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Press Clippings for the period of April 14 to 21, 2014
Revue de presse pour la période du 14 au 21 avril 2014

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



Federal government could cut nearly 9,000 more public service jobs

BY KATHRYN MAY, OTTAWA CITIZEN APRIL 18, 2014

OTTAWA — The Conservative government is on track to eliminate 30,000 federal jobs over the next three years, returning the public service to the size it was when the party came to power in 2006.

The latest report by the Parliamentary Budget Office shows spending on personnel is continuing to fall and departments' own plans and priorities reports show the public service will lose another 8,900 jobs by 2016-17, shrinking the workforce to the lowest levels since 2006.

That's on top of the more than 20,000 positions that have been wiped off the payroll since the Conservatives' watershed 2012 budget, which launched a downsizing that cut \$5.2 billion in spending and targeted 19,200 jobs over three years. Departments implemented most of those job cuts in the first year, shedding 16,000 positions.

Treasury Board said most of projected cuts are because of "sunset" funding for temporary projects that are expiring. Decisions on the future of these initiatives "will be taken in future budgets," said Heather Domerecky, spokesperson for Treasury Board President Tony Clement.

But the biggest question is how these cuts will affect the level and quality of services delivered by departments. The PBO has been fighting the government for years for information on the nature of the cuts.

“It’s very difficult to believe that you can cut that much in personnel and spending and maintain the same level and quality of service as before. It doesn’t add up,” said assistant PBO Mostafa Askari.

He said the government has offered no evidence of ways to generate big productivity savings that could keep service at existing levels while shedding so many people.

“When you cut personnel, the way to get efficiency is by investing in technology and other processes. If not, the implication is the people who were cut are not contributing anything ... which is very hard to believe,” said Askari.

The extent of the cuts also raises the question of what future role of public service will emerge in 2017.

The government portrayed the cuts from the start as “painless.” It argued public servants would barely feel them because job losses would largely be handled by attrition. Similarly, they argued that Canadians would scarcely notice the impact because most cuts would come from modernizing the “back office” — internal services such as communications, information technology and human resources — generating savings from improved efficiency and productivity.

The PBO report, however, says the numbers don’t bear that out.

The PBO has estimated that only about 15 per cent of the \$5.2 billion spending cuts in the 2012 budget came from “internal services.” Main estimates for this year show \$1 billion of \$9 billion in spending reductions will come from internal services.

Departmental plans show about 1,200 of the expected 8,900 jobs disappearing over the next three years will be from the “back office.”

The public service grew steadily since the late 1990s in the aftermath of the Liberals’ massive downsizing that eliminated 50,000 jobs, but the Conservatives, proponents of small government, were rapped for growing the public service more than any government in the past 20 years. It was estimated that 45,000 jobs were added under the Conservatives’ watch from 2006 to 2011.

Many have long predicted that the government could reverse much of that growth by time the cumulative impact of spending cuts since 2010 and the freezes on the operating budgets of departments rolled out by 2017.

Departments are swallowing huge spending cuts that have been piled on over past five years. Direct program expenditures — of which 60 per cent is operating costs — were reduced by \$10.2 billion last year and that will climb to \$14.8 billion a year by 2017-18.

The Conservatives have focused their cuts on direct program spending of departments and if the government’s targets are reached, direct program spending as a share of gross domestic product (GDP) will hit lowest levels since 2001.

The Public Service Alliance of Canada argues another 8,900 job cuts will worsen already strained services that are behind the closure of Veterans Affairs offices and delays in processing EI and CPP. It points to the Employment and Social Development, which operates Service Canada, the service arm of Canada, which expects its workforce will drop 27 per cent by 2016-17.

“The government has broken its word,” said PSAC vice-president Chris Aylward. They were clear that these cuts would not affect Canadians and they would all be back office cuts but they are front line cuts and are affecting Canadians in a detrimental way.

CBCnews |

Thousands more public-sector jobs than planned to be cut, watchdog says

Parliamentary budget officer's report says 8,900 more cuts coming over 3 years

CBC News, April 17, 2014

Canada’s budget watchdog says the federal public service has already lost more jobs than expected and projects thousands more cuts.

The Parliamentary Budget Officer’s Quarterly Expenditure Report, dated April 11, said more than 20,000 full-time federal public-service jobs have been cut since March 2010.

Canada’s assistant parliamentary budget officer said the PBO's analysis shows it won’t end there.

“We looked at the reports of plans and priorities of government agencies over the next three years,” said Mostafa Askari.

“It's about 8,900 extra positions that will be reduced over that period.”

These current and future reductions would put the total population of the federal public service at around the same levels as 2006-07.

Prof wonders about hoarding money

David Zussman, a University of Ottawa public-service management professor, said the federal government hasn’t shared more details on where these cuts will take place in the future.

He also said the federal government appears to be hoarding some money.

“The government has been systematically underspending. They're actually not spending the money allocated,” he said.

“If it's improper to spend more than you're allocated. Is it proper to spend less than you're allocated?”

Robyn Benson, national president of the Public Service Alliance of Canada, said the future cuts are news to her.

