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Press Clippings for the period of June 2 to 9, 2014
Revue de presse pour la période du 2 au 9 juin 2014

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

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Feds expected to dig in their heels with PS unions as next election nears

By MARK BURGESS, Hill Times, June 9 2014

Federal public sector unions aren't rushing to the bargaining table as their contracts expire but some experts say the negotiations will only get more complicated as the federal government digs in its heals to appeal to core voters ahead of the 2015 election.

The Treasury Board has already served notice to bargain to some units and the first face-to-face meetings will take place early next month. Because these negotiations will likely focus on concessions, most importantly changes to sick leave, rather than significant pay raises, some unions said they would be content with the status quo once the contract expires and not rush to negotiate new contracts.

In other recent bargaining rounds, the unions have initiated the talks, eager to get to the table.

"We're not in a hurry," said Debi Daviau, president of the Professional Institute of the Public Service of Canada, which represents about 60,000 public servants. "The Treasury Board clearly is. I guess they want to resolve these contracts before they go to an election next fall. Unless they negotiate openly and fairly and transparently, and really try to do right by the process, I don't think they'll make it."

Robyn Benson, president of the Public Service Alliance of Canada, the largest public sector union representing about 170,000 public servants, said her union is ready to

negotiate as long as it takes to reach a settlement. The union has no plans regarding the federal election, scheduled for October 2015.

“I know there are lots of people saying that we have various strategies. I guess the one strategy is to get the best collective agreement for our membership that we can,” she said in an interview.

The government has already served notice to bargain to 16 of the 27 units set to negotiate this year, the Treasury Board website says. The first units will meet in the second week of July to exchange proposals with Treasury Board for the collective agreements.

Greg Lyle, managing director of public affairs firm Innovative Research, said the unions might be better off reaching an agreement before the issue becomes too politicized. The Tories would not hesitate to appeal to voters at the expense of bureaucrats concerned about sick leave during a campaign, he said.

“The public service union is in a very difficult spot. To do what their mandate is for their members is to give the Tories the fight the Tories want,” he said in an interview.

Nik Nanos, president and CEO of polling firm Nanos Research, said it would become harder for the government to change its position as it nears an election for risk of appearing to cave to the unions.

“As they get closer to an election they’ll probably be emboldened to be more belligerent because they can’t lose face,” Mr. Nanos said in an interview.

The government will be able to negotiate with a bit more flexibility now while there’s less attention on the issue, he said, and unions would be better off dealing now.

Treasury Board President Tony Clement (Parry Sound-Muskoka, Ont.) has taken a hard line with public sector unions, angering them with claims that bureaucrats take 18 sick days per year, on average. A report from the Parliamentary Budget Officer in February said public servants take an average of 11.5 sick days every year and that Mr. Clement’s number included time missed due to workplace injuries and unpaid leave.

The PBO report said the government paid $871-million in salaries for sick days in 2011-12, 68 per cent more than a decade earlier. A bigger public service, higher wages, and increases in the number of paid sick days available all contributed to the increase in costs, it said.

Both Mr. Nanos and Mr. Lyle said the Conservatives’ appeal since 2006 to their core supporters is as Ottawa outsiders. This narrative becomes more difficult to maintain after almost a decade in power, so “the answer is going after other groups that are seen to be ‘in’,” Mr. Lyle said.

He pointed to last summer’s battle with the Big Three cellphone providers over wireless policy as one example, while Mr. Nanos pointed to the recent skirmish with the Supreme Court over its appointment of Marc Nadon as fitting into the narrative of institutions blocking change. The public service is an obvious target in the same vein, they said.

“Expect the Conservatives to have some sort of narrative to explain not only what they’ve accomplished, but why they might not have accomplished something,” Mr. Nanos said, referring to the 2015 election pitch and how the Conservatives will approach public sector unions.

“I think what we should watch out for is that this isn’t an issue that the Conservatives are going to let go. They’re just waiting to use this at what they would consider a more opportune time for their political advantage.”

Mr. Clement wasn’t available for an interview for this article. He has made it clear the government wants to use this round of bargaining to replace the sick leave regime with a short-term disability plan.

In a speech last week to the Association of Professional Executives of the Public Service of Canada, the association for public service executives, Mr. Clement made the case that short-term disability insurance provides better support to bureaucrats suffering from prolonged illness, such as mental illness, who do not have enough banked sick leave to cover the 13-week period before they qualify for long-term disability.

The unions view this round of bargaining as especially important, what Ms. Daviau called a turning point in their willingness to accept concessions. Several unions signed a solidarity pledge earlier this year to resist the Conservatives’ plan to claw back sick leave and disability benefits.

“If we lose an appropriate sick leave regime for our members, it’s really the start of a very bad trend to lose serious advancements,” she said.

Ms. Benson said she doesn’t think there are problems with the current regime, but even if there were, the government’s approach should be to negotiate corrections to them rather than call for a major claw-back.

PSAC has elected its bargaining teams and prepared its demands, which won’t be made public until it exchanges proposals with the Treasury Board in July. Any strike action would be months away and Ms. Benson wasn’t prepared to speculate on how an election would figure into its plans. Ms. Daviau said it would be a year before any big union would reach that point.

That timing would play right into the Conservatives’ election strategy, Mr. Lyle said, as the typical swing voter Conservatives are after wouldn’t be paying attention to a public sector labour dispute until services are interrupted.

If contracts haven’t been settled by this time next year, he said, it would be better for unions to wait out the negotiations until after the election, maybe even hoping for a different government to negotiate with on the other side, rather than becoming campaign “cannon fodder.”

“What’s in it for them to give the Tories a straw man to beat all the way through the election?” Mr. Lyle said.

“These are very clever people,” Mr. Lyle said of the union leaders. “I would be very surprised if they gave the government the fight they’re looking for.”

Ms. Benson said that for now, the union is waiting to see what the government comes forward with in July.

“I would certainly hope that the Conservatives wouldn’t use it as a campaign tool,” she said. “I would hope that Treasury Board, under Mr. Clement as the president, is going to come in and negotiate in good faith and that they’re not going to table a lot of claw-backs. I guess we’ll know in July because that will certainly set a different tone if they come in wanting to claw back.”

Clerk challenged at committee on Destination 2020

Privy Council Clerk Wayne Wouters was challenged at a House of Commons committee last week for “glossing over” the difficulties facing public servants in a major report released last month.

Mr. Wouters appeared before the House Government Operations and Estimates Committee on June 5 to discuss his annual report to the Prime Minister but spent most of the time on the Destination 2020 report for modernizing the public service, released in May.

Mr. Wouters said his office consulted more than 110,000 public servants as part of the visioning exercise and found they were motivated and wanting the proper tools to do their jobs.

NDP MP Mathieu Ravignat, the opposition critic for the Treasury Board, questioned how the clerk didn’t address morale or trust problems in the report.

Mr. Ravignat said he’s concerned the report “glosses over some of these challenges.” Mr. Wouters’ role is to speak truth to power and to tell the government that “not all is rosy in the public service,” Mr. Ravignat said, urging the clerk to talk about the challenges facing bureaucrats.

“I’m sure they just didn’t tell you that it’s about technology and it’s about innovation,” he said.

Mr. Wouters said the issue of trust came up but not very often during the consultation.

Blueprint 2020 calls for new and innovative ways to engage, empower, and manage employees, and to communicate the public service brand.

It proposes establishing a central “Innovation Hub” in the Privy Council Office to help departments apply new approaches to policy development such as behavioural or “nudge” economics, big data and social innovation. Other initiatives include updating the Government Electronic Directory Service (GEDS) to include employee profiles and adopting other digital tools to encourage internal networking.

Mr. Wouters told the committee how public servants have lost their monopoly on policy advice as the Internet has provided competing sources of information for ministers. Public servants need to adapt by collaborating with other sources of information outside government, including think tanks, in order to "connect the dots" and remain relevant.

"The advantage we have is we put the Canadian context on it," Mr. Wouters said. "We live here and understand Canada and can take whatever policy issue we have and bring it back to the Canadian context."

The top bureaucrat also discussed public service cuts, saying the public service has handled the cuts to16,000 positions—9,000 of them through attrition—"very well." Another 3,000 cuts need to be made to meet the government's target, he said.

Harper appoints Quebec Court of Appeal judge Gascon to Supreme Court

SEAN FINE, Globe and Mail, June 3, 2014

Prime Minister Stephen Harper has chosen Clément Gascon, a widely respected, conservative-minded judge from the Quebec Court of Appeal, for a seat on the Supreme Court of Canada, capping an unprecedented and at times disastrous year-long search.

The government will not hold a public hearing for Justice Gascon, the second time in six years Mr. Harper has broken his promise to allow parliamentarians to ask questions of an appointee. The Prime Minister's Office said it had promised to fill the position as quickly as possible and did not want to delay it; the appointment is effective next Monday. The job has been vacant since Morris Fish of Quebec retired at the end of August.

The appointment has been the most intensely watched in years; it was Mr. Harper's chance to make up for the failure of his last one.

A Globe and Mail investigation found the Prime Minister bypassed most of Quebec's top judges and lawyers, choosing four of his six candidates from the Federal Court in Ottawa, settling on Justice Marc Nadon – a semi-retired specialist in maritime law, known for his conservative views. Ultimately, the Supreme Court ruled him ineligible, and the Prime Minister later became embroiled in a public war of words with Chief Justice Beverley McLachlin.

Justice Gascon was not on the initial list of six candidates created by the Prime Minister's Office last summer and given to an all-party selection panel. That omission may

strengthen the conviction of some observers that the previous list was constructed to pull Justice Nadon through.

Justice Gascon, 54, could spend the next two decades on the Supreme Court; mandatory retirement age is 75. He spent the first two decades of his career specializing in commercial and civil litigation for Heenan Blaikie in Montreal before prime minister Jean Chrétien named him to the Quebec Superior Court, where he spent 10 years. Mr. Harper appointed him two years ago to the province's highest court, the Court of Appeal.

Simon Potter, a Montreal lawyer and a past president of the Canadian Bar Association, said Justice Gascon is "known for his mind, a meticulous, thorough mind, a real intelligence, a Cartesian approach to things, which Quebeckers like. He writes beautifully." Justice Gascon has led training sessions in judgment-writing for federal judges for the past six years.

Mr. Potter said many observers would be tempted to see Justice Gascon as deferential to government. "The people who see him on the deferential end will be corroborated in their view by the fact that he is very, very attached to the black-and-white way of looking at law. The expression dura lex sed lex has meaning for him: 'the law is hard but it's the law.'"

But it would be a mistake to pigeonhole him too narrowly, Mr. Potter suggested. In a recent criminal case, he was part of a unanimous ruling throwing out a conviction over a police violation of an accused person's rights. He has been assigned complex class-action suits involving banks, and has ruled against banks, Sébastien Grammond, civil law dean at the University of Ottawa, said after a quick review of some rulings he had been involved in.

Sylvian Lussier, another Montreal lawyer, called it a "beautiful appointment," and said Justice Gascon was a respected judge and lawyer who doesn't lose sight of the practical effects of his rulings.

Quebec Justice Minister Stéphanie Vallée said she was pleased with the appointment. In a climbdown by the Canadian government, Ottawa had asked Quebec for a list of candidates. Ms. Vallée said she wants to see a similar process used in November, when Justice Louis LeBel of Quebec retires. The Conservative government bypassed the selection panel it had used in its previous six appointments.

Mr. Harper's previous choice, Justice Nadon, ended in failure when the Supreme Court ruled that Federal Court judges are not eligible for any of its three seats reserved for Quebec judges. Earlier this spring, Mr. Harper accused Supreme Court Chief Justice Beverley McLachlin of trying to contact him in advance about that case, an accusation that the legal community across Canada called false and damaging.

In choosing Justice Gascon, Mr. Harper bypassed Justice Marie-France Bich of the Court of Appeal. She was the consensus choice of Quebec's legal community. The appointment of Justice Gascon maintains the court's complement of women at three, down one from its peak.

The PMO said Ottawa consulted broadly before making the Gascon appointment, including the Quebec government, the Chief Justice of Quebec, the Chief Justice of the Quebec Superior Court, the Canadian Bar Association and the Barreau du Québec.

Clément Gascon nommé juge à la Cour suprême

HUGO DE GRANDPRÉ, PHILIPPE TESCEIRA-LESSARD, La Presse, le 3 juin 2014

(Ottawa) Le premier ministre Stephen Harper a finalement nommé un nouveau juge québécois à la Cour suprême. Clément Gascon, de la Cour d'appel du Québec, occupera dès lundi prochain le poste laissé vacant dans la foulée de la controverse entourant la nomination de Marc Nadon.

M. Gascon a siégé à la Cour supérieure de 2002 à 2012. Il a auparavant pratiqué le litige civil et commercial au sein du défunt cabinet Heenan Blaikie à Montréal pendant 21 ans. Le juge Richard Wagner, le dernier juge du Québec à accéder à la Cour suprême, avait un profil similaire.

Il remplacera le juge montréalais Morris Fish, qui a pris sa retraite du plus haut tribunal du pays au mois d'août dernier. Son poste est depuis resté vacant, en raison de la nomination du juge de la Cour d'appel fédérale Marc Nadon. Cette nomination a été jugée illégale par la Cour suprême en mars.

