

Press Clippings for the period of May 4 to 11, 2015
Revue de presse pour la période du 4 au 11 mai, 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

AJC makes the Headlines/L'AJJ fait les manchettes

LeDroit

Une cible jugée déraisonnable

Paul Gaboury, Le Droit, le 6 mai, 2015

→ L'introduction de cibles minimales de 1400 heures de travail juridique ou d'«heures facturables» imposées par le ministère de la Justice dans les ententes de rendement des avocats fédéraux est «contestée» et jugée «déraisonnable» par l'Association des juristes de justice (AJJ).

Le syndicat vient de déposer une plainte de «pratique déloyale» devant la Commission des relations de travail et de l'emploi dans la fonction publique. Il conteste cette décision du ministère d'imposer, rétroactivement, ce minimum de 1400 heures facturables (temps consacré à la prestation de services juridiques) dans les ententes de rendement de ses 2000 juristes, dont 1100 travaillent dans la région de la Capitale nationale.

Dans ce grief de principe, l'AJJ soutient que le ministère a violé son obligation de respecter les termes existants et les conditions d'emploi après l'envoi d'un avis de négociation collective.

L'ajout récent de cette cible dans l'évaluation de rendement des avocats fédéraux survient en pleine période de gel statutaire durant laquelle il est interdit à l'employeur de changer unilatéralement les termes et les conditions d'emploi, explique Sandra Guttman, avocate générale à l'AJJ.

Le nombre d'heures de travail juridique par exemple ne tient pas compte des heures que les avocats fédéraux consacrent à des tâches administratives, à des réunions, à la formation continue, ni des conditions de travail comme les vacances qui varient.

Questionnement

Historiquement, la moyenne d'heures de travail juridique atteint à peine 1310 heures par avocat. L'AJJ questionne donc la motivation du ministère à imposer un tel minimum de 1400 heures à ses avocats, qui n'ont pas le droit de réclamer de temps supplémentaire.

Le nombre d'heures consacrées au travail juridique permet d'établir les taux horaires des services juridiques et les recettes escomptées que le ministère de la Justice doit percevoir pour couvrir les frais de ces services aux autres ministères et organismes ou sociétés d'État.

Dans une lettre, le ministère explique qu'il entend atteindre son objectif d'augmenter de 1300 à 1400 heures par année le temps consacré par les avocats à dispenser des services juridiques «en réduisant le temps consacré à des activités ministérielles ou non juridiques ne nécessitant pas leur expertise professionnelle».

TRANSLATION OF LE DROIT'S ARTICLE ON MINIMUM HOURS TARGET :



A target deemed unreasonable

Paul Gaboury, Le Droit, May 6, 2015

The introduction of minimum target of 1,400 hours of legal work or "billable hours" imposed by the Department of Justice lawyers in federal performance agreements is "challenged" and deemed "unreasonable" by the Association of Justice Counsel (AJC).

The union has filed a complaint of "unfair labour practice" before the Public Service Labour Relations and Employment Board (PSLREB). The union challenges the decision of the Department to impose, retroactively, a minimum of 1,400 billable hours (time spent on the provision of legal services) in the performance agreements of its 2,000 lawyers, including 1,100 working in the National Capital Region.

In this grievance, the AJC maintains that the Ministry violated its obligation to respect the existing terms and conditions of employment after sending a notice to bargain collectively.

The recent addition of this target in the federal lawyers' performance evaluation occurs during a period of statutory freeze during which it is prohibited for employers to unilaterally change the terms and conditions of employment, says Sandra Guttman, General Counsel AJC.

The number of hours of legal work, for example, does not include the hours that federal lawyers spend on administrative tasks, meetings, ongoing training or working conditions such as holidays which vary.

Questioning

Historically, the average hours of legal work is barely 1,310 hours per lawyer. The AJC therefore questions the motivation of the Ministry to impose such a minimum 1400 hours to its lawyers, who do not have the right to claim overtime.

The number of hours devoted to legal work establishes the hourly rates for legal services and expected revenue that the Department of Justice must charge to cover the costs of these services to other departments and agencies and Crown corporations.

In a letter, the ministry says it intends to achieve its goal of increasing from 1300 to 1400 hours per year the time spent by lawyers to provide legal services "by reducing time spent on departmental activities that are non-legal and do not need professional expertise. "

Sick Leave and Omnibus budget bill / Les congés de la maladie et le projet de loi omnibus sur le budget



Budget bill gives government the power to impose sick leave deal it wants

Kathryn May, Ottawa Citizen, May 7, 2015

The Conservative government gave itself the power in the latest budget bill to override federal labour law and impose a contentious new sick leave and disability regime for Canada's public servants at any time.