“I think it will be very problematic for Canadians,” she said.

“I think they're losing trust in this government... They were suppose to ensure Canadians were safe; safe on the waterways, consuming food, in the air, the list goes on.”

The PBO report said the government saved about \$168 million on “personnel” in the last nine months of 2014 compared to the same time last year, a 0.6 per cent decrease in spending.

The Treasury Board of Canada, which manages the operations of the federal government, did not respond to a request for comment by deadline.



Manitoba judges allow media cameras in court

Chinta Puxley, The Canadian Press, April 16, 2014

Manitoba's top judges are designating courtrooms where video cameras will be allowed to record — a move they say is unique in Canada.

Chief Justice Glenn Joyal with the Court of Queen's Bench said lawyers are welcome to argue against having a TV camera in those courtrooms, but the assumption is that they are allowed. This marks a huge shift in Manitoba where hand-held cameras have never been allowed past security.

"We're terribly excited by this," Joyal said Tuesday. "This is the first meaningful, collective initiative by all three levels of court ... which stipulates that there is a presumption in favour of broadcasting that one court."

While cameras have been allowed in Appeal Court and in certain cases in other provinces, this is thought to be the first time a province has designated courtrooms where proceedings can be broadcast automatically. All matters before the Manitoba Court of Appeal can also be broadcast unless a strong case is made against it.

As part of a pilot project, TV cameras will be allowed to broadcast a murder trial verdict for the first time Wednesday. Cameras will also be allowed into the Court of Appeal at the end of the month for the case of a man found guilty of killing his parents and brother.

Family court cases, jury trials and witness testimony won't be heard in the broadcast courts, Joyal said.

"We don't envision that any time soon," Joyal said.

Provincial court Chief Judge Ken Champagne said judges had to strike a "delicate balance" between openness and protecting the safety and security of lawyers, witnesses and children.

"But we also recognized that perhaps the judiciary could do something more," Champagne said.

Manitoba justice officials have been grappling with camera access since 2008 when they formed a committee to discuss the idea and come up with recommendations. While some argue allowing TV cameras make courts more transparent, others say they have a chilling effect on witnesses and could actually impede the justice system.

Chief Justice Richard Chartier of Manitoba's Court of Appeal said ultimately the justices felt courts must be more open to the public.

"This principle is a hallmark of a democratic society and has long been recognized as a cornerstone of the common law. So says the Supreme Court of Canada. So say we," Chartier said. "Justice must not only be done. It must be seen to be done."

This is a "baby step" but an important one, he added.

"A lot of people are anxious about what's happening here today," Chartier said. "The judges, there is a certain level of anxiety about what's going to happen. At the end of the day, we want to make sure ... the administration of justice occurs, that it doesn't fall in disrepute and individuals get their fair trial."

Josh Weinstein with the Canadian Bar Association said no one has a problem with Court of Appeal proceedings being broadcast or even other proceedings where the camera is simply fixed on the judge rendering a decision.

But he said there are too many risks in allowing cameras to broadcast witness testimony, family court proceedings or refugee hearings.

Witnesses might be afraid to testify if they know they will end up on television, Weinstein said. The lives of refugees and their families in their home countries may be

put at risk by having their picture broadcast, he said. Lawyers and judges may get recognized in their local grocery store and their security could be put at risk, he said.

"What we see now is only the beginning of what's being proposed," said Weinstein, a Winnipeg criminal defence lawyer. "I would have very significant concerns with cameras focused on some of the justice system participants."

Ontario started televising cases from its Court of Appeal in 2007. Provinces such as British Columbia and Nova Scotia allow cameras in some courtrooms with prior permission of the court.

In Newfoundland and Labrador, cameras are allowed into a courtroom up to the time the judge enters. In 2011, the Supreme Court upheld a Quebec court regulation that restricts cameras to designated areas of the courthouse.

Supreme Court of Canada proceedings are televised and dozens of Canadian public inquiries have been broadcast.



Public servant delayed by volcano wins grievance against Veterans Affairs

Don Butler, Ottawa Citizen, April 14, 2014

OTTAWA — You might think a volcanic eruption is a hard-to-refute excuse for failing to return to work from vacation on time. But if, like Lorraine Martin, you work for the Department of Veterans Affairs in Halifax, you'd be mistaken.

Martin was on vacation in England in April 2010 when the Eyjafjallajökull volcano in Iceland erupted, emitting a plume of ash that closed airspace across Europe for a week.

She was scheduled to return to Halifax on April 20, five days after the eruption grounded all flights out of England. Concerned about her ability to get home, she contacted Air Canada on April 16 and asked what she should do.

The airline advised her to rebook her return flight for April 27, the first flight with seats still available. Air Canada said she would remain on a standby list of passengers on cancelled flights and would be notified if an earlier flight became available.

Martin contacted three other airlines to see if any could get her back to Canada earlier, but none had availability before the April 27 Air Canada flight.

She emailed her supervisor and asked to extend her paid leave by a week, invoking a collective agreement clause that says the department should not unreasonably withhold discretionary leave with pay in circumstances beyond an employee's control.

