AJC-AJJ
ASSOCIATION OF JUSTICE COUNSEL
ASSOCIATION DES JURISTES DE JUSTICE

Press Clippings for the period of December 22, 2014 to January 5th, 2015
Revue de presse pour la période du 22 décembre 2014, au 5 janvier, 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 in the News – L'AJJ fait les manchettes

CBC news

Northern Crown lawyers asked to pay back vacation travel perks

'My members received these letters ... asking for this money back just before Christmas'

CBC News Nunavut, December 23, 2014

About a dozen current and former Crown prosecutors in the North have been asked to pay back thousands of dollars in vacation travel assistance.

Leonard MacKay is the president of the Association of Justice Counsel, which represents the lawyers.

"It's bad timing, obviously," MacKay says. "My members received these letters this week and last week asking for this money back just before Christmas so it's tough. We're trying to expedite it so people have some certainty about their future finances."

The Public Prosecution Service of Canada says it provides a certain amount of money each year to cover the higher costs of working in an isolated post.

But a spokesperson says some employees were incorrectly given the travel allowance while on leave.

In all, about $100,000 is owed, some of it dating back six years.

MacKay says the majority were women who were on maternity leave. He says they were encouraged by human resources to take advantage of the allowance.

In one case, a former staffer was asked to pay back over $17,000, and was given several options, such as paying a lump sum, or by authorizing the federal government to take up to 10 per cent of her salary starting in February.

The letter also suggests taking less than 10 per cent of wages "where financial hardship has been determined," and notes that this would have to be approved by a deputy head following submission and review of statement of earnings and debts.

CBCnews

ANALYSIS: Welcome to election year, date to be determined

Spring ahead or fall back? Fixed-date law says Oct. 19, but politics can intrude

By Chris Hall, CBC News, January 5, 2015

Hold your breath. Or rather, don't. Even though we're now officially into an election year, the prime minister insists he has no plans to go to the polls before the fixed election date of Oct. 19, 2015.

"I can honestly tell you we've had no discussion at any level of changing the date," he told the CBC's Peter Mansbridge in an interview before Christmas. "I don't know where that's coming from."

Well, for starters, it comes from experience. Prime ministers go to the polls when the timing looks best, the country's new fixed-date election law be damned.

And then there are those events already on the 2015 calendar, like the spring budget with its promised surplus and the scheduled April trial of suspended Conservative Senator Mike Duffy.

The early part of this new year offers plenty of fodder for the argument that waiting until fall may not be in Harper's, or the Conservatives', best interests.

Throw in bottom-barrel oil prices, a wave of announced spending cuts by Husky, Chevron, Petronas and other large players in the energy sector, and you get the picture.

Better to seize your moment than be crushed by economic problems beyond your control.

The opposition certainly isn't buying the prime minister's claims.

"We're obviously fully into the election cycle now," says NDP finance critic Nathan Cullen.

His party has already begun staking policy claims, among them a pledge to raise the minimum wage for federal workers and an ambitious national child-care program.

Cullen says New Democrats will continue to put flesh on the bones of their platform in the months ahead.

"I believe we're in a three-way race going into 2015," he says. "I think across this country, depending on which region you're in, the race looks a little different. But boy-oh-boy, 2015 is going to be an exciting year."

Money matters

For the Conservatives, the pre-election narrative will go something like this.

First: focus on the accomplishment of the past four years of majority government.

In this, look for the focus to be on economic management, the completion of trade deals and Harper's emergence on the international scene, whether it's talking tough to Russia's President Vladimir Putin over Ukraine, or winning plaudits for driving the UN's maternal and child-health initiative in developing countries.

Second, tell Canadians what you intend to do for them in the next four years.

On both fronts, the Conservatives have one big thing going in their favour. Money. Lots of campaign money.

The Conservatives have raised far more than either of their main opponents, and that is money the party can freely spend on all manner of political advertising before an election is called.

"If I'm the prime minister that's a significant advantage," a Liberal strategist says. "We've closed the gap. But with no spending limits pre-writ, the Conservatives have the money to promote their agenda."

And it's not just the party's bank roll that's in play.

The Conservatives haven't been at all shy about using government resources to promote their legislative initiatives, the most recent being the ad barrage around the fall economic update, which brought in income-splitting for families with children, and enhanced the universal child-care benefit.

In both cases, voters won't see the results until later this year.

The middle class

New Democrats are busy constructing their own narrative about the Conservative's record over nine years in office — a record they argue includes the Senate scandal, election fraud and a total disregard for the environment.

For the Liberals, the focus will be on the youthful appeal of party leader Justin Trudeau, and the central theme that Harper's priorities do not reflect or reward middle-class Canadians.

The Liberals maintain that the Conservatives' income-splitting plan rewards wealthy Canadians more than it does those in real need.

Both opposition parties insist most families will see little if any savings from the so-called family tax cut.

The goal is to debunk the Conservatives' message that only a re-elected Harper government can be trusted to manage the country's finances.

"I think the opposition has to get going if they want to counter the spin that the Conservatives are the best economic managers around," says David McLaughlin, a former Conservative chief of staff and campaign strategist.

Scraping the barrel

That's not to say the Conservative don't have challenges of their own, particularly with the price of oil now sitting at roughly $30-a-barrel less than what the government forecast.

Finance Minister Joe Oliver needs to produce a surplus when he tables his first budget this spring, if only to give the prime minister an option should he decide an October election is too far away.

But both opposition parties have their own problems as well, heading into 2015.

The New Democrats are mired in third in nearly every public opinion poll, and former caucus chair Glenn Thibeault bolted to run for the Ontario Liberals just before Christmas, saying it was where he could best serve his Sudbury constituents.

As for the Liberals, Trudeau has yet to lay out a policy agenda. And there has been significant confusion over some of the positions he has taken, such as on sending fighter jets to Iraq and announcing that all of his candidates must be pro-choice.

It all makes for an interesting lead-up to this election year.

So, hold your breath, or don't. Circle Oct. 19 on your calendar. But you might want to do it in pencil.

Blatchford: George R. Strathy an example of how Harper-named judges have been seen to stick it to the PM

CHRISTIE BLATCHFORD, Columnist for POSTMEDIA NEWS, December 31, 2014

George R. Strathy is maybe the best answer to the paranoid yet popular notion that Prime Minister Stephen Harper is bent on remaking the judiciary in his own evil image, or, as one blockhead recently suggested, "trying to pack the courts with right-wing judges and former prosecutors."

Strathy was appointed by the Harper Conservatives, first to the Ontario Superior Court, then to the Ontario Court of Appeal until finally, last June, he was named by the PM himself (prime ministers get to pick chief justices as well as members of the Supreme Court) as chief justice of the appeal court.

Before his rise to the bench, Strathy was a former civil litigator with a speciality in that well-known breeding ground of hard conservative thinking – maritime law.

So what was among the first orders of business for the presumed Harper toadie upon assuming the loveliest office with the best view at the lovely old appeal court building in downtown Toronto?

Why, it was to write a decision that delivered another kick to the nuts of his presumed benefactor, the PM.

This was in a case called R vs. Hamidreza Safarzadeh-Markhali, a fellow who'd been convicted of marijuana possession and eight firearms offences, including possession of a loaded handgun, and who was now appealing his conviction, while the Crown was appealing his sentence.

The three-member appeal court panel disposed of the conviction business quickly: Safarzadeh-Markhali claimed he'd been illegally searched and was the victim of racial profiling, but the court agreed with the trial judge that he had not.

Onto the sentencing: The Harper government had passed the controversial Truth in Sentencing Act, which did away with the practice of awarding 2:1, or more, credit for time served in pre-trial custody, set a new maximum of 1.5:1, but also changed the

criminal code to stipulate that if an accused was denied bail primarily because of a previous conviction, he wasn't eligible even for the reduced credit.

That's because the government's idea, in part, was to increase the sentences of repeat offenders, fellows just like Safarzadeh-Markhali, who had a long sheet including convictions for uttering threats, assault, aggravated assault, possession of a restricted firearm and was under a lifetime firearms prohibition.

He had not got bail, and had in fact consented to his detention, midway through his hearing, presumably because he realized he wouldn't get it. Yet the justice of the peace made the endorsement under the revised criminal code to suggest that the reason he was denied bail was because of his record.

Thus, Safarzadeh-Markhali remained in custody for 20 months while awaiting trial, where he was smartly convicted. Because of the JP's endorsement about his previous convictions, he theoretically wasn't eligible for the 1.5:1 credit.