The budget bill allows Treasury Board president Tony Clement to set aside parts of the Public Service Labour Relations Act, which governs collective bargaining in the public service, to impose new terms and conditions for sick leave and introduce a new short-term disability plan.

The timing for such a move will be left up to cabinet to decide.

The measures, expected to be challenged in court when passed, give the government the tools it needs to ensure the agreement it wants on sick leave and disability is implemented.

The proposed measures are another shot at the labour rights of the 17 federal unions, which the government had already eroded leading up to this controversial round of bargaining over sick-leave benefits.

In 2013, the government changed the rules for collective bargaining in a budget bill that significantly diminished the unions' bargaining clout. The unions are challenging that legislation in court.

“This government has reached a new low,” said Debi Daviau, president of the Professional Institute of the Public Service of Canada. “What they intend to do to our members' rights is nothing short of illegal. Their solution is quite simply to override the law.”

The unions were girded for tough measures after Finance Minister Joe Oliver announced in the budget a new short-term disability plan right in the middle of contract talks over the proposal. Union leaders are meeting Friday to discuss the bill's implications and the impact on bargaining.

The biggest union, the Public Service Alliance of Canada, is scheduled to go back to the table with Treasury Board negotiators on Tuesday.

“The government has decided to completely throw out any pretence that they intend to respect the collective bargaining rights of its workers,” said PSAC president Robyn Benson.

“This attack on our members' rights will seriously harm public services by forcing people to go to work sick, and cause irreparable damage to labour relations. We will take every available action in our power to challenge the legislation.”

For now, Clement said he intends to continue bargaining with unions. He said the bill will give him the option of imposing a deal in a “reasonable time frame” but he prefers a negotiated settlement.

“Our goal remains to reach a negotiated agreement with the bargaining agents,” said Clement.

Clement is said to want a deal before the election, so the question is when would he use his power to impose a deal.

The bill leaves that timing wide open. It creates a “period” of time when Treasury Board can impose the terms on the three most contentious issues — the amount of annual sick leave public servants will be entitled to, the amount they can carry over to the next year, and how the existing sick-leave banks will be handled.

That period begins when cabinet decides and sets the date, and ends when the new short-term disability plan comes into effect. The government has already told unions during bargaining that the new disability plan won't be up and running before 2017.

That leaves the government a lot of leeway. It could start that period before the election and trigger a showdown with the unions, or it could make the new sick leave and disability regime part of an election platform and promise to implement it if elected.

Unions argue the government has shrewdly crafted the bill so it can exploit the timing and a showdown with unions when it will help them the most politically.

“This bill will hold federal public service workers hostage until they accept a plan that forces them to go to work sick,” added Daviau. “We are dealing with ideological bullies who have no concern for the public interest but are focused on their own re-election.”

The bill also says that if sick leave is imposed, the government and unions can continue contract negotiations on any other outstanding issues. They can also strike on any other issue other than sick leave.

Unions fiercely oppose the new short-term disability plan because it would replace existing sick-leave benefits, as well as the 15 million days of unused sick days public servants have banked over the years.

Sick leave has always been negotiated in the public service and the conditions, such as the number of days and the carry-over, enshrined in the collective agreements. Public servants now earn 15 days of paid leave. Unused leave can be rolled over from year to year but their banks disappear when they retire.

In its last offer, the government offered six days of sick leave a year and no rollover.

Once sick leave is used, employees would still face a seven-day unpaid waiting period before applying for short-term disability benefits. On disability, they would collect 100 per cent of salary for five weeks. After that, benefits would be reduced to 70 per cent of salary.

That proposal also proposed a formula that will allow employees with banked sick leave to convert it into credits to top up benefits from 70 per cent of salary to 85 per cent.

The unions have flatly refused any changes to sick leave and argue Clement has never given them a business case to justify the changes.

Under existing legislation, all terms and conditions of employment are “statutorily frozen” or remain in force until a deal is reached or a strike is called. The budget bill overrules that provision.

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



Conservative budget bill sets up battle with federal unions

Bill Curry, The Globe and Mail, May 7, 2015

The Conservative government is giving itself new powers in the latest omnibus budget bill to impose controversial sick leave changes to the public service, a move that sets up a battle with federal unions just months before the October election.

The budget bill tabled Thursday, C-59, has 157 numbered pages, which is less than half the size of both budget bills tabled last year. However Thursday's bill continues the pattern of jamming budget bills with a wide-range of substantive measures, including entirely new laws.

Liberal Leader Justin Trudeau is proposing a tax hike for the wealthiest one per cent of Canadians and an income tax cut for the middle class. But the Conservative government and the New Democrats say the policy doesn't add up.

