



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

Press Clippings for the period of September 8 to 15, 2014  
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*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*

## **AJC in the news/L'AJJ fait les manchettes**

**LeDroit**

### **Une hausse de 0,5 % offerte aux fonctionnaires**

**Paul Gaboury, Le Droit, le 13 septembre 2014**

C'est une hausse salariale de 0,5% par année pour chacune des quatre prochaines années qui a été déposée par le gouvernement fédéral aux différentes tables de négociations, incluant celles de l'Alliance de la fonction publique du Canada (AFPC).

Si les changements proposés par le gouvernement Harper pour modifier le régime de congés de maladie ont suscité de vives réactions jusqu'à maintenant chez les syndicats depuis mercredi, les offres monétaires déposées par le Conseil du Trésor risquent de soulever tout autant la grogne à travers la fonction publique fédérale.

Larry Rousseau, le vice-président exécutif régional de l'AFPC, a indiqué que son syndicat n'allait pas répliquer à cette proposition salariale pour l'instant. Il estime néanmoins que la hausse qui est proposée représenterait une «baisse de salaire» pour ses membres compte tenu de l'inflation.

L'AFPC a tenu des séances de négociations toute la semaine pour divers groupes totalisant plus de 102 000 syndiqués. D'autres rencontres sont prévues au cours de l'automne avec le Conseil du Trésor.

Dans son dernier budget, le gouvernement Harper avait annoncé le maintien du gel pendant deux autres années (2014-2015) des budgets des ministères. Or, il avait aussi

précisé que les hausses salariales consenties aux employés devaient venir des budgets des ministères.

Le gouvernement a l'habitude d'offrir une proposition de hausse salariale similaire à toutes ses tables de négociations. Ce fut le cas lors de la dernière ronde et on peut imaginer qu'il en sera de même cette fois-ci.

L'AFPC n'est pas le seul syndicat à avoir reçu une telle offre. Les 11 500 économistes fédéraux représentés par l'Association canadienne des employés professionnels, ont reçu la même proposition. Le syndicat souhaite obtenir des hausses annuelles salariales de 3,25% pour chacune des années de la convention collective de trois ans (2014, 2015, 2016). Les négociations pour ce groupe doivent reprendre la semaine prochaine à Ottawa.

Dans les dernières ententes négociées, le gouvernement fédéral avait déposé la même offre à tous les employés fédéraux qui ont eu droit à des hausses identiques de 1,75%, 1,5% et 2% pour des ententes de trois ans. Ils avaient également tous perdu leur droit à une indemnité de départ, autant les syndiqués que les non-syndiqués.

### → **Congés de maladie: l'AJJ s'oppose aux changements**

Les changements que le gouvernement veut apporter au régime de congés de maladie de ses employés continuent à susciter de vives réactions chez les syndicats du secteur public fédéral depuis qu'ils ont été révélés cette semaine aux tables de négociations.

Le gouvernement a proposé un nouveau régime qui accorde 37,5 heures par année de congés de maladie (cinq jours au lieu de 15) et l'abolition des banques de congés de maladie accumulés. Les employés auraient droit au régime d'assurance invalidité à court terme après un délai d'attente de sept jours.

L'Association des juristes de justice, qui compte un effectif de 2 500 membres, la proposition du gouvernement sur les congés de maladie «n'est pas acceptable à tous les points de vue, avec moins de congés, aucun transfert de jours accumulés vers la prochaine année et des lacunes dans la protection salariale», a-t-on précisé. «Nous examinons cette offre attentivement, mais il est clair dès le départ que c'est une première proposition qui n'est pas acceptable.»

Du côté de l'Association canadienne des employés professionnels (ACEP), un syndicat de 11 500 économistes et autres professionnels, la proposition sur les congés de maladie n'a pas encore été reçue, mais on s'attend à ce que le Conseil du Trésor la dépose lors des rencontres prévues la semaine prochaine. Au cours du printemps, l'ACEP avait été très active dans ce dossier et avait préparé une campagne sur les «mythes» concernant le régime actuel de congés de maladie des employés fédéraux.