But the trial judge found that Safarzadeh-Markhali's liberty rights under the charter had been violated by the new law, and said that by limiting pre-trial custody to 1:1, the "least-informed justice," the JP, could fetter the discretion of the best-informed one, the trial judge.

So, though the judge found that a sentence of six years would be appropriate for Safarzadeh-Markhali, he should get the enhanced credit anyway. He was duly given it – 31 months – which meant that he had a sentence of 41 more months to go.

The appeal court agreed, and, with Strathy writing, said the new law meant that three accused people, charged with the same offence and with the same criminal records, could end up serving very different sentences — with the fellows like Safarzadeh-Markhali, who were denied bail on account of their records and then denied the enhanced credit, serving up to an extra year in jail.

As Strathy allowed, the legislative purpose of the new law might be appropriate and might even be achievable in a fair manner, but, "Unfortunately, however, like many attempts to replace the scalpel of discretion with a broadsword, its application misses the mark and results in unfairness, discrimination and ultimately unjust sentences."

In other words, how sharper than a serpent's tooth is an ungrateful Harper judicial appointee.

And this was hardly the first time that Harper-named judges have been seen to stick it to the PM and government which appointed them, just a particularly delicious illustration of it.

Harper has appointed seven of the nine Supreme Court judges, yet that court almost routinely has thumbed its nose at his government's tough-on-crime laws. The government has also elevated more Liberal-appointed Ontario Superior Court judges to the appeal court than it has bumped up Conservative-appointed ones.

It goes on and on: If this government has been trying to appoint the rabidly conservative to the courts, it has utterly failed. That may be because Harper et al just aren't very good at winnowing out who is philosophically aligned with them (which is, by the by, surely the spoils owed the electoral victor) or, more likely, because as Andrew Stobo Sniderman wrote in Maclean's magazine three years ago, the truth is that "Judges tend to defy partisan characterization."

So what to make then of the recent whingeing from the criminal defence bar that the Harper government, in this instance Justice Minister Peter MacKay, is appointing too many prosecutors and not enough defence lawyers?

This was in relation to a sheaf of 22 new superior court appointments across the country last month. Of the 22, a total of eight were prosecutors.

First of all, the single largest group – nine — were from the civil side of things, litigators with specialities in labour law, bankruptcy, tax and the like.

But more to the point, being a prosecutor doesn't begin to equate with being a charter-loathing troglodyte. I am unaware of a speck of evidence that it does. As it happens, I know and have seen in action several of those appointees: They may of course be frothing-at-the-mouth law-and-order freaks, but nothing they have ever done or said would suggest that.

And history teaches that they'll all do just as they please anyway, just as George R. Strathy does. Huzzah: Nothing to see here, people. Move along now.

Trudeau urges 'evidence-based approach' on marijuana, prostitution laws

SHAWN MCCARTHY, The Globe and Mail, January 4, 2015

Liberal Leader Justin Trudeau is hinting he'd repeal the Conservatives' controversial prostitution legislation, as he and NDP Leader Thomas Mulcair vie to be the favoured alternative to Prime Minister Stephen Harper in an election scheduled for later this year.

With Mr. Mulcair offering policy prescriptions such as a national child-care program, Mr. Trudeau is taking aim at Mr. Harper's record, including the prostitution bill and the government's income-splitting plan, which will reduce the tax burden on families with stay-at-home parents.

The Liberal Leader is not planning to release specifics on what policies a Liberal government would pursue until a campaign is launched, which is expected in mid-September for an October vote, though the Prime Minister can call it earlier.

In an interview aired Sunday, Mr. Trudeau said the Conservatives are motivated by ideology on issues such as prostitution while he favours an "evidence-based approach," which, he says, is why he is promoting legalization of marijuana and controlling access to the drug.

"On prostitution, we need to make sure we're basing our decisions on evidence," he told CTV's Question Period. "The Supreme Court has said the framework that existed was not protecting vulnerable people and women from violence and that is the lens we need to look through as we move forward on this difficult issue."

Ontario's Liberal Premier Kathleen Wynne has asked the provincial Attorney-General to launch a review of the constitutionality of the new federal law, which was adopted in response to the Supreme Court's rejection of the previous prostitution statute. Critics say the recently enacted law puts sex workers in even greater danger.

Year-end polling showed Mr. Trudeau's Liberals running neck-and-neck with Mr. Harper's Conservatives, while the strength of Mr. Mulcair's NDP is centred in Quebec.

Pollster Nik Nanos said the young Liberal Leader needs to highlight a solid team and potential cabinet to persuade Canadians that he is ready to govern, while Mr. Mulcair needs to break out of Quebec and shed his image as merely an effective Opposition leader.

"Mr. Harper needs a little co-operation from both opposition leaders," Mr. Nanos said in an interview Sunday. "For Tom Mulcair, he needs him to perform well in order to split votes in the 905 [area of Toronto's suburbs] and other swing areas. And for the Liberals, he needs them to make a mistake."

Mr. Trudeau said he is ready to take on the Prime Minister over economic issues, as the Conservatives launch attack ads that question his judgment on fiscal matters.

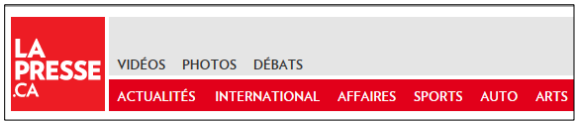
"In terms of reckless spending decisions, it would be hard to find a better example than [Mr. Harper's] ill-thought-out income-splitting proposal, which talks about taking $2.4-billion – the large part of the surplus that hard-working Canadians sacrificed to create – and giving it to the 15 per cent of wealthiest Canadians," Mr. Trudeau said.

As for Mr. Mulcair, he is looking to "relaunch" his effort to establish some momentum with promises such as increases to the federal minimum wage to $15 an hour, a national daycare program and opposition to corporate tax cuts and pipelines such as the Keystone XL project, which Mr. Trudeau has favoured.

The NDP Leader appeared with his wife, Catherine Mulcair, on the CTV program as he tried to soften his hard-nosed image and broaden his appeal. He acknowledged that effort was knocked off track last fall, first by the Parliament Hill shooting, which put a focus on security issues, and then by the sexual-harassment controversy in which Mr. Trudeau

suspended two male Liberal MPs from caucus after allegations involving two NDP women MPs.

“Both of those issues were very important – you couldn’t not cover them,” he said. “But it’s only in January that you’re going to see the beginning of the election year of 2015, with a final date of October 19. It’s going to be a long campaign.”



Les syndicats québécois unis contre Stephen Harper

JASMIN LAVOIE, La Presse, le 4 janvier 2015

Les trois plus importants syndicats du Québec promettent de livrer une bataille féroce à Stephen Harper pour empêcher sa réélection en 2015.

Après la FTQ samedi, la CSN a confié à La Presse qu'elle entendait mener des «campagnes d'opinion publique» ciblées dans certaines circonscriptions favorables aux conservateurs. De son côté, la CSQ n'écarte pas le vote stratégique à quelques endroits.

Le président de la Confédération des syndicats nationaux (CSN), Jacques Létourneau, a bon espoir de «faire une différence» au Québec lors du prochain scrutin. À son avis, les Québécois ont prouvé en 2011 qu'ils étaient capables de voter «d'une seule voix» lorsqu'ils ont élu 59 députés néo-démocrates sur une possibilité de 75. «On est capable de rééditer ça au Québec pour fédérer le vote anticonservateur. Il faut qu'ils [les conservateurs] nous prennent au sérieux.»

Les statuts et règlements de la CSN interdisent à la centrale d'appuyer directement un parti politique. Par contre, Jacques Létourneau n'est pas fermé à l'idée d'un vote stratégique «ciblé» dans certaines circonscriptions. «C'est sûr que l'on va travailler dans les régions, on va essayer de mener des campagnes d'opinion publique. Particulièrement dans les régions où ils [les conservateurs] ont des chances d'être élus», dit-il.

Samedi, La Presse révélait que la Fédération des travailleurs du Québec (FTQ) avait ciblé huit circonscriptions dans la province où elle appuierait tout candidat capable de battre un conservateur.

«Vote stratégique»

Dans une entrevue accordée quelques semaines plus tôt, Stephen Harper a avoué voir d'un très mauvais oeil l'intention des syndicats de s'immiscer dans la prochaine élection.

