representing us.”

Turncoat Eve Adams gets little recognition among her would-be constituents

Joe O’Connor, National Post, February 10, 2015

Back when Mel Lastman was the mayor of Toronto, his chauffeur-driven car used to roll up Bathurst Street and occasionally stop a few blocks north of Lawrence Avenue, in front of Gryfe’s Bagel Bakery, the Taj Mahal of the Toronto bagel scene and a cash-only operation managed by Annabelle D. Villa-Real.

Ms. Villa-Real bakes, works the cash, manages a small staff and, on Tuesday afternoon, was fondly recalling the former mayor’s visits, right down to his bagel of choice — “poppyseed” — when National Post videographer Laura Pedersen and I dropped by the shop to speak with her about Eve Adams.

Reports suggest that the Conservative turncoat hopes to be the future Liberal candidate challenging federal Finance Minister Joe Oliver in the Toronto riding of Eglinton-Lawrence, which is home to 113,000 people and one very famous bagel joint.

Ms. Adams' defection was big news around Ottawa. But was she big news in her potential new riding? Laura and I went to investigate, armed with two colour photographs of Ms. Adams, pictured in the House of Commons, smiling and wearing Liberal red.

The question we put to Eglinton-Lawrence residents and business people: "Do you recognize the woman in the photograph?"

The replies that came back ranged from a flat-out "no" to a more nuanced "never seen her before" to a "not a clue" to my personal favourite, uttered by Ms. Villa-Real upon seeing the photograph of the blond politician with the fulsome lips: "Is she an actress?"

Some Conservatives would argue that yes, indeed, she is an actress, starring in a mini-drama called Naked Ambition. But once the bagel maker heard Ms. Adams' name a light went on. She explained how she was a results-driven voter only interested in voting for politicians, like "Rob Ford," who "deliver."

And she was, therefore, not distressed by Ms. Adams' shifting party loyalties, past concussion problem or other reported foibles — including terrorizing party meetings — and would certainly consider voting for her, warts and all, if she made good on her promises.

"Why not?" she said. "Women are more powerful than men."

Though practically unrecognizable among her would-be constituents, Ms. Adams is familiar among provincial Liberals, who greeted reports of her coming candidacy in Eglinton-Lawrence like it was the coming of the plague.

"I just find the whole thing preposterous," longtime local Liberal MPP Mike Colle told The Canadian Press. "I mean, that a Harper Tory from Mississauga all of sudden is going to run here in the middle of Toronto with no connections and no awareness?

"It is a real insult to the local Liberals in this community."

One of those local Liberals is a lawyer named Marco Mendicino. He was a prosecutor in the trial of the Toronto 18. He is a soccer Dad with a couple kids playing in the community league and an aspiring politician, seeking the federal Liberal nomination for the riding Ms. Adams hopes to call her home.

Mr. Mendicino has already signed up hundreds of new party members in a riding where membership numbers have never exceeded 2,000. Meaning Ms. Adams nomination, barring any Liberal Party funny stuff, is far from guaranteed.

"That is certainly a risk [of Ms. Adams losing the nomination]," a Toronto Liberal party organizer told the National Post. "Marco Mendicino has had a running start."

But being organized is only one part of being a politician. Getting recognized is another. Hence the photographs of Ms. Adams in our pockets, as we walked north on Bathurst —

after walking north on Yonge Street and finally finding lovely Geraldine, in a hair salon. She did not recognize Ms. Adams photo, but had heard tell of her turncoat ways on the radio.

Our final stop on Bathurst, meanwhile, was Daiter's Fresh Market, another Toronto icon, serving locals since 1937. Want some blintzes? Daiter's is the place to go. And Stephen Daiter is the person to talk to, unless the talk comes to the blond woman in the photograph.

"I couldn't tell you who it is," Mr. Daiter says.

Mr. Daiter votes Conservative. And he speaks, sadly, of the end of his family's market. They are closing in April. Times are changing. The little guy just can't compete anymore.

"None of my kids want anything to do with the business," the 56-year-old says. "Everything has its time."

So then how about Eve Adams? Has her time come in Eglinton-Lawrence?

Mr. Daiter shrugs. He doesn't have much faith in politicians.

"The word politics," he says, "says it all."

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thestar.com

Stephen Harper says Ottawa to appeal ruling allowing veil during citizenship oath

"It is offensive that someone would hide their identity at the very moment where they are committing to join the Canadian family," says

Les Whittington, Toronto Star, February 12, 2015

OTTAWA—Vowing to appeal a federal court decision that allows people to take the oath of citizenship while wearing face coverings, Prime Minister Stephen Harper says it's "offensive" that someone would want to hide their identity "at the very moment where they are committing to join the Canadian family."

"That is not the way we do things," he told reporters in Victoriaville, Que., on Thursday. "This is a society that is transparent, open and where people are equal, and I think we find that offensive."

In a ruling last Friday, the Federal Court of Canada said it is “unlawful” for the federal government to mandate new citizens to remove the veil while taking the oath because it violates the country’s own immigration law, which gives citizenship judges the discretionary power to accommodate religious needs.

The court ordered immigration and citizenship officials to immediately remove the existing ban and allow Zunera Ishaq, a Mississauga resident, to reschedule a new citizenship ceremony.

The latest court decision is another major blow to the Harper government’s much-touted citizenship and immigration overhaul.

Last summer, the federal court also ruled against the government’s refugee health cuts, calling the changes “cruel and unusual.” The case has cost taxpayers $1.4 million to date and is under appeal.

Ishaq, 29, a former high school teacher from Pakistan, said she risked her own citizenship in Canada to fight for her rights and was disappointed with the government’s announcement to appeal.

“It was a difficult decision for me, but I did it because I believed it was my right to do it,” said the mother of three. “I have been waiting for my Canadian citizenship for a long time and the appeal is going to put it on hold again.”

Naseem Mithoowani, one of Ishaq’s lawyers, said she was surprised at the government’s decision, given its own lawyers had conceded before court that there was “no legal basis” to require a new citizen to remove the veil after the person’s identity had been checked. “I feel for my client who put her status on hold to fight what she considered an unfair policy, and is now left in further limbo,” said Mithoowani.

Ishaq was sponsored by her husband to Canada from Pakistan in 2008 and successfully passed the citizenship test in November 2013.

She was scheduled to be sworn in at a citizenship ceremony two months later but decided to put it on hold after learning she would need to unveil her niqab under the government ban. Her Charter challenge ensued.

Ishaq did not object to take off her veil for the purposes of identification before taking the citizenship test. However, she rejected the requirement to remove the veil when taking the oath because it is public and unnecessary for the purposes of identity or security. Although immigration officials subsequently offered to seat her in either the front or back row and next to a woman at the ceremony, she declined the arrangement since the citizenship judge and officers could still be male, and there could potentially be photographers at the event.

On Thursday, the National Council of Canadian Muslims also urged the government to reconsider its appeal.

"The issue pertains to a tiny minority of women who choose to wear the face veil, and regardless of anyone's feelings about it, the law is clear," said Ihsaan Gardee, the council's executive director.

"There are many more pressing issues that our government should be tackling on behalf of Canadians. Curtailing a woman's freedom of religious expression, which harms no one and where accommodations are possible, should not be one of them."