L'arrivée de M. Gascon signifie que les trois juges du Québec à la Cour suprême sont désormais des hommes. En effet, le gouvernement Harper n'a toujours pas nommé de femme pour remplacer Marie Deschamps, qui a tiré sa révérence en août 2012.

Le juge Louis Lebel, cependant, a annoncé qu'il prendrait sa retraite en novembre dernier, ce qui donnera l'occasion au premier ministre d'atteindre un meilleur équilibre.

Le juge Gascon entrera en poste le 9 juin. Comme cela avait été le cas lors de la nomination du juge Thomas Cromwell en 2008, il n'y aura pas d'audience du comité parlementaire de sélection (à huis clos), ni de séance de question des députés (en public).

« La Cour suprême doit avoir la totalité de ses neuf juges afin d'exercer efficacement son mandat constitutionnel essentiel », a justifié une porte-parole du ministre de la Justice, Peter MacKay.

« Nous avons dit que nous agirions rapidement pour que tous les sièges de la Cour suprême soient pourvus. Le Parti libéral et le NPD nous ont demandé, de manière

répétée, de pourvoir rapidement ce siège. C'est précisément ce que nous avons fait », a-t-elle ajouté.

Comme le veut la pratique habituelle, Stephen Harper a fait cette annonce dans un bref communiqué : « M. le juge Gascon, qui siège actuellement à la Cour d'appel du Québec, possède un important bagage d'expérience et de connaissances juridiques dont profitera grandement cette importante institution canadienne. Sa nomination survient au terme de vastes consultations menées auprès d'éminents membres du milieu juridique du Québec », a-t-il déclaré.

Satisfaction et espoir à Québec

À l'Assemblée nationale, la ministre de la Justice se félicitait de voir que la voix du Québec avait été entendue, sans toutefois vouloir confirmer que le nom du juge Gascon figurait effectivement sur la liste qu'elle a soumise à Peter McKay.

«Je suis surtout satisfaite de la collaboration qui a été établie dès mon entrée en fonction avec mon homologue fédéral, a fait valoir Stéphanie Vallée. Je pense que c'est une bonne marche à suivre et on est en train de paver la voie pour de bonnes relations qui vont être constructives.»

La ministre a confirmé vouloir participer aux prochaines nominations de juges québécois à la Cour suprême, en fournissant une liste de candidats.

Prenant un pas de recul, Stéphanie Vallée a souligné que «si le Québec souhaite jouer un rôle proactif au sein de la fédération canadienne, la façon de le faire c'est que chacun d'entre nous ait des échanges avec nos homologues», a-t-elle dit. «C'est en se parlant qu'on fait avancer les choses.»

Elle n'a pas voulu revenir sur la nomination ratée du juge Marc Nadon.

À Ottawa, la critique de l'Opposition en matière de justice, Françoise Boivin, a bien accueilli la nomination. « C'est une bonne nomination, a déclaré la députée du NPD. C'est dommage qu'il ne l'ait pas faite il y a un an. Il y a tellement un bon bassin dans nos juges des cours d'appel du Québec... Et ce n'est pas une femme, mais on va espérer pour la prochaine ! »

Elle s'est dite disposée à outrepasser le processus de nomination habituel pour s'assurer qu'un troisième juge du Québec recommence à siéger le plus rapidement possible.

Chief Justice McLachlin statement on appointment of Justice Clement Gascon/ Déclaration de la juge en chef McLachlin sur la nomination du juge Clément Gascon

Supreme Court of Canada / Cour suprême du Canada, June 4, 2014

(le français suit)

FOR IMMEDIATE RELEASE

OTTAWA, June 4, 2014 – The Right Honourable Beverley McLachlin, Chief Justice of Canada, welcomes the appointment by Prime Minister Stephen Harper of Justice Clément Gascon to the Supreme Court of Canada. "Justice Gascon is a distinguished jurist", said Chief Justice McLachlin. "He brings extensive expertise in the commercial and civil law of Quebec, as well as many years of experience as a judge. I look forward to his contributions to the Court."

Justice Gascon, who is a judge of the Court of Appeal of Quebec, will be sworn in as a judge of the Supreme Court of Canada on a date to be announced.

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POUR DIFFUSION IMMÉDIATE

OTTAWA, le 4 juin 2014 – La très honorable Beverley McLachlin, Juge en chef du Canada, a chaleureusement accueilli la nomination par le premier ministre Stephen Harper du juge Clément Gascon à la Cour suprême du Canada. « Le juge Gascon est un juriste distingué », a déclaré la juge en chef McLachlin. « Il possède une expertise considérable en matière de droit civil et commercial québécois, ainsi que de nombreuses années d'expérience en tant que juge. Je me réjouis de savoir que la Cour pourra bientôt profiter de son apport à ses travaux. »

Le juge Gascon siège présentement à la Cour d'appel du Québec. La date à laquelle il prêtera serment comme juge de la Cour suprême du Canada sera annoncée plus tard.

Supreme Court appointments: Still more questions than answers

CARISSIMA MATHEN, Contributed to The Globe and Mail, June 4, 2014

Carissima Mathen is associate professor of law at the University of Ottawa.

The announcement that Quebec jurist Clément Gascon will occupy the Supreme Court seat vacated ten months ago by Morris Fish has drawn overwhelmingly favourable comment. Justice Gascon, a judge for twelve years, including two on Quebec's highest court, is described as "a great nomination", "practical-minded" and "efficient." A former commercial litigator, he has continued to develop that expertise. And while Justice Gascon is "conservative," commentators note, he does not wear it on his sleeve.

The praise for the Court's newest member is buttressed by a palpable sense of relief. The appointment is the government's latest move in what has been a truly bizarre spectacle, one that began with the abortive nomination of Federal Court judge Marc Nadon. Justice Nadon was Prime Minister Stephen Harper's first choice – selected over several highly qualified and, to legal observers, more obvious candidates. In the end, though, the Supreme Court advised that, as neither a judge on a Quebec court nor a practising lawyer, Justice Nadon was ineligible for one of Quebec's three seats.

Throughout the saga, the government has demonstrated an aversion to being told "no." It almost surely ignored advice from its own lawyers that Justice Nadon's appointment was risky. After the appointment was vacated, it impugned the integrity and motives of the Chief Justice of Canada. It shrugged off the question of whether it suggested to Justice Nadon the gambit of briefly returning to the Quebec bar for the sole purpose of being appointed. And it has appeared indifferent to the fact that the Court has been operating without its full complement, as mandated by the Constitution.

For the most part, people seem content that the Prime Minister has fulfilled his responsibility of appointing someone actually eligible to occupy the Court's ninth seat. That a vital national institution is one step closer to being whole again (a second pending vacancy must be filled by November) is, obviously, a good thing. Nonetheless, and without impugning Justice Gascon's qualifications, which are beyond reproach, legitimate questions remain.

Almost half of the Court's docket is in one area: criminal law. It is the Court's bread and butter. In Morris Fish, the Court lost one of its most experienced criminal jurists. It will

lose another with the retirement of the generalist Louis LeBel later this year. The government has chosen as one of the replacements a specialist in corporate commercial law. The government may well have sound reasons for this, but it has offered none.

More serious is the unmistakable gender imbalance that has emerged in this government's overall pattern of appointments. The Court's failings on other measures of diversity continue apace, but on gender it has actually regressed.

If one includes Justice Nadon, the government has now nominated seven judges to the Supreme Court. Six have been men. Observing this point is not mere political correctness. Quite the opposite. Given the depth of excellent female candidates both at the bar, and on the bench, such a pattern of gendered appointments is not, plausibly, the random result of a merit-based process. The government may not be actively eschewing women. But neither is it especially concerned with ensuring gender parity at the highest court in the land. It is true that the government may return to four women with Justice LeBel's replacement. But why wait? And, why not consider going even further?

The most obvious question, though, is why the Nadon saga happened at all. Quebec has hundreds of qualified lawyers and judges. Why reach beyond them to the Federal Court to fill a Quebec seat? The generally accepted wisdom is that, not finding someone conservative enough within Quebec's legal community, the government turned to the Federal Court, which by virtue of the cases it hears tends to produce judges who are more deferential. Essentially, the government wanted judges of a particular ideology and was willing to go to great lengths to get them.

To some, this is perfectly acceptable. The government holds all the cards and is entitled to use them as it pleases. But having the power to do something does not make its exercise desirable. Selecting judges on the basis of ideology marks a dramatic turning point in how we think about the Court, and what kind of institution it should be. If the Court is to become more openly ideological, it should be the result of serious public dialogue, not Executive fiat.

Editor's Desk: Standing up for the chief

Written by Gail J. Cohen, Canadian Lawyer, June 2 2014

The legal profession in Canada by no means speaks with one unified voice. Nothing brings a community together, however, like a politically motivated attack on one of its most respected leaders.

I'm going to suggest Stephen Harper had no idea the hornet's nest he was stirring when he publicly characterized as "inappropriate" and "inadvisable" a phone call Chief Justice Beverley McLachlin made to the government regarding a vacancy on the Supreme Court.

I was sitting in a café in Morocco checking my e-mail and making sure I was up to date on what was happening back in Canada when I read the news reports of Harper's comments. I imagine my shocked reaction was much the same as most of the rest of the Canadian legal world's.

Within days, if not hours, current and former presidents of the Canadian Bar Association, law deans from across the country, other members of the profession, and even journalists were publishing articles in support of the chief justice and questioning the prime minister's motives in saying a July 31 call from McLachlin — voicing her opinion there could be issues if Harper decided to appoint a Supreme Court justice from the ranks of the Federal Court to represent Quebec — was misguided. The PMO suggested such a call was out of bounds as would be any call from a judge to a minister on a case before the courts.

Thing was, the call was made on July 31. The government did not nominate/appoint Justice Marc Nadon to the SCC until the end of September. There was nothing before the courts when McLachlin made the call, which as an adviser to the government on nominations to her court would not be unusual during the selection process for a new justice. As she noted in a statement: "At no time did I express any opinion as to the merits of the eligibility issue. It is customary for Chief Justices to be consulted during the appointment process and there is nothing inappropriate in raising a potential issue affecting a future appointment."

As Kirk Makin, former justice reporter at The Globe and Mail and contributor to this magazine, wrote recently: "A narrative is taking root of an activist court and a meddling Chief Justice, thumbing their noses at elected officials. But it is a false notion, far removed from the reality of a court populated by deferential judges and a Chief Justice whose signature traits are caution and restraint." A strong response from the legal profession — and anyone else who cares about democracy in this country — was necessary.

But despite the support shown for McLachlin and a fair amount of condemnation aimed at Harper's comments (and even his understanding of the relationship between the government and the judiciary), the PM never apologized. McLachlin and the court, in typical style, responded with facts and no hyperbole. What Harper did do was weeks later revise his version of the events surrounding the phone call. According to the Toronto Star, the PM changed his story to suggest he foresaw a court challenge and legal issue that he and his advisers were surprised at as it had never arisen before and thus was consulting with "outside" legal experts on a matter that was likely to end up being referred to the Supreme Court.

That was not exactly mea culpa or admission his comments unnecessarily cast aspersions on not only the court but the integrity of the chief justice of Canada. The whole process of Nadon's questionable appointment (which in the end got a big thumbs down from the SCC bench and was just one of a series of recent rulings that did not go in the

government's favour) shows the government/prime minister/justice minister/anyone else in the ruling party who should know better that unwarranted attacks on the judiciary and its leaders won't be tolerated. I've never quite seen the call to arms and swift action from the many spokes of the legal profession as there was in response to Harper's accusations.

There will always be those who think judges are corrupt, that there's a liberal agenda at large that will never support initiatives of the Conservative Party, that unelected judges should always have to bend to the will of elected politicians, that the legal profession protects its own, etc. Canadian society, in general, may take issue with particular decisions but as a whole appears to respect the judicial system (although most would probably like it to be more transparent, particularly the process for choosing new judges at almost every level of court). It's times like this the profession needs to stand up and set the record straight. In this case, that was done is spades.

EDMONTON JOURNAL

Employers, public unions and pension boards call on government to slow down pension reforms

Fiona Buchanan, Edmonton Journal, June 4, 2014

EDMONTON - Union representatives, board directors and public sector employers put in their two cents about pension reform Wednesday in the second day of consultations hosted by the Standing Committee on Alberta's Economic Future.

Bills 9 and 10 have been an issue of contention between the government and public sector workers, who are worried that proposed changes to their pension plans could damage the plans they have been paying into.

Heather Smith, president of the United Nurses of Alberta, characterized Bill 9 as an attack on the public sector and said misleading information has provided justification for the reforms. "This appears to have been done for entirely political reasons."

These are a few themes that have emerged in the consultations.

Challenges to current pension plans:

— People are living longer and it becomes more expensive to support pensioners who were promised benefits until they die.

— Canada has experienced years of low interest rates, meaning that pension plan investment returns are also low. In the 1980s and 1990s high interest rates meant pensions could be covered by investment returns, but as rates decreased, plan members had to fill the gap by paying more into the plan from their salaries.