«Je note qu'il y a des syndicats et d'autres groupes qui menacent d'utiliser le big money pour influencer les prochaines élections», a dit le premier ministre.

Jacques Létourneau explique que cette mobilisation «de gauche» anticonservatrice s'étendra partout au Canada par l'entremise de différents regroupements. À l'occasion d'un forum social en août dernier, des représentants syndicaux, écologistes et autres groupes de défense des droits de la personne ont décidé de s'unir pour contrer le gouvernement Harper au prochain scrutin. Le président de la CSN soutient qu'une autre rencontre stratégique entre les membres est prévue dans deux semaines à Toronto.

Le syndicat qu'il dirige représente environ 325 000 travailleurs, dont 7500 agents correctionnels basés principalement en Ontario. Là aussi, la CSN promet de déranger les troupes du Parti conservateur. «Nos agents vont être assez actifs contre eux. Ils vont faire une campagne d'intervention directe sur le terrain à la fin de l'année 2015», indique Jacques Létourneau.

Une «menace réelle», selon la CSQ

La Centrale des syndicats du Québec (CSQ), qui représente plus de 200 000 personnes, promet également de crier haut et fort son opposition au gouvernement «antisyndicaliste» de Stephen Harper. La présidente, Louise Chabot, pense que la réélection du parti constituerait une «menace réelle» pour ses membres. Elle ajoute que la réforme en matière d'assurance emploi est une attaque directe contre les travailleurs. Les coupes dans la fonction publique et l'adoption du projet de loi C-525 (limitant la capacité des fonctionnaires fédéraux à se syndiquer) lui donnent aussi peu confiance.

La présidente prévient que son syndicat ne prendra pas position en faveur d'un parti politique, mais elle ne ferme pas la porte à une forme de vote stratégique. «On n'a pas l'intention de voter pour un parti. Mais on pourrait voter contre un parti. Ce sont nos délégués qui vont décider des actions à prendre», indique-t-elle. La CSQ discutera de ces questions lors de réunions prévues en février et mai.

Le premier ministre du Canada a déjà fait savoir qu'il respecterait l'échéancier prévu dans la Loi sur les élections à date fixe. Cela signifie que les Canadiens devraient être invités à se rendre aux urnes le 19 octobre prochain.

Légal ou non?

Certains syndicats ont déjà connu des ratés en tentant de nuire à un parti politique. Lors de la campagne électorale provinciale de 2003, la FTQ et des syndicats affiliés ont distribué à leurs membres des feuillets les invitant à ne pas voter pour l'Action démocratique du Québec (ADQ). Ce faisant, les syndicats ont fait une dépense électorale, jugée illégale par le Directeur général des élections du Québec. Le DGEQ a réclamé une injonction provisoire pour forcer l'arrêt de la distribution. Le débat s'est transporté devant les tribunaux, qui ont donné raison à l'institution démocratique indépendante.

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thestar.com

Public pays millions for legal fees of federal judges under investigation

Judges in trouble have unlimited funding to fight disciplinary action against them. The Lori Douglas inquiry cost taxpayers $4.5 million.

Olivia Carville, Toronto Star, January 3, 2015

Taxpayers have been dishing out millions of dollars to cover the legal fees of federal judges under investigation who are fighting the disciplinary process.

Judges facing complaints from the public get unlimited access to financial and legal resources. Some draw out public inquiries for years, by fighting all the way to the Supreme Court of Canada — at taxpayers' expense.

The latest inquiry, into federally appointed Manitoba Associate Chief Justice Lori Douglas, who resigned in November after facing scrutiny over naked photos of her that were posted online, wound up in Federal Court. It has already cost taxpayers almost $4.5 million, according to official figures obtained by the Star.

Between 2011 and April this year, taxpayers were billed $1.5 million for Douglas' legal fees through the Office of the Commissioner for Federal Judicial Affairs, and nearly $3 million for the Canadian Judicial Council's expenses in the inquiry. The costs will continue into the current financial year.

Last week, the Star highlighted that fact that more than 99 per cent of complaints against federal judges are dealt with in secret by the council, which is made up exclusively of judges.

Established to investigate complaints against the country's 1,200 federally appointed judges, the council conducts closed-door investigations into about 200 complaints every year, never revealing publicly the judge's name or province, details of the allegations, or the results of the investigation.

The most serious complaints are dealt with via a public inquiry, where the council has the power to recommend that Parliament remove a judge from office.

Since 1990, only 11 judges have faced a public inquiry — representing fewer than 0.5 per cent of all complaints.

But in recent years, the sums the council has spent defending its inquiry process in court have started to outstrip the cost of reviewing complaints, said Norman Sabourin, the council's executive director.

Sabourin says he has raised concerns with the justice minister about the lack of rules governing expenses paid for federal judges under investigation.

"A legitimate question to be asked is whether [significant] amounts of money should be paid to a judge, without any parameters," Sabourin said.

"Judges certainly are entitled to get their legal fees publicly funded, but there have to be parameters. They can't go running to Federal Court at every single stage of the process."

Judges remain on paid leave during investigations. Even if they are stripped of office, they have the option of retiring or resigning to keep their pension — an option all those targeted for an inquiry so far have exercised.

Ontario Superior Court Justice Theodore (Ted) Matlow, who faced an inquiry in 2008 over his involvement in a citizens' campaign opposed to a Toronto condo complex, estimated the total cost of his inquiry as up to $5 million. Matlow told the Star it would be "reasonable" to assume most public inquiries cost about $4 million.

Toronto constitutional lawyer Rocco Galati has called the disciplinary system "a royal waste of public funds."

Every step of the process is set up in the judges' favour — they are judged exclusively by their peers and have unlimited access to public funds to defend themselves, Galati said.

"A judge who should or would be removed can simply stall the process on full salary by bringing judicial reviews and stretching it out to a point where they can, at their own convenience, resign," he said.

"It's ridiculous."

In contrast to almost all other disciplinary settings, including regulatory bodies that oversee provincial judges, justices of the peace and other professions, no rules govern the amount of money a federal judge can spend on legal defence, and no other disciplinary system funds appeals of its own decisions, Sabourin said.

Federal judges have a limit on the hourly fee that can be charged by their lawyers, but there's no limit on the number of hours charged, he said. "Here, there are no parameters."

Complaint proceedings into Ontario Justice Paul Cosgrove's "pervasive" misconduct during a 1999 murder trial, where he wrongly declared that the OPP and Crown attorneys had committed more than 150 violations of the accused person's charter rights, were drawn out for five years while he challenged the inquiry all the way to the Supreme Court of Canada. He lost in 2009.

Cosgrove was paid his $260,000 annual salary during the investigative process and court proceedings. He chose to resign two days after the council recommended Parliament remove him from office.

Similarly, the ongoing inquiry involving Quebec Superior Court Justice Michel Deziel, over allegations of illegal political financing before his appointment to the bench, has been drawn out by two applications filed to Federal Court. The inquiry began in April and both of Deziel's applications were dismissed by courts for being "frivolous and premature," Sabourin said.

"All the work that's gone through has been funded, and my question is, should there not be a public policy about what should or should not be funded?"

The council has been holding informal discussions with the commissioner's office and Minister of Justice Peter MacKay about changing the legislation, but Sabourin said "reform is not in our hands."

"The CJC is not accountable for the funds, but if a judge to the tune of $1.5 million challenges everything we do, we have to respond," he said.

The Office of the Commissioner for Federal Judicial Affairs could not provide a figure for the total cost of the 11 public inquiries involving federal judges since 1990; spokesperson Marc Giroux said the information was "not readily available." He would not respond to questions about the council's concerns.

MacKay asked for a review of the council's investigative process earlier this year. A representative from the minister's office responded that, "We look forward to the results of that review with a view to ensuring that taxpayers' dollars are well spent."

Last month, the Star revealed that Ontario taxpayers are picking up the legal bills of justices of the peace disciplined for offences including sexual harassment, falling asleep in court and demonstrating a "pervasive" lack of understanding of basic law.

Similarly, federal judges' legal fees are always paid, regardless of whether they are removed from office or not.

This is different from the current practice governing provincial judges at disciplinary hearings held in Ontario.

Compensating the legal fees of provincial judges is up to the discretion of the Ontario Judicial Council. Since 2002, four Ontario judges have been found guilty of judicial misconduct — and not one has had his or her legal fees paid.

The Lori Douglas inquiry

The Canadian Judicial Council was created in 1971 to investigate complaints into federal judges. It is now spending more public money defending its processes than reviewing complaints.