But supervisor Lisa Jessome was only willing to give her two days leave with pay, an offer later bumped up to 2.5 days. The remaining days were deducted from her vacation entitlement.

Martin filed a grievance and arbitrator John Jaworski upheld it in a withering decision dated March 20, ordering the department to pay Martin her requested five days and credit her annual leave bank for the days unjustly deducted.

Robyn Benson, national president of the Public Service Alliance of Canada, which represents Martin, said she was "glad that common sense prevailed. The arbitrator clearly recognized that special circumstances beyond an employee's control might prevent them from reporting to work."

Jaworski seemed incredulous at several of the department's arguments, especially the suggestion that Martin should have "hung around the airport" looking for an earlier flight.

"This argument is without any merit," he wrote. "Millions of people were stranded in Europe. One does not just mosey on down to the airport, line up and wait for the next airplane."

During testimony, Jessome suggested that Martin may have been able to get home sooner if she had remained in the queue of cancelled passengers. "In fact, (Martin) did stay in the queue, which did not result in an earlier flight," Jaworski observed.

Indeed, had Martin not rebooked her return seat on April 27, he said, "the evidence before me is that she would have gotten home later rather than sooner."



Poll: The less Canadians know about Fair Elections Act, the more they support it

CHRIS HANNAY, The Globe and Mail, April 17, 2014

Support for the Conservative government's electoral reform is highest among those who don't know much about it, according to a second poll from Angus Reid.

The Tories' proposed Fair Elections Act would overhaul how Canadians vote in federal elections, change how Elections Canada investigates fraud and communicates with the

public, and increase donation limits. The bill has proved controversial, with experts, including the chief electoral officer, and even some Conservative senators recommending significant changes. The Harper government says the measures crack down on voter fraud and preserve the integrity of elections.

The Angus Reid survey released Thursday suggested that Canadians are less likely to be in favour of the bill the more they know about it. Among respondents who did not know much about the Fair Elections Act, 52 per cent said they support it. That number drops to 41 per cent among those who say they are familiar with it.

Those numbers are consistent with the firm's last poll on the subject in February. The biggest change is in how many people say they're hearing about the bill.

Angus Reid's survey found 31 per cent of respondents were very or fairly familiar with the legislation, up from 20 per cent in a February poll. Respondents who said they voted for opposition parties in the 2011 election were more likely to be familiar with the Fair Elections Act than Conservative supporters. An Ekos poll conducted in March, and paid for by the Council of Canadians, found 27 per cent of respondents were familiar with the bill.

The Official Opposition NDP has staked a lot on fighting the Fair Elections Act since it was introduced in February by Democratic Reform Minister Pierre Poilievre. The New Democrats have held a series of town halls across the country and, on Tuesday, announced they would start targeting backbench Conservative MPs to vote against the bill.

Overall, the Angus Reid respondents split almost evenly on whether they supported or opposed the electoral reform. But that support swung wildly when they were asked about specific measures in the bill.

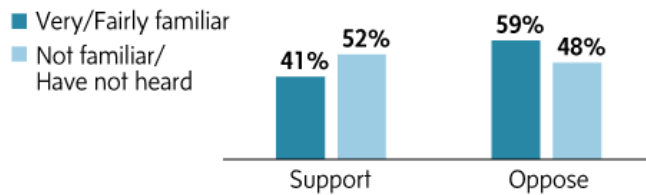
Ninety per cent of respondents said they supported tougher penalties for those who break rules, including the robocalls issue. Seventy-two per cent supported the elimination of vouching at the polls, one of the Fair Elections Act's most controversial measures. But only a quarter of respondents supported taking investigative powers away from the chief electoral officer or restricting what Elections Canada can communicate to the public.

When asked whether they trusted the Conservative government to ensure the integrity of elections, 35 per cent of respondents said they trusted the government and 65 per cent said they didn't trust the Tories. This support broke largely along party lines, but was essentially the same whether or not someone was familiar with the proposed electoral reforms.

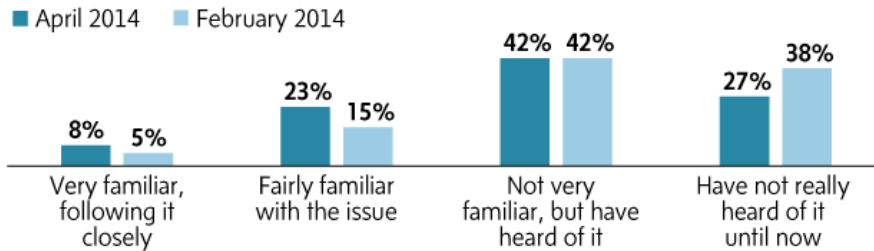
POLL'S FINDINGS

The Angus poll was conducted with an online panel of 1,505 Canadian adults on April 14 and 15. It has a probabilistic margin of error of plus or minus 3.4 per cent, 19 times out of 20.

OVERALL, DO YOU SUPPORT OR OPPOSE THE PROPOSED "FAIR ELECTIONS ACT" REPLACING THE "CANADA ELECTIONS ACT"?



HOW FAMILIAR ARE YOU WITH THE PROPOSED CHANGES TO THE ELECTIONS ACT?