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# Clement wants to cut public servants' sick days to five

**KATHRYN MAY, Ottawa Citizen, September 11, 2014**

The Conservative government proposes to slash public servants' paid sick leave to five days a year and introduce an unpaid seven-day waiting period before they qualify for new short-term disability benefits.

Treasury Board negotiators presented the government's long-awaited bargaining position on a new sick-leave regime late Wednesday at closed-door talks with the giant Public Service Alliance of Canada. PSAC is the largest federal union, representing the majority of public servants in five large bargaining groups that have been locked in contract negotiations with Treasury Board this week.

Under the proposal, the government wants to get rid of the accumulated sick-leave bank, estimated to be worth about \$5.2 billion in unused sick-leave credits. It also wants to eliminate the 15 days of paid sick leave public servants now receive under their collective agreements and replace that with five days, or 37.5 hours, a year.

PSAC President Robyn Benson said the union won't entertain any proposal that demands concessions on the existing sick-leave regime.

She argued the big concern about fewer sick days – combined with a waiting period for short-term disability – is that public servants could end up going to work ill and making their colleagues sick rather than staying at home, because they have run out of sick days.

“The bottom line in my humble opinion is this (means) ‘go-to-work-sick’ and that will be the reality,” said Benson. “This government is telling their employees you have sick leave in your collective agreements and we are going to take it and you can go to work sick, be less productive and make everyone else sick and if you don't go to work, then by God, you won't be able to feed your children.”

Benson said the government also expects public servants who borrow sick-leave credits (because they don't enough banked leave) to repay that advance later.

Under the existing contract, public servants can bank unused leave and roll it over year-to-year; bureaucrats have socked away thousands of hours over the years.

The five days of sick leave the government is now proposing cannot be accumulated and carried over. Any unused days would disappear at the end of the year.

The government is calling for an unpaid, seven “calendar day” waiting period which would kick in after public servants used all their allotted sick leave. After the waiting period, employees would be eligible to apply for short-term disability, which would pay benefits for up to 26 weeks.

Under the proposal, if they qualify for short-term disability, public servants can collect full pay for four weeks. Pay drops to 70 per cent for the remainder of the 26 weeks.

Employees who are still unable to return to work after 130 days on short-term disability will then go on long-term disability, under the government’s proposal.

With the government’s demands tabled, the pressure is on at the bargaining table. The government wants the new short-term disability plan up and running by September, 2016.

Claude Poirier, president of the Canadian Association of Professional Employees, said he was surprised that Treasury Board President Tony Clement, who is responsible for bargaining, went so far in his demands, and expects his union will be presented with “something very similar” when it resumes bargaining next month.

He argued the proposal flies in the face of Clement’s insistence that a new system was necessary to protect workers who didn’t have enough banked leave to cover a prolonged illness.

“Now, if you are sick twice a year you face seven days without pay before going on STD, so when he pretends he is trying to help people without banked sick leave, he is lying. This doesn’t help anyone,” Poirier said.

Bureaucrats offered Clement various options on how to overhaul the plan and the proposal he selected was considered the “most transformative.” It also shows how willing the government is to wage a major battle with unions in the run-up to the 2015 election.

The creation of a short-term disability plan is not part of negotiations as such. But the number of sick days and ability to roll over unused days is enshrined in contracts and must be re-negotiated.

The fate of banked sick leave was a big question hanging over this round of bargaining. Public servants can’t cash in their unused sick leave when they retire and many leave with weeks or months in their banks.

The government had commissioned an actuarial valuation of the \$5.2 billion in banked leave, which determined bureaucrats would only use about \$1.4 billion worth of the unused leave. That \$1.4 billion, recorded as a liability on the government’s books, will disappear if banked sick leave is abolished.

Many hoped Clement would allow some, if not all, to be carried over so employees could dip into their credits for extra leave if they needed more than the new five-day threshold. Canada Post did this when it revamped its sick leave.

Collective bargaining has been underway for months as union and Treasury Board negotiators traded demands but PSAC is the first union to receive the sick-leave proposal. Benson met Thursday with leaders of the other 16 unions to discuss next steps.

Although the various unions negotiate with the government separately from each other, the unions have signed a “solidarity” pact to present a common front on sick leave.

Clement has so far shown no openness to the union’s position that the existing system should be fixed rather than replaced with a new short-term disability plan.