The latest public inquiry, into Manitoba Associate Chief Justice Lori Douglas, who came under scrutiny after nude photos of her were posted online, cost the council nearly $3 million, communications director Johanna Laporte said.

Between 2011 and April this year, the council incurred costs for independent counsel, the non-judicial members of the inquiry committee, legal advisors, a lawyer to assist with judicial review applications and other costs relating to translation, court reporting, transcription services and security services, she said.

Independent counsel for the Douglas inquiry during the 2013-14 financial year cost $294,000 alone, according to the Public Accounts of Canada. The role of independent counsel is to present all the evidence, in favour and against the judge, in the public interest.

Douglas' legal fees cost taxpayers $1.5 million, through the Office of the Commissioner for Federal Judicial Affairs.

MacKay's judicial appointments favour prosecutors over defence

SEAN FINE, The Globe and Mail, December 29, 2014

Justice Minister Peter MacKay chose eight prosecutors and no defence lawyers to be judges in his latest round of appointments this month, creating a growing imbalance on the federal bench.

Mr. MacKay has chosen 15 prosecutors since his last appointment of a lawyer whose main area is defence, which came in October, 2013, a government list of federal judicial appointments shows. He has appointed 88 new judges during that time to federally appointed courts, such as superior and appeal courts, the two highest levels in the provinces.

The legal profession considers defence lawyers fit for the bench, and many have been appointed over the years, including some by the Conservatives. Before Prime Minister Stephen Harper came to power in 2006, some were even named straight from practice to the Supreme Court of Canada or provincial appeal courts.

"Why would they be any less fit to be judges than any other practising lawyer?" asked Dalhousie University law professor Wayne MacKay (no relation). "An impartial and fair bench can best be built by having a diversity of views represented within the judiciary."

The prosecutor-heavy appointment of judges comes while the government is trying to toughen criminal law, with more than 30 crime bills debated in Parliament since June, and reflects an attempt to find judges who will be tougher on crime, according to observers such as Prof. MacKay.

The Conservative government has appointed more than 60 per cent of the country's 840 full-time, federally appointed judges. There are no public hearings for the new appointees.

Jennifer Gearey, a spokeswoman for Justice Minister MacKay, said the qualifications of everyone who applies to be a judge are assessed by a judicial advisory committee in their region or province. "In the case of lawyers applying to be judges, committees assess them, provide comments, and also recommend them or not for appointment. The Minister of Justice only appoints those recommended by such committees. Appointment is based on legal merit and excellence."

The eight prosecutors named this month accounted for slightly more than one in three of the government's 22 appointments of non-judges. (Mr. MacKay also announced several promotions of sitting judges).

A wide variety of other types of specialties were represented, including civil law, corporate law, labour law and aboriginal law. Three law professors, one of them with expertise in criminal law, were chosen. One judge came from the Privy Council Office, which advises cabinet. The largest group among the 88 chosen in the past 15 months are non-criminal lawyers in private practice.

One lawyer appointed this month as a judge had done defence and other litigation in the past year, but had been a prosecutor for the previous 22 years. Two others are described on the ministry website as having practised criminal law among several types of law.

The criminal defence bar is deeply unhappy at what it sees as a government attempt to skew the balance on the bench.

Peter Wilson, a senior Vancouver defence lawyer who has also served as a special Crown prosecutor in high-profile cases, said many prosecutors make excellent judges. But he objects to the near-absence of defence lawyers in British Columbia. Thirteen prosecutors and just two lawyers whose primary work was in defence have been chosen since the Conservative government came to power in 2006, an analysis by The Globe and Mail shows.

"Balance is necessary in an adversarial system," he said in an interview. "And if you pick all of your judges from one side of the system, sooner or later you will skew the balance. It will take time, but it will happen."

Anthony Moustacalis, president of the Criminal Lawyers Association, said that previous Liberal governments were more likely than the current government to appoint defence lawyers in Ontario. "There's basically a feeding frenzy of Crowns to get these positions, it would appear."

Mr. MacKay's last appointment of a predominantly defence lawyer is a close personal friend of his. Joshua Arnold, the former president of the Nova Scotia Criminal Lawyers Association, attended Mr. MacKay's wedding to Nazanin Afshin-Jam in Mexico three years ago. On Justice Arnold's current Facebook page, he "likes" Mr. MacKay. Mr. MacKay named Justice Arnold to the Nova Scotia Supreme Court. (This October, Mr. MacKay named to that court another wedding attendee, Cindy Cormier, a government child-protection lawyer who is married to Justice Arnold.)

Ms. Gearey, when asked about the appointment of Justice Arnold, repeated her message that legal excellence and merit are the priorities.

An exception to the general rule is in Nova Scotia, Mr. MacKay's home province, where he served as a prosecutor two decades ago. Apart from Justice Arnold, two other criminal defence lawyers with strong reputations have been appointed judges under the Conservatives, both of them predating Mr. MacKay's 18 months as justice minister.

These appointments may reflect the unwritten rules of judicial appointments, legal observers say, in which regional cabinet members, through their local knowledge and contacts, champion the appointment of new candidates to the Justice Minister.

Before he was Justice Minister, Mr. MacKay opened the door to Nova Scotia defence lawyers, but as Justice Minister he has not exercised the same influence for defence lawyers in other provinces.

Prof. MacKay, of Dalhousie, connected the imbalance in appointments to the Conservative government's focus on crime control, and said the government opposes what it sees as an excessive use of Charter rights, especially by defence lawyers in criminal cases.

"It is not supposed to be this way. The role of government in selecting judges should be to hire on the basis of competence and not on their particular viewpoints, whether they're likely to be pro-crime control or pro-accused, whether they're pro- government or more willing to challenge the government. In the extreme, that would get to a kind of court stacking" seen in the United States.

Quebec Court of Appeal rules in favour of Robert Mainville appointment

LES PERREAUX, The Globe and Mail, December 30, 2014

Federal court judges who once practised law in Quebec can be appointed to the bench in the province's court system, the Quebec Court of Appeal has ruled. However, it is unlikely Ottawa will use the manoeuvre as a quick route to the Supreme Court for federal judges.

Five Quebec appeal court judges ruled unanimously that the federal government was entitled to appoint Justice Robert Mainville of the Federal Court of Appeal to the Quebec Court of Appeal.

Last year, the Supreme Court of Canada ruled federal judges could not be appointed to its three Quebec seats. Justice Mainville was on a shortlist for recent Supreme Court vacancies, a Globe and Mail investigation showed last May. In June, the judge was appointed to the provincial appeal court, which would have made him eligible for the top court.

"This became an issue because of the suspicion there might have been an intention of doing an end-run into the Supreme Court," said Paul Daly, an associate professor of constitutional law at the University of Montreal.

The Dec. 1 appointment of Quebec lawyer Suzanne Côté to a vacant provincial seat on the Supreme Court erased that immediate potential controversy.

But the challenges to the Harper government's most prominent appointments may not be over.

Rocco Galati, the Toronto lawyer who has led the charge against Conservative appointments, said a bid to appeal the Mainville ruling is already in the works.

Last year, Mr. Galati successfully challenged the appointment of Federal Court Justice Marc Nadon to the Supreme Court, and launched the appeal of the Mainville appointment, which the Quebec government joined. The province says it is studying the Quebec appeal court ruling, which was handed down with little notice last week.

In last year's ruling, the Supreme Court said Justice Nadon was ineligible to join its ranks because he lacked current Quebec legal qualifications. In the case of Justice Mainville, the province and Mr. Galati argued that appointees to Quebec courts should meet the same requirement as Supreme Court nominees to have a "tangible, ongoing link" to Quebec's legal culture.

The appeal court found the restrictive qualifications for Quebec seats on the Supreme Court were part of a carefully crafted arrangement nearly 150 years ago to bring the province into Confederation. The rules were meant to ensure the top court included judges who have a deep understanding of Quebec and the civil code it inherited from France.

The rules for lower court judges are less restrictive and have evolved to accommodate a wider array of legal backgrounds, the appeal court found. The Constitution says Quebec judges must be selected from "the bar of that province," but the court found that, since

1867, the clause has been interpreted to include qualified candidates who have spent time away from the Quebec bar.

“It can be said, without exaggeration, that since 1867 it has never been a source of controversy,” the Quebec appeal court said in its ruling.