Bill C-59 includes the government's long-promised balanced budget legislation, as well as a new law called the Prevention of Terrorist Travel Act, which restricts the release of intelligence used by government to cancel a passport on national security grounds.

Critics have long opposed the government's approach to omnibus budget bills, arguing that including major new measures all in one bill means that the individual changes do not receive the same thorough Parliamentary scrutiny that they would have received had they been introduced as a piece of standalone legislation.

Unions had already expressed concerns about the government's plans on sick leave when they were first signalled in Finance Minister Joe Oliver's April 21 budget.

Bill C-59 gives the Treasury Board minister the power to ignore provisions of the Public Service Labour Relations Act and unilaterally change the terms and conditions of sick leave in the public service and create a new short-term disability program.

Treasury Board President Tony Clement has said a new sick leave regime was his priority heading into labour negotiations last year with public service bargaining units. The major unions had said they strongly opposed Mr. Clement's proposal.

"Nothing in this [section] affects the right to strike under the Public Service Labour Relations Act," states one section of the budget bill.

"The government has decided to completely throw out any pretense that they intend to respect the collective bargaining rights of its workers," said Robyn Benson, president of the Public Service Alliance of Canada, the largest union of federal public servants. "This attack on our members'

rights will seriously harm public services by forcing people to go to work sick, and cause irreparable damage to labour relations. We will take every available action in our power to challenge the legislation.”

Other sections of the bill implement the wide range of tax credits announced in the budget, including repealing the child tax credit, expanding the Universal Child Care Benefit and introducing income splitting for couples in different income brackets.

The bill creates a new “Parliamentary Protective Service,” that would place responsibility for security on Parliament Hill in the hands of the RCMP.

The bill also lays out new rules regulating unpaid internships, including that they cannot replace any employee and that the internship must not be a prerequisite to the person being offered employment.

The budget bill includes changes to a wide-range of existing laws, including the Industrial Design Act, the Patent Act, the Trade-marks Act, the Canada Labour Code, the Copyright Act, the Export Development Act, the Members of Parliament Retiring Allowances Act, the National Energy Board Act, the Parliament of Canada Act, the Employment Insurance Act, the Canada Small Business Financing Act, the Personal Information Protection and Electronic Documents Act, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the Immigration and Refugee Protection Act, the First Nations Fiscal Management Act, the Canadian Forces Members and Veterans Re-establishment and Compensation Act, the Ending the Long-gun Registry Act, the Trust and Loan Companies Act, the Bank Act, the Insurance Companies Act, and the Cooperative Credit Associations Act.



Bill C-59: PSAC readies \$5M campaign against sick leave reforms

Budget bill would allow Harper government to bypass collective bargaining now underway

CBC News, May 8, 2015

The Public Service Alliance of Canada is considering its next move after the budget implementation bill introduced Thursday signalled the Harper government is prepared to go outside the collective bargaining process now underway to achieve its budgetary goals.

Proposed changes to federal civil servants' sick leave provisions are one of the most contentious issues in ongoing talks with public service unions, including PSAC.

Those talks are working towards a fall deadline. But C-59 would give the government the ability to act before the conclusion of that process, something unions say contravenes the Public Service Labour Relations Act.

"The government has decided to completely throw out any pretence that they intend to respect the collective bargaining rights of its workers," said Robyn Benson in a statement.

PSAC's national president also warned the bill would "cause irreparable damage to labour relations."

"We will take every available action in our power to challenge the legislation," she said.

The statement Thursday said the Supreme Court has established the right to collective bargaining as a charter right and said the union "will defend that right using all means at our disposal."

PSAC convention delegates unanimously passed an emergency resolution late last month authorizing the spending of up to \$5 million dollars on a campaign to oppose government actions that compromise members' rights.

Savings helped balance budget

Treasury Board President Tony Clement has said on several occasions his government is committed to the collective bargaining process.

But if the budget implementation bill passes through all stages before Parliament rises for the summer, the federal Treasury Board Secretariat will have the power to establish and modify the "terms and conditions of employment related to the sick leave of employees," including a new short-term and long-term disability program.

In interviews following the April 21 federal budget, the Harper government talked tough.

Employment Minister Pierre Poilievre, who represents an Ottawa-area riding where many federal civil servants live, told CBC Radio's Ottawa Morning that the savings his government had budgeted to find in public service agreements were "set in stone."

"What's up for negotiation is how we achieve those savings," he told host Robyn Bresnahan.

Last month's budget presumptively counted on saving \$900 million this year from the change. It was a major piece of Finance Minister Joe Oliver's framework for reaching a \$1.4-billion budget surplus for 2015-16.

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

PSAC plans to meet early next week to figure out its next move, which could include legal action to try to prevent implementation of the budget bill's provisions.