Union taking fight over essential workers to court

BY KATHRYN MAY, OTTAWA CITIZEN, APRIL 21, 2014

OTTAWA — The union that represents Canada's border guards is going to court to stop the Conservative government from designating hundreds of additional employees essential workers, a move meant to ensure the union can never strike.

The Public Service Alliance of Canada is asking the Federal Court to toss out a new essential services agreement the government recently handed the Customs and Immigration Union. It added more than 1,000 positions, including 400 working in trade matters, that the Canada Border Services Agency has never considered essential to the safety and security of Canadians.

By including them in the essential services agreement, however, the government ensures that more than 80 per cent of the bargaining unit, including the traditionally militant border guards, will be deemed essential. This, under the Conservatives' new rules, denies them the right to strike and forces them into arbitration if they cannot reach a contract agreement.

The move comes as the federal government gears up for the next round of collective bargaining with its unions.

“Many of these workers have never been essential but they are throwing them in to get to their 80 per cent, to weaken our position and lose our right to strike,” said Jean-Pierre Fortin, president of the Customs and Immigration Union, which falls under the PSAC umbrella.

Some 98 per cent of border guards have been essential workers for years, but about 20 per cent of the rest of the bargaining group has typically been deemed non-essential. A strike by these 20 per cent would be enough to slow down commercial traffic at the border and give the union some leverage at the bargaining table, Fortin said.

“Taking this away is weakening us to zero,” he said.

Treasury Board President Tony Clement previously singled out border guards as one of the reasons the government wanted to decide who gets to strike or not when defending his sweeping changes to the Public Service Labour Relations Act last December, which greatly diluted unions’ bargaining clout.

Under those changes, any unions that had unsigned collective agreements and had requested a Public Interest Commission by Dec. 12, 2013, were exempt from the new rules.

The Customs and Immigration Union argues it met both those conditions. But on Dec. 13 the border agency sent a new list of essential employees for the upcoming 2014 round of bargaining.

The union says the agency was “premature” and “erred in law” because its essential services agreement should be subject to the old rules.

The union and CBSA had agreed in May 2013 to a list of employees whose work was essential, but that agreement wasn’t formally signed. Also, the old regime required the union and government to “consult” and decide who is essential or not, with any disagreement sent to the Public Service Labour Relations Board to resolve.

Letters between Treasury Board and the Finance Department, obtained by the Citizen, shows the government realized these “transitional” conditions opened the door to a loophole that a union could exploit to “circumvent the intent of the legislation.”

As a result, it proposed changes to the act in the latest budget bill that, once passed, will ensure “this situation is avoided.”

The budget bill will nullify any essential services agreement reached before Dec. 12 and does not allow any previous agreements to roll over. This means new essential services agreements will have to be negotiated for all unions in the upcoming round of bargaining. The new rules also gave the government the exclusive power to decide who is essential.

Employees can only be designated as essential if their work is considered key to the safety and security of Canadians, however. The economic hardship of the government is not considered a factor for designating essential services.

Some argue the government wants to make sure that border guards can't strike because of a Public Service Labour Relations Board ruling in 2009 that not all their duties are essential to border security, such as assessing and collecting taxes, fines and duties. This led to concerns that in the event of a strike, border guards might simply give travellers a "duty-free holiday" and which would hit government revenues.

PSAC's latest court challenge comes on top of the union's lawsuit to challenge the constitutionality of the new rules the Conservatives implemented for collective bargaining. The changes not only severely limit the right to strike for the strong, militant unions but will also force the small, weak unions — which never strike — to consider going the strike route.

The Saskatchewan government introduced a similar overhaul of labour legislation that is being taken to the Supreme Court next month.



Editorial: Senate's proposed election act fix won't fly

By proposing cosmetic fixes to the flawed Fair Elections Act, the Senate is an enabler of bad legislation rather than a chamber of sober second thought.

Toronto Star, April 16, 3014

Canadians are worried about Prime Minister Stephen Harper's inaptly named Fair Elections Act, and rightly so. It's an affront to democracy, and the Senate committee that has studied the bill as it wends its sorry way through Parliament could have done the nation a service by saying just that. But no such luck.

Instead, the Conservative-dominated committee has come up with a few proposed cosmetic fixes designed to grease the bill's passage into law, rather than advocate a wholesale rewrite. That makes the Senate more of an enabler of bad legislation than a chamber of sober second thought. Once again, Canadians have been let down by the unelected upper chamber.

New Democrat Leader Tom Mulcair deserves every encouragement as he tries to persuade Conservative MPs to lobby Harper not to abuse his majority by forcing through

fundamental changes to the election laws without the support of a single other party. But few voters are likely to be holding their breath.

As the Star's Tim Harper has reported, the Senate's proposed "fixes" don't begin to address the worst flaws of the act, which would hobble the Chief Electoral Officer, disenfranchise many thousands of voters, and give incumbents unfair advantage.

Bill C-23 is a blow to CEO Marc Mayrand's office and independence, stripping him of power to probe election act abuses. It's overly deferential to MPs who run afoul of election laws, cloaking probes in secrecy. And it hobbles the Chief Electoral Officer's ability to encourage citizens to vote.