Supreme Court overturns police right to search lawyers' offices without warrant

Leslie MacKinnon, iPolitics, February 13, 2015

A federal law dealing with money laundering and terrorist financing, as it applies to lawyers and their clients, has been unanimously deemed unconstitutional by seven judges of the Supreme Court of Canada.

The act, introduced in 2000 by the Liberal government, let police enter lawyers' offices without a warrant and search records or seize computers if it was suspected a client was involved in criminal activity. A lawyer's home office could also be searched although for that circumstance a warrant was required.

The Federation of Law Societies, the challenger to the legislation, said the act essentially turned lawyers into "state agents."

Justice Thomas Cromwell, writing for the 7-0 majority, concluded the law's constraints on lawyers " unjustifiably limit the right to be free on unreasonable searches and seizures … and the right to not be deprived of liberty otherwise than in accordance with the principles of fundamental justice."
Lawyers were also required under the act to keep detailed records about any money exceeding $3,000 transferred to them by clients and make those documents available to police.

In a unanimous decision, the Supreme Court justices found the warrantless search powers granted to police violates section 8 of the Charter which guarantees protection from unlawful search and seizure.
"Courts have often used the analogy that the Constitution is a living tree. Today it sprouted a new branch and I think we should all celebrate that," said Fred Headon, past president off the Canadian Bar Association. "It reinforces the confidence Canadians have in their legal system. It adds new protection to some principles that are very important to

lawyers and their clients. That's very important to Canadians – to have a legal system that will treat them fairly. And this is a ruling that will reinforce that."

Five of the judges found as well that the powers go against what they agreed is a new principle of fundamental justice: that lawyers have a legal duty to be committed to their clients. That duty means when a client walks into a lawyer's office, he or she should reasonably expect the lawyer is on their side to defend their legitimate interests. The client should not be subjected to their lawyer acting as an agent and informer for the police.

Chief Justice Beverley McLachlin and Justice Richard Wagner dissented to that part of the ruling, saying that solicitor-client privilege, which protects lawyers' clients' confidentiality, a concept already enshrined as protected, is sufficient.

Either way, it's a significant finding, relying on section 7 of the Charter guaranteeing life, liberty and security of the person. That's because under the act lawyers faced a potential five years imprisonment if they failed to keep records with the purpose of possibly handing them over to the police. Although the law was passed by the Liberal government, it is strongly supported by the Conservative government.

Had the justices found otherwise, "[it] would have left in the mind of the client lingering doubt about whether the lawyer is there to represent them or represent the government, Is this lawyer really free to represent my case or give me truly independent advice, which is at the end of the day what we want from our lawyers when we go to see them, Headon said. "There would have been a question about whether what the lawyer was doing on behalf of the government. That would undermine their confidence in the lawyer, and by extension the system. It would limit their ability to get proper advice because they wouldn't be fully frank, and would result in a poorer quality of justice."

It's important to stress the law dealing with money-laundering and terrorist financing has not been invalidated by the highest court. Its provisions will still apply to financial institutions and accountants.

Only lawyers and their offices benefitted from the ruling that has taken 15 years to wend it's way though the courts, and in fact, for lawyers during that time, the laws were suspended and never came into effect.

The top court's ruling strikes down the law only as it applies to lawyers and clients, and does not give a major break to money-launderers or financiers of terrorist activities, or to those in financial services who handle their money.

Lawyers win exemptions from money-laundering law

Sean Fine, The Globe and Mail, February 13, 2015

The Supreme Court has declared sections of a federal anti-terrorism and money-laundering law to be unconstitutional, concluding a legal battle seen by Canada's lawyers as a test of their profession's independence.

Friday's 7-0 ruling carves out an exemption for lawyers from the 2000 law that targets money laundering and terrorist financing, but it remains in effect for other professions, such as financial institutions and accountants.

The government had wanted lawyers to be subject to provisions of the Financial Transactions and Reports Analysis Centre of Canada, or Fintrac. The regulations would have compelled lawyers to keep track of their clients' financial transactions and subject lawyers' offices to searches without warrants. The Supreme Court says that violates solicitor-client privilege and lawyers' charter rights to be protected from unlawful search and seizure.

Justice Thomas Cromwell said that the law, as originally written, required lawyers "on pain of imprisonment, to obtain and retain information that is not necessary for ethical legal representation and provide inadequate protection for the client's confidences subject to solicitor-client privilege."

Five of the seven justices also enshrined in the Constitution an established legal principle that lawyers have a "duty of commitment to their clients' cause." Chief Justice Beverley McLachlin and Justice Michael Moldaver dissented on supporting that principle, saying charter protections were already in place to protect solicitor-client privilege.

Thomas Conway, president of the Federation of Law Societies of Canada, the organization that brought the challenge, said Friday that the ruling allows Canadians to have confidence in their lawyers because it keeps them from becoming "agents of the state."

The law imposes several requirements on lawyers and other business professionals who make financial transactions of more than $3,000 on behalf of their clients. (These transactions don't include such things as bail or professional fees.) They need to verify their clients' identity, keep records of financial transactions and establish internal programs (such as appointing an anti-money laundering officer) to ensure compliance. Lawyers who don't meet these requirements can be prosecuted.

A Liberal government included lawyers in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act two months after the terrorist attacks of Sept. 11, 2001, and the Conservative government added new requirements to the law in 2006. The law has never been used against lawyers. Courts in five provinces issued temporary orders barring its use, and the government ultimately made a deal with lawyers in 2002 to

combine all the challenges of the law into one, in a single province, B.C., and not to prosecute until receiving a final ruling on the constitutionality of the law.

The Federation of Law Societies, the umbrella group for the legal profession's self-regulatory bodies, argued that they have set up their own rules for stopping money laundering, by banning lawyers from receiving more than $7,500 in cash on a single matter, in most cases, and by requiring them to verify their clients' identities.

"It is fundamental to the system of justice in Canada that lawyers cannot be required to function as state agents, acting against their clients' interests, and their offices cannot be turned into archives for the use of the prosecution against their clients," the federation said in a brief to the Supreme Court.

The Canadian government argued that lawyers are not a law unto themselves. "Lawyers are not above the laws passed by Parliament and the provincial legislatures, and the law societies are not a fourth branch of government with exclusive power to regulate all aspects of lawyers' conduct," the federal Attorney-General said in a brief to the Supreme Court.

The brief said that lawyers figure "prominently" in criminals' efforts to disguise the proceeds of their crimes, a process known as money laundering. "Knowingly or unknowingly, lawyers can provide money launderers access to the financial system, facilitate the undetected transfer of illicit funds, and conceal the true origins of such funds."

Anti-communist monument a 'blight' on Supreme Court precinct, Ottawa mayor says

BILL CURRY, The Globe and Mail, February 9, 2015

The mayor of Ottawa is hoping plans for a large grey monument to the victims of communism near the Supreme Court of Canada will be reconsidered now that a new federal minister is in charge of the national capital region.

Monday's cabinet shuffle saw Nepean-Carleton MP Pierre Poilievre promoted as employment minister and also minister responsible for the National Capital Commission, effectively making him the senior political minister for the Ottawa-Gatineau region.

The NCC is a federal body that funds programs and parks in the national capital, occasionally leading to conflict with municipal governments.

In an interview, Ottawa Mayor Jim Watson said he hopes to work well with Mr. Poilievre on issues like light rail and measures to clean up the Ottawa River. But he also weighed in on the controversial plan to erect a large monument to the victims of communism in a prominent location on Wellington Street southwest of the Supreme Court of Canada.