He originally said he was open to their input and the main reason for the government’s delay in unveiling its position was unions’ refusal to participate in “informal” discussions – which were to be held outside the collective bargaining process – on the broad shape of the new short-term and long-term disability plans.

Clement said once the unions “categorically” rejected his offer for discussions, Treasury Board was forced “back to the drawing board” to draft its own proposal without their input.

## **The proposal at a glance**

Treasury Board President Tony Clement wants to replace the existing accumulated sick-leave regime in Canada’s public service with a new short-term disability plan in 2016. Here’s a look at what could change:

### **Sick-leave bank**

\$5.2 B: Current value of total banked or unused sick leave.

\$0: What would remain in sick-leave bank, under the government’s scenario, after government abolishes sick-leave credits as part of a new short-term disability plan.

### **Sick Days**

15: Current number of paid sick days to which public servants are annually entitled under existing collective agreements. Unused days can be banked and carried over year to year.

5: Number of paid sick-leave days every year under the government’s proposal. Unused days would be lost and couldn’t be banked.

### **Waiting Period**

13: Number of weeks public servants currently must wait to qualify for long-term disability. They can use banked sick leave to collect full pay during the waiting period – if they have banked leave.

7: Under the government's proposal, number of "calendar" days, unpaid, that public servants would wait before they can qualify for short-term disability once they use up the five days of paid sick leave they would get.

## Pay

100 per cent: Public servants currently get full pay when ill as long as they have enough banked sick leave to cover their absences. Employees now qualify for long-term disability – at 70 per cent of pay – after 13 weeks or after using all their sick leave.

70 to 100 per cent – Under the government proposal, employees on short-term disability would receive full pay for four weeks, then 70 per cent of salary for the remaining 22 weeks. Long-term disability would kick in after that.

11: Average number of sick days public servants now take annually.

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**LeDroit**

# Cinq jours de maladie par année pour les fonctionnaires

Paul Gaboury, Le Droit, le 11 septembre 2014

Le gouvernement Harper réservait une surprise de taille à ses employés syndiqués, mercredi, à la reprise des négociations dans le secteur public fédéral : les banques de congés de maladie accumulés au fil des ans par les fonctionnaires fédéraux seront abolies et le nouveau régime d'assurance invalidité prévoira que chaque employé aura dorénavant droit à cinq jours de maladie par année.

Ces deux mesures sont précisées dans des documents officiels du Conseil du Trésor dont LeDroit a pu prendre connaissance.

Depuis que le gouvernement Harper avait annoncé son intention de modifier le régime de congés de maladie, bien des fonctionnaires se demandaient ce qu'il adviendrait de leur banque de congés de maladie accumulés.

Et le gouvernement n'avait pas vraiment indiqué combien de journées ou d'heures il accorderait à ses employés pour les absences liées à la maladie.

« À partir de la date de la mise en oeuvre du régime d'assurance-invalidité, tous les crédits de congé de maladie accumulés à cette date seront abolis », lit-on à l'article 35.01 du document gouvernemental.

Il est aussi indiqué qu'à la date de la mise en oeuvre du nouveau régime d'invalidité à court terme, chaque employé aura droit à 37,5 heures par année dès le 1<sup>e</sup> jour de l'année financière. Pour les employés embauchés pendant l'année, le calcul sera fait au prorata.

Ces heures viendront ainsi remplacer le régime actuel de 12 journées de maladie par année, ou 90 heures, qu'un employé pouvait emmagasiner dans une banque de congés de maladie, une banque qu'il perdait à son départ ou à la retraite.

Le document précise également que l'employé incapable d'exercer ses fonctions « devra convaincre l'Employeur de son état de la façon et au moment que ce dernier détermine ».

Selon nos informations, la période de carence pour obtenir l'assurance-invalidité à court terme sera de 7 jours. Si bien qu'un employé ayant écoulé ses 37,5 heures de maladie dans l'année et qui tombe de nouveau malade pendant l'année, devra attendre sept jours avant de pouvoir réclamer des prestations du régime d'assurance-invalidité à court terme. Il pourrait donc se retrouver sans paie pendant ces journées d'absence.