Beyond that, Bill C-23 unwisely bans both "vouching" and the use of voter information cards as proof of address, potentially disenfranchising hundreds of thousands of voters, mostly people with outdated addresses on their ID, students, seniors and First Nations people. Absent evidence of big-time fraud, of which there is none, this is overkill.

Finally, the bill lets victorious parties appoint poll supervisors, threatening the integrity of the process.

The Senate proposals, which a Commons committee will weigh after the Easter break, don't remedy any of these major flaws.

What the Senate committee does propose is to drop an odious provision that would give well-financed, established parties (read: the ruling Tories) an advantage by allowing them to spend freely during elections to solicit contributions from past donors. That's the only significant recommendation, and it's good as far as it goes.

Additionally, the Senate indulges in some minor tinkering, including clarifying that Elections Canada's "new, reduced role that ends democracy promotion" should not stop it from going into the schools to encourage kids to take their responsibilities seriously. The committee also felt the need to insist that elections officials should "expressly" be allowed to inform the public of problems with the electoral system. That records of robocalls be kept longer. And that First Nations bands, homeless shelters and seniors' residence be required to attest to voters' names and addresses, and that some electronic documents be accepted as ID.

Welcome as these modest changes are, they can't save a fatally flawed bill. Rather, they would paper over the flaws. But Canadians who care will see through this charade. The Harper government should swallow hard and fix this legislation, or scrap it.



Editorial: Postmedia newspapers' take on the Fair Elections Act

Postmedia Editorial, April 16, 2014

The federal Conservative government has been for the last four weeks fighting a rising tide of opposition to Bill C-23, otherwise known as the Fair Elections Act.

Curiously though, as the number of dissenters has grown, their voices have been dismissed, not with reasoned arguments, but in attacks on the critics themselves.

These critics now include many people, from former auditor general Sheila Fraser to chief electoral officer Marc Mayrand to a parade of academics, politicians and pundits. You're either with us, the Conservatives have told them, or you're a self-styled agitator, liberal-media type, power-hungry bureaucrat.

You're either with us or you are clearly not an "ordinary Canadian."

It's an emotional tactic that wore thin long ago, about the time former Justice Minister Vic Toews failed to push his Internet surveillance bill through with a "you're either with us or you're with the child pornographers."

As editorial board editors in the Postmedia company, we have today united to publish a collection of excerpts about Bill C-23 from our newsrooms across the country. We hope and believe that, if the newspapers in Canada's major cities speak on a single day on this single issue, we can show all Canadians how critical this issue is, and more important, advocate for change.

Some may say we're not one of them. We are.

Some may say we don't speak for "ordinary Canadians." We do.

This is no longer a matter of partisan politics, nor should it ever have been about partisan politics. It's a matter of ensuring fair elections for the future, for all Canadians.

Bill C-23 is flawed. It must be amended or discarded.



B.C. government sued over approval of Trinity Western law school

JAMES BRADSHAW, The Globe and Mail, April 14, 2014

A lawsuit against B.C.'s government is seeking to quash provincial approval for a controversial new law school at a faith-based university that prohibits same-sex intimacy.

The challenge, filed with the Supreme Court of B.C. on Monday by five lawyers, aims to overturn Advanced Education Minister Amrik Virk's December decision to green-light Trinity Western University's proposed law school. The university hopes to launch the program in 2016, but its policy on homosexuality has drawn the ire of gay-rights advocates and a host of lawyers.

The lawsuit marks the latest setback for Trinity Western in a process that has sparked debates across Canada about how to reconcile equality rights with claims of religious freedom. The private, evangelical school in Langley, B.C., enforces what it calls a community covenant requiring staff and students to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman."

When giving his approval in December on academic grounds, Mr. Virk said questions such as whether the covenant violates the Canadian Charter of Rights and Freedoms are "outside the purview of our government" and the proposal meets academic standards.

Clayton Ruby, a prominent civil-rights and criminal lawyer who is helping lead the court challenge, argues Mr. Virk is "just wrong" and "had to consider" the Charter when making a decision. Should the lawsuit fail with B.C.'s court, he is prepared to go to the Supreme Court of Canada.

"I understand why a minister would not want to deal with a hot potato, but it's his potato," Mr. Ruby said. Approving a law school that is subject to Trinity Western's covenant is "degrading and unacceptable for a Canadian government – and illegal."

Mr. Ruby's Toronto-based firm, Ruby Shiller Chan Hasan, and lawyers from Vancouver-based Janes Freedman Kyle Law Corporation, are suing the minister, but not the university. They contend the province had a duty to consider how accrediting the law school might violate Charter guarantees of equality and even freedom of religion, and the minister must ensure the province's students have equal access to law schools.

Mr. Virk confirmed in a statement that the government must respond to the lawsuit by April 29.

"It would be inappropriate to comment before the legal response is filed," he said.