The logo for CBC News, featuring the text "CBCnews" in a bold, sans-serif font. The "CBC" is in a larger font size than "news". A vertical red bar is positioned to the right of the text.

Budget bill C-59 checks off Conservatives' pre-election 'to-do' list

Budget implementation bill lumps in other things Harper government wants passed

By Janyce McGregor, CBC News, May 7, 2015

It's he-ere...

The Harper government has tabled its budget implementation bill, which once again contains more than just this year's budget measures.

The legislation, expected to pass before Parliament rises for the summer, reads like a pre-election must-do list for the Conservatives.

Its short title, the Economic Action Plan 2015 Act, suggests its main purpose: implementing the crux of the budget Finance Minister Joe Oliver tabled two weeks ago.

But its official title — an Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures — more accurately reflects how other things are rolled into the finer print.

At 167 pages, its size doesn't match past doorstoppers, like the 450- and 457-page versions from the spring and fall of 2012 that set off howls of protest (as well as actual protests) off and on Parliament Hill.

But the strategy is the same: Stephen Harper's government heads out on the hustings this fall, and budget or beyond, it's got stuff it needs to pass quickly.

What's in C-59?

Here's a quick look at what's included in the bill introduced Thursday in the Commons:

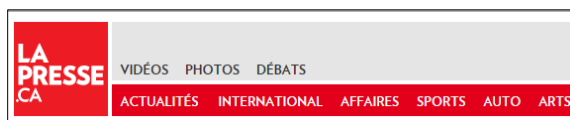
- 2015 Budget tax measures: Changes announced by Oliver last month to RRIFs and TFSAs, the small business tax rate, capital gains exemptions, disability savings funds and veterans benefits are all included, as is the new home accessibility tax credit.

- Family tax cut and benefits changes: Announced by the prime minister last October and re-announced by Oliver in the budget.
- Federal Balanced Budget Act: Announced as a separate bill, it's rolled into this one for passage.
- Prevention of Terrorist Travel Act: Also announced as a separate bill, but rolled into C-59.
- Parliamentary Protective Service: Previously-announced changes to security on Parliament Hill, as the RCMP takes over security for the Parliamentary precinct following the Oct. 22 shootings.
- Public service sick leave: New authorization for Treasury Board to establish and modify, despite existing laws and ongoing contract talks, the "terms and conditions of employment related to the sick leave of employees," including the establishment or modification of a new short-term and long-term disability program.
- Patent Act and Trade-marks Act changes.
- Compassionate care leave extension: Now up to 28 weeks, and related EI benefits extended to 26 weeks.
- Copyright Act changes.
- Export Development Act changes.
- Canada Labour Code changes to include unpaid employees (for example, interns.)
- Members of Parliament Retiring Allowances Act changes to harmonize contribution rates for senators and MPs.
- National Energy Board Act changes to extend the duration of natural gas export licenses.
- Employment Insurance Act eligibility changes.
- Canada Small Business Financing Act changes to increase the amount of gross revenue allowed in the definition of "small business."
- Personal Information Protection and Electronic Documents Act changes.
- Proceeds of Crime (Money Laundering) and Terrorist Financing Act changes.
- Immigration and Refugee Protection Act changes, to expand the use of biometrics and electronic documents.
- First Nations Fiscal Management Act changes.
- Canadian Forces Members and Veterans Re-establishment and Compensation Act changes to enact previously-announced injury and caregiver benefits.
- Ending the Long-gun Registry Act changes to exempt applicable records from Access to Information rules.

Read Bill C-59:

Lisez le projet de loi C-59:

<http://s3.documentcloud.org/documents/2074191/c-59-budget-implementation-bill.pdf>



Ottawa aura plus de pouvoir pour retirer des passeports

Jasmin Lavoie, La Presse, le 7 mai 2015

Le gouvernement canadien aura maintenant le pouvoir de retirer «à sa discrétion» les passeports des Canadiens qui souhaitent voyager «à des fins terroristes».

Le ministre de la Sécurité publique et de la Protection civile du Canada, Steven Blaney, a annoncé hier de nouvelles mesures pour révoquer «plus rapidement» le passeport d'un Canadien «lorsque la sécurité nationale est en jeu».

«On va accélérer le processus de décision. [...] on va retirer plus rapidement les passeports à ceux qui souhaiteraient voyager à des fins terroristes», a indiqué Steven Blaney lors d'un point de presse à l'aéroport de Montréal.

Selon le gouvernement canadien, le processus actuel permet de révoquer un passeport s'il y a un «doute raisonnable». L'annonce d'aujourd'hui permettra au ministre de prendre cette décision «s'il pense» que l'individu pourrait se livrer à des activités terroristes. Pour se doter de ce nouveau pouvoir politique, le gouvernement devra modifier des lois et apporter quelques changements d'ordre administratif.