“Personally, I think it’s going to overshadow and be quite a blight on the precinct of the Supreme Court,” said Mr. Watson. “The Supreme Court building and its front lawn and its surroundings are very attractive and they’re a tourist attraction but they’re also a functional justice building and when I’ve seen the drawings, I think the monument is completely out of character and size for that location.”

Mr. Watson said the announcement of the monument is one of several examples in which the federal government has made major local decisions without consulting with the city.

“I don’t know if the horses are out of the barnyard on that one, but it’s one of a number of issues that I think we need to better communicate so we’re not caught off guard by the decisions,” he said.

The monument has been heavily promoted by Prime Minister Stephen Harper and Multiculturalism Minister Jason Kenney, who retains that title even though Monday’s cabinet shuffle saw him move from Employment and Social Development to Minister of National Defence.

In a speech last year, Mr. Harper said the monument is needed to ensure the mistakes of the past are not repeated.

“Whatever it calls itself – Nazism, Marxist-Leninism, today, terrorism – they all have one thing in common: the destruction, the end, of human liberty,” he said. “My fear is this: as we move further into the 21st century, Canadians, especially new generations, will forget or will not be taught the lessons hard learned and the victories hard earned over the last 100 years... That’s why Canada needs this monument.”

Supreme Court Chief Justice Beverley McLachlin has written to Public Works expressing concern with the project.

A copy of the letter, obtained by the Ottawa Citizen, said the memorial “could send the wrong message within the judicial precinct, unintentionally conveying a sense of bleakness and brutalism that is inconsistent with a space dedicated to the administration of justice.”

As the new minister responsible for the NCC, one of Mr. Poilievre’s most pressing files will be the future of Ottawa’s light rail program. Construction is already under way for phase one of the project, which includes digging a tunnel underneath downtown Ottawa. The first phase was paid for with federal, provincial and municipal money. Ontario has said it will contribute to the city’s plans to expand the line in a second phase, but the federal government has been noncommittal.

The NCC has been sparring with the City of Ottawa over the location of the expanded transit line.

Mr. Baird, who was then the minister responsible for the NCC, agreed to a 100-day truce with the Ottawa Mayor in order to give time for federal and municipal officials to work out an agreement behind the scenes. That truce expires on March 6. Mr. Watson said he expects that timeline can be maintained even with the cabinet shuffle.

Mr. Poilievre was not available for an interview, but issued a statement thanking the Prime Minister "and the Canadian people" for the opportunity to serve.

"It is an honour," he said. "The new role will allow me to advance our low-tax plan for families. Lower taxes create jobs and help families get ahead."

Dewar, Watson speak out against site for victims of communism memorial

Don Butler and Joanne Chianello, Ottawa Citizen, February 10, 2015

Opposition to the Memorial to the Victims of Communism widened Tuesday as Ottawa Centre MP Paul Dewar called on the government to move it to a different location and Ottawa Mayor Jim Watson described it as a "blight" on its Wellington Street site.

Dewar said he wrote this week to Public Works Minister Diane Finley, asking her to reconsider the location of the memorial, slated to be built this year on a 5,000-square-metre site between the Supreme Court and Library and Archives Canada.

Wellington Street is "one of our major thoroughfares to tell our story as a country," the New Democrat MP said. "In terms of the narrative of our history, is this what we want to have given prominence? I don't think it's appropriate to have it there."

Dewar said his opinions were his own because the NDP caucus hasn't taken a position. But, he added, "I think you would find most of my caucus colleagues agree with me, including my leader." The Citizen asked NDP leader Tom Mulcair for his view, but a spokesman said he was too busy Tuesday to comment.

Watson described the memorial as "overwhelming."

"It takes away from the beauty of the Supreme Court building and I think it is a blight on that particular site.

“It’s very stark, I don’t find it particularly attractive and the public didn’t really have any say on where it was going to go,” Watson said. “It was just sort of thrust on us — no consultation — and I think you’re seeing an awful lot of backlash from the community as to why a monument that overwhelming is going on that particular site.”

The $5.5-million memorial, designed by Toronto’s ABSTRAKT Studio Architecture, features six parallel folded concrete rows, rising 14.5 metres at their highest, covered with 100 million “memory squares,” each representing a life lost to Communist regimes worldwide.

“I don’t see it as something that creates a balance of memory and aspiration to something better,” Dewar said.

Liberal leader Justin Trudeau declined to comment. “While Mr. Trudeau has been supportive of the creation of the monument, we are not commenting on the location of the site,” said Cameron Ahmad, Trudeau’s spokesman.

The memorial’s location has come under growing fire in recent months. Last week, the 4,800-member Royal Architectural Institute of Canada urged the government to shift it 300 metres west to the Garden of the Provinces — the site originally chosen by the National Capital Commission in 2010.

Toronto architect Shirley Blumberg, a member of the memorial’s selection jury, and Ottawa architect Barry Padolsky have also publicly spoken out against the current site, which had long been reserved for a new building to complete a “judicial triad” centred on the Supreme Court. Even Supreme Court Chief Justice Beverley McLachlin raised concerns about the “bleak and brutal” appearance of some of the memorial designs.

The NCC’s board of directors signed off on the new site in November 2013, a decision Dewar called “unfortunate. There should have been more debate about that. It’s a very significant change.”

Dewar, who spoke to NCC chief executive Mark Kristmanson about the memorial last week, said the shift to the current location was not something the NCC had been considering. “It was clearly something thrust upon them.”

He stressed that he wasn’t opposed to a memorial recognizing the “anguish” suffered by those who suffered under communism and other totalitarian regimes. “It’s really about where it’s put and how it’s done.”

LeDroit

Monument aux victimes du communisme: Watson dénonce l'emplacement

Jean-François Dugas, Le Droit, le 12 février 2015

La voix du maire d'Ottawa, Jim Watson, s'ajoute à toutes celles qui dénoncent l'emplacement du Monument commémoratif des victimes du communisme près du parlement.

«Ça serait une plaie dans le paysage de cette moitié de la rue Wellington», a-t-il déclaré mercredi.

La structure de 5,5 millions$ doit être aménagée sur la pelouse sise entre les bâtiments de Bibliothèque et Archives Canada et de la Cour suprême après avoir eu la bénédiction de la Commission de la capitale nationale (CCN).

«À mon avis, il ne s'agit pas du site adéquat pour ce monument, rajoute M. Watson. Il y a eu beaucoup de critiques et je suis d'accord avec celles-ci. Il n'y a pas eu de période de consultation avec les résidents ni la municipalité. Le gouvernement a simplement décidé.»

Plus tôt cette semaine, le député néo-démocrate fédéral d'Ottawa-Centre, Paul Dewar, a lui aussi contesté le lieu choisi par le gouvernement fédéral.

L'Institut royal d'architecture du Canada, le porte-parole national en la matière, et quelques architectes ont aussi remis en question le site. Même la juge en chef à la Cour suprême du Canada, Beverley McLachlin, a exprimé des réticences.

M. Watson doit rencontrer le nouveau ministre responsable de la CCN, Pierre Poilievre, plus tard cette semaine pour discuter notamment de l'emplacement du monument.

«Je veux déterminer où le gouvernement en est rendu avec sa planification du monument ainsi que leur niveau de détermination pour poursuivre avec cette initiative ou, à l'inverse, s'il est prêt à prendre du recul pour écouter les doléances des gens.»