— Pension plans are maturing. This means there are more pensioners collecting benefits than active members contributing to the pension plans. The burden falls on the active members to cover pensions for retirees.

Unfunded liability

The public sector currently has a $7.4-billion unfunded liability. In other words, plans have less in assets than what needs to be paid out in benefits. Boards have been managing this deficit by increasing the amount of employees' salaries allocated into pension funds. Without the application of Bill 9, the unfunded liability is expected to be eliminated by 2025.

Bill 9 is intended to address this issue by giving the government the authority to change plan benefits earned after 2015, currently, this can only be done when it has been recommended by pension boards. The unfunded liabilities could then be paid off through changes to pensions provided after retirement rather than by having members pay increasing contribution rates. Time to implement reforms

Due to the complexity of the pension reforms, employers who made presentations to the committee said they are concerned about how quickly the government wants to impose changes. Calgary's general manager Brad Stevens expressed the need for more time to fully explain the changes pension reform will bring to plan members.

Pension insecurity

Employers said they are concerned about the ability to attract and retain employees if pension benefits are reduced under the proposed legislation.

CUPE Alberta president Marie Roberts said she finds the government proposal to adopt target benefit plans, meaning that rather than having pensioners receive a fixed income, it could fluctuate depending on market performance worrisome. "Once you get to a certain age, once your health deteriorates, you better have a secure income," Roberts said, adding that the current defined benefit plan is good for the economy. "Pensioners with steady, reliable income spend money in their communities."

Governance

George Walker, vice-chairman of the Local Authorities Pension Plan Board, said the board has been trying to get changes to the "inefficient governance system" of pension plans for 20 years, but the Alberta government has not implemented their recommendations.

Bill 10 will allow for changes to the structure of governance of plans in the private sector. Sid Matthews, chairman of the Labourers' Pension Fund of Western Canada, said this will give pension boards the option to chose a plan design that best suits members' needs.

Prostitutes to be banned from selling sex in some public places

MARK KENNEDY and JASON FEKETE, Ottawa Citizen, June 4, 2014

Canada's prostitution law is being overhauled with a plan that would target johns and pimps and still penalize the prostitutes themselves if they sell their sexual services in public places where children might be present.

Justice Minister Peter MacKay introduced the new legislation in the House of Commons on Wednesday — six months after the Supreme Court of Canada struck down as unconstitutional the country's previous prostitution laws.

The Conservative government had been contemplating a plan similar to the "Nordic model" — an approach first used in Sweden which then spread to Norway and Iceland — in which police largely target prostitutes' customers, pimps and sex-trade traffickers.

MacKay said Wednesday his bill will get tough on the purchasers of sex and on those who exploit prostitutes.

He said the government hopes to "protect those who are most vulnerable by going after the perpetrators, the perverts — those who are consumers of this degrading practice."

However, his proposed legislation does not let sex-trade workers entirely off the hook. Although MacKay described prostitutes as "victims" who need to be helped out of the sex trade, his bill contains a provision that could penalize them if they sell sexual services in a public place where a child could "reasonably" be expected to be present.

MacKay said that in such cases, "they would face fines in most instances."

On Wednesday night, a Justice Department official said that under the proposal, a prostitute who communicates to sell sexual services in a public place where a child might reasonably be present could go to jail for up to six months. A fine of up to $5,000 could be imposed upon conviction.

MacKay also said that if a prostitute sells sexual services in her own home, where a child is present, she could be penalized.

He also made it clear that the legislation puts "heavy emphasis in place on fines for those who purchase sexual services in public places such as schools, parks, pools, malls, churches, religious institutions or residential streets."

"This is sending a strong signal that we want to protect our communities in places where we raise our children."

MacKay was asked by reporters if a prostitute could be charged if she was selling sex near a school at 3 a.m.

"It depends if children could reasonably be expected to be present," he said. "The courts will ultimately interpret that. And the police will actually have discretion."

Furthermore, he noted that some prostitutes are younger than 18. For that reason, as an example, if two 17-year-old prostitutes are "in the presence of one another at three o'clock in the morning and are selling sexual services, they would be subject to arrest."

Critics have charged that the Conservative government's approach could merely force the sex trade underground in Canada and that prostitutes will have less time to screen their customers on dark streets, putting them at increased risk of being harmed.

Eventually, say the critics, the new bill will be struck down by the Supreme Court of Canada.

Critics have said the government did not adequately consult experts and those in the sex-trade industry as it drafted its legislation.

Emily Symons, chair of POWER (Prostitutes of Ottawa-Gatineau Work Educate and Resist), a sex-worker advocacy group, said the government's new legislation will likely worsen the situation.

"We are absolutely shocked and devastated to find out that the government is introducing these new laws, because they're going to continue to put sex workers at risk of violence," she said.

Symons said street-based sex workers protect themselves in three ways: screening clients such as monitoring them for alcohol and checking bad-date lists circulated by sex worker organizations; working in groups or pairs where they look out for each other and write down licence plates; and by working in well-lit and well-populated areas.

"When sex workers and their clients fear criminalization and having attention from the community and the police, then these transactions don't take place openly," she said, believing it will simply drive the sex industry underground and be much more dangerous.

Symons hopes the bill is somehow struck down or pulled before it becomes law. But if it does pass through Parliament, she said it will "absolutely" end up back at the Supreme Court.

"Quite frankly, sex workers will die because of these laws and we really can't have another Robert Pickton, and it's a real shame the government hasn't learned from what has happened in the past," she said.

But MacKay said his bill strikes a balance.

"No model that involves full criminalization or legalization will ever make prostitution a safe endeavour," he said. "There will always be an inherent danger in this degrading activity."

<u>According to the government, the bill will:</u>

- Criminalize the "purchasers of sexual services" who "fuel the demand for prostitution."

- Continue to criminalize those who financially benefit from the "exploitation" of others through prostitution, such as pimps.

- Prohibit ads in print or online for the sale of other peoples' sexual services.

- Increase existing penalties relating to child prostitution.

"We clearly understand the urgency to act quickly," said the justice minister.

"Doing nothing was never an option for this government. Leaving a void, as suggested by some, was never a part of our plan. Most Canadians view prostitution as a dehumanizing phenomenon that puts people at risk."

NDP justice critic Françoise Boivin said she needs to take a bit more time to carefully analyze the bill, but sees many sections of the legislation that are "questionable" and need a lot more clarity.

Liberal MP and aboriginal affairs critic Carolyn Bennett said she wants to hear from international experts and sex-trade workers to see if the legislation will improve the safety of women in the industry.

Prostitution: une réforme contestée inspirée du modèle suédois

Hugo de Granpré, La Presse, le 4 juin 2014

(Ottawa) Le gouvernement a déposé sa réforme très attendue des règles canadiennes sur la prostitution, hier. Une réforme qui va beaucoup trop loin, selon des groupes de défense des travailleurs du sexe, qui promettent de la contester à nouveau devant les tribunaux. Mais le ministre de la Justice Peter MacKay juge quant à lui avoir atteint un juste équilibre dans ce qu'il a qualifié de nouvelle «approche canadienne». Il compte maintenant adopter le projet de loi à toute vapeur.

Six mois après la décision de la Cour suprême du Canada le forçant à revoir certaines règles en matière de prostitution, le gouvernement fédéral a présenté sa réforme hier.

Comme on s'y attendait, le projet de loi déposé à la Chambre des communes interdit l'achat de services sexuels, s'inspirant du modèle suédois.

Mais le projet de loi C-36 va plus loin - trop loin, selon plusieurs groupes de défense des travailleurs du sexe et même la Coalition des femmes pour l'abolition de la prostitution, qui réclamait l'adoption de ce modèle suédois.

«Nous demanderons des amendements assurément, puisque ça ne répond pas à l'objectif de base: de donner des outils aux femmes [pour] sortir de la prostitution, mais aussi, lorsqu'elles sont dedans, [pour] assurer leur sécurité», a déclaré Diane Matte, porte-parole de la Coalition des femmes pour l'abolition de la prostitution.

Sollicitation et publicité

C'est qu'en plus de criminaliser les clients et certaines tierces parties comme les proxénètes, le projet propose d'interdire la sollicitation de clients par des prostitués dans «un endroit public ou situé à la vue du public, s'il est raisonnable de s'attendre à ce que des personnes âgées de moins de dix-huit ans se trouvent à cet endroit ou à côté de cet endroit».

Le projet vise aussi à interdire la publicité faite à des fins de prostitution.

La première interdiction est trop vague et la seconde nuira au travail du sexe en privé, poussant vers la rue les personnes qui s'y adonnent, estiment des experts et groupes de pression.

«Il n'est pas possible, à cause du fonctionnement de la législation, d'avoir des lieux sûrs pour la pratique de la prostitution. Ça reproduira tous les problèmes avec lesquels les travailleurs du sexe étaient aux prises», a réagi le criminologue John Lowman, de l'Université Simon Fraser.

«C'est un projet inconstitutionnel. Les conservateurs préparent le terrain pour leurs prochaines élections. [...] Et malheureusement, c'est notre communauté qui va en subir les conséquences. C'est notre sang qui va couler», a dénoncé Émilie Laliberté, porte-parole de l'Alliance canadienne pour la réforme des lois sur le travail du sexe.

L'avocate Katrina Pacey, de l'étude Pivot Legal Society à Vancouver, se prépare déjà à contester la constitutionnalité de la loi. Elle avait participé à la contestation dans l'arrêt Bedford, qui a mené au jugement du mois de décembre. «Le ministre MacKay a tenté de créer une version légèrement différente de la loi qui a été invalidée dans l'arrêt Bedford», a-t-elle dit.

La Cour suprême a statué que les dispositions du Code criminel interdisant la sollicitation de clients aux fins de prostitution, de même que la tenue d'une maison de débauche et le fait pour un tiers de vivre des fruits de la prostitution mettaient la vie et la sécurité des travailleurs du sexe en danger.

Peter MacKay a affirmé le contraire. Il a présenté sa réforme comme une «approche canadienne» qui répond à une «activité dégradante», où le plus souvent, les prostitués sont des femmes «victimes d'exploitation» et les clients, des «pervers».

«Aucun modèle qui implique une criminalisation totale ou une légalisation ne pourra transformer la prostitution en une activité sécuritaire. Il y aura toujours un danger inhérent à cette activité dégradante», a-t-il fait valoir.

Il a reçu l'appui de groupes de la droite religieuse, dont l'Evangelical Fellowship of Canada. «Notre désir est de s'assurer que les personnes vulnérables et à risque sont protégées, et que toutes les formes d'exploitation sexuelle sont éliminées», a déclaré le président Bruce Clemenger.

Le gouvernement a jusqu'à décembre pour adopter ces changements et il pourrait forcer le comité parlementaire de la justice à siéger cet été pour l'étudier.

Conservatives gamble with tougher approach to prostitution

Campbell Clark, The Globe and Mail, June 5, 2014

When forced into re-drafting prostitution laws, the Conservative government chose to make them much, much tougher.

It’s in some ways the opposite of what was sought by the sex workers who successfully challenged existing laws in the courts, arguing that forcing prostitution underground makes it dangerous. This bill will push it further underground.

But the Conservatives can hope for support from other political constituencies: those who oppose prostitution on moral grounds, like many evangelical Christians, and those who oppose it as exploitation, like many women.

So as Justice Minister Peter MacKay unveiled the new bill on Wednesday, he mixed moral outrage, calling prostitution “degrading” and johns “perverts,” with earnest appeals to protect women.

This is an issue with a gender gap: women are much more opposed to legalizing prostitution than men.

Those kinds of looser rules, as Mr. MacKay made clear on Wednesday, were never an option for the Conservatives. In fact, they went in the other direction.

Prostitution itself is legal in Canada, though there were a series of related offences that made it illegal to operate a brothel or sell sex on the streets. Now for the first time, the buying of sex will be completely illegal, so johns can be prosecuted every time. Selling sex isn’t illegal. But advertising it will effectively be banned, and large parts of the restrictions shot down by the Supreme Court have been revived.

It’s far from what the sex workers were seeking: legalization, as in New Zealand, with some regulation. But the Conservatives would never go there.

It’s not that most Canadians favour Mr. MacKay’s plan. The Justice Minister touted the results of an unscientific internet consultation to say that’s the case, but that flies in the face of consistent poll results.

A slim majority of Canadians, 50 per cent according to one poll last year by Forum Research, favour legalizing prostitution, both the buying and selling of sex.

But that’s just not on for a Conservative government. There’s a sizable minority against it (36 per cent), and just as importantly, more Conservatives are opposed, and key portions of their political base are dead set against it.

Among evangelical Christians, who tend to be Conservatives, 72 per cent are opposed to legalizing prostitution.

But there’s another, far bigger group of opponents: women. Most men, 60 per cent, are in favour of legalizing prostitution, according to the Forum poll, and only2 8 per cent are against. But women are more evenly divided: only 41 per cent of women are in favour, and 44 per cent against. The demographics suggest Conservative women would be more likely to be against it.