Mr. Galati scoffed at the distinction between the levels of court, saying the appeal court “did a nice historical figure-skating job saying the context is different” in its ruling. “The wording is no different than the Nadon reference. You cannot be a former lawyer of the province. If this is the law, you could be disbarred and be appointed judge.”

Mr. Galati was pessimistic about the chances of an appeal to the Supreme Court. “They may not have the same incentive here. They’ve protected their interests [in the Nadon ruling], they may decide, ‘Who cares about one single judge’” in the Mainville case.

Prof. Daly agreed an appeal will be difficult, but for different reasons: “The Supreme Court probably won’t have much appetite to tackle this after the Court of Appeal has done such a thorough job.”

It is not known when the Supreme Court could hear the appeal.

Ottawa n'a pas erré en nommant le juge Mainville

La Presse, La Presse Canadienne, le 24 décembre 2014

Le gouvernement Harper n’a pas contrevenu aux lois constitutionnelles en nommant le juge Robert Mainville à la Cour d’appel du Québec, ont tranché hier cinq magistrats de ce même tribunal.

Dans son avis, la plus haute cour québécoise précise qu’un juge des cours fédérales qui était membre du Barreau du Québec avant son accession à la magistrature « peut être nommé à la Cour d’appel du Québec ou à la Cour supérieure du Québec ».

Le tribunal précise en outre que les cours québécoises visées par l’article 98 de la Loi constitutionnelle de 1867 sont « celles dont les juges sont nommés par le gouverneur général », soit la Cour d’appel et la Cour supérieure.

En vertu de cette interprétation, le juge Robert Mainville, qui est issu de la Cour fédérale, satisfait donc aux critères prévus par la Constitution.

Sa nomination, qui remonte à juin 2014, avait été accueillie avec scepticisme à Québec et perçue comme une manœuvre du gouvernement conservateur par les partis d'opposition à Ottawa.

En effet, elle survenait dans la foulée de l'invalidation de la nomination du juge Marc Nadon – lui aussi issu de la Cour fédérale – comme juge du Québec à la Cour suprême du Canada.

Dans son arrêt, en mars 2014, le plus haut tribunal au pays avait déterminé que les magistrats de la Cour fédérale ne pouvaient occuper l'une des trois places sur le banc réservées au Québec.

L'opposition à Ottawa soupçonnait donc le gouvernement conservateur d'essayer de contourner le jugement dans la cause Nadon en nommant le juge Mainville à la Cour d'appel, pour ensuite légitimer son accession à la Cour suprême du Canada, en remplacement de Louis LeBel.

Le juge LeBel, qui a pris sa retraite cet automne, a finalement été remplacé par l'avocate Suzanne Côté.

GARANTIR L'EXPERTISE EN DROIT CIVIL

L'avis rendu hier par la Cour d'appel a été produit à la demande de la ministre de la Justice du Québec, Stéphanie Vallée, qui souhaitait obtenir des éclaircissements sur les conditions de nomination des juges des cours du Québec par le gouvernement fédéral.

Elle disait estimer, dans un communiqué publié en juillet, qu'il était « essentiel que soient clarifiées les règles constitutionnelles concernant ces nominations, pour garantir l'expertise en droit civil, les traditions juridiques et les valeurs sociales du Québec ».

Invitée à réagir à la réponse du tribunal, hier, la ministre Vallée a simplement déclaré qu'elle prenait acte de celle-ci.

« Le gouvernement du Québec entend prendre le temps nécessaire pour analyser le jugement et fera connaître les suites qu'il entend y donner au moment opportun. »

— Extrait d'un communiqué de Stéphanie Vallée, ministre de la Justice

L'avocat Rocco Galati, qui avait déposé en juin 2014 une demande pour faire invalider la nomination du juge Mainville, a fait part hier de son intention de porter l'avis de la Cour d'appel du Québec à l'attention de la Cour suprême du Canada.

Il demande que le juge Mainville ne soit pas assermenté tant que le plus haut tribunal au pays n'aura pas décidé s'il autorise l'appel.

Me Galati avait aussi contesté la nomination du juge Marc Nadon. Il dit mener ces divers combats au nom du droit des citoyens à une magistrature juste et indépendante.

THE VANCOUVER SUN

Ottawa should have consulted First Nation over omnibus bills C-38 and C-45's sweeping legal changes: Federal Court

Ruling has potential to 'change the rules of the game' on consultation, says B.C.'s West Coast Environmental Law group

BY GORDON HOEKSTRA, VANCOUVER SUN, DECEMBER 22, 2014

A Federal Court ruling that found Ottawa should have consulted an Alberta First Nation before passing sweeping changes to environmental laws should be a "wake-up call" to government, says an environmental law group.

In 2012, a pair of omnibus bills, C-38 and C-45, made changes to Canada's environmental, navigable water and fisheries laws in an effort to streamline and expedite approval of resource projects. It sparked widespread criticism from First Nations and environmental groups, who helped launch the Idle No More movement in protest.

The wide-ranging bill, removed federal environmental oversight on most of the lakes, streams and rivers in the Mikisew Cree traditional territory in northeastern Alberta.

Last Friday, Federal Court Judge Roger Hughes ruled the federal government erred when it failed to consult with the Mikisew Cree before introducing the changes to parliament since those changes will clearly affect their right to use their traditional territory, particularly their hunting and fishing rights.

The court did not grant an injunction requested by the Mikisew Cree against any new laws.

But the ruling does open the door to the "neutron bomb" of overturning future laws if governments continue to fail to consult with First Nations, said Jessica Clogg, senior counsel for West Coast Environmental Law.

"The case has the potential to fundamentally change the rules of the game. It was essentially a signal to the federal government — but really all levels of government — that they can't proceed unilaterally with legislation that has the potential to impact on aboriginal and treaty rights," Clogg said in an interview.

The federal environment ministry deferred questions on the case to the ministry of natural resources. Officials there were not available for comment on Monday.

Ottawa has 30 days to appeal.

Although the case involved a First Nations with a treaty, it would also extend to First Nations in B.C., most of whom have not concluded treaties, said Clogg.

The Vancouver-based environmental law group contributed affidavit evidence in the case detailing the nature, scope and breadth of the 2012 federal environmental law rollback.

In the ruling, Hughes said Ottawa should have notified the Cree when the bills were introduced and given them an opportunity to respond.

"In the present case, no notice was given and no opportunity to make submissions was provided. In fact, each bill, which was structured as a 'confidence' bill, went through Parliament with remarkable speed," he wrote in his 65-page ruling.

Hughes said the decision is not a restraint on what laws the parliament can enact, but rather "on the executive branch's development of policies behind the bills during the earlier stages of the law-making process."

Carrier Sekani Tribal Council chief Terry Teegee welcomed the decision as a "moral" victory, noting the northern council's eight First Nations in north-central B.C. were particularly concerned with the fisheries law changes.

However, he said he wasn't expecting the Harper government to repeal the law changes or begin real consultations with First Nations.

He said he expected, instead, to see First Nations continue to have to use the courts to fight law changes that undermined protection of the environment, and the resulting effect on their aboriginal rights and traditional territories.

Teegee noted that First Nations in B.C. were already using the courts against major industrial projects such as Enbridge's $7.9-billion Northern Gateway oil pipeline and the recently-announced Site C hydroelectric project.

"In (Ottawa's) attempt to fast-track these projects, they are going to run into more problems," said Teegee.

Following the decision Friday, Mikisew Cree chief Steve Courtoreille said the First Nation considers the omnibus bills null and void.

Courtoreille said the Mikisew Cree will hold the government to account. When a project is proposed that will affect the steams and fish habitat on its land, the First Nation will demand Ottawa monitor and protect that waterway anyway.

"We're not backing down," he said.

MP, human-rights activist Irwin Cotler reflects on 15 years in politics

LEE BERTHIAUME, The Ottawa Citizen, December 22, 2014

When Irwin Cotler became a member of Parliament in November 1999, he wasn't planning to stay long. Fifteen years later, the renowned human rights lawyer is saying goodbye; he won't run in 2015. Cotler spoke with Lee Berthiaume about his time in Ottawa, and his plans.

On not running for re-election next year

Cotler, first elected to Parliament in a byelection, describes himself as an "accidental parliamentarian" who never had any intention of making a career in politics. "I came for one year," he says. "I'm still here." He only reluctantly ran for re-election in 2011, and knew then that it would be the last time. "I had good friends in caucus, Ken Dryden and others," he says. "They spoke with me and said if I didn't run, the Conservatives would use the fact that I wasn't running and say, 'You see, even Cotler can't stand the Liberals.'" The 74-year-old now says it is "time to pass the torch on to a younger generation."