MacKay's new judge is defence lawyer who tried to show 'offensive' painting to jury

Sean Fine, The Globe and Mail, February 11, 2015

Justice Minister Peter MacKay has appointed a judge who, as a defence lawyer in a sexual assault case, attempted to bring before the jury a 15th-century Botticelli painting that the presiding judge said portrays women as cunning, manipulative liars.

Kirk Munroe of Windsor, Ont., is the first defence lawyer to be appointed a judge by the Conservative government in the past 16 months, a period in which Mr. MacKay appointed 88 new judges, of whom 15 were prosecutors. His appointment to the Ontario Superior Court of Justice comes a little more than a month after The Globe and Mail reported that the government has been favouring prosecutors and avoiding putting defence lawyers on the bench, reflecting an attempt to appoint judges it thinks are more likely to be tough on crime.

Defending Fred Muvunga in May, 2013, on charges of sexually assaulting a woman on three separate occasions, Mr. Munroe told Ontario Superior Court Justice Renee Pomerance he wished to show that false accusation is not an invention of defence lawyers. (Mr. Muvunga maintained the woman initiated sex with him in the context of an extra-marital affair.) He said he was not trying to promote stereotypes, but simply to demonstrate that people can lie, adding that he would tell the jury to disregard the gender of the figures in the painting, known as Calumny of Apelles.

Justice Pomerance forcefully rejected the attempt. “The painting depicts women as symbolic representations of slander, ignorance, suspicion, fraud, conspiracy and repentance,” she said. “The accused individual is seen as an innocent young man being dragged by the hair toward the king. Ignorance and suspicion – two women – are whispering into the king’s ears. … asking the jury to disregard depictions of gender is like asking Mrs. L [Abraham Lincoln’s widow] whether, aside from everything else, she enjoyed the play. It is impossible.”

She said her concern is that the artwork would discredit the trial’s fact-finding process, revive “offensive myths and stereotypes” and harken back to a time, pre-1980s, when rape laws in Canada were “based on an inherent distrust of sexual assault complainants.” The jury acquitted Mr. Muvunga without seeing the painting.

While Justice Pomerance said she accepted Mr. Munroe’s assertion that he did not intend to promote stereotypes, University of Windsor law professor David Tanovich says he does not. “It is highly unlikely that he has (or would) ever try this stunt in any other case involving an assertion that the complainant or primary Crown witness was lying,” Prof. Tanovich wrote in an article about defence tactics in sexual-assault trials to be published in the Ottawa Law Review.

Patrick Ducharme, a veteran Windsor defence lawyer, said in an interview that the attempted use of the Botticelli painting “conjures up the worst of concepts, of determining that someone’s truthfulness is based on gender or background or anything that would be generalized.”

But he said that is no reason to deem a capable, experienced lawyer unsuitable for the bench. “That’s too harsh. ... Probably if you examined the history of every case that every lawyer did, either as a Crown or defence lawyer, there would be moments that each lawyer, if they were honest with themselves, might not be proud of.”

Brian Greenspan, a senior criminal lawyer in Toronto, said Mr. Munroe showed restraint by asking for permission. “I think the key here is that he didn’t interpret it as being inflammatory but realized that others might. Rather than simply proceed without judicial approval, he asked the judge whether it was acceptable.”

Clarissa Lamb, a spokesperson for Mr. MacKay, said in an e-mail that the government makes appointments “based on the principles of merit and legal excellence. There is a great deal of research that goes into the individual candidate search and the Judicial Advisory Committee has a wealth of knowledge that it draws upon when reviewing and submitting names for nomination.”

Reached at his law office and asked about his use of the controversial tactic with the Botticelli painting, Mr. Munroe responded: “Is that a controversial tactic?” He declined to say anything further.

Mr. Munroe began his career as a prosecutor in Florida in 1973, and set up a defence practice in 1978 in Miami before moving to Windsor in 1996. He has been the head of the Florida Association of Criminal Defense Lawyers, the Windsor Criminal Lawyers Association and, in 2013-14, the Essex Law Association. He is also a sessional lecturer at the University of Windsor law school.

Veteran Ontario lawyers consider him creative in his attempts to use the Charter of Rights and Freedoms, and a “defence lawyer’s defence lawyer” – attributes the Conservative government has gone to great lengths to avoid in most of its 550 appointments to Canadian courts since 2006.

Criminal lawyers question why Toronto colleague was arrested inside courthouse for allegedly bringing in drugs

Ashley Csanady, National Post, February 13, 2015

The association that represents criminal lawyers is questioning the decision of police on Thursday to arrest a lawyer who was about to enter the courtroom and still wearing her black robes.

Laura Liscio, 32, was arrested at a courthouse in Brampton, north of Toronto, by Peel Regional Police for allegedly bringing drugs into the building. She was escorted in handcuffs, and faces several charges related to drug possession and trafficking.

Daniel Brown, Toronto director of the Criminal Lawyers' Association, said the arrest was "not something that needs to be done in such a public way."

"The decision to arrest her wearing her lawyer gowns, I think is really kind of offensive to the whole criminal justice system," Brown said.

He said Liscio was likely bringing clothes to a client when the substance was found. While not common, he said "it's something that occasionally happens in the middle of trial," either because family members can't get to the facility where the accused is being held, or because the facility isn't accepting clothes, either because of lockdown, job action or other administrative reasons.

"What about the circumstances of her case warranted an exigent arrest like this?" he wondered. He said she could have been brought down to the station to discuss the issue without requiring such a scene.

Peel Police won't say what drug Liscio is accused of carrying in, but Brown said he has been told it was marijuana.

"She very well may have been a dupe in the process or bringing clothes to her client," Brown said it's not something he's done because he was warned against it years ago "for this very reason."

That said, he also believe Liscio's gesture demonstrates her reputation as a "very kind" and "caring lawyer." He doesn't know her personally but said she is "a professional with no criminal record."

Liscio's Law Society of Upper Canada record shows no history of past or current disciplinary action.

Peel police spokesperson Sgt. Matt Small said the decision to arrest at the courthouse was "obviously a decision made by the officers that attended" and he "wouldn't be able to speak to the specifics" of that decision.

As for why the police aren't releasing what drug Liscio is charged with possessing, or how much, Sgt. Small said that is a decision made by the investigating officers.

Many police forces across the country release the amount and nature of the substance involved in drug possession charges.

"Miss Liscio is an extremely hard working, ethical, brilliant young lawyer," her lawyer Stephen Bernstein told the Toronto Star. "The key issue is she's charged with something she would or could not do."

Liscio faces four charges: possession of a controlled substance, possession for the purpose of trafficking, obstructing justice, and breach of trust. Her lawyer has indicated she will fight the case.

She will next appear in court March 15.

The Criminal Lawyers' Association represents approximately 1,000 members and describes itself as "a voice for criminal justice and civil liberties in Canada."

Lawyers exempted from anti-terror law, SCC rules

By David Dias, Canadian Lawyer, February 13, 2015

The Supreme Court of Canada today raised a bulwark against government policies intended to weaken solicitor-client privilege in order to uncover criminal transactions.

The unanimous judgment in Canada v. Federation of Law Societies, written by Justice Thomas Cromwell on behalf of the court, renders provisions of Proceeds of Crime (Money Laundering) and Terrorist Financing Act unconstitutional as they apply to lawyers.