There's been a consistent gender gap for years, said Janine Benedet, an associate professor of law at the University of British Columbia, who represented the Women's Coalition for the Abolition of Prostitution in last year's Supreme Court case.

She argued the law should be aimed at reducing demand for prostitution, because many women are forced or coerced into prostitution, and trafficked across borders. Laws targeting johns might change attitudes among men to convince more that buying sex is not acceptable, and reduce demand, she argues. There are unregulated legal brothels in New Zealand, she said, arguing that "You cannot tell me that does not put women at risk."

Of course, there are also women leading the charge to protect sex workers through more open laws. They insist that the government's new bill is as bad as or worse than the ones struck down last year by the Supreme Court, because criminalization of johns will force prostitution into unsafe places and practices.

Ms. Benedet suggested that the new law might be more resistant to a legal challenge. The old laws just regulated some of the aspects of prostitution, but this one outlaws buying sex, with a goal of reducing exploitation, she said. Legislating restrictions on johns is more likely to pass muster than criminalizing what sex workers do, she said. But the law will surely be tested again in the courts by sex workers who argue it still puts their right to security at risk.

Politically, however, a Conservative government forced to wade into an issue it never wanted to address will only want to ensure its new bill doesn't do damage. The Conservatives couldn't afford to alienate social conservatives in their base, but can also hope to win support from many women.

John Ivison: Peter MacKay's prostitution law a failure on all counts

John Ivison, National Post Columnist, June 4, 2014

Peter MacKay's role as Attorney General of Canada requires him to be the guardian of the rule of law. He is mandated to protect the personal liberties of Canadians and advise Cabinet to ensure its actions are legal and constitutional.

By introducing a new law on prostitution that is all but certain to be struck down by the courts, he has failed on all counts.

The new law makes it an offence for the first time in Canada to purchase sexual services, or to communicate in any place for that purpose. It makes it an offence to receive a material benefit from sexual services and it prohibits the advertising of sexual services in newspapers or online.

The main targets are "the perpetrators, the perverts, the pimps," according to Mr. MacKay. But it also takes aim at prostitutes, if they try to sell sexual services in "public places" where people under 18 might reasonably be expected to be present.

Last December, the Supreme Court struck down the existing law on prostitution, on the basis that it diminished the security of sex workers, in violation of section 7 of the Charter of Rights.

There have been a number of studies conducted, before and since the Supreme Court decision, on the impact of shifting the guilt burden from sellers to purchasers, including one conducted in Vancouver and published in the British Medical Journal. None suggest the well-being of sex workers is enhanced – the key ingredient of any constitutional law.

When johns are targeted, prostitutes continue to take steps to avoid police detection; they are unable to screen clients and remain at risk of violence, abuse and HIV.

Prohibition of the purchase of sex is as likely to violate sex workers' rights of security in the eyes of the Supreme Court, as prohibition of the selling of sex.

This bill is likely to make life even more unsafe for many prostitutes. If they can't advertise their services to persuade the johns to come to them, many more are likely to take to the streets in search of business.

The government says it will spend $20-million to assist sex workers to leave the industry. But does Mr. MacKay seriously think this is going to reduce the number of women selling sex – or improve the lot of those who remain?

None of this bodes well for the long-term survival of this legislation.

If the new law is deemed to be "grossly disproportionate," the burden of proof will shift to the government to justify itself.

Mr. MacKay knows this law will not stand constitutional scrutiny. But it could take years for a challenge to reach the Supreme Court and in the meantime, the new law will hold sway.

The cynicism that marked its introduction has mirrored the farce of the public consultation process. As La Presse revealed Wednesday, a $175,000 survey on public attitudes toward prostitution was commissioned by the government but Mr. MacKay was warned in a memo by Justice officials in January that the results may contradict government policy. The report was promptly shelved and the results won't be published until the new bill has been sent to committee.

Instead, the government published an online consultation that fit with its preferred result – a majority suggesting the purchase of sexual services should be an offence.

The problem from day one for Mr. MacKay was that the Conservative Party's members adopted a resolution that rejected the legalization of prostitution and called for a new law that targeted the purchasers of sex at its convention last November.

The emphasis in the new bill is to protect communities — an admirable goal. But that could equally have been done in a way that was consistent with the constitution.

The party's preferred option ruled out the adoption of an alternative model — the decriminalization and regulation of prostitution.

This is unfortunate. Countries like New Zealand have moved in that direction and found, while there was no dramatic change in the number of people involved in the sex industry, there was an improvement in safeguarding the rights of workers to refuse particular clients.

Adopting this model would have given Canada a new law robust enough to survive further Charter challenges.

As it is, the reputation of the office of the Attorney-General has been tarnished, hundreds of thousands of dollars of public money have been wasted on surveys that reveal inconvenient truths and a stop gap law that will need to be re-written has been imposed.

The decision should have been based on the evidence. Instead, it smacks of the Queen of Hearts' logic: sentence first, verdict afterwards.

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A bill on the sale of sex or the sale of Conservatives?

Peter MacKay's bill on the sex trade will appeal to his party's base, but it does not respond to the Supreme Court ruling of last December.

Tim Harper, Toronto Star National Affairs Columnist, June 5, 2014

OTTAWA—Justice Minister Peter MacKay is selling his new prostitution bill as a uniquely "Canadian model.''

It is really the Conservative model and there is nothing unique about it because we've seen this time and again.

Once again, Stephen Harper's government is beating the law-and-order drums, a rhythm which gets the base swaying and the party bank account chi-chinging.

It uses advertising slogans to name its bill, this one known as The Protection of Communities and Exploited Persons Act, taking its place in recent Tory lore beside the Fair Elections Act (which before amendments was anything but) and the Protecting Canadians from Online Crime Act (which actually provides more surveillance power to police).

The bill touches all the sweet spots for Conservatives, with vows to protect children, protect families and communities and get tough with all the P's — the pimps, perpetrators, purchasers of sex and perverts, to borrow a bit of the minister's alliterative flare.

This bill looks like another back of the hand from Harper to the courts, something that sets that base to chest-thumping.

The Conservatives, then, have a little bit of love where it's needed and lots of bile for their bad guys, but this does nothing to keep women in the sex trade safe.

It does quite the opposite.

MacKay will ante up $20 million to help women "exit a lifestyle of exploitation and danger," but to put that spending in perspective, the government has spent five times that over the past five years for a series of Economic Action Plan ads.

This bill would inevitably push sex workers underground, forcing them to take their work to dark streets in areas where children and teens are scarce (the toughest penalties are for those buying or selling sex where minors could "reasonably" be expected to be) without the proper vetting process for clients.

In essence, a government that is under fire for its refusal to probe missing and murdered aboriginal women in this country has now introduced legislation that will drive female sex workers out of the relative safety of homes and back onto perilous streets.

New Democrats urged MacKay Thursday to refer his new bill to the Supreme Court, since that is where it is headed anyway. But the minister won't do so even if he knew from the outset that this would not survive a court challenge.

It is too valuable in its present form for the government in 2015, playing to its self-promoting image of protecting all things fine, upstanding families respect, even if the legislation comes nowhere near answering the court's original demand for better protection from sex workers in its ruling which landed this mess on MacKay's desk.

Green Party leader Elizabeth May even wondered whether Harper was planning to run against the Supreme Court next year, so clearly does this bill ignore the court's decision last December.

The court decision found that the laws prohibiting brothels, living off the avails of prostitution and communicating in public for purposes of prostitution were overly broad and infringed on prostitutes' Charter rights to security of the person.

This bill all but ignores the court's call.

But a list of those who immediately fell in line to back the bill illustrates the Conservatives' target audience.

MacKay received praise from REAL Women, The Institute of Marriage and Family Canada, the Evangelical Fellowship of Canada and Canada Family Action.

Those who lined up against the legislation were those who actually work with women in the sex trade.

They know that a bill which eliminates their ability to advertise and chokes off their means of communication will endanger them.

Targeting clients mean customers will no longer use private homes for fear of police stakeouts.

"We will see more missing and murdered women because of this legislation," said Katrina Pacey of PIVOT, a Vancouver legal advocacy organization that works with prostitutes and the homeless of that city's downtown east side.

Only days earlier it had released a survey from sex workers predicting any bill targeting johns would make life more dangerous for women and would ultimately be found unconstitutional.

The organization called the bill "cynical and dystopic" and accused Ottawa of breaching a litany of charter rights.

MacKay says he was trying to thread the needle with this bill, but a government serious about real legislation that is not really a campaign tool should head back to its knitting.

Legal Aid's refusal to fund victim surcharge fight "troubling," says lawyer

ANDREW SEYMOUR, Ottawa Citizen, June 1, 2014

Yves Jubinville has spent about 125 hours working to prevent his client — a poor and mentally ill Hawkesbury man — from paying $700 in mandatory victim surcharges.

It's work that would usually net the defence lawyer about $14,000. So far, though, he's done it almost entirely for free.

Jubinville is among several lawyers who have taken to fighting the mandatory surcharge for next to nothing after applications for additional funding for constitutional challenges to the controversial surcharge have been rejected by cash-strapped Legal Aid Ontario.

Jubinville says it has pitted him and his client, Daniel Larocque, against a team of at least seven well-paid government prosecutors with seemingly unlimited resources for prosecuting and defending the constitutionality of the victim surcharge, while Jubinville's application for special test case funding was rejected because he was told there wasn't room in their budget for the costly legal fight.

Legal Aid Ontario's current block rate for constitutional challenges is $282.50, Jubinville said, or approximately enough to cover two-and-a-half hours work.

Jubinville says that's a problem.

"How is that a fair battle? How is that access to justice for people who don't have the money to fight?" said Jubinville, who will learn in August whether he was successful in having the surcharge declared unconstitutional. "It's David versus Goliath."

Another lawyer, Paul Lewandowski, has launched a constitutional challenge on behalf of a deaf panhandler facing a $100 surcharge he says he can't afford.

Lewandowski said he and his client, Tim McCooeye, felt strongly about wanting to challenge the surcharge.

"I think there is a greater public good that is going to be served," said Lewandowski. "I do feel strongly that the law is poorly crafted, ill-conceived, and Mr. McCooeye exemplifies that."

Legal Aid Ontario couldn't speak to Larocque's case specifically, but said the constitutionality of the mandatory surcharge is an important issue. A Legal Aid Ontario lawyer argued one of the first successful constitutional challenges to the law in Cobourg, said Wayne van der Meide, the regional manager who oversees the test case program.

The test case program provides funds for cases that Legal Aid Ontario characterizes as having broad implications for low-income Ontarians or disadvantaged communities. The

potential cost of any application is weighed against the potential benefits, Legal Aid Ontario said.

Not all cases are accepted.

“As a publicly-funded organization, LAO has finite financial resources. We must carefully choose the test cases we can support. We focus on cases we believe will have broad implications and are likely to have the most impact on low-income Ontarians,” van der Meide wrote in an email.

Jubinville said he believes the mandatory victim surcharge meets that threshold.

“That is a concern to me because it is a quite serious issue that needs to be in front of courts, and that really touches every single convicted or discharged person,” he said. “Every client I have is facing the victim fine surcharges.”

Jubinville said it was “absurd” to believe that someone like his client could fight such a complicated legal challenge on his own.

“It’s another example of inaccessibility to justice for people who don’t have money. If I didn’t do it for free, he obviously doesn’t have any means to pay for it himself and he doesn’t have the capacity to do it himself. So what does he do? He gets $700 to pay within 30 days and that’s the end of that,” said Jubinville.

But lawyer Stuart Konyer, who is president of the Defence Counsel Association of Ottawa, said Legal Aid Ontario is not the “bad guy.”

“Legal Aid didn’t create this mess. It’s hard to fault them,” said Konyer, who called the mandatory surcharge “a bad law from the government” and a “terrible piece of legislation.”

“They don’t have enough money to cover serious cases where people are facing significant jail terms if convicted, so you can understand why Legal Aid looks at fighting the surcharge perhaps as not their top priority,” said Konyer.

Konyer said his association is working with Legal Aid Ontario on a strategy to share resources and ensure some limited funding is available for challenges to the victim surcharge.

Legal Aid Ontario said they have plans to relaunch a more robust and revitalized test case program in the fall.

Konyer, who himself has two destitute clients who are launching constitutional challenges to the law, said defence lawyers often spend many more hours than what they are paid for on Legal Aid work.

Challenging a law like the mandatory surcharge even though there are no guarantees of getting paid “is the right thing to do for a lot of the clients,” Konyer said.

“We believe everyone should have equal access to justice and we aren’t going to stand by and watch poor people get railroaded,” said Konyer.

Vie privée: le prochain commissaire critique le projet de loi C-13

Hugo de Granpré, La Presse, le 3 juin 2014

(Ottawa) Daniel Therrien, le haut fonctionnaire du ministère de la Justice que le gouvernement Harper veut nommer commissaire de la protection à la vie privée, a émis de sérieux doutes sur des mesures contenues dans un projet de loi controversé qui faciliterait l'accès aux renseignements des Canadiens sur internet.

M. Therrien a comparu pendant une heure devant un comité de la Chambre des communes mardi. Au terme de la rencontre, ce comité a entériné sa nomination, malgré l'opposition du NPD. Il devrait être confirmé dans ses fonctions d'ici la fin de la semaine, une fois l'ensemble du processus d'approbation parlementaire achevé.