On the state of Parliament

"When I was first elected, there was a competition of ideas and policies, but I thought the tone was more civil than now," he says. "The tone has become more demeaning, the responses more mocking, the collaboration across party lines less present." Cotler is particularly critical of the Conservative government's use of omnibus bills and its practice of limiting debate on legislation.

Yet he believes the pendulum will swing back toward a more cordial Parliament. "As I go across the country, I feel that things that were not resonating in 2011 are beginning to resonate," he says. "People are saying, 'We don't want this.'"

On cross-party co-operation

Despite describing Parliament as "fractious," Cotler says cross-party co-operation is alive when it comes to issues such as international human rights. Sitting on a little-known parliamentary subcommittee dedicated to the issue has been a highlight during his time in opposition.

He has been able to get representatives from the three major parties to come together on behalf of political prisoners. Earlier this month, for example, Justice Minister Peter MacKay appeared at a press conference with Cotler and other MPs to call for the release of three political prisoners in Venezuela, Iran and Mauritania.

On his greatest accomplishment as an MP

Aside from representing the people of Mount Royal, Cotler says he is particularly proud of his role introducing legislation "for the long-term benefit of the country" when he was justice minister from 2003 to 2005. That includes Canada's first-ever anti-human trafficking laws, and extending marriage legally to same-sex couples. He also lists appointing two women to the Supreme Court, one of whom was aboriginal (Louise Charron); initiating Canada's first-ever war crimes prosecution; and quashing a number of wrongful convictions.

On his greatest regret as an MP

Cotler says his greatest disappointment is that Paul Martin's Liberals lost power in 2006. "I think Paul Martin might well have been one of the greatest prime ministers we never had an opportunity to experience," he adds. The change in government scuttled the Kelowna Accord, which Cotler believes would have gone a long way to healing Canada's troubled relationship with its Aboriginal Peoples. It also launched what Cotler sees as the Conservative government's disregard for, if not outright hostility toward, the Charter of Rights and Freedoms. "They have marginalized the charter," he says.

On leaving Parliament

In addition to being an MP, Cotler regularly serves as legal counsel for political prisoners around the world. He says one benefit of working in the House of Commons is the easy access he has to ministers who can help on the files. Once he leaves, however, "I can't walk across the aisle to talk to Chris Alexander," he says. "I can't go across the aisle to talk to John Baird. That worries me." He also knows he will no longer be able to help represent Canada at such events as Nelson Mandela's funeral or events marking the 20th anniversary of the Rwandan genocide.

What he'll miss the most is the fellowship and camaraderie of Parliament Hill. "This is where I not only work, this is where I live and work," he says. "This is where I give expression to the things I most profoundly care about."

On his future plans

Cotler's long history of serving as legal counsel for political prisoners, including Nelson Mandela, will continue. "We know the power of releasing political prisoners," he says. His current caseload includes six political prisoners: three in China, including Nobel Peace Prize winner Liu Xiaobo; one in Iran; one in Mauritania; and one in Venezuela.

Cotler also plans to get to work on his longstanding dream of establishing a "centre of justice" named after Raoul Wallenberg, the Swedish diplomat who saved tens of thousands of Jews from the Holocaust. The centre will bring together international human

rights lawyers, professors and others to find ways to prevent mass atrocities such as genocides, as well as combat intolerance and defend political prisoners. It will also serve as a clearinghouse for information about Wallenberg. “The real problem is fundraising,” he says. “I abhor fundraising.”

Irwin Cotler at a Glance

- Born in Montreal May 8, 1940. Cotler followed his father, Nathan, into law, studying at McGill University and Yale. He became director of McGill’s human rights program as a professor of law in 1973, a position he held until elected to Parliament in 1999. He also served as president of the Canadian Jewish Congress from 1980 to 1983.
- He has served as legal counsel to some of modern history’s most notable political prisoners, including Nelson Mandela, Russian activist Natan Sharansky, and Argentine journalist Jacobo Timerman.
- Cotler currently serves as legal counsel to six political prisoners: Chinese Nobel laureate Liu Xiaobo; Chinese pro-democracy activist Wang Bingzhang; Chinese-Canadian professor Kunlun Zhang; Iranian cleric Ayatollah Hossein-Kazamani Boroujerdi; Venezuelan opposition leader Leopoldo Lopez; and Mauritanian anti-slave leader Biram Dah Abeid.
- He was first elected as member of Parliament for the Montreal riding of Mount Royal in a November 1999 byelection after the previous MP, Sheila Finestone, was appointed to the Senate. he was re-elected five times.
- He served as minister of justice under Paul Martin from December 2003 to February 2006, introducing the Civil Marriage Act and Canada’s first anti-human trafficking laws. He also appointed Rosie Abella and Louise Charron to the Supreme Court, and launched Canada’s first war crimes prosecution, against Désiré Munyaneza, for his role in the 1994 Rwandan genocide.

CBCnews

Politics 2014: Flaherty, Ford, Redford topped Canada's list

Jim Flaherty's death, Rob Ford's changing campaign and provincial political dramas

CBC News, December 22, 2014

The past year will be remembered for the death of long-serving finance minister Jim Flaherty, a heated political tussle over Toronto's mayoral seat and a string of ups and downs for provincial politicians.

CBC News looks back at some notable political stories — and ahead at the one big story set to dominate the agenda in 2015.

Jim Flaherty dies

The former finance minister died in April, just weeks after stepping down from cabinet. Flaherty, who served as a provincial politician before being elected as an Ontario MP in 2006, spent nearly eight years at the helm of the Finance Ministry.

At a state funeral, Prime Minister Stephen Harper praised his close colleague and friend, saying, "as a human being, he was the complete package."

Rob Ford wins — a council seat

Rob Ford is still serving at Toronto City Hall, but his dreams of re-election as mayor were dashed by a rare cancer that forced him to drop out of the mayoral race.

The political changes and medical problems came months after Ford checked into rehab to tackle addiction issues. "I hurt a lot of people — lying, conniving, hiding to cover up for this problem," Ford told CBC's Dwight Drummond.

Ford captured much of the attention, but John Tory's win of the top job in Toronto and Olivia Chow's weak results were huge stories in Canada's largest city.

Harassment on the Hill

Two major newsmakers of the year have chosen not to be publicly identified. In early November, Liberal Leader Justin Trudeau suspended Scott Andrews and Massimo Pacetti after two unnamed NDP MPs alleged they were harassed by the Liberal MPs.

The allegations, which came on the heels of sex assault allegations against former CBC Radio host Jian Ghomeshi, have prompted broader discussions about harassment and how such allegations are handled on the Hill.

The federal Liberals hired a human rights lawyer to compile a fact-finding report about the harassment allegations, and additional processes through either the Speaker's office or outside parties could still happen.

Alison Redford steps down

After facing questions over her conduct as leader and some of her expenses, Alison Redford was forced to step down, first as premier of Alberta, then as a Conservative member of the legislature.

"On election night two years ago I pledged that we would govern with unity and build prosperity," Redford said in her resignation speech in March. "Well, at least we got the prosperity part right."

Wildrose defections

The political turmoil in Alberta heightened again in December, when Danielle Smith and eight Wildrose members of the legislature stunned Albertans with their unprecedented decision to cross the floor and join Jim Prentice's governing Progressive Conservatives.

In the days since Smith's dramatic defection, some in her riding have called for her to resign her seat and face a byelection.

Kathleen Wynne's surprise Liberal majority

Kathleen Wynne went into the Ontario election in June with a minority government and lingering Liberal controversies that led many to predict her party would be booted out of office. Her surprise Liberal majority prompted her NDP rival to say people voted "out of fear" of the Conservative election plan under Tim Hudak. Whatever the reason, Wynne has a majority — but that hasn't ended her political problems.

Questions remain about the Liberal's handling of the cancelled gas plants and the Pan Am Games, among other issues, and some argue that Wynne's government isn't doing enough to deal with Ontario's troubled finances. Among Wynne's latest challenges? Repairing Ontario's relationship with the federal government and working with Toronto's new mayor.

Robocalls: Michael Sona gets 9 months

The "robocall scandal" unfolded years ago ahead of the 2011 federal election, but after a lengthy investigation the case finally headed to court in 2014.

In November, a judge sentenced former Conservative staffer Michael Sona to nine months in jail, saying his crime of misdirecting voters showed a "callous and blatant disregard for the right of people to vote."