The law — which still applies to non-legal professionals — would have required lawyers to record their clients' financial transactions and make them available to the Financial Transactions and Reports Analysis Centre of Canada. It also would have given investigators search and seizure powers to obtain those records without a warrant.

"These provisions authorize sweeping searches of law offices which inherently risks breaching solicitor-client privilege," the judgment states. "The search powers … as applied to lawyers, along with the inadequate protection of solicitor-client privilege … constitute a very significant limitation of the right to be free of unreasonable searches and seizures."

The legislation had attempted to address solicitor-client privilege by drawing boundaries around how it would apply to legal counsel and by providing a mechanism for claims of solicitor-client privilege. Those measures, however, were found woefully inadequate by the Supreme Court, which in its ruling acknowledges the lawyer's duty of commitment to clients as a fundamental principle of justice — giving it near absolute protection.

As the ruling explains, this duty of commitment is undermined by legislation that would impose a maximum of five years of imprisonment for lawyers who keep certain client information in confidence. The legislation, in other words, creates a conflict where legal counsel would be forced to choose between their clients' interests and their own.

Tom Conway, president of the Federation of Law Societies, which brought the constitutional challenge, says he's relieved by the ruling.

"We're very pleased with the decision. The Supreme Court of Canada has recognized that a lawyer's duty of commitment to the client's cause is a fundamental principle of justice. That's a very important statement about core principles that are at the heart of Canada's legal system."

Conway says the anti-terrorism legislation was excessive in how it applied to lawyers, particularly given the measures that law societies across the country have already put in place to counter abuse of solicitor-client privilege.

"In 2004, the Federation of Law Societies of Canada adopted a model rule that dealt with cash transactions, so we've had a no-cash model rule for quite some time," says Conway. "Then in 2008 the Federation of Law Societies adopted a model rule dealing with client identification and verification requirements."

Conway notes that law societies already undertake regular audits of member activities to ensure lawyers are complying with the "no cash" and "know your client" rules.

"Any member of the legal profession who's caught participating in these kinds of activities will be subject to law society discipline and possibly disbarment, in addition to any criminal charges that may be applicable," he says.

Sukanya Pillay is the executive director and general counsel of the Canadian Civil Liberties Association, which was an intervener on the appeal. The CCLA argued that the legislation breached section 8 of the Charter — which the court confirmed — but also that the legislation would have a detrimental impact on access to justice.

"We believe that access to justice is compromised where legal advice is unavailable," she says. "We were very concerned that the requirements of the legislation turned lawyers into unwitting agents for the state, requiring them to warehouse records and documents that could be used in future prosecutions, and that this would have a chilling effect on clients and their lawyers, thereby further undermining access to justice."

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Canadian Judicial Council under fire by federal judge

Retiring Superior Court judge who was subject of public inquiry hits out at the Canadian Judicial Council's "terrible" multimillion dollar investigative process.

Olivia Carville, Toronto Star, February 12, 2015

A Superior Court judge has attacked the body that investigates complaints against federal judges in Canada, calling for an independent review into its "horrendous" disciplinary system.

"I wish that the role of the Canadian Judicial Council were re-examined carefully. My experience has made me lose faith in the integrity of the process," Superior Court Justice Ted Matlow told the Star.

It is a rare move for a federal judge to hit out against the regulatory body, but after three decades on the bench, Matlow said he was retiring with no faith in the council.
In 2008, Matlow was the subject of a million-dollar public inquiry where the council backtracked on a recommendation to strip him of his job.

An initial five-member panel found Matlow's involvement in a citizens' battle against city hall was at odds with his role as a Superior Court judge and rendered him unfit for office.

But then a full public inquiry, made up of 21 chief justices and associate justices from across the country, overruled the decision. The full council found Matlow, 74, guilty of misconduct for using his judicial title for personal gain and "intemperate" language, but said this did not warrant his removal from the bench.

Matlow claims he was found guilty of "trivial" things and that his actions never amounted to judicial misconduct — he says the council overruling its own decision proves there are problems with its processes.

"I did not speak out earlier because I feared that I might be met with further consequences. I now have only 15 days to work and I no longer have reason to fear any retaliation," he said.

Norman Sabourin, the council's executive director, defended the council's actions and said some of Matlow's criticisms were "certainly surprising."

“All council members who reviewed the matter came to a view that Justice Matlow engaged in behaviour unbecoming a member of the judiciary,” Sabourin said.

The council “is determined to ensure that any allegation of inappropriate conduct by judges is taken seriously and reviewed fulsomely, with sanctions to follow in appropriate cases. This is what took place in the Matlow matter,” Sabourin said.

Speaking publicly for the first time since the inquiry, Matlow said his 33-year judicial career was shadowed by the council’s “horrendous” public investigation into his involvement leading a crusade to stop a condo development in his Toronto neighbourhood.

“In my case, I think they did a terrible job. My case should not have consumed the time, effort and money that it did,” Matlow said.

“The whole thing was crazy.”

After reading a Star investigation highlighting the council’s secretive complaints process, Matlow said he felt obliged to go public with his own concerns before retiring.

“If a judge receives a bribe, robs a bank, or does terrible things, like insults litigants or sexist things, then I think that would legitimately lead to recommendation for removal,” Matlow said, but he questioned being stripped of office for challenging a neighbourhood development.

As a law student, Matlow was a driving force in the abolition of the death penalty. As a federal judge, he presided over some of the biggest fraud cases in the country and was praised in the media for going to extreme lengths to expose suspected police corruption in his courtroom. He has been the editor of a national law journal since 1977.

Matlow wants a full review of the council’s powers, ordinary people sitting on its inquiries, more transparency into its processes and said judges who are found guilty of misconduct should not automatically be entitled to have their legal fees paid by taxpayers — as is the case under current legislation.

Had his case been dealt with “intelligently and sensibly” it never would have proceeded, he said. “Even at worse, if I had used intemperate language, it did not justify getting me to go on a leave of absence for two years, while paying my $300,000 salary, and then spending millions of dollars to try and get me removed from the bench,” he said.

Matlow has estimated the full cost of his inquiry to be up to $4 million, but Sabourin disputed this and said he would be surprised if the cost exceeded $1 million.

At the end of the public inquiry into Matlow, several members of the council were of the view that he should still be removed from office, Sabourin said.

“The decision of the council was that no recommendation for removal should be made, on the basis that Justice Matlow belatedly acknowledged that his behaviour had been inappropriate,” Sabourin said.

Matlow got into trouble over his role in the early 2000s leading a community group that fought to stop a condominium complex being built on his dead-end street in Forest Hill. He lobbied politicians (including the attorney general) and tried to stir up media coverage against city hall, claiming the project was illegally authorized because it had grown in size and exceeded zoning bylaws.

Matlow continued to preside over legal cases involving the city during his fight. In 2005, when he ruled against the city in a high-profile but unrelated case, he was also privately continuing to push for media coverage of the condo battle. The city's legal department filed a complaint to the judicial council claiming he was biased.

The council convened a panel, which reviewed the complaint and found that Matlow's "inexcusable" misconduct rendered him unfit for office.

The panel said his activities, which included publicly suggesting city officials had been devious, stupid and dishonest, breached a judge's ethical responsibilities and diminished public confidence in the impartiality of the justice system.