L'Opposition officielle à Ottawa a remis en doute ce choix de Stephen Harper parce qu'à titre d'avocat, il dirige depuis près de dix ans le secteur responsable de la Sécurité publique et de l'Immigration au ministère de la Justice. Il a notamment été négociateur en chef pour les questions de vie privée dans le cadre du vaste partenariat d'échange d'informations entre le Canada et les États-Unis, par-delà la frontière.

M. Therrien a affirmé mardi que les possibles conflits d'intérêts soulevés par le NPD ne l'empêcheraient pas de faire son travail. Le chef néo-démocrate Thomas Mulcair a déclaré hier que sa nomination était comme de confier le poulailler au « colonel Sanders ».

«Après un examen sérieux de la question, et en mon âme et conscience, je ne vois pas de conflits d'intérêts, à l'heure actuelle, où j'aurais à me retirer d'un dossier», a affirmé M. Therrien, qui a ajouté qu'il pourrait, le cas échéant, avoir recours aux services d'un commissaire adjoint ou ad hoc.

Critique face à C-13

Le commissaire en voie d'être nommé s'est d'abord montré prudent et refusé de répondre aux questions relatives au controversé projet de loi C-13, qui faciliterait l'accès des services policiers et gouvernementaux aux renseignements personnels d'internautes, comme les adresses IP. Il a évoqué son lien d'emploi actuel avec le gouvernement pour

justifier sa position. Mais il finalement cédé devant les pressions du NPD et du président du comité, le député néo-démocrate Pat Martin.

«Je n'ai pas vu de démonstration jusqu'ici qu'un tel niveau de renseignements personnels dans les adresses IP est requis, en particulier dans le cadre de la divulgation volontaire sans mandat», a déclaré M. Therrien.

«Les adresses IP sont beaucoup plus que des informations téléphoniques, parce qu'elles incluent des informations d'intérêt sur des sites web ou la localisation.»

«La question de la divulgation sans mandat est une préoccupation. En particulier compte tenu de l'information qui a été rendue publique il y a quelques semaines que ça se produit de manière très fréquente. Donc c'est un sujet de préoccupation», a-t-il ajouté.

Il s'est également prononcé en faveur d'une division du projet de loi C-13, pour que la composante qui touche l'accès aux renseignements personnels soit séparée de celle qui touche l'intimidation sur internet.

Il a fait un lien avec le défunt projet de loi C-30, que le gouvernement avait lié à la lutte à la pornographie juvénile, mais qu'une vaste contestation populaire l'avait forcé à reléguer aux oubliettes. « C-30, je pense, comportait des lacunes, tout comme C-13, je crois, a besoin d'une étude plus approfondie », a-t-il dit.

Passionné des droits de la personne

L'homme à la barbe et au complet gris s'est présenté comme un fonctionnaire passionné de service public et de droits de la personne.

«Je suis ici ce matin pour offrir mes services, a-t-il dit. Je crois au service public, je connais les agences de sécurité et j'ai une passion pour les droits de la personne. Je ne veux aucunement m'imposer et je veux que mes actions soient utiles et efficaces. Ultimement, et bientôt j'espère, je pense être capable de démontrer mon impartialité par mes actes.»

«Mon rôle en tant que commissaire à la protection de la vie privée, si ma candidature est confirmée, serait d'être un champion du droit à la vie privée, a-t-il insisté. Je travaillerais et ce serait ma priorité d'améliorer le contrôle que les individus ont sur leurs renseignements personnels.»

Un comité sénatorial doit se pencher sur sa nomination cet après-midi. Un vote dans les deux chambres du Parlement doit avoir lieu dans les prochains jours et on s'attend à ce que la nomination de Daniel Therrien soit confirmée d'ici la fin de la semaine.

Le NPD et le Parti libéral ont dénoncé le peu de temps qui leur a été accordé pour étudier la candidature en comité parlementaire - une heure - compte tenu du degré de complexité des sujets visés. « Après moins d'une heure de questions, on nous pousse à approuver ou désapprouver votre nomination... Ce sont les Canadiens et les Canadiennes qui sont perdants. L'imputabilité, la transparence de ce gouvernement sont pitoyables. Et ce processus le démontre », a lancé le député du NPD Mathieu Ravignat.

Tory nominee for privacy watchdog criticizes government bill

JOSH WINGROVE, The Globe and Mail, June 3, 2014

A Conservative-dominated House Committee has rubber-stamped the nomination for Canada's privacy watchdog after less than one hour spent questioning him – but not before he criticized a major government bill.

The committee on Tuesday gave its blessing to appointing Daniel Therrien as the next privacy commissioner, over objections from the NDP, which called the process a "sham" and continues to question whether Mr. Therrien is too close to government to be an effective watchdog. Mr. Therrien, however, wasted no time in critiquing the government and called on the Conservatives to split apart a key cyberbullying bill, C-13, to allow a closer look at new surveillance powers it proposes.

Mr. Therrien was announced last week as the nominee and was due to speak to the Senate later Tuesday as part of a government push to have him confirmed quickly. Canada is currently without a Privacy Commissioner, as interim commissioner Chantal Bernier's term ended Monday.

Mr. Therrien has spent his 33-year career as a lawyer for the government, most recently serving as assistant deputy attorney general for public safety, defence and immigration at the Department of Justice. That has raised eyebrows with some questioning whether he could now pivot to being a watchdog for the programs he played a role in creating, and whether he'd be bound by solicitor-client privilege. Many privacy advocates, civil liberties groups and academics have asked government to reconsider the selection of Mr. Therrien.

The nominee played down concerns on Tuesday, telling MPs his "allegiance will be to Parliament" and that he generally believes there needs to be more disclosures about when and how private data is used and collected.

"I hope to be able to demonstrate my impartiality through my actions," Mr. Therrien told MPs, later adding that he had never shied away from telling ministers in government whether their plans would violate Canadian law. "…I'm guided by the law. I always have [been], I always will, and I'll leave it at that." He said he would aim to balance security programs that infringe on privacy with the rights of Canadians, but not prioritizing "one at the expense of the other."

He said he does not believe his past work as a government lawyer would now tie his hands as a watchdog. He said, when pressed, that specific work on government data-collection programs was largely handled by staff serving under him. If a case of conflict came up, he'd step aside as commissioner on that particular file, Mr. Therrien said. "I would not need to rely on information of a classified nature to perform my role," he told MPs.

Mr. Therrien spoke and answered questions for roughly 50 minutes before Conservative MP Paul Calandra made a motion to approve his candidacy, leaving opposition MPs crying foul.

"This is quite unbelievable. We've had less than one hour," NDP MP Mathieu Ravignat, whose party opposes the appointment, said. Liberal MP Irwin Cotler said he favours Mr. Therrien's appointment but that he agreed the process was moving too quickly. He declined to vote on the motion. The Conservatives supported the motion with their majority, and it passed. Mr. Ravignat, who voted against, called it a "sham."

As the committee considered Mr. Therrien, two government bills, C-13 and S-4, continue to be pushed through the House, each with committee hearings on Tuesday that overlapped with Mr. Therrien's appearance.

The committee considering C-13 has added another day of witness testimony, June 10, and says Mr. Therrien will now appear before the committee to discuss C-13. The committee had earlier said testimony would end Thursday and declined to commit to hearing from the watchdog.

On Tuesday, Mr. Therrien echoed calls from many groups, including provincial commissioners and the Canadian Bar Association, to split C-13 into two bills – one that deals with new cyberbullying laws, and one that deals with the new police powers included in the bill. Concerns over C-13 are "very legitimate" Mr. Therrien said, noting the bill's immunity for companies to hand data over to police voluntarily is a "concern." He likened his concerns over the bill to those over a previous surveillance bill, C-30, advanced by then-minister Vic Toews that ultimately was abandoned.

Mr. Therrien also backed the notion of a parliamentary oversight committee to keep an eye on government data collection, saying it would be a "healthy thing" and that he is "in favour of all measures that would increase the control of an individual over their information."

Among those watching his testimony was David Fraser, a privacy lawyer who spoke to another committee about Bill S-4 earlier in the morning. Mr. Fraser liked some of what he heard Tuesday and said he was looking forward to seeing Mr. Therrien grow into the role of commissioner. He also, however, objected to the process.

"I would have wished there would have ultimately been more time to ask him detailed questions on his positions," Mr. Fraser said. "As somebody who is acutely concerned about government surveillance, I think there was a little bit more talk about 'balance' than I would have been excited to hear from a privacy commissioner, from someone expected to be a strong advocate [for privacy rights]."

Mr. Therrien is due to appear before the Senate at 3 p.m. ET on Tuesday. Once his nomination is approved by the Senate and the House, he can be appointed as the next commissioner and be given a seven-year term.

CBC news

Daniel Therrien says he would split cyberbullying bill in two

Susana Mas, CBC News, June 3, 2014

Prime Minister Stephen Harper's pick for federal privacy watchdog says the government's controversial cyberbullying bill should be split in two.

Daniel Therrien appeared before a parliamentary committee this morning before his nomination is to be confirmed by the Senate later this afternoon.

"I would agree with the Canadian Bar Association that the bill should be divided and that there should be an independent review of privacy interests in the context of electronic investigations," Therrien said.

Therrien's appointment has raised the ire of the Opposition New Democrats and 30 privacy experts who say he is not qualified for the job.

Therrien, a longtime lawyer who now works as assistant deputy attorney general for the Justice Department, has been credited by the federal government for crafting privacy rules around the sharing of information under the Canada-U.S. Beyond the Border deal.

Justice committee asked to extend Cyberbullying hearing

While Therrien was being vetted by MPs before the access to information, privacy and ethics committee in one room, down the hall the justice committee studying Bill C-13 is hearing from witnesses in a separate room.

There, Liberal MP Sean Casey submitted a motion calling on the justice committee to call more witnesses to testify before the committee including provincial privacy commissioners, as well as the new federal privacy watchdog.

"That the Committee delay its review of clause by clause and amendments scheduled for Bill C-13, and that the Committee Chair be instructed to invite the privacy commissioners from among the various jurisdiction… as well as Canada`s privacy commissioner," Casey said in his motion.

Unless Casey's motion passes, the justice committee is scheduled to finish hearing witnesses on Thursday.

Privy Council clerk out of touch with public servants: Ravignat

Elizabeth Thompson, The Hill Times, June 5, 2014

Privy Council Clerk Wayne Wouters is out of touch with what is happening on the ground in Canada's public service, NDP MP Mathieu Ravignat charged Thursday.

"I think he may not be doing his groundwork," Ravignat said following an appearance by Wouters before Parliament's government operations and estimates committee.

"He is perhaps caught in the Ottawa bubble or he is telling the government what they would like to hear and that is not what we need from the Privy Council clerk. We need somebody who will give an honest, no holds barred assessment of what is going on in the public service. I don't hear that independent voice from him presently and that's unfortunate."

Ravignat's comments came after Wouters told MPs on the committee that his year-long Blueprint 2020 consultation with grassroots public servants did not identify any problems with morale or trust within the public service.

"I am reporting on what we heard through our collaborative efforts of the 110,000 public servants and from coast to coast the rank and file major concern was 'I want to do a good job. I think I'm doing a good job. I need to continue to do a good job. What do I need to do that."

"This issue of trust came up, but it did not come up very much in our whole collaboration," Wouters said, adding that the time it takes to staff positions was also a concern.

However, Ravignat, a former public servant whose riding of Pontiac north of Ottawa is home to a lot of people who work for the Canadian government, said Wouters' testimony doesn't match what he is hearing.

"I think that he's glossing over a lot of profound issues in the public service that public servants are worried about."

"I don't buy that he consulted 110,000 public servants and major issues haven't come up with work environment, major issues haven't come up with the way affectation went forward."

“I live and breathe the National Capital Region and I know that public servants are very worried about the future and that this entire exercise is being viewed with a certain amount of cynicism.”

Appearing before committee Thursday, Wouters painted a rosy picture of the state of Canada’s public service and its future direction. In the wake of his Blueprint 2020 consultation, the government will foster innovation, increase the use of new technology such as video conferencing and wifi access and reduce red tape within the government.

Wouters was even upbeat when it came to the government’s deficit reduction action plan that has slashed thousands of public service jobs. Wouters said approximately 16,000 positions have already been cut – 9,000 of them through attrition. Another 3,000 positions remain to be cut to meet the government’s target of 19,200.

“Overall, I think we have managed this very, very well by directly dealing with affected, either allowing them to retire or leave the public service or find other jobs within the public service.”

Wouters said the government is also becoming more efficient by consolidating functions such as payroll, pensions, information technology and human resources.

“Do we need every department to have an accounts payable shop where you can actually bring this together? Technology allows us to do this.”

“I think the overall management objective here is to begin to consolidate,” Wouters told MPs. “First, standardize, so that we don’t have all these different IT systems. We should have one HR IT system. We should have one finance IT system.”