Judge Gary Hearn said he doesn't doubt that Sona was involved — but he did note that questions remain as to whether the 26-year-old orchestrated the misleading robocalls on his own.

Philippe Couillard's Liberals win Quebec

Voters in Quebec headed to the polls this year and sent the Parti Québécois government packing, leaving it with just 30 of 125 seats. In its place? Philippe Couillard's Liberals, who swept to power with 70 seats.

The new premier said one of the first orders of business after the election was going back to the basics: "We need to re-establish the confidence of Quebecers in their government."

The poor PQ showing prompted leader Pauline Marois to quit her post. An interim leader is in place, but the party is still weighing its future as members prepare to select a new leader.

Greg Selinger caucus revolt in Manitoba

Further west, Manitoba Premier Greg Selinger faced a major backlash from his own cabinet ministers. The provincial NDP has long held power in Manitoba, but at least one analyst thinks Selinger's troubles may signal worse to come for his party.

The 2015 election

The fixed federal election date is set for Oct. 19, 2015, but there's been speculation that it could come earlier. The question now is when the campaign will officially begin and which issues will draw the most attention from voters.

Prime Minister Stephen Harper says it's going ahead as scheduled and that his party is planning on a fall election "like everybody else."

"I won't say there's nothing that could change it, but there's nothing on the horizon that I see changing that," Harper said in his year-end interview with CBC.

Judicial appointments show an indifference to diversity

The latest round of federal judicial appointments offers more evidence of the Harper government's indifference to the need for a judiciary that reflects the population it serves

By Rosemary Cairns, Contributor to the Toronto Star, December 2014

***(Rosemary Cairns Way** is a professor in the Faculty of Law at the University of Ottawa)*

The latest round of federal judicial appointments offers, yet again, evidence of the government's utter indifference to the need for a judiciary that actually reflects the population it serves.

Six months ago, Justice Minister Peter MacKay's remarks about women and judicial appointment provoked a storm of controversy. Made in the aftermath of the June 13 announcement that nine men and only one woman had been named to the bench,

MacKay's comments about women's judicial ambition, which he linked to motherhood, were rightly condemned. MacKay denied making the remarks and reiterated on a Facebook post (since removed) his government's commitment to ensuring that the bench is as diversified as Canada.

Unfortunately, there is precious little evidence that this "commitment" is anything more than political hyperbole.

See also:MacKay should make sure judges better reflect society: Editorial

This government has made approximately 600 judicial appointments since 2006. It's virtually impossible to determine whether those appointments further or frustrate the goal of diversity.

The only criteria officially tracked aside from the requisite 10 years of legal experience, is gender. The government asserts, without apology, that 30 per cent of their appointments have been women. But the federal judiciary is currently 34-per-cent female. A 30-per-cent appointment rate results in a net negative increase in the gender diversity on the bench.

This trend recently led the Chief Actuary to revise backward by eight years the estimation of when gender parity might be achieved. Expect that in 2035.

Examining the recent slew of appointments in Ontario suggests an even greater problem. Seventeen appointments were made directly from the profession. Three (or 17 per cent) were women, a figure drastically out-of-step with the government's own claims, and one that only exacerbates the negative overall trend.

But look more closely. Seventeen judges were replaced: nine men, and eight women. These appointments actually represent a net loss in the number of women judges in Ontario by five. Gender parity is only achievable if both women and men are regularly replaced by qualified and meritorious female candidates.

I know of no shortage of qualified and meritorious female lawyers in this province. There is in fact, a surfeit of exceptional female candidates who would both enrich and diversify the Ontario judiciary. It may be, as the minister has implied, that these female candidates are not applying, but there is absolutely no evidence to support that claim. In fact, Ontario provincial appointment statistics suggest that women are applying for provincial judgeships at a rate of almost 50 per cent.

While the gender statistics are troubling, they pale in comparison to other relevant indicators of diversity. The government keeps no statistics about race, and has steadfastly resisted a chorus of requests from the profession to do so. My research suggests that the rate of Aboriginal appointment to the bench hovers at 1 per cent, and that the rate of visible minority appointments is an abysmal 0.5 per cent. None of these come even close to reflecting, in the minister's words, the diversity that is Canada.

A superficial examination of the Ontario appointments (and that is all that is possible in the absence of information) suggests that one of the appointees comes from a visible

minority community. This judge will preside in greater Toronto, where the latest census results reveal that the visible minority population stands at 46 per cent.

The fact that one appointment out of seventeen actually results in a significant increase of judges from visible minority communities serving this diverse population is shameful, particularly in the face of the minister's claim that "encouraging people from ethnic minorities" to become judges was a "very important objective" for this government.

The legal community is virtually unanimous on this issue. The Chief Justice of Canada is on record about the need for a bench that mirrors the society it serves. The Canadian Bar Association has made repeated calls for increased diversity.

Judges wield power over people's lives, and courtrooms provide one important forum for dialogue about what justice means, and who is entitled to it. A judiciary that reflects diversity is more likely to have the institutional capacity to deliver inclusive justice, a justice enriched and transformed by acknowledging difference and capable of commanding the respect of all the communities it serves.

On this file, the government's actions speak more loudly than its words. We all deserve better.

My best wishes for lasting solidarity in 2015

By Claude Poirier, outgoing CAPE President, December 22, 2014

Before I leave my post as National President of the Canadian Association of Professional Employees, I wish to extend my best wishes for a Merry Christmas and a Happy New Year to all members of CAPE, to our friends and colleagues in other federal public service unions, and to all who believe in equality and social justice.

My six years as President of CAPE, the union that represents federal economists and social science services employees, translators, interpreters and terminologists, and analysts and research assistants at the Library of Parliament, were an exciting, sometimes stressful, but always rewarding time. I worked closely with men and women dedicated to public service, with union executives who care strongly about improving the day-to-day lives of their members and, most of the time…, with elected officials who care about the Canadian public and want to improve economic and social conditions in this country.

In reference to the parliamentarians of all political stripes I met with over the years, I will weigh my words carefully and simply say that, for the most part, they have a vision of a better, more egalitarian society in which the public service is a driver of national growth. Unfortunately, I must report that current Conservative government representatives, both MPs and senators, generally lack such a vision and all too often confuse the interests of their electors with what is best for the Canadian public.

We saw proof of this once again at the start of this week when the Conservative majority in the Senate voted to adopt without a single amendment Bill C-525 which will make the certification of unions in the federal public sector a more difficult and complex process. Conservative parliamentarians suffer from selective hearing: they don't believe in studies, refute any and all expert opinions that do not match the Conservative party line, and reject out of hand oft-repeated warnings that labour laws form a coherent fabric, that the overall implications of any amendments to those laws must be taken into account, and that such changes should be made in consultation with labour and employer representatives.

In fact, the government did the exact opposite with Bill C-525. Together with their friends at Merit Canada, advisors in the Prime Minister's Office took MP Blaine Calkins by the hand and helped him draft a bill that will seriously affect the process of union certification in the federal sector. Under the pretext of making the rules fairer for workers, C-525 will actually give employers all of the tools they need to block any attempts by workers to establish unions. The vast majority of the Conservative senators who were present on December 16 voted in favour of Bill C-525; the only dissenting conservative voices were that of Senators Nancy Ruth and John Wallace who voted against the Bill and of Diane Bellemare, who abstained. They should be commended for their courage. According to researchers at the Organisation for Economic Co-operation and Development no less (just to prove I am not making this up), union coverage is one of the key factors contributing to improved distribution of wealth in a society. However, it is clear that our friends in the Conservative Party of Canada believe that the creation of wealth should benefit some people more than others.

Collective bargaining and mobilization

Taken separately, Bill C-525 may seem to be a minor irritant. But considered within the context of the actions being taken by the present government, it is clearly another brick in a Conservative great wall upon which workers and the middle class have no room to stand. A glance at just some of the changes already made or tabled by the Conservatives is surely enough to indicate that we are witnessing an agenda that has been brewing for years:

- **Bill C-4**, which became the Economic Action Plan 2013 Act No. 2, has permanently altered the collective bargaining process in the federal public service by reducing the tools available to public service unions, and its impact is being felt in the current round of bargaining for the EC and TR groups;
- **Bill C-377**, which is again back on the Order Paper, seeks to make labour organizations more "transparent" so that employers can look at our bank statements and scrutinize each of our expenses so they can analyze our strengths and weaknesses. You may recall that former Senator Hugh Segal, a Conservative

with a conscience (something that cannot be said of many of his colleagues), blunted this bill last year when he proposed a series of amendments that would have made it less inequitable. Taking advantage of Mr. Segal's departure from the Senate, however, the Conservatives actually returned the Bill in its original form: a badly drafted bill that remains as unfair as it ever was;

- The changes which the employer is proposing to our **sick leave system** and its idea to institute a short-term disability plan are not intended to improve our well-being. The government is clearly trying to appeal to its Reform roots. Conservative leading lights enjoy nothing better than assuring their hardline supporters that they are going to put federal public service unions "in check," take some of the "gold plating" off their terms and conditions of employment, and continue to undermine a public service they feel is more of a hindrance than an asset when it comes to the development of this country;
- And **Bill C-525,** passed last week.