«Nous ne permettrons pas aux terroristes d'utiliser le passeport canadien pour commettre des actes odieux», a dit Chris Alexander, ministre de la Citoyenneté et de l'Immigration du Canada. Selon lui, le groupe armé État islamique (EI) a «déclaré la guerre au Canada» et le gouvernement se doit d'agir pour prévenir les coups. «Nous savons que d'autres personnes ont l'intention de quitter le pays pour rejoindre l'EI et il est de notre devoir de les en empêcher», a ajouté Chris Alexander, qui pense que la mesure annoncée «atténuera les risques».

Cela permettra aussi au gouvernement de révoquer le passeport d'un individu soupçonné d'aller commettre des infractions sexuelles à l'étranger contre des enfants.

Les services de renseignements américains ont estimé en septembre dernier que de 20 000 à 31 500 personnes combattraient au sein du groupe État islamique. Parmi eux, il y aurait des centaines d'Occidentaux.

En février dernier, par exemple, une bande de six Québécois âgés de 18 et 19 ans ont quitté la province pour se rallier à des groupes djihadistes en Syrie. La veille, une Canadienne de 23 ans avait quitté le pays après s'être radicalisée sur l'internet.

Chris Alexander croit que jusqu'à maintenant, le gouvernement a déjà sauvé la vie de quelques Canadiens en les empêchant de quitter le pays pour grossir les rangs de groupes terroristes. «Mais il fallait avoir des preuves. C'était un seuil qui ne nous permettait pas d'agir lorsqu'on avait des soupçons bien fondés et que l'enquête était encore en cours», a dit le ministre.



Top federal bureaucrat targets hiring, policymaking and mental health in her first report

Kathryn May, Ottawa Citizen, May 6, 2015

Canada's top bureaucrat is making recruitment, policy development and mental health top priorities as she strives to turn the public service into a "high-performing" workplace.

Privy Council Clerk Janice Charette Wednesday released her first report to Prime Minister Stephen Harper since becoming clerk last fall. It lays out the public service's accomplishments over the past year and explains where she hopes to guide it in the coming year.

"The forces of change are many ... as our world continues to evolve, our focus continues to be and must remain excellence in delivering quality programs and services to Canadians and evidence-based advice to government," she said.

Charette, the second female clerk in Canada's history, has been called the "transition clerk," leading change on many fronts. She is rolling out Blueprint 2020; preparing the bureaucracy for an election; and managing a workforce that feels embattled after six years of job cuts and budget freezes.

In her report, Charette said she is "unequivocally and personally" committed to the Blueprint 2020 vision, unveiled by her predecessor, Wayne Wouters, as the road map for the public service in the digital age.

The public service is in the throes of a major transition and Blueprint has a strong appeal to young, tech-savvy public servants, as it is built around new technology and cutting red tape. It's aimed at making the public service more networked, innovative, efficient, productive, better managed and tech-enabled.

A big complaint about it, however, is that it dodges some of the politically sensitive issues dogging Canada's largest employer. These include: the lack of trust between bureaucrats and their political bosses; the public service's diminished policymaking role and relevance; and what many call a "toxic" workplace that has one of the highest incidences of mental health claims in the country.

Charette's three priorities could go a long way to address those perceived gaps.

The public service has faced an exodus of retiring baby boomers whom Charette said have to be replaced with recruits who bring new skills and fresh ideas to “manage in the modern world” dominated by technology and big data.

Charette said she isn't setting hiring targets at this point, but departments must keep their human resource plans updated so they know which skills are needed for the future. With downsizing, departments have been preoccupied with shedding jobs.

The number of people leaving or retiring from the public service had been relatively stable over the years, until the 2012 budget cuts kicked in. Nearly 13,000 public servants retired or left in 2013-14, followed by another 12,283 the following year.

Charette said she isn't looking to “grow” the public service, but new hiring hasn't come close to replacing the record number of departures. About 4,300 permanent employees were hired last year and about 2,870 the year before. Rather than recruiting, departments are filling gaps with casual, term and student employees.

The recruitment and retention patterns are reflected in the experience levels of public servants. Today, 13 per cent of public servants have less than four years of experience compared to more than 17 per cent the previous year. The proportion with between five and 14 years' experience, however, increased from 45 per cent to nearly 49 per cent.

The prime minister's advisory committee on the public service sounded the alarm in a report last month, warning that departments averse to hiring could cause a “demographic hole” similar to the missing generation that dogged the public service for years when it stopped hiring in the 1990s. The report called for “top-down direction” from the clerk and deputy ministers.