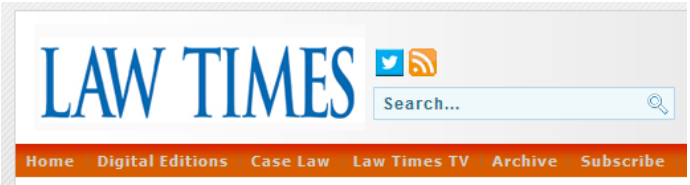
Wouters said the public service is adopting a new “risk-based” hiring process and starting in April has begun mandatory performance evaluations for all public servants that should give every employee a clear understanding of their performance objectives, the expectations they are supposed to meet and will be assessed on a scale of one to five.

“We expect that the bell curve will be achieved where essentially most of the individuals will get threes,” Wouters said.

However, Ravignat says he has concerns about the mandatory performance evaluations and the “risk-based” hiring the government is introducing.

“When we talk about risk based management, I get worried when we can’t give details. It seems like it is in the process of being invented and that is very worrisome, very worrisome with the relationship with the public service unions.”

Ravignat said public servants are also concerned that what they say and what they do is being monitored by the government they work for.



Judge's actions in Forest Hill neighbour dispute debated

By Yamri Taddese, Law Times, June 2, 2014

In the wake of a now-infamous ruling about quarrelling Forest Hill neighbours, lawyers are debating whether the judge should have resolved the matter instead of dismissing it in a decision full of biting comments.

Superior Court Justice Edward Morgan's ruling dealing with wealthy residents in the "tony" Toronto neighbourhood became fodder for legal comedy after he found the parties needed "a stern kindergarten teacher" rather than a day in court.

But Toronto lawyer Lee Akazaki isn't laughing. He says that in mocking the plaintiffs for bringing the action, the judge neglected his duty to "diffuse tension between citizens" no matter how petty their claims may be.

Morgan's decision, which called the case "a gem of a lawsuit," focused on poking fun at the parties and failed to even describe the kind of relief the plaintiffs were seeking, Akazaki notes.

"From the perspective of judicial duty, when I read the case I found it less than satisfactory in terms of telling me what the case was about and why it was decided in that way," he says.

"As a member of the public, it would have been good to be told what the plaintiffs were seeking because it's only when you have that information that you can determine whether the decision to dismiss was justified."

The decision says the plaintiffs, John and Paris Morland-Jones, pursued a civil lawsuit after the parties exchanged lawyer letters to no avail. To Akazaki, that suggests the judge should have granted some sort of relief in the form of an injunction.

"What if you can't get any relief here? What does that mean? Does that mean that I have to go across the street and punch somebody?" he asks.

Lots of cases involve difficult parties, but that doesn't mean they don't deserve relief, according to Akazaki, who adds he found it "disturbing" that the judge's decision suggests the litigants face a higher standard of conduct because they're rich and have good education.

“The entire tone of the judgment relays the message that rich and educated people are to be held to a different standard of conduct than other people, such as people from a less affluent neighbourhood, almost [going] to say that ‘I would have expected this from people living in Rexdale or Scarborough but I don’t expect it from people living in Forest Hill.’

“A lot of people might think that — and people are entitled to their opinion — but that shouldn’t be part of a judicial determination. I found that message to be disturbing. It’s actually a class-based type reasoning.”

Had the same case come out of a troubled neighbourhood where the exchange between the parties had been “coarse rather than petty,” the judge would have had to grant relief, Akazaki suggests.

For others, Morgan’s ruling was the right response to a “first-world problem.”

‘The court is no place for petty squabbles,’ says David Sterns.

While Sterns is generally not a fan of judges “strutting their stuff” in their rulings through colourful comments, “sometimes they are appropriate when a judge wants to make a point and that’s what Justice Morgan was doing in this case,” he says.

“I don’t necessarily think he was out to humiliate anybody but he probably felt it was necessary to send a message that court resources are scarce, courts are for serious matters, and people coming to court are choosing to air their disputes in a public forum and occasionally they can be given a rough ride.”

In Morland-Jones v. Taerk, the Morland-Joneses accused their neighbours, Audrey and Gary Taerk, of various faults, including staring at their property.

“In what is perhaps the piece de resistance of the claim, the plaintiffs allege that the defendants — again focusing primarily on Ms. Taerk — sometimes stand in their own driveway or elsewhere on their property and look at the plaintiffs’ house,” wrote Morgan.

“One of the video exhibits shows Ms. Taerk doing just that, casting her gaze from her own property across the street and resting her eyes on the plaintiffs’ abode for a full 25 seconds. There is no denying that Ms. Taerk is guilty as charged,” Morgan wrote.

The Morland-Joneses have 11 cameras at their house, two of which aim directly at the Taerks’ home, according to the ruling.

“For their part, the defendants have not been entirely innocent,” wrote Morgan.

“They appear to have learned that the plaintiffs — and especially Ms. Morland-Jones — have certain sensitivities, and they seem to relish playing on those sensitivities. They realize, for example, that Ms. Morland-Jones does not enjoy having her house photographed, and so Ms. Taerk tends to take her cellphone out and point it at the plaintiffs’ house precisely when Ms. Morland-Jones can see her doing it.”

Judges shouldn't have to discern "a kernel of legitimacy" in cases where, on the face of it, a claim is frivolous, says Sterns.

But to Akazaki, granting injunctive relief, such as an order that draws ground rules for the parties, may have in fact prevented the case from proceeding to trial. Oftentimes, people learn to live with interlocutory injunctions and withdraw their case, he says.

In this case, mocking the plaintiffs for bringing the case to court allowed the defendants to walk away with a sense of triumph, he adds.

"It allows the alleged bully to hold something else against the plaintiffs, and that applies even if it's mutual bullying."

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Live by the partnership deal, leave by the partnership deal

Law firm's 65-and-out agreement not discriminatory, top court rules

By Cristin Schmitz, The Lawyers Weekly, June 6, 2014 issue

The "underlying power dynamics" in the workplace determine whether partners in professional services firms are protected by human rights prohibitions against discrimination in employment, the Supreme Court has ruled.

In a 7-0 judgment anxiously awaited by Canada's legal and other professional service firms, the top court ruled May 22 in McCormick v. Fasken Martineau DuMoulin LLP [2014] S.C.J. No. 39 that the ban on age discrimination in employment in s. 13(1) of the B.C. Human Rights Code doesn't protect former Fasken Martineau DuMoulin equity partner John Michael McCormick, 69, whose partnership agreement required him to retire at age 65.

The court rejected the conclusion of the B.C. human rights tribunal that as one of Fasken's 260 equity partners worldwide in 2009, the Vancouver-based McCormick was effectively in an employment relationship with the firm because it exercised control over him and his work through its managing partners and client and file managers, and by determining his remuneration.

"The firm was run for the benefit of, and by, its equity partners, including Mr. McCormick," the court's human rights expert, Justice Rosalie Abella emphasized. She

held that by virtue of his ownership stake in the firm, his sharing of profits and losses, and his right to participate in managing the firm, including standing for election to its governing committees, McCormick was part of the group that controlled the 650-lawyer firm, not a person vulnerable to its control. Moreover, he benefited financially from the retirement of other partners over a 30-year period. He therefore was not an "employee."

Justice Abella said that whether a person is an employee for the purpose of human rights laws is not determined by the form or label of the work relationship, but on the "underlying power dynamics" of the relationship.

"Control and dependency define the essence of an employment relationship" and various factors may be indicative, she said. "Ultimately, the key is the degree of control, that is, the extent to which the worker is subject and subordinate to someone else's decision-making over working conditions and remuneration."

The McCormick case, whose interveners included the country's "Big Six" accounting firms, marks the first time an equity partner had claimed protection against discrimination under a human rights code, counsel say.

In general, the court held anti-discrimination protection for "employees" in the human rights codes of B.C. and other provinces does not apply to protect equity partners from mandatory retirement or other forms of discrimination. But the court left for another day the issue of whether partners with fewer of the "powers, rights and protections normally associated with partnership" — without equity stakes — qualify as "employees."

Justice Abella also suggested that partners who feel they are being discriminated against on prohibited grounds can sue their partners under s. 22(1) of the B.C. Partnership Act, and other provincial partnership statutes, which impose on partners the duty to "act with the utmost fairness and good faith towards the other members of the firm in the business of the firm."

Fasken's counsel, Irwin Nathanson of Vancouver's Nathanson, Schachter & Thompson, said such litigation would be novel in Canada. He said that before McCormick, human rights tribunals across Canada disagreed about how far the definition of "employment" for human rights code purposes extended beyond the narrow common law definition of "employment." It has been held, for example, that independent contractors, or people applying for a job, are covered. Nathanson said at the Supreme Court, the intervener Ontario Human Rights Commission urged the court to adopt an extremely expansive approach that focused on the nature of the activity being carried out, an approach that would potentially have broadly extended anti-discrimination laws. However, the Supreme Court of Canada "laid that to rest" by holding that "the test is the control/dependency which arises in an employment relationship."

McCormick's counsel Murray Tevlin, of Vancouver's TevlinGleadle Employment Law Strategies, welcomed the court's focus on the underlying realities of the parties' relationship. The B.C. Court of Appeal ruled that partners can never be employees covered by human rights protection, whereas the Supreme Court held "it's a substantive test — not a form test," Tevlin said. "It's case by case, and it depends on control and dependency."

Soma Ray-Ellis of Toronto's Himelfarb Proszanski suggested protection for partners from age discrimination exists in Ontario's Human Rights Code because that law guarantees the right to contract on equal terms without discrimination on prohibited grounds. "A partnership agreement is likely to be seen as a contract," she advised.

Howard Levitt of Toronto's Levitt & Grosman highlighted the court's emphasis on the high fiduciary duty that partners owe to one another under partnership statutes. He suggested that this could bar partners from discriminating between different partners or classes of partners. "Could a partner be fired because the partnership has a shortage of business and revenue?" Levitt said. "Without clear language in the partnership agreement — and, even then, the selection of the [fired] partner had better be in good faith — they will likely not be able to terminate them. Instead the individual partners would simply have to all earn less."

Levitt predicted "the door to partnership litigation has been swung wide open" over such issues as who is selected for termination and the quantum of partnership draws.

Gillian Hnatiw, of Toronto's Lerners, predicted McCormick will spur more mandatory retirement policies, as firms are revitalized when older partners hand over their business to younger partners.

"It just makes good business sense for them to mandate the regeneration of equity partnership shares," she said. "It forces them to do succession planning, as well as it prevents people from hanging on to their equity shares long into retirement or semi-retirement."

Justice Abella said McCormick and the other equity partners benefited from the various control mechanisms of their firm, including: board voting rights, and the right to stand for board election; the duty each owed the others to render accounts; the right not to be subject to discipline or dismissal; the right to a share of the firm's capital account on departure or firm dissolution; and the protection that a partner could only be expelled from the firm by special resolution of all the equity partners.

McCormick was not "dependent" because he was working in a common enterprise with his partners to generate profit for his own benefit, Justice Abella said.

Droit de vote des expatriés: Ottawa fait appel

La Presse Canadienne, le 2 juin, 2014

Le gouvernement conservateur a annoncé, lundi, qu'il portera en appel une décision de la Cour supérieure de l'Ontario accordant le droit de vote au million de Canadiens vivant à l'extérieur du pays depuis plus de cinq ans.

De plus, Ottawa a manifesté son intention d'obtenir la suspension de l'exécution du jugement, réduisant à néant l'espoir que certains expatriés auraient pu avoir de voter dans le cadre des élections complémentaires qui doivent avoir lieu à la fin du mois de juin.

Le ministre d'État pour la réforme démocratique, Pierre Poilievre, a déclaré dans un communiqué que les Canadiens vivant à l'étranger devaient avoir des liens importants avec le Canada et leur circonscription pour pouvoir voter aux élections fédérales.

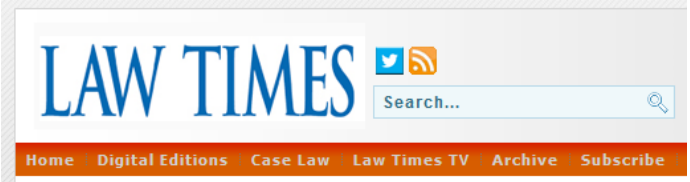
M. Poilievre a ajouté que la politique adoptée il y a 20 ans, qui fixe à 5 ans la période de temps durant laquelle un Canadien peut résider à l'extérieur du pays tout en conservant son droit de vote, était juste et raisonnable.

L'audience sur la suspension de l'exécution du verdict en attendant l'appel devrait avoir lieu le 20 juin.

Le mois dernier, le juge de la Cour supérieure de l'Ontario Michael Penny avait invalidé certaines sections de la Loi électorale du Canada interdisant le droit de vote aux Canadiens vivant depuis plus de cinq ans à l'étranger.

Ce sont un Montréalais et un Torontois installés aux États-Unis qui ont contesté la règle des cinq ans devant les tribunaux, l'estimant arbitraire et déraisonnable.

Cette règle a été mise en place en 1993 à la suite d'un débat sur la force des liens des expatriés avec le Canada et leur connaissance de la politique nationale.