The public face of the lawsuit is its petitioner, 25-year-old Trevor Loke, an openly gay Anglican and Vancouver Park Board commissioner who discovered his sexuality at age 15 and struggled revealing it to his family. He hopes to begin law school in 2016, and

while he says Trinity Western's members have a right to their beliefs, he thinks the university is using religion as "a shield for discrimination" in this case.

"I don't think that, under Canadian values, opportunities should be restricted based on who people are," Mr. Loke said. "For me, this is a very personal thing."

Trinity Western will press ahead with its plans, confident its approvals will be upheld. "This is a matter of religious freedom, and I believe that the Canadian people are not prepared to push it into a corner such as to reduce its importance in Canadian culture," said president Bob Kuhn.

Several provincial law societies have launched their own reviews to debate whether to accredit future Trinity Western law graduates in light of concerns over the community covenant, with Ontario's and Nova Scotia's set to vote in late April.

But Trinity Western won a significant decision last Friday when benchers at the Law Society of B.C. voted 20 to 6 in favour of accrediting the proposed law school, electing after debate to guard the right to freely practise religious beliefs.



TWU court challenge filed today

Glenn Kauth, Law Times, April 14, 2014

Hot on the heels of the Law Society of British Columbia's approval of the law school at Trinity Western University, two law firms are proceeding with a court challenge of the B.C. government's decision on the matter.

Trevor Loke, an openly gay Christian planning to go to law school, is the plaintiff in the constitutional challenge carried out by two law firms: Ruby Shiller Chan Hasan in Toronto and Janes Freedman Kyle Law Corp. in Vancouver.

The court challenge centres on the B.C. minister of Advanced Education's consideration of whether the Charter of Rights and Freedoms applied to the decision to approve the law school. Loke argues the government had to look at whether the decision interferes with Charter rights and says the failure to do so breaches equality rights by approving a law school that requires all students to abstain from same-sex intimacy.

He also says the decision violates freedom of religion by approving a law school that requires all students to adhere to an aspect of Christianity that condemns same-sex intimacy.

“I find the minister’s endorsement of TWU’s law school humiliating,” says Loke.

“Welcome to the 21st century: this discrimination is simply unacceptable,” says Clayton Ruby, a lawyer at one of the firms retained by Loke. “And don’t sell religion short by using it as an excuse for discrimination.”

At issue is the school’s community covenant agreement that includes a statement about abstaining from “sexual intimacy that violates the sacredness of marriage between a man and a woman.” With the school set to open in 2015, various bodies, including the B.C. government and now the law societies across the country, are considering their stance on the matter.

The petition filed with the B.C. Supreme Court this afternoon notes Loke, 25, is a commissioner of the Vancouver board of parks and recreation who wants to attend law school in his province and is an Anglican who attends church on special occasions.

“In making the decision, the minister creates a pool of law school positions in British Columbia (at four British Columbia law schools), a portion of which (at TWU) are not available to people who engage in same-sex intimacy, whether married or not, thereby excluding sexual minority students,” the petition states.

“The decision perpetuates disadvantage against a marginalized and vulnerable group in a context that demands inclusivity.”

The documents filed today also included an affidavit from a Kelowna, B.C., articling student, Jill Bishop, who attended Trinity Western before studying law. Noting she’s from a religious background, Bishop, a lesbian, said she became increasingly uncomfortable, at Trinity Western during her time there.

“I lived on campus at TWU in the fall semester of 2007, but I found the environment very oppressive,” she wrote. “It was very hard to constantly guard my sexual identity from discovery. I felt that I was forced to live a double-life, and did not like having to lie about my personal circumstances.”

Bishop also noted “the values expressed in the covenant are reinforced constantly in all aspects of life and instruction on campus” and that she was aware of “repercussions for conduct contrary to the covenant.”

“Some professors would condemn homosexual activity, and none would condone,” she wrote. “Some would say if you were born that way, it would be your sin to bear.”

The petition notes Loke is seeking to quash the decision allowing Trinity Western to grant law degrees or, in the alternative, have the minister reconsider the matter.

On Friday, the B.C. law society made its decision to approve the law school for the purposes of its admission program.

Reaction was swift, with groups such as the West Coast Women’s Legal Education and Action Fund condemning the law society’s decision.

“TWU’s discriminatory policy effectively excludes LGBTQ students from access to the benefits of a legal education at the university,” said Kasari Govender, executive director of West Coast LEAF.

“It also requires women to cede their constitutionally protected reproductive rights, regardless of their own personal aspirations, dignity, and autonomy. These policies are contrary to the laws of Canada, which all lawyers must swear to uphold, and have no place regulating a law school in British Columbia. We are disappointed that the law society has given its stamp of approval to such blatantly discriminatory practices.”

Trinity Western, of course, welcomed the law society’s decision. “We are very pleased with this outcome,” said Trinity Western president Bob Kuhn.

“We worked for five years, in consultation with many lawyers, judges, and professors, to create a proposal for a high quality law school and this decision allows us to now proceed in building that school. This is also an important decision for all Canadians. It says that there is room in a democratic country like Canada for a law school at a Christian university. TWU’s school of law will join other Canadian law schools, complementing existing legal education in this country.”

For her part, law society president Jan Lindsay noted the challenge involved in coming to a decision that “was thoroughly considered and not taken lightly.”