A full council inquiry was then called where the majority overruled the decision to strip Matlow of office. He was found guilty of misconduct for offering legal advice to the community group, for using intemperate language in the media, such as claiming city hall's lawyer should not have passed law school, and for using the prestige of office to advance his private interests.

The council found Matlow's "inappropriate and unacceptable actions" placed him in a position incompatible with the due execution of office, but it said the test for recommending his removal from the bench had not been met.

Matlow is one of only 11 judges to have faced a public inquiry in Canada — representing fewer than 0.5 per cent of all complaints lodged with the council.

He was ordered to comply with binding conditions, including apologizing to the city's legal department, the attorney general and others, undergoing a judicial ethics course at the National Judicial Institute and seeking approval from the council before participating in any public debate in the future.

Matlow said he wrote the letters of apology, but he never knew what he was apologizing for. The ethics course he was ordered to attend was not available for more than two years after he returned to duty, which, Matlow said, defeated its purpose as a rehabilitation program.

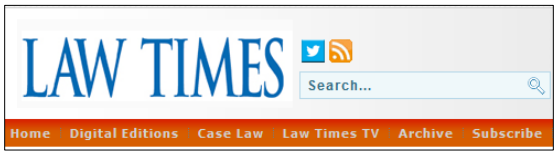
"I acknowledge that I probably went overboard in some of the things that I said, but so what? That's not judicial misconduct," he said.

Despite everything that happened, Matlow said he still believes he had the right to fight against the condo development and that he could not have lived with himself if he had not.

"I never denied I did all of the things that were alleged. My defence was that I was entitled to do it," he said. "I thought I had a legitimate right to say that the city was doing something wrong and just because I was a judge, it didn't mean I should roll over and just let it happen."

During the investigation, the council did not address the question of whether or not he was right in his fight against the city, Matlow said.

Ironically, the proposed condominium was never built. The parking lot on the corner of Thelma Ave. is still there.



Judge gets $200,000 annual disability payment after only 3 years on bench

Yamri Taddese, Law Times, February 12, 2015

Controversial Ontario Superior Court Justice John McMunagle has resigned after sitting on the bench for just three years. And he'll still be getting more than $200,000 a year for life.

On the recommendation of the justice minister, the federal government says it has accepted McMunagle's resignation and approved a $200,500 annuity for the rest of his life.

McMunagle "has become afflicted with a permanent infirmity disabling him from the due execution of his office and has tendered his resignation," says an order published on the Privy Council Office's website at the end of January.

The governor general in council "accepts the resignation of the Honourable John A. McMunagle" and "pursuant to paragraph 42(1)(c) of the Judges Act, grants to the Honourable John A. McMunagle an annuity of $200,533.33, commencing as of the date of the making of this Order and continuing during his life," the order reads.

McMunagle, who was appointed in 2010, has been on paid sick leave since July 2013. He will continue to get two-thirds of his judge's salary through a disability retirement. What exactly his disability is remains a mystery, and the Judges Act does not define what is considered a permanent infirmity.

"I can't speak to any individual case but we have some checks that are made within our office to ensure that qualified medical practitioners have spoken to the illness of a judge

being permanent," says Marc Giroux, the deputy commissioner at the Office of the Commissioner for Federal Judicial Affairs Canada.

"In those cases there is no discretion . . . the annuity has to be granted," Giroux says, adding annuities are granted on the basis of a permanent illness "a few times a year."

McMunagle was in the news last year after the Ontario Court of Appeal overturned his 2012 ruling for apprehension of bias. In Laver v. Swrjeski, which was a civil matter, the judge said he would have a hard time concluding that police officers lie.

"As it turned out, the application judge believed the respondent, a police officer, and accepted his explanation for disowning the document that on its face is an acknowledgement of debt to the appellant. He disbelieved the appellant, who is not a police officer," said the appeal ruling in the case.

"Applying the test for reasonable apprehension of bias, in my view it is clear that a reasonable observer would conclude that it was more likely than not that, consciously or unconsciously, the application judge would not impartially decide whom to believe."

Following the court of appeal's findings, a complaint was filed to the Canadian Judicial Council against McMunagle. That complaint has since been dismissed.

The judicial council does not make public its reasons for dismissing complaints, says executive director Norman Sabourin. However, the person making the complaint is free to make public the correspondence it receives from the council, he notes.

A finding of a reasonable apprehension of bias "is not a judicial conduct matter," Sabourin says. "These are issues to be raised in court."

It is only when there is evidence of a "pattern" of bias that it may be considered bad faith or incompetence, that it may reach the level of misconduct, Sabourin explains. The focus of the complaint against McMunagle was not about bias, but the council determined it was "not founded."

In 2012, the Ontario Divisional Court concluded there was a breach of natural justice in the way McMunagle presided over a family law proceeding. The judge spoke in a way that "crossed the boundary of appropriate judicial comment" and unfairly used his "mantle of authority" to pressure a self-represented party to agree to a support order, the Divisional Court ruled. l

The court also said the judge drew from his own opinions of Iran to make inappropriate references to the litigant's culture, "belittled and criticized" him, and denied him procedural fairness.

In that case, the judge had told a litigant his Iranian marriage contract was "not worth the paper it's written on" and refused to give any weight to the document.

Carter & dying with dignity: now comes the hard part

Lorne Sossin, Contribution to Canadian Lawyer, February 9, 2015

Lorne Sossin *is dean and a professor of Osgoode Hall Law School in Toronto.*

I have not run into anyone yet without strong views to share on the Supreme Court of Canada's decision on Friday in Carter v. Canada (Attorney General) to strike down the assisted suicide prohibition in the Criminal Code.

In my circles, those views have been mostly positive but I respect the depth of feeling on this issue and those for whom assisted suicide is antithetical to their beliefs, whether religious or based on policy concerns in the desire to protect the welfare of vulnerable people.

Many will be writing on the leadership demonstrated by the court, or the impact of Carter on Charter jurisprudence, or how this represents yet another setback for the Harper Tories from the McLachlin court. My interest is more in where we go from here.

Often, a year at the Supreme Court is marked by a single issue and landmark decision. Carter may turn out to be such a decision — only time will tell. What I do know is that the 1993 Rodriguez v. British Columbia (Attorney General) decision had special resonance — especially for those like myself lucky enough to serve as a law clerk at the court that year. I was a clerk for chief justice Antonio Lamer, who was part of the four-judge dissent in Rodriguez (though together with only justice Peter Cory in finding the assisted suicide provision unconstitutional on the equality provisions in s. 15 of the Charter).

There was no case that so immersed the clerks as well as the judges that year. Assisted suicide is not a case of the criminal law going after bad people who caused harm to others. Rather, it is a case of the criminal law going after good people who help others by causing them harm.

This is an area where the abstract language of the Criminal Code sheds little insight into the issue. Rather, the provision takes on life in the context of a particular person's death.

If a person you love is able to enhance their quality of life for longer, or able to exercise the same kind of autonomy that people able to choose when to die can exercise, then the prohibition appeared cruel and undermining of human dignity.

If a person you know is vulnerable and compromised by illness and/or disability, the prohibition appeared protective, life-affirming, and enhancing of human dignity. Context does not just affect the issues arising from dying with the help of a physician — it is the issue.