“I think it is important for me to send a signal about where I see the priorities,” Charette told the Citizen. “Departments are making their own decisions right now about their HR priorities and I think it is important for me to signal that when I look at the public service as a whole, that this is one area where I think we have a public service-wide need.”

Here's a quick look at what Charette said.

Recruitment:

Specialists in data analysis will be a key recruitment target.

The public service should also examine how it recruits. It typically relies on a major post-secondary campaign on campuses, as well as online recruitment. The public service also needs an infusion of mid-career and senior talent from the private sector.

Policy development:

The public service is no longer the only or even the primary source of policy advice for ministers. Politicians expect public servants to consult and collaborate with stakeholders

and it's up to public servants to quickly "synthesize" the various interests to come with advice in the public interest.

Public servants also have to strengthen the links between policy and service delivery.

"Who is responsible for integrating that information, synthesizing it and trying to weed through what is in the public interest as opposed to the interests of the person who may be advocating a position is the job of the public service. (That's) evidence-based public policy," she said.

Mental health:

Charette has "no tolerance" for the situation in which one in five public servants complained about harassment in the last public service survey.

She also worries about the rising incidence of mental health claims that approach half of all long-term disability claims. Public servants' reliance on medications to combat mental illness is also on the rise.

The work of the task force that Treasury Board President Tony Clement and the Public Service Alliance of Canada created will be central to the success of the Blueprint 2020 roll-out.

"The challenge is to have stigma-free dialogue that allows for honesty and compassion as well as a focus on how to prevent harm in workplace while promoting health and resilience. These are key characteristics for high-performing public service."

What is Blueprint 2020?

Privy Council Clerk Janice Charette fully endorses the Blueprint 2020 vision of the public service for the future that was released by her predecessor Wayne Wouters in June 2013. It is built on four principles to build a "high performing" public service.

- An open and networked workplace that engages Canadians and partners for the public good.
- A whole-of-government approach to improve service delivery and value for money.
- A modern workplace that uses new technologies for networking, access to data and customer service.
- A capable, confident and high-performing workforce that embraces new ways of working and the diversity of talent to serve the country's needs.



The Gargoyle: How union legislation could penalize hockey players

Glen McGregor, Ottawa Citizen, April 24, 2015

The Conservative government's constant promotion of hockey as a unifying Canadian value could be on a crash course with its enthusiasm for curbing the powers of organized labour.

Bill C-377, which would require labour unions to publicly report all contracts in excess of \$5,000, has drawn concerns from the National Hockey League Players Association.

The news website Blacklock's Reporter scored a scoop this week when it found that NHLPA executive director Donald Fehr wrote to senators studying the bill to warn that it would interfere with the players' various licensing agreements for "video games, player trading cards and NHL team jerseys and apparel."

Fehr explained that third parties that the players license would have "reasonable expectation that the terms of such agreements will not be made public." He asked for an amendment to the law granting an exemption from the law, Blacklock's reported.

Fehr's request for an exemption places the government in an awkward position: If it's ignored, and the NHLPA is subject to disclosure, it could jeopardize the sale and distribution of hockey cards and other souvenirs and – worse – trigger a messy public-relations battle between the players and the hockey-mad government.

But if the government decides to exempt the players, it could be accused of giving special consideration to multi-millionaire professional athletes that it doesn't afford to factory workers and other lunch bucket union types. (Just ask former Liberal industry minister John Manley how voters feel about NHLers getting special treatment.)

The private member's bill was introduced by B.C. Conservative MP Russ Hiebert but has the support of the Conservative government.



Deux avocats s'affrontent pour être élus à la tête du Barreau

Michael Nguyen, Le Journal de Montréal, le 4 mai 2015

Pour la première fois, deux avocats s'opposeront afin d'être élus à la direction du Barreau du Québec et ainsi mettre en place leur propre vision du rôle de bâtonnier.

« Quand il y a eu le changement (des règles de gouvernance), j'ai accepté de me présenter avec plaisir », explique le candidat Me Luc Deshaies du cabinet Gowling Lafleur situé à Montréal.

C'est qu'avant cette année, c'était le vice-président du Barreau qui était automatiquement nommé au poste.

« La nouvelle course a permis ramener le sujet dans l'espace public », a commenté Me Lu Chan Khuong du cabinet Bellemare avocats à Québec.

Proche du public

Les deux candidats ont chacun leur vision du rôle de bâtonnier.

« Le rôle, c'est d'être le porte-parole de la justice, d'être présent dans les espaces publics, d'amener l'intérêt des gens », dit Me Khuong.

L'avocate propose entre autres en permettant aux avocats de consacrer la moitié de leurs 30 heures de formation obligatoire annuelle en temps de service gratuit pour les citoyens. Elle voudrait aussi améliorer l'accès à la justice via la fiscalité.