“The necessity of balancing two Charter rights; the right to equality and the right to freedom of religion, was discussed by many of the benchers,” she said following the decision. “It was obvious that the bencher discussion reflected a deep and abiding belief in the equality rights in the Charter but also the range of views, opinions, and perspectives was impressive in its diversity and thoroughness.”



Conservative senators pull brakes on Harper’s elections bill

JOSH WINGROVE, The Globe and Mail, April 14, 2014

Conservative senators are recommending the government abandon plans to exempt certain fundraising calls from election spending limits, one of nine changes to the controversial Fair Elections Act recommended unanimously by a Senate committee.

The bill, if passed in its current form, would allow candidates to solicit funds from anyone who has donated \$20 over the past five years without recording the fundraising as a campaign expense. Various non-partisan observers warned it would make it hard to

track which calls qualified and would allow parties to make limitless campaign calls to previous supporters so long as they asked for a donation.

The Senate is pushing back against the proposed bill in a Senate committee report set to be tabled this week, The Globe and Mail has learned. The Conservatives control the committee that made the nine recommendations. Another seven changes were proposed by three independent Liberal senators as a minority report.

Among the unanimous recommendations are loosening limits on the Chief Electoral Officer's ability to speak publicly, beefing up robocall rules and requiring voting ballots to have a photo of each candidate.

The changes are being recommended while the Fair Elections Act, Bill C-23, is still under consideration by a committee in the House of Commons and amount to a warning shot from the Senate. If the changes are not made by the House, it could lead to a tug-of-war between the institutions.

The minister spearheading the bill, Pierre Poilievre, declined an interview on the changes, as did Conservative senators on the committee.

In a written statement sent by a spokesperson for the minister, the government signalled it will consider the changes backed by its party's senators.

"The committee is made up of smart people whose ideas I value. I will read their report carefully when it is actually published in the hopes of finding ways to make a great bill even better," the statement said.

The nine unanimous proposed changes include:

- Ensuring the Chief Electoral Officer and the Commissioner of Canada Elections "expressly be able" to warn the public of problems they find in the electoral system. Both would face severe limitations in what they can say publicly under the current wording of the bill.
- Requiring certain institutions, such as retirement homes and homeless shelters, to issue letters to their clients and residents that can be used as ID at a voting booth.
- Requiring robocall firms to keep certain records for three years, rather than the bill's proposed one year, which observers have warned is too short.
- Rewriting restrictions on what Elections Canada can do to spur voter turnout, including guaranteeing the continuation of Student Vote program.
- Guaranteeing the Chief Electoral Officer and the Commissioner of Canada Elections can share information. Under changes proposed in the bill, both have warned they may not be able to.
- Urging Elections Canada to allow certain electronic correspondence to be used by voters to corroborate ID, in addition to hard-copy mail.
- Placing candidate photographs on ballots, to aid voters with difficulty reading.
- Expanding the information given by Elections Canada to visually impaired voters, after testimony from the Canadian National Institute for the Blind.
- Abandoning plans to exempt certain fundraising calls during an election campaign from the expense limits, which critics say is unenforceable.

Among seven other recommendations, the minority report warns the bill's proposals would disenfranchise some voters and therefore violate the Charter. It also recommends extending the use of voter information cards, not getting rid of vouching and calling for government to abandon plans to force the Chief Electoral Officer to seek Treasury Board approval to hire outside help in investigations.



Conservative staffers getting millions in severance and separation pay

By Elizabeth Thompson, iPolitics April 15, 2014

Political aides to Prime Minister Stephen Harper's Conservative government have pocketed more than \$30 million in departure payments since 2006 — more than half of it in payments that are entirely up to the discretion of individual cabinet ministers.

The Privy Council Office, which for accounting purposes includes several offices including Harper's PMO, leads the pack. The PCO doled out more than \$6.1 million in payments to former political aides, including \$3.4 million in discretionary separation pay.

Foreign Affairs and International Trade, which has had five ministers since Harper came to power, has the second highest payout to former political staffers, \$2.6 million, of which 64 per cent was ministerial discretion.

The industry department, which has also had five ministers since 2006, was just behind at \$2.2 million, with 63 per cent of it decided by the minister.

The department with the lowest payout to former staffers was the Office of the Co-ordinator for the Status of Women, which handed out \$4,400 in automatic severance benefits and nothing in separation pay. The Federal Economic Development Agency for Southern Ontario, which also awarded no separation pay, was second lowest at \$7,100.

An analysis by iPolitics shows a wide variation when it comes to handing out discretionary separation pay. While, on average, 58 per cent of the money doled out to former political staffers was the result of ministerial discretion, it ranged from the two departments that handed out no separation pay to the Department of Human Resource Development, where 86 per cent of the payout to staffers as they headed out the door was in separation pay.

In the departments of Western Economic Diversification, Human Resources and Social Development and Canadian Heritage, separation pay was about 72 per cent of the final cheque.

The Privy Council was much further down the list at 56.9 per cent separation pay.

Just how much taxpayers have spent to send political staffers on their way was revealed in the government's answer last Friday to a question placed on the order paper by Liberal MP Rodger Cuzner.