In 2012-13, B.C. constitutional rights litigator (and lead counsel in Carter) Joe Arvay, came to Osgoode Hall Law School as one of the inaugural McMurtry visiting clinical fellows. He delivered the annual Lewtas lecture that year on the case and the issue of a "constitutional right to die." The atmosphere in the room was charged as he outlined his approach to the balance between personal autonomy and dignity on the one hand with protecting the vulnerable, ensuring safeguards, and oversight on the other.

He discussed the passionate opposition of many disability advocacy groups to his position, and even the difficulty he encountered in finding physicians to serve as expert witnesses at trial.

While I was persuaded by the overarching Charter principle — deciding on one's own death is one of the most important manifestations of human dignity, as poignantly captured most recently by Dr. Donald Low's compelling video — I was troubled then (and now) by what would happen when the constitutional lawyers went on to other struggles, and left the dying process to patients, families, doctors, and hospitals.

What in Carter appears as a question of Charter rights will give way to a far more vexing puzzle of administrative law. Who should decide where assisted dying is available, and the proper standard of practice? Who will oversee the process?

The Supreme Court has no jurisdiction over standards of medical practice and key aspects of the issue must be developed and applied by self-governing professions. These rules are framed by a patchwork of provincial and territorial legislation, such as Quebec's recent Bill 52 protecting the right to die with dignity, not to mention the possibility that the federal government will follow up Carter with a more narrowly tailored Criminal Code provision dealing with assisted suicide outside the narrow exceptions set out by the Supreme Court.

Palliative and hospice care remains one of the more poorly funded and least understood spheres of medicine. The health professions and funding models are understandably directed at healing people. Where there is no prospect of a person recovering, and no way left to heal, the role of health professionals becomes less clear.

Long before Rodriguez and Carter, physicians have provided palliative care, which they — and their patients — knew would hasten death. While this is different than administering life-ending measures in the context of assisted dying, for many observers, this is a difference of degree rather than kind.

Like so much in law, the easy part is figuring out the right or obligation at issue — the hard part is making it work. The reality of dying will fall not to rules (no matter how carefully crafted or compassionately intended) but to discretion, and to human judgments. What is unbearable pain? Who is deciding under duress? Who is genuinely motivated by another's welfare and who has ulterior motives?

Physician-assisted dying is far from unique in this respect, but it is nonetheless striking how little the practical realities and lived experience with such settings figures into our constitutional debates about Charter principles. At the end of the day, the right to die with dignity is not to be decided in courtrooms or statutes, but rather in moments shared between families, health professionals, and administrators.

The Carter case is not the end of the dying-with-dignity debate (any more than Rodriguez turned out to be); rather, it is only the beginning. Now comes the hard part.

Four issues surrounding the Supreme Court ruling on assisted death

Kelly Grant, The Globe and Mail, February 9, 2015

A Supreme Court of Canada ruling that cleared the way for doctors to help competent, grievously ill adults end their lives leaves legislators and medical regulators to decide how the new aid-in-dying regime would work. Here are four major issues they are likely to face.

1 - Who would qualify for assisted death?

The Supreme Court of Canada's ruling says physician-assisted suicide should be available to a competent adult who "clearly consents to the termination of life and has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition."

That definition goes beyond what Quebec allowed in its medical-aid-in-dying law, which is scheduled to take effect before the end of this year. Quebec's Bill 52 stipulates that patients "be at the end of life" to qualify for assisted death.

The fact that Canada's highest court did not limit assisted death to the terminally ill is one of the chief concerns of the Council of Canadians with Disabilities and the Canadian Association for Community Living. "This potentially means that all persons with a serious disability in Canada can access assisted suicide," the groups said in their response to the decision.

The Supreme Court's ruling also specifically included psychological suffering. It leaves unanswered questions about whether those suffering from severe mental illness might be eligible for assisted death.

2 - Should patients be allowed to consent in advance to assisted death?

This issue was complex and emotional for Quebec lawmakers, according to Véronique Hivon, the Parti Québécois MLA who spearheaded Bill 52.

The question arose most often in the hypothetical case of patients with Alzheimer's disease. Should patients facing inevitable mental declines be allowed to write advance medical directives consenting to assisted death when they are no longer competent?

Ms. Hivon said in an interview on Friday that such a provision would have been a deal-breaker for the bill. "If we had tried to go that far, I don't think we would have had in the National Assembly the consensus to pass the bill," she said.

Ottawa and the other provinces could now have to grapple with the same issue.

3 - What checks and balances should be in place to prevent abuse?

Quebec's Bill 52 and a private member's bill from Conservative MP Steven Fletcher offer examples of the kinds of safeguards that could be enacted.

Both require a waiting period between a formal, written request and the act itself. Both stipulate that two doctors assess the patient's competency. Quebec's bill sets up a commission to oversee implementation; Mr. Fletcher envisions something similar in a second private member's bill that would establish a Canadian commission on physician-assisted death.

4 - What happens to patients whose doctors refuse to help them die?

The ruling is clear that doctors cannot be compelled to help people die. But the court acknowledges that legislators and medical regulators will have to find a way to reconcile the rights of patients and physicians in response to the judgment.

"There is an issue that remains," said Paula Rochman, a lawyer who works with Dying With Dignity. "Do you have a duty to refer the patient to somebody else?"

That question could be left to the self-regulating professional colleges that govern physician behaviour in every province. Some – but not all – already have broad policies that require doctors to provide referrals if they refuse to provide a legal medical service on religious or moral grounds.

Heenan denies partners have gotten capital back

Yamri Taddese, Law Times, February 9, 2015

The lawyer representing Heenan Blaikie LLP in a wrongful dismissal lawsuit denies the firm's former partners walked away with their capital funds when it collapsed last year.

"The one thing I feel I must say is that the claim that any of the partners have received their capital back is utterly false," says Greg McGinnis, a partner at Mathews Dinsdale & Clark LLP.

"No HB partner has received a penny of capital back."

A year after the firm collapsed, Heenan Blaikie and its former managing partners are defending themselves in lawsuits launched by former employees alleging wrongful dismissal, misrepresentation, and unpaid settlement agreements. None of the allegations have been proven in court.

In one of those lawsuits, Wendy Rhodes, a former legal assistant, is alleging the firm didn't treat
everyone fairly as it prepared to wind down operations. Part of Rhodes' allegations against the firm relates to "fraudulent preference."

Rhodes claims partners of the firm, including former co-managing partner Norman Bacal and his successor in the role, Kip Daechsel, "were paid out their capital in preference to her minimum entitlements pursuant to the [Employment Standards Act]," an allegation Heenan Blaikie denies.

In response, Bacal and Daechsel say the firm hasn't made any capital payments to its partners. "All partner compensation ceased in January 2014," their statement of defence reads.

Rhodes is also accusing Bacal and Daechsel of reassuring her about the firm's state of affairs and the security of her job before sending her a termination letter on Valentine's Day last year.

But in their defence, Bacal and Daechsel say they weren't "omniscient" about the firm's fate at the time they made those reassuring statements.

"All statements made by the individual defendants to the plaintiff were true (or reasonably believed to be true) at the time that they were made, but in some cases they were quickly surpassed by events in Heenan Blaikie's Toronto office and elsewhere," the firm's statement of defence reads.

"Prior to dissolution, Heenan Blaikie had nine (9) offices across the country, and the individual defendants were not omniscient."

The statement of defence also says Rhodes didn't "rely on any statements made by any of the individual defendants, or any representative of Heenan Blaikie or Heenan Blaikie Management Limited."