While it was not my intention to depress you before we break for the Holidays, what can I say? When the news is bad, unfortunately, you have to face up to it.

So 2015 won't be an easy year. The collective bargaining process will continue, and the government will try every trick in the book to impose the setbacks it wants to make us swallow.

But there is some measure of hope, fueled by the increasing number of joint projects CAPE is conducting with other federal public service unions, in particular the Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada. We are working together as never before, both nationally and in individual workplaces where our Locals and those of other unions are developing joint projects. To ensure that this new solidarity can continue to effectively fend off the attacks of the present government, you will be asked during 2015 to participate in an increasing number of mobilization activities and to contribute your efforts to help build mobilization structures. I am confident that you will heed the call with enthusiasm.

Lastly, I want to wish Emmanuelle Tremblay, who is taking over the helm of CAPE in January, every possible success in this difficult and yet extremely fulfilling role.

And to all of you, my best wishes for a safe and happy holiday season!

Claude Poirier

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En 2015, je vous souhaite une solidarité à toute épreuve

Claude Poirier, président sortant de l'ACEP, le 22 décembre 2014

Avant de quitter mon poste de président national de l'ACEP, je désire offrir mes meilleurs vœux de Noël et de Nouvel An à tous les membres de l'ACEP, à nos amis et collègues syndiqués de la fonction publique fédérale et à tous ceux et celles qui croient en la justice sociale et l'égalité.

Ces six années à la tête de l'Association canadienne des employés professionnels, le syndicat qui représente les économistes et employés en sciences sociales, les traducteurs, interprètes, terminologues les analystes et adjoints de recherche à la Bibliothèque du Parlement ont été enlevantes, parfois éprouvantes, mais toujours enrichissantes. J'ai pu côtoyer des femmes et des hommes dévoués au service public, des dirigeants syndicaux désireux d'améliorer le quotidien de leurs membres et, la plupart du temps… des élus qui ont à cœur la chose publique et souhaitent l'amélioration des conditions économiques et sociales de la population.

Pour ces parlementaires de tous les partis que j'ai pu rencontrer au fil des années, je pèse mes mots en disant que, la plupart du temps, ils ont une vision d'une société meilleure, plus égalitaire et où la fonction publique est un moteur du développement du pays. Je dois malheureusement constater que cette vision n'est pas souvent le lot des représentants actuels du gouvernement conservateur, députés et sénateurs, qui confondent trop souvent les intérêts de leur base électorale avec le bien public.

Nous en avons encore eu la preuve au début de la semaine lorsque la majorité conservatrice au Sénat a voté, sans le modifier, le projet de loi C-525 qui rendra le processus d'accréditation syndicale dans le secteur sous juridiction fédérale plus complexe et plus difficile. Les élus conservateurs ont une écoute sélective : ils ne croient pas aux études, réfutent les avis des experts lorsque ceux-ci ne sont pas d'obédience conservatrice et rejettent les mises en garde souvent répétées que les lois du travail forment un ensemble cohérent. Toute modification à ces lois doit se faire en tenant compte des impacts et devrait se faire après une consultation exhaustive avec les représentants des travailleurs et des employeurs.

Avec C-525, le gouvernement a fait tout le contraire. En compagnie de leurs amis de Merit Canada, les conseillers du bureau du premier ministre ont tenu la main du député Blaine Calkins et rédigé une loi qui va changer les règles entourant le processus d'accréditation syndicale dans le secteur fédéral. Sous couvert de rendre les règles plus justes pour les travailleurs, C-525 donnera aux employeurs tous les outils nécessaires pour bloquer toute tentative de travailleurs de former des syndicats. La très grande majorité des sénateurs conservateurs présents le 16 décembre ont voté en faveur de C-525 : les seuls sénateurs conservateurs ayant osé voter sans respecter la ligne de parti ont été la sénatrice Nancy Ruth et le sénateur John Wallace qui ont voté contre, et la sénatrice Diane Bellemare qui s'est abstenue. Je salue leur courage. Ce n'est pas moins qui l'invente (regardons plutôt du côté de l'Organisation de coopération et de développement économiques), mais il est démontré que la couverture syndicale est un des facteurs assurant une meilleure répartition de la richesse d'une société. Mais comme on peut le constater, pour nos amis conservateurs, si la richesse se créé, elle doit se profiter à certains plus qu'à d'autres.

Négociations collectives et mobilisation

- Pris isolément, **C-525** semble un petit irritant. Mais lorsqu'on analyse les gestes posés par le gouvernement actuel, on voit clairement qu'il y a un projet de société dans lequel les travailleurs et la classe moyenne n'ont pas leur place. Voyons quelques-uns des changements déjà en place ou qui sont mis sur la table par les conservateurs pour comprendre que tout cela est planifié depuis des années :
- Le projet de loi **C-4**, devenu la Loi 2 portant exécution de certaines dispositions du budget, qui a durablement modifié le processus de négociation collective dans la fonction publique fédérale, réduit les outils offerts aux syndicats, et qui teinte les négociations en cours pour nos EC et nos TR;
- Le projet de loi **C-377**, toujours dans les cartons du gouvernement, qui vise à rendre les syndicats plus « transparents » afin que les employeurs puissent voir jusque dans l'intérieur de nos comptes bancaires et scruter chacune de nos dépenses afin de mieux connaître nos faiblesses et les exploiter. On se rappellera que l'ex-sénateur Hugh Segal, un conservateur qui possédait une conscience qui semble manquer à la plupart de ses collègues, avait l'an dernier proposé une série d'amendements qui auraient rendu le projet de loi moins inéquitable. Profitant du départ de M. Segal, les conservateurs ont ramené le projet dans sa forme originale, aussi mal écrit, aussi injuste;
- Les changements proposés par l'employeur à notre **régime de congés de maladie** et sa volonté de mettre en place un régime d'invalidité de courte durée ne visent pas notre mieux-être. Il faut y voir la volonté du gouvernement de faire plaisir à sa base réformiste. Rien de plus réjouissant en effet pour les ténors conservateurs d'annoncer à leurs militants qu'ils vont « mater » les syndiqués de la fonction publique fédérale, réduire leurs conditions de travail et continuer leur travail de sape contre la fonction publique qu'ils perçoivent comme un obstacle, plutôt qu'un atout pour le développement de ce pays;
- Et bien entendu, **C-525** adopté la semaine dernière.

Je ne voulais pas autant vous déprimer avant la pause des Fêtes, mais que voulez-vous, quand les nouvelles sont mauvaises, on doit malheureusement y faire face.

L'année 2015 ne sera donc pas facile. Les négociations collectives vont se poursuivre le gouvernement tentera par tous les moyens d'imposer les reculs qu'il veut nous faire avaler.

Mais il y a de l'espoir. Un espoir alimenté par la multiplication des projets communs que l'ACEP mène avec les autres syndicats de la fonction publique fédérale, dont l'Alliance de la Fonction publique du Canada et l'Institut professionnel de la fonction publique du Canada. Nous travaillons ensemble comme jamais, tant au niveau national que dans les milieux de travail où nos sections locales et celles des autres syndicats développent des projets communs. Pour que cette solidarité nouvelle contribue efficacement à repousser les attaques du gouvernement en place, vous serez invités au cours de 2015 à participer à des activités de mobilisation de plus en plus nombreuses et à contribuer de vos efforts à la mise sur place de structures de mobilisation. Je sais que vous répondrez avec enthousiasme.

Finalement, je souhaite à Emmanuelle Tremblay qui prend la direction de l'ACEP en janvier, tout le succès possible dans ce rôle difficile, mais combien valorisant.

Et à vous tous, mes meilleurs vœux.

Claude Poirier