A Criminal Mind: Defence of mandatory minimums misses the mark

Matthew Gourlay, Law Times columnist, June 2, 2014

After many years of evidence-free criminal justice policy pronouncements from Ottawa, any thoughtful contribution to the debate from the right side of the spectrum is more than welcome.

Those of us who are critical of the tough-on-crime agenda are a little tired of speaking into an echo chamber. We have waited in vain for defenders of the laws to counter the criticisms with arguments rather than edicts. I was hoping Lincoln Caylor and Gannon Beaulne's paper, "A defence of mandatory minimum sentences," would provide an articulate counterargument to well-known criticisms of federal sentencing policy.

I was disappointed. If this is the best defence available, it's not surprising that Prime Minister Stephen Harper and his supporters have preferred talking points and sound bites to rational exposition. The problem begins with the title. Despite advertising itself as a defence of mandatory minimums, it only attempts to vindicate the propriety of mandatory minimums in the abstract and then goes on to chastise the essentially non-existent judges who brazenly flout them.

"If rational, proportionate mandatory minimum sentences are imposed, they promote justice," wrote the authors.

"Judges who ignore the rule of law and seek to make decisions according to their personal views of justice in the face of clear legislation to the contrary assault the justice system and offend the duties of their office," they continued.

The authors miss the point on both scores. Few people have argued that all mandatory minimums are per se problematic simply because they fetter a judge's discretion. As the authors rightly point out, legislation constrains judges' discretion in all kinds of ways, something that's not inherently bad. And few would dispute that the mandatory life sentence for murder serves a legitimate denunciatory and symbolic purpose. But what about the three-year minimum for possession of a prohibited weapon or the one-year sentencing floor for growing between 200 and 501 marijuana plants?

Here, crucially, Caylor and Beaulne have nothing to say. Their defence of mandatory minimum sentences doesn't even attempt to defend a single mandatory minimum the government has actually enacted. This is like writing a defence of having a minimum drinking age without bothering to weigh in on whether it should be 12 or 21. The lack of content robs the argument of all force.

The dominant criticism made against the Harper agenda has been that the specific mandatory minimums the government has actually enacted are harsh, pointless, and counterproductive. The minimums are based not on sound criminological evidence but on the gut feeling that some offenders are getting off lightly. Caylor and Beaulne provide an intellectualized gloss for this gut feeling but are either unable or unwilling to do the hard work of actually justifying any particular minimum sentence.

Even on the theoretical level at which they pitch their defence, their account is overly simplistic in its emphasis on legislative supremacy. The very same judges now commanded by the Criminal Code to impose minimum jail sentences for a range of offences must also respect the fundamental principle that the punishment must be "proportionate to the gravity of the offence and the degree of responsibility of the offender." In addition, the law directs judges to ensure they don't deprive an offender of liberty "if less restrictive sanctions may be appropriate in the circumstance" and take into account a range of statutory mitigating factors such as aboriginal status. To the extent that

judges have bridled against mandatory minimums, it's less because they don't like Parliament telling them what to do than of a natural frustration at having to do contradictory things at once.

In my view, bad mandatory minimums tend to fall into two categories: those that are demonstrably harsh and vulnerable to a challenge under s. 12 of the Charter of Rights and Freedoms (as happened to the three-year minimum for prohibited gun possession in R. v. Nur) and those that are troublesome mainly because they take useful sentencing options other than jail off the table. Take the 90-day minimum for sexual interference. No court is likely to strike it down as cruel and unusual. But it means that a non-custodial option, like a conditional sentence, is categorically unavailable. The prosecutor's choice to charge a different offence that doesn't carry a mandatory minimum displaces the judge's discretion to impose sanctions other than imprisonment. If the prosecutor chooses not to do that or if no such alternative offence is available, jail is a certainty. This is a good result only if you take the view that imprisonment is the proper sentence for every single person who commits offences such as sexual interference or marijuana production. That's a very tough case to make, and Caylor and Beaulne don't even try.

Caylor and Beaulne do offer up s. 12 as the ultimate bulwark against injustice in mandatory sentencing. But in doing so, they overlook this second category of bad enactments altogether. For those of us concerned about a move toward an Americanized, jail-first mindset — just as the Americans themselves are starting to move away from it — these low-level but increasingly pervasive minimum sentences are the most troubling of all.

Speech by Tony Clement, President of the Treasury Board of Canada and Minister responsible for FedNor, at the APEX Annual Symposium

May 30, 2012, Ottawa, Ontario

Check against delivery

Introduction

Thank you.

It's a pleasure to be here at the APEX Annual Symposium.

Since its creation, APEX has worked hard to establish itself as a credible voice for executives.

It is certainly a valuable resource for the Public Service.

The last time I was here at APEX, I delivered my first speech as President of the Treasury Board.

Well, I have given a lot of speeches since then.

And a lot has happened in the preparations for the changes to federal organizations announced in Budget 2012.

The public service is now in an important period of transition.

So before I go any further, I want to take this opportunity to recognize that the kind of change we are undertaking affects individuals and teams across the public service.

I want to thank you for your tremendous effort to support our Government in developing options and preparing for ongoing deficit reduction.

I also want to make clear what our goals are, where we as a government are going, and how you all will be integral in achieving this vision.

Leaner and More Efficient Government

We are creating a leaner and more efficient government by focusing on operations.

This is not simply a case of making do with less. It is about doing more with what you have. And it will demand a new way of working.

Because unlike less strategic methods of restraining spending, the result of this focus is a leaner and more efficient government.

And a leaner and more efficient government is good for all of us—taxpayers, clients of government services and government employees.

Here's why.

When we focus on operations, we focus on the way the work itself is designed.

We look at the systems.

We look at the processes and we rethink the way we deliver what we deliver.

And when we are able to identify better ways of working, everyone wins.

Things get done faster so Canadians and businesses are more satisfied.

Typically, the new way of working reduces the time and effort spent on routine administrative transactions.

And this, in turn, allows employees to focus more on delivering better programs and better results for Canadians.

So not only are the services delivered faster, they also have the potential to be of a higher quality.

And when employees are enabled to deliver high-quality services to Canadians, they are more satisfied and become more engaged.

Last but definitely not least, the taxpayers get value for their tax dollars.

Let me give you an example.

You might have heard of the Veterans Independence Program.

It provides housekeeping services and grounds maintenance for eligible veterans to help them remain healthy and independent in their own homes or communities.

Currently, these veterans must obtain and submit receipts in order to receive reimbursements for these expenses.

Frankly, it's a hassle for approximately 100,000 veterans, primary caregivers and survivors currently receiving support for these services.

And it results in millions of transactions which are costly for the Department.

As well, most veterans have to pay for their expenses and be out of pocket while waiting to be reimbursed.

So what was one of the proposals we received as part of the Strategic and Operating Review to address this situation?

Replace the system with up front payments made in two installments each year.

Change the system. Change the process. Change the way the work is designed.

Everybody wins.

The veterans are no longer out of pocket.

They no longer have to obtain, track and submit receipts.

Employees can focus on more productive activities—no longer counting receipts!

The Department benefits from the change as well because it eliminates the financial costs associated with processing millions of transactions—costs that could be potentially devoted to improving other services to veterans.

This is a great example of the power of re-thinking the way we work.

Changing the Culture

Clearly, the best way to find operational efficiencies is by examining how we carry out our business.

That's what we did in Budget 2012.

So, you are probably wondering...what's next?

Let me tell you.

We want to ingrain the idea of efficient and constrained use of tax dollars on a day-to-day basis at every level of government.

It is so easy here in Ottawa to become so pre-occupied with the status quo that we forget why we are all here in the first place. For members of Parliament, we call it the "Ottawa Bubble".

Well I'm here to tell you today that the status quo is changing.

So how do we make this happen?

Let's look at a few ways.

The first is making this a public sector value.

We recently added the value of stewardship to the new Values and Ethics Code for the Public Sector.

This value reflects public servants' commitment to ensuring the effective and efficient use of public money, property and resources, with an eye to the future.

This is not to be taken lightly.

After all, values are what define great individuals, organizations and great countries.

Values can inspire us to undertake and achieve great things.

So when you are discussing the new Code with your teams, highlight the importance of this new value.

Encourage them to think about how they can live this value in their work.

Let me give you an example from my own portfolio. As President of the Treasury Board, one of my duties is to table, in Parliament, a number of reports, papers and operational documents.

Traditionally, this would be done by printing multiple, sometimes hundreds of copies of these reports—some of them thousands of pages long—and literally tabling them.

Printing these documents, as you can imagine, takes up a lot of resources, especially when you consider that many of these reports are also printed for every member of Parliament.

This past November, for the first time, Departmental Performance Reports and Canada's Performance report were predominantly made available to members of Parliament and Canadians in electronic format.

This year we are going further by amending legislation to allow the electronic tabling of reports in both Houses of Parliament.

By using the technological tools available to us, we will be able to reduce the production of thousands of pages while still ensuring accessibility for all Canadians.

In addition, we are amending a number of acts to reduce the reporting burden for federal organizations and ensure that more timely information is made available to parliamentarians and Canadians.

Not only are we reducing the costs to taxpayers by saving on printing, but we have also actually increased the usefulness and value of these documents for parliamentarians as the electronic versions have embedded links that provide a fuller picture of a given report.

This is a relatively small savings to the overall cost of government, but it is still a savings—and not just in dollar amounts. This produces savings of time as well, as it reduces workloads and frees up resources for other more important work.

The second way of changing the culture is through awards and recognition.

This year, we have 26 world-class nominees in the innovation category of the Public Service Award of Excellence.

The award recipients will be revealed on June 11th.

I don't want to give anything away so I am not saying this is a winning nomination but this one did catch my eye.

The individual led the development of a Web portal that allows users to electronically validate their Canadian citizenship status.

This initiative not only improved the quality of service to clients, but also produced cost savings of $2.6 million.

This is an excellent example of how new ways of doing business can lead to both tangible savings and improved services for those we serve.

It is interesting that this example involved technology.

A third way of changing the culture is through the greater acceptance of technology in the workplace.

I believe the culture change I am talking about will be part and parcel of the Web 2.0 and social media revolution that is underway in the public service today.

These technologies are commonplace in the private and non-profit sector for their capacity to facilitate collaboration.

They do this by breaking down silos, challenging institutional norms and processes, and sharing knowledge.

The result is improved efficiency.

We are starting to see the use of these new technologies in the federal government.

Again, I can give you an example from my own work. We've made changes to Treasury Board meetings. More and more, we are meeting without binders and paper. In fact, we've met three times now using only tablets.

We need to continue to pilot and try new technologically driven ways of working to modernize policy-making, the core of government business.

Let's make sure everyone is doing this.

More than 80 of our federal organizations use Web 2.0 technologies and social media to share accurate and timely information or to collect data and engage citizens.

For example, Canada Border Services Agency uses Facebook, YouTube and Twitter to engage directly with Canadians on border-related issues.

The Agency has even created Twitter accounts for all ports of entry, making it fast and efficient for Canadians to receive border wait-time updates.

I think as we continue to adopt these powerful technologies, we will find more opportunities for workplace efficiency. So I encourage you to champion the use of these new technologies in your organizations.

Leadership

Which brings me to my last topic: your leadership.

The important and challenging work you and your teams do is integral to Canada's continued economic resilience, and social and cultural vitality.

I would like to thank all of you for your leadership.

The environment we are in is one in which leaders such as you can make a huge impact.

We must focus on the results we want to achieve on behalf of Canadians and open our minds to different approaches to delivering on our mission.

You must lead by example.

So continue to streamline processes, modernize the back office and push yourselves to experiment by taking intelligent risks.

Let me be clear. Government needs to change to be more responsive, more effective and more reflective of the reality of today for Canadians.

And in order for that to happen, we must call upon our public service to respond, and in order for them to respond, they must have strong leadership, and you will provide that leadership.

Our Government knows how important you all are. As the senior ranks of the public service, your guidance, your management, and your leadership will be essential.

In short, you have a major opportunity to effect change.

As President of the Treasury Board, and in speaking with some of you, I am keenly aware of the challenges and complexities you face in your roles.

And I know that your skills and expertise as public service leaders are in great demand.

Among you, you have the talent, the initiative, the know-how and the creativity to answer the call, but also the creativity and industry to lead the culture change yourselves.

There's an example of crowd-sourcing problem-solving I love to highlight: there was a small town in England that was having ongoing traffic problems that couldn't seem to be solved no matter how many times the road was re-designed until one day, when the council was out of ideas, they asked the local population for suggestions and wouldn't you know it? They fixed the road and reduced accidents.

If you have ideas, I want to hear them directly. If you think I'm off the mark, I want to hear that too, and then I want to hear why and how we can solve it.

You're in an excellent position to deliver results. You know where problems are, and you know what solutions can be implemented.

I want your expertise, your experience and your creativity to not only help us enact the change but to lead it.

Thank you.

Discours de Tony Clement, président du Conseil du Trésor et ministre responsable de FedNor, lors du symposium annuel de l'APEX

Le 30 mai 2012, Ottawa, Ontario

La version prononcée fait foi

Introduction

Je vous remercie.

Je suis heureux de participer au symposium annuel de l'APEX.