It continues: "Nor did the plaintiff suffer any damages arising out of any such alleged reliance."

Rhodes is seeking $105,000 for wrongful dismissal or breach of contract.

McGinnis says there's a disagreement between the parties over the quantum of Rhodes' entitlements. "There always is in claims of this type," he says.

"Nothing particularly special about this one. If there weren't, there'd be nothing to sue over."

He adds: "The only thing interesting about this claim is the identity of the defendants."

Koskie Minsky LLP is representing two plaintiffs, including Rhodes, who have launched wrongful dismissal lawsuits against Heenan Blaikie. Lawyer Philip Graham, who has just taken over the files from former counsel Christine Westlake, says he's not prepared to talk about the files.

He confirms, however, that the matters are now at the discovery stage.

Last year, Westlake told Law Times her clients were struggling to get by after their sudden termination by the firm.

"These are legal assistants who were dedicated, loyal employees serving their employer for a lengthy period of time and, through no fault of their own, they were terminated and now haven't received the compensation they were legally entitled to," said Westlake.

"They're not out to get the sun, the moon, and the star," she added.

Heenan Blaikie has also filed a defence in another lawsuit in which a former patent agent alleges the firm owes him $800,000 in damages for wrongful dismissal for letting him go without notice.

Marcelo Sarkis alleges that as the firm had terminated more than 200 employees during the four weeks ending Feb. 28, 2014, it had an obligation to provide 12 weeks' notice pursuant to the Employment Standards Act's mass-termination provisions.

"Heenan Blaikie did not terminate more than 200 employees at an 'establishment,' as provided by the Ontario Employment Standards Act, 2000," the firm's statement of defence reads.

"Many Heenan Blaikie employees in Toronto resigned their employment in February 2014 before receiving notice of termination of employment."

According to the statement of defence, Sarkis received eight weeks' notice of termination and there's a difference of just four weeks between his position and the one taken by Heenan Blaikie.

Having regard to his age, period of service, and position, Sarkis' claim for notice of termination is "unreasonable and excessive," the firm said in its statement of defence.

"Sarkis is one of many professionals, partner and non-partner, whose career has been affected by the dissolution of Heenan Blaikie. Sarkis has been treated in a manner consistent with other employed professionals in the firm.
There is no basis for punitive, aggravated or exemplary damages."

When reached by Law Times, Sarkis declined to comment.

In response to another lawsuit in which a former non-equity partner accused the firm of unpaid settlements after its collapse, Heenan Blaikie reiterated that it hadn't paid its former partners since January 2014.

Rhonda Levy alleges that when she left the firm in May 2013, the firm agreed to pay her $270,000 in bimonthly instalments. Those payments, she says, stopped in January 2014.

Heenan Blaikie responded: "Implicit in the agreement was a term that the plaintiff would not be placed in a better position through the agreement than if she had remained with the defendant as a partner. Had the plaintiff remained a partner in the firm, she would not have received any income after January 2014."

Traditional career path starting to fade

Study finds lawyers no longer on single track to law firm partnership

Yamri Taddese, Law Times, February 9, 2015

Five years into her first job in private practice, lawyer Anjali Banka had had enough. She had been working tedious hours at a Toronto law firm and had no time for social life or taking vacations.

"I actually quit in 2005 without having anything lined up just because I was just fed up, pretty much burnt out," she says.

"I just couldn't take it anymore."

By then, she realized she wanted something different. “At the beginning, I was really looking for the partnership track, very ambitious,” she says.

“But once you’re there, you realize that the lifestyle it might offer you is less than ideal.”

Banka, who now works from home four to five hours a day, is one of the lawyers at Cognition LLP, a law firm that allows for greater flexibility and independent contract work.

Meanwhile, Blake Cassels & Graydon LLP counsel Paul Rand has gone from working in private practice to an in-house counsel position and back to a law firm once again all in the first decade of his career.

Stories like these are evident in the findings of a recent study led by Queen’s University sociology Prof. Fiona Kay on career paths in the legal profession. As part of the study, she, along with Stacey Alarie and Jones Adjei, looked at the private-practice career paths of lawyers who graduated law school between 1990 and 2009.

The report suggests the traditional career pathway — one that involves working continuously at a single firm and vying for partnership — is becoming a relic of days gone by. “More common are career paths that include job changes across firms, across sectors of the profession, and with intervals of unemployment or time away from law practice invested in further education, travel, full-time work outside law practice, or raising children,” the authors wrote in a report commissioned by the Law Society of Upper Canada.

“Women are at greater risk of leaving than their male colleagues with whom they entered private practice following law school,” they added.

The study found two patterns regarding work-life balance. “First is the observation of a difficulty achieving a work-life balance within private practice due to pressures to work long hours with intense work demands. This can lead some lawyers to exit private practice and pursue other career opportunities.

“Second, the law firm environment appears designed not to accommodate family life, perhaps assuming a model where a full-time stay-at-home spouse attends to children (and the care of elderly parents). It may be possible that beyond lacking accommodations, the structure of work routines and expectations within firms may even work to push lawyers with family responsibilities out of the law firm.”

Banka says being there in the early years of her daughter’s life would have been nearly impossible with a career in private practice. “I’m grateful to have a child, take some time off for maternity,” she says.

“You know, I was there when my daughter was young, I was always at home. The ideal, for me, was work-life balance.”

When researchers asked law graduates who had left private practice and hadn't returned why they didn't come back, the most common responses was they had left for a better work environment with more women than men choosing that answer. More women also reported leaving for more compatible hours. Others said they had found a better job with higher pay or better benefits.

According to the study's findings, new lawyers are most likely to leave private practice during the early years of their careers with a peak in departures at about seven to eight years in. "This pattern is, however, distinctively male," the authors noted.

"Women's departures from private practice are also elevated during the early career years, but the pattern is better described as an initially rapid exodus followed by a steady stream of women leaving private practice over time."

One of the most interesting observations, according to the authors, was "just how much mobility there is within legal careers." Among lawyers who had started their careers in private practice, the study found the average number of professional positions held to date was three. Rand, for example, started his career at what was then Ogilvy Renault LLP. There, he worked on files for the Royal Bank of Canada. Having a particular interest in derivative markets, Rand says he felt perhaps the only place to hone his skills in that area was to go to a bank.

So when an in-housel counsel position opened up at RBC about five years after he had started working at Ogilvys, it was "too good to pass up," he says.

Seven years later, Rand re-entered private practice when he joined Blakes' capital markets practice as counsel.

The number of moves across the legal sector is "probably a reflection of an increasing tendency towards specialization," says Rand.

"If the moves that you make result in something valuable being added to your set of experiences — whether contacts and connections or an understanding of different perspectives of the business or an area of specialization or expertise — I think in any of those circumstances if the move was done properly, it's [a positive thing]," he says.

According to the study, some areas of law are stickier than others.

"Not surprisingly, lawyers working in litigation were less likely to leave private practice compared with lawyers working in other areas of law," the authors wrote.

"Men working in the area of business law (including corporate and commercial, intellectual property, bankruptcy, tax, and insurance) were also at lower risk of leaving private practice compared with men in other areas of law.

"However, women engaged in business law did not experience this same pull to stay in private practice."

In contrast to other reports, the new study found women aren't at risk of leaving private practice if they take parental leaves. Surprisingly, it found men were at risk of leaving private practice if they took time off to care for children.