« Les compagnies peuvent déduire leurs frais juridiques alors qu'un individu doit assumer la totale, pour moi c'est inéquitable », dit-elle.

Me Khuong, qui est mariée à l'ancien ministre de la Justice Marc Bellemare, voudrait également diminuer le salaire du bâtonnier, qui dépasse les 300 000 \$ annuellement.
Responsabilité

Me Deshaies, de son côté, affirme avoir reçu de nombreux appuis d'avocats de partout au Québec, bien que des erreurs sur sa liste d'appuis l'ont forcé à s'excuser.

Il estime que le bâtonnier se doit d'être un bon administrateur, qui gère le Barreau de façon « responsable et avec modération ».

« Il doit établir des consensus, ajoute Me Deshaies. Il préside le nouveau conseil d'administration, ce n'est pas un régent. »

L'avocat compte également maintenir la réputation du Barreau, « qui doit constituer un modèle ».

« Nous sommes (dans la course) pour des bonnes raisons, mais nous avons des visions différentes », conclut-il en parlant de sa vis-à-vis.

Les avocats voteront dès aujourd'hui, jusqu'au 22 mai.



Supreme Court ruling hobbles pursuit of child predators, police say

RCMP say last June's ban on informal police requests to ISPs is stalling child-sex cases

CBC News, Dean Beeby Canadian Press, May 6, 2015

Police officers assigned to fight child pornography say a Supreme Court of Canada decision is hobbling their ability to track down internet pedophiles and child sexual abusers.

In a Charter of Rights and Freedoms case last June, the high court abruptly ended the ability of police to informally request subscriber information from internet service providers (ISPs), saying officers must first obtain a production order or warrant from a judge.

The ruling immediately ended all so-called law enforcement requests to ISPs such as Rogers, Shaw and Bell, replacing them in part with time-consuming paperwork that has sharply reduced the number of cases that can be pursued by police.

child-porn-tipline

Even as the number of tips from the public increases, RCMP and other police forces say they are hobbled by a high court ruling that ended the informal information exchange with internet service providers. Now, time-consuming warrants or production orders are needed.

An internal document shows there were 1,038 such informal requests sent to ISPs in 2013 by the National Child Exploitation Co-ordination Centre, an RCMP-run agency in Ottawa that acts as a hub for police forces in Canada fighting internet-based child sexual abuse.

And in the half-year until the Supreme Court decision on June 13 last year, known as R. vs. Spencer, the centre had already filed 726 such informal requests, a 50 per cent increase in caseloads to that point.

But after that date, there are none.

The RCMP now are limited to filing "jurisdictional requests," which simply ask an ISP for the city and province of a suspect IP address and whether the company will be retaining the subscriber's full information record for at least 60 days. Previously, full details of the identity of the subscriber were turned over to police.

Sharp drop in cases

In the last six months of 2014, following the Supreme Court decision, the centre filed just 56 of these jurisdictional requests, indicating a sharp drop in the cases the RCMP are able to develop and a much thinner flow of investigative information about child sexual predators on the web.

"On an operational level, the Spencer ruling and the broader ISP response are having an ongoing impact on law enforcement and criminal investigations," says an internal RCMP report, obtained by CBC News under the Access to Information Act.

A Rogers transparency report for 2014, released earlier this year, also reflects that sharp decline. The company says it received 384 child-exploitation assistance requests from police that year compared with 711 in 2013. The Rogers report notes the Spencer ruling has severely reduced the numbers.

An RCMP spokesman confirmed the court decision has hampered the ability of police to track down Internet child abusers.

The ruling "has added extra administrative steps to such investigations by requiring police to obtain production orders for basic subscriber information," said Sgt. Harold Pfleiderer.

"Now, investigations of online child exploitation usually take more time. In many cases, there is insufficient information for police to obtain a production order even with the jurisdictional request information."

Sometimes, international police agencies will provide RCMP with nothing more than the IP address for the computer used by a suspected child sexual exploiter active in Canada.

"This is often the only piece of information that the NCECC will receive," he said. "This is usually insufficient in obtaining a production order for basic subscriber information."

The Supreme Court ruling suggested the government could pass a "reasonable" law to allow police to obtain basic subscriber information from ISPs, but a spokesman for Public Safety Minister Steven Blaney indicated that is not yet in the works.

"Our government is currently reviewing the decision," said Jeremy Laurin.

Tips playing field

A spokeswoman for a Winnipeg-based group that fights child sexual abuse says the Spencer decision tipped the playing field, reducing the ability of the police to chase down abusers.

"This has created a tremendous amount of additional work for police," said Monique St. Germaine, general counsel for the Canadian Centre for Child Protection, Inc.