Depuis que l'APEX a vu le jour, elle travaille assidûment pour se faire le porte-parole des cadres supérieurs.

C'est certainement une ressource précieuse pour la fonction publique.

La dernière fois que je me suis adressé à l'APEX, je prononçais mon premier discours à titre de président du Conseil du Trésor.

J'ai prononcé de nombreux discours depuis lors.

Et beaucoup de travail a été effectué afin de se préparer aux changements annoncés dans le Budget de 2012 pour les organisations fédérales.

La fonction publique vit maintenant une importante période de transition.

J'aimerais donc profiter de l'occasion pour reconnaître que les changements que nous apportons auront des répercussions sur les personnes et les équipes à l'échelle de la fonction publique.

Je vous remercie des efforts importants que vous avez déployés pour aider notre gouvernement à trouver des options et à se préparer pour une réduction continue du déficit.

Je désire également préciser nos objectifs, où nous nous dirigeons à titre de gouvernement et comment vous participerez à la réalisation de cette vision.

Une administration publique moins lourde et plus efficiente

Nous créons une administration publique moins lourde et plus efficiente en nous penchant sur ses opérations.

Il ne s'agit pas simplement d'en faire plus avec moins. Il s'agit d'en faire plus avec les ressources dont nous disposons. Et il nous faudra trouver une nouvelle façon d'accomplir notre travail.

Puisque contrairement aux méthodes moins stratégiques de restriction des dépenses, l'approche que nous adoptons contribue à rendre l'administration publique moins lourde et plus efficiente.

Et une administration publique moins lourde et plus efficiente présente des avantages pour tous – les contribuables, les clients des services gouvernementaux et les fonctionnaires.

En voici les raisons.

Lorsque nous nous penchons sur les opérations, nous étudions la façon dont le travail est conçu.

Nous étudions les systèmes.

Nous étudions les processus et repensons la façon d'en assurer la prestation.

Et lorsque nous trouvons de meilleures façons de faire, nous sommes tous gagnants.

Le travail s'accomplit plus rapidement et le monde des affaires et les Canadiens sont plus satisfaits.

Généralement, une nouvelle façon de faire permet de réduire le temps et les efforts nécessaires pour effectuer les transactions administratives routinières.

Cela permet aux employés d'offrir avant tout de meilleurs programmes aux Canadiens et de mieux répondre à leurs besoins.

Non seulement les services sont-ils offerts plus rapidement, mais ils peuvent être de meilleure qualité.

Et lorsque les employés sont en mesure d'offrir des services de grande qualité aux Canadiens, ils en tirent une plus grande satisfaction et s'investissent davantage dans leur travail.

Enfin, une autre raison, et non la moindre, les contribuables sont en mesure d'optimiser l'argent qu'ils versent en impôts.

En voici un exemple.

Vous avez probablement entendu parler du Programme pour l'autonomie des anciens combattants.

Ce programme permet d'offrir des services d'entretien à domicile et d'entretien de terrain aux anciens combattants admissibles afin qu'ils puissent demeurer en santé et autonomes dans leur foyer ou au sein de leur collectivité.

Actuellement, ces anciens combattants doivent présenter des reçus afin de recevoir un remboursement pour ces dépenses.

En toute honnêteté, c'est un fardeau pour environ 100 000 anciens combattants, les aidants naturels et les conjoints survivants qui reçoivent actuellement de l'aide pour ces services.

Il en résulte des millions de transactions qui coûtent cher au Ministère.

Également, la plupart des anciens combattants doivent payer ces services de leurs poches et attendre d'être remboursés.

Quelle a donc été l'une des suggestions que nous avons reçues, dans le cadre de l'Examen stratégique et fonctionnel, pour corriger cette situation?

Remplacer le système par des paiements forfaitaires versés deux fois par année.

Changer le système. Changer le processus. Changer la façon dont le travail est conçu.

Tout le monde est gagnant.

Les anciens combattants n'ont plus à débourser de l'argent.

Ils n'ont plus besoin d'obtenir et de présenter des reçus, et de faire des suivis.

Les employés peuvent se consacrer à des activités plus productives; ils n'ont plus à compter des reçus!

Le Ministère tire également parti de ce changement, car les coûts associés au traitement de millions de transactions sont éliminés, des coûts qui pourraient servir à améliorer d'autres services offerts aux anciens combattants.

C'est un excellent exemple de ce que peut apporter une nouvelle façon de faire les choses.

Changer la culture

Il est clair que la meilleure façon de trouver des efficiences sur le plan des opérations est d'étudier la façon dont nous effectuons nos activités.

C'est ce que nous avons fait dans le cadre du Budget de 2012.

Vous vous demandez donc probablement quelles seront les prochaines étapes.

Permettez-moi de vous les expliquer.

Nous voulons bien ancrer l'idée d'une utilisation efficiente et limitée de l'argent des contribuables sur une base quotidienne et à tous les paliers de gouvernement.

À Ottawa, il est tellement facile de se préoccuper du statu quo et d'oublier les raisons pour lesquelles nous sommes tous ici. C'est ce que les membres du Parlement appellent la « bulle d'Ottawa ».

Et bien, je suis ici aujourd'hui pour vous dire que nous changeons le statu quo.

Comment nous y prendrons-nous?

Voici différentes façons.

Premièrement, nous en ferons une valeur du secteur public.

Nous avons récemment ajouté la valeur d'intendance au nouveau Code de valeurs et d'éthique de la fonction publique.

Cette valeur tient compte de l'engagement des fonctionnaires envers l'utilisation efficace et efficiente de l'argent des contribuables, des biens et des ressources, et ce, en tenant compte de l'avenir.

Cela ne doit pas être pris à la légère.

Après tout, les valeurs définissent les personnes, les organisations et les pays extraordinaires.

Les valeurs peuvent nous inciter à entreprendre de grandes choses.

Donc, lorsque vous discutez du nouveau Code avec vos équipes, soulignez l'importance de cette nouvelle valeur.

Encouragez-les à penser à la façon dont elles peuvent mettre cette valeur en application dans leur travail.

Permettez-moi de vous donner un exemple tiré de mon propre portefeuille. À titre de président du Conseil du Trésor, je dois déposer au Parlement un certain nombre de rapports et de documents.

La façon traditionnelle de procéder consisterait à imprimer de nombreuses copies, parfois des centaines, de ces rapports – dont certains comptent des milliers de pages – et à les déposer au sens propre du terme.

Comme vous pouvez l'imaginer, l'impression de ces documents utilise énormément de ressources, en particulier quand vous tenez compte du fait que ces rapports sont aussi imprimés pour tous les membres du Parlement.

En novembre dernier, pour la première fois, les Rapports ministériels sur le rendement et le rapport Le rendement du Canada ont été mis à la disposition des parlementaires et des Canadiens essentiellement en version électronique.

Cette année, nous allons plus loin en modifiant la loi pour permettre le dépôt électronique des rapports aux deux chambres du Parlement.

En utilisant les outils électroniques dont nous disposons, nous serons en mesure de réduire la production de milliers de pages tout en assurant l'accessibilité pour tous les Canadiens.

Nous modifions également un certain nombre de lois pour assouplir les exigences en matière de production de rapports auxquelles sont assujetties les organisations fédérales et pour veiller à ce que l'information soit mise à la disposition des parlementaires et des Canadiens en temps opportun.

De plus, nous réduisons les coûts du point de vue des contribuables en économisant sur l'impression, et nous augmentons l'utilité et la valeur de ces documents du point de vue des parlementaires, car les versions électroniques contiennent des liens qui permettent de donner un portrait plus complet d'un rapport donné.

Certes, il s'agit d'économies relativement petites par rapport aux coûts globaux du gouvernement, mais ce sont des économies – et pas seulement en argent. C'est aussi une économie de temps, puisque les charges de travail sont réduites, ce qui libère des ressources qui peuvent alors être affectées à d'autres tâches plus importantes.

La deuxième façon de changer la culture est grâce aux prix et à la reconnaissance.

Cette année, dans la catégorie de l'innovation, nous avons 26 candidats de calibre mondial pour le Prix d'excellence de la fonction publique.

Le nom des récipiendaires sera annoncé le 11 juin prochain.

Je ne veux rien dévoiler et vous laisser croire que cette nomination est gagnante, mais elle a attiré mon attention.

La personne a dirigé l'élaboration d'un portail Web qui permet aux utilisateurs de valider électroniquement leur statut de citoyen canadien.

Non seulement cette initiative améliore-t-elle la qualité du service à la clientèle, mais elle a également permis de réaliser des économies de 2,6 millions de dollars.

C'est un parfait exemple de la façon dont de nouvelles méthodes peuvent entraîner des économies tangibles et améliorer les services offerts.

Il est intéressant de noter que cet exemple concerne la technologie.

Une troisième façon de changer la culture est de mieux accepter la technologie en milieu de travail.

Je crois que le changement de culture dont je parle fera partie du Web 2.0 et de la révolution des médias sociaux qui est en cours au sein de la fonction publique aujourd'hui.

Ces technologies sont monnaie courante dans les secteurs privé et sans but lucratif, car elles facilitent la collaboration.

Elles éliminent le cloisonnement, remettent en question les normes et les processus institutionnels et favorisent le partage des connaissances.

Il en résulte une meilleure efficience.

Nous commençons à constater l'utilisation de ces nouvelles technologies au sein du gouvernement fédéral.

Je peux vous donner un exemple tiré de ma propre expérience. Nous avons apporté des changements aux réunions du Conseil du Trésor. De plus en plus, nous nous réunissons sans classeur à anneaux ni papier. En fait, nous nous sommes réunis trois fois uniquement avec des tablettes.

Nous devons continuer à faire l'essai de nouvelles méthodes axées sur la technologie pour moderniser l'établissement de politiques, qui est au cœur même des activités du gouvernement.

Nous devons nous assurer que tous y participent.

Plus de 80 de nos organisations fédérales utilisent les technologies du Web 2.0 et les médias sociaux pour échanger de l'information exacte et opportune ou pour recueillir des données et mobiliser les citoyens.

Par exemple, l'Agence des services frontaliers du Canada utilise Facebook, YouTube et Twitter pour communiquer directement avec les Canadiens sur des enjeux en lien avec les services frontaliers.

L'Agence a même créé des comptes Twitter pour chacun des points d'entrée qui permettent aux Canadiens de recevoir rapidement des mises à jour sur les temps d'attente aux frontières.

Je crois qu'en continuant d'adopter ces technologies puissantes, nous découvrirons de nouvelles possibilités pour réaliser des efficiences en milieu travail. Je vous encourage donc à promouvoir l'utilisation de ces nouvelles technologies au sein de vos organisations.

Leadership

J'en arrive maintenant à mon dernier sujet : votre leadership.

Le travail important et stimulant que vous et votre équipe effectuez est essentiel à la résilience économique continue du Canada et à sa vitalité sociale et culturelle.

Je vous remercie de votre leadership.

L'environnement dans lequel nous nous trouvons en est un où les leaders comme vous ont un impact important.

Nous devons axer notre travail sur les résultats que nous désirons obtenir au nom des Canadiens et nous montrer ouverts à différentes approches pour exécuter notre mandat.

Vous devez prêcher par l'exemple.

Continuez à simplifier les processus, à moderniser les services administratifs et à faire des essais en prenant des risques calculés.

Je m'explique. Le gouvernement a besoin de changer pour être plus souple, plus efficace et plus représentatif de la réalité pour les Canadiens.

Et pour y parvenir, nous devons demander à notre fonction publique d'agir, et pour agir, elle doit être guidée par un leadership solide. Vous assumerez ce leadership.

Notre gouvernement sait combien votre contribution à tous est importante. Vous représentez les rangs supérieurs de la fonction publique, par conséquent vos conseils, votre gestion et votre leadership seront essentiels.

En bref, vous avez une formidable occasion de provoquer le changement.

Comme président du Conseil du Trésor, et lorsque je discute avec certains d'entre vous, je suis bien conscient des défis et des complexités auxquels vous faites face.

Et je sais que vos talents et votre expertise à titre de leaders de la fonction publique font l'objet d'une grande demande.

Ensemble, vous avez le talent, l'initiative et le savoir-faire nécessaires pour répondre à l'appel, mais également la créativité et la ténacité pour diriger ce changement de culture.

Il y a un exemple de résolution de problème grâce à l'appel au public que j'adore citer : une petite ville en Angleterre connaissait des problèmes constants de circulation qui semblaient impossibles à régler, malgré le nombre de fois que la route avait été repensée. Un jour, n'ayant plus d'idées, le conseil a demandé à la population locale de donner des suggestions. Grâce à cette démarche, ils ont été en mesure de régler le problème et de réduire le nombre d'accidents.

Si vous avez de bonnes idées, je veux les entendre directement. Si vous croyez que je me trompe, je veux également le savoir, et je veux savoir pourquoi et comment nous pouvons régler ces problèmes.

Vous êtes en excellente position pour obtenir des résultats. Vous connaissez les problèmes et les solutions à mettre en œuvre.

J'ai besoin de votre expertise, de votre expérience et de votre créativité, non seulement pour nous aider à favoriser le changement, mais pour en être le chef de file.

Merci.