The government revealed that between April 2006 and February 2014 it paid out \$12.7 million in severance payments to ministerial aides who quit, were fired or lost their jobs when their ministers were defeated or cut from cabinet. Under the guidelines for cabinet ministers offices, staff are automatically entitled to severance payments of two weeks pay for each year of service and there is no ceiling on the number of weeks that can be paid.

On top of that, the government paid out \$18.2 million in separation pay.

“Separation pay may be paid at the discretion of the minister when the employee's services are ended,” according to the guidelines for ministerial offices. “This pay is intended to compensate for possible loss of earnings resulting from an often unpredictable and, at times, abrupt termination of employment.”

Under the guidelines, ministers can authorize up to four months of separation pay, although “separation pay of one month per year of service is considered reasonable.”

One person who didn't benefit from the discretionary separation pay is Nigel Wright, former chief of staff to Harper.

Harper dismissed his chief of staff after learning that Wright had written a \$90,000 cheque to allow suspended Senator Mike Duffy to repay expenses he should not have claimed in the first place.

“Mr. Wright only received what he was legally obligated to receive, and not a penny more,” Stephen Lecce, a spokesman for the prime minister's office, said Monday.

While the Privy Council, which includes the PMO, posted higher costs for staff departure payments, Lecce pointed out the amount also includes the Office of the Whip, the Minister of State for Democratic Reform, the Leader of the Government in the Senate, the Office of the Government House Leader, the Office of the Minister of Intergovernmental Affairs and the President of the Queen's Privy Council.

Cuzner, however, says it is the staff turnover he saw in the prime minister's office that prompted him to submit the question in the first place.

“They have had a revolving door there for quite some time... There seems to be a constant turnover, especially in the prime minister's office, an inordinate number of people coming and going.”

For example, since Harper became prime minister, he has had four chiefs of staff and eight directors of communications.

Cuzner said the data reveals the government is paying out a lot of money to former political staff.

“The fact that there is \$18 million there in discretionary, the mandatory (payment) is at \$12 million – that’s pretty significant.”

“When you are looking at a government that is chiseling a couple of million bucks out here and there by shutting down veterans offices, the \$18 million would have certainly have gone a long way in keeping those offices alive.”

Cuzner said he understands the need to give staff who interrupt their careers a departure allowance but many average Canadians don’t get those kinds of cheques when they leave their jobs.

However, Cuzner said the government refused to give him a year-by-year breakdown of the costs, citing privacy, making it harder to analyze how the money is being spent.

“We’re looking at trying to ask another series of questions around it.”

Stephanie Rea, spokeswoman for Treasury Board President Tony Clement, said the Conservatives have moved to tighten the rules governing political aides.

“Our government has eliminated priority hiring for political staffers in the Public Service; introduced a one-year cooling off period for employment with organizations and corporations with whom the staffer had significant or direct dealings with; and introduced a five-year ban on all federal lobbying activities.”

While she didn’t have government-wide figures, Rea said the Treasury Board has paid out less to departing political staffers in the past six years than during the preceding Liberal government.

“I can say that the Office of the President of the Treasury Board has disbursed nearly \$170,000 less (2006-current) than the Liberals did in their final six years in office (200-2006). And we have brought MP pensions to 50-50, reduced the cost of ministerial travel by 15 per cent and cut hospitality expenses in half.”

The opposition New Democratic Party has not yet responded to a request for its views on the subject.

Canada's Best Jobs 2014: Lawyer

Just get through your first year

Canadian Business, April 17, 2014

Median Salary: \$79,997

Change in salary (2007–2013): +14%

Total employees: 49,600

The legal profession is undergoing some disruptive changes at the moment. The number of graduating law students has increasingly outstripped available articling positions in recent years, and the breakup of prominent Bay Street firm Heenan Blaikie has insiders wondering which will be the next big firm to fall. At the same time smaller, nimbler business models are blossoming, which means slightly less certainty in the job hunt, but often more flexibility and some sorely-needed improvements to work-life balance. Specializations have proliferated, with lawyers devoting themselves full time to niches like tax, competition, intellectual property and immigration law.

How to qualify: Law students are increasingly combining the traditional law school degree with another more specialized degree, such as an MBA, to be able to better apply the law to a specialized niche. In the largest job market, Ontario, the main regulatory body recently loosened the rules on articling, the apprenticeship process that has always been the final hurdle on the way to a job.

Money: A freshly-minted law associate can expect a median salary of \$66,000, according to Canadian Lawyer's 2013 salary survey, and take about five years to break six figures. But incomes vary quite a lot based on specialization and the size and specialization of the firm you land with.

Opportunity: Specialization pays right now, especially for those with backgrounds in litigation and corporate law, and energy-sector employment remains high.

What it's like: Mitch Frazer, a partner at Torys LLP in Toronto, says the first year of being a lawyer is the worst. "There's never a distinction between a lawyer that's been practising for a minute or 20 years—you're expected to step up and do the job. You'll learn more in that year than you will in your entire career—but I'd never want to be a first-year lawyer again."