"It means some investigations perhaps don't get off the ground because you have to decide where you're going to put your resources."

Local police forces are also coping with the trickle-down effects of the Spencer ruling. The RCMP had previously sent municipal officers detailed information identifying alleged abusers so they could quickly apply for a judge-approved production order or warrant.

Now, the RCMP can provide only scant information about what city and province the alleged abuser lives in, and what ISP is being used — details often insufficient to present to a judge for a warrant or production order.

"It's creating a lag in our investigations," said Sgt. Maureen Bryden of the Ottawa police online porn unit. "It's taking more time for us to get to the serious investigations."

"Whose rights do you really think are more important?" she said, criticizing the Supreme Court ruling. "The victim child that's being sexually exploited? Or the offender?"



Alleged Ottawa drug dealer's language rights violated, judge rules

Robert Sibley, The Ottawa Citizen, May 5, 2015

An alleged Ottawa drug dealer's trial has been delayed, if not halted, after an Ontario Court of Appeal judge found the francophone man's language rights were seriously violated by prosecutors and a judge in a lower court.

"The number and severity of the violations of the (accused's) language rights, and the conduct of the Crown and the court were reprehensible," Judge Paul Rouleau said in a decision on behalf of the three appeal court judges rendered Tuesday.

"The aspect that offends society's sense of justice is the contrast between the treatment of the anglophone accused and the francophone accused."

The defendant, Christian Munkonda, was one of eight people charged in 2010 with various offences relating to cocaine trafficking. He has spent the past three years under house arrest while awaiting trial. Munkonda and one other accused exercised their right to have their preliminary hearing, held in 2011, in French, while the six other accused chose to be tried in English.

The Criminal Code, in sections 530 and 530.1, stipulates that an accused can request proceedings to be conducted in either official language, French or English.

In his decision, Rouleau noted that the Crown's notices of motion, along with thousands of pages of documents — 37 volumes of 200 to 300 pages each — and the transcripts of nearly 1,200 wiretapped conversations in various languages, English, French, Italian and Arabic, were, with the exception of existing English-language material, all translated into English. Even the original French-language conversations were not included in the transcripts.

This meant that while the anglophone defendants had access to all the material in their preferred language, the francophone accused had English-only documents, the judge observed.

"In a proceeding in respect of which Parliament has legislated to ensure the equality of the two languages, it appears that, in one prosecution, the Crown denied the language rights of the prosecution, including the appellant (Munkonda), while respecting the anglophones' language rights," Rouleau said.

None of the Crown lawyers spoke adequate French, and when Munkonda's lawyer, Jean Richer, argued for a bilingual prosecution team, the preliminary inquiry judge denied the motion on the grounds that he wanted to avoid undue court delays, according to the Court of Appeal decision. As well, the court stenographer only knew English, most of the hearing was conducted in English, and even francophone witnesses were questioned in English by the prosecution.

"This is not just about my client," Richer said in an interview following the appeal court decision. "This kind of thing tends to diminish the use of French in the courts."

French-speaking accused should not have to "beg" for their language rights to be respected, he said.

The charges against Munkonda's francophone co-accused were eventually dismissed at the preliminary hearing, but Munkonda was committed for trial on two counts of the original 32 charges of trafficking and possession for the purposes of trafficking laid against him. The anglophone accused were committed to trial or pleaded guilty.

His lawyer applied to the Superior Court for a stay of proceedings on the charges because of, in Rouleau's words, "the persistent and serious violations of (Munkonda's) language rights, and his manifestly unequal treatment compared to the treatment afforded to those who had opted to proceed in English."

A Superior Court judge, in a 2012 decision, agreed that the violations of Munkonda's language rights were "not minor," but maintained that Richer's motion for a stay of proceedings was "extreme in the circumstance." A new preliminary hearing that respected the language rights of the accused would serve as a "remedy" to the violation of those rights, that judge said.

Richer appealed this decision, too, arguing that while the Superior Court judge agreed there were "major violations" of Munkonda's language rights, he "failed to award any remedy." Taken together, the preliminary hearing and the Superior Court hearing "show indifference, and even a degree of hostility, on the part of the Crown and the court to their language obligations," Richer said.

Judge Rouleau agreed.

Despite his decision, Rouleau stopped short of staying the proceedings against Munkonda. Instead, he quashed the accused's committal for trial, effectively meaning that the two-count case against Munkonda can start all over again.

But he wasn't quite finished. In an admittedly "very rare" decision, Rouleau ordered the Crown pay all the legal costs Munkonda incurred for the preliminary hearing as compensation for prosecutorial "misconduct."

"This is an exceptional remedy," Rouleau concluded, adding "I do not believe it would be appropriate if the violations were minor or had been corrected quickly."