Les détails révélés dans le document risquent de susciter la grogne des syndicats du secteur public fédéral, d'autant plus que le régime proposé est encore moins généreux que celui accepté lors de la dernière ronde de négociations à Postes Canada.

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**LeDroit**

**Congés de maladie des fonctionnaires fédéraux**

## **«Une autre manifestation de mépris du gouvernement», dénonce l'AFPC**

**Paul Gaboury, Le Droit, le 11 septembre 2014**

Les mesures présentées sur les congés de maladie dans la fonction publique par le gouvernement fédéral forceraient les fonctionnaires «à choisir entre rentrer au travail quand ils sont malades» et «subir une perte de revenu», soutient l'Alliance de la fonction publique du Canada.

«Au lieu de promouvoir un milieu de travail sain, le gouvernement manifeste encore une fois son mépris pour ses travailleurs et travailleuses et pour les services publics en général, a déclaré Robyn Benson, présidente nationale de l'AFPC. Nous ne sommes pas

prêts à considérer une proposition qui affaiblit les services publics ou les conditions de travail de nos membres.»

Lors des négociations avec l'AFPC cette semaine, le Conseil du trésor a déposé les détails au sujet du nouveau régime d'assurance-invalidité à court terme qui viendrait remplacer les dispositions actuelles sur les congés de maladie.

En vertu des documents dont nous avons pu prendre connaissance mercredi et publiés en exclusivité dans notre édition de jeudi, la proposition éliminerait tous les crédits de congé de maladie accumulés des fonctionnaires, réduirait à 37,5 heures par année l'allocation pour congé de maladie qui serait assujettie à la discrétion unique de l'employeur. De plus, le nouveau régime proposé prévoit une période d'attente non payée de sept jours pour avoir droit à l'indemnité d'invalidité de courte durée.

Selon le syndicat, le gouvernement propose avec ces mesures «de retirer des conventions collectives un important avantage négocié».

Pour la suite des négociations, l'AFPC indique qu'elle continuera de mettre l'accent sur des mesures «pour améliorer les conditions de travail de ses membres» et pour faire des milieux de travail «efficaces et sains».

Depuis plusieurs mois, l'AFPC avait fait valoir qu'elle allait s'opposer à l'instauration d'un régime d'assurance-invalidité à court terme dont les grandes lignes ont été révélées par le gouvernement avant le début des négociations dans des documents officiels en janvier, et dans une mise à jour en juin.

Certains détails importants touchant les banques de congés accumulés et le nombre de journées de maladie annuels ont été confirmés aux tables de négociations mercredi lors de la reprise des négociations avec l'AFPC. En juillet dernier, les deux parties s'étaient laissées après avoir échangé de l'information. La question des salaires n'avait alors pas encore été abordée.

Selon les données du Conseil du Trésor, les fonctionnaires prennent en moyenne 11,11 jours de maladie payés par année et 6,85 jours non payés.

De façon générale, les employés fédéraux ont droit à 1,25 jours de maladie par mois (15 jours par année et non 12 jours tel qu'écrit hier). Les conventions collectives des employés fédéraux prévoient ainsi, selon le régime actuel, qu'un employé acquiert ainsi des crédits de congé de maladie à raison de 9,375 heures pour chaque mois civil pendant lequel il touche la rémunération d'au moins 75 heures.

Ces congés non utilisés peuvent être accumulés dans une banque que l'employé perd à son départ ou à la retraite.

En février dernier, une étude du directeur parlementaire du budget avait révélé que les congés de maladie payés dans la fonction publique fédérale s'étaient chiffrés à 871 millions \$ en 2011-2012.

Toutefois, une analyse plus poussée dévoilée en juillet dernier par son bureau avait révélé que les congés de maladie ne représentaient pas de coûts significatifs dans les ministères principalement parce que les fonctionnaires absents pour maladie ne sont tout simplement pas remplacés. L'étude avait étudié l'impact financier des congés de maladie dans vingt ministères fédéraux.

Les syndicats avaient alors mentionné que le document allait leur servir dans leurs négociations avec le gouvernement qui soutient que les employés fédéraux s'absentent trop souvent du travail par rapport aux employés du secteur privé.

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## Des fonctionnaires au travail même malades?

**Radio-Canada Ottawa-Gatineau, le 11 septembre 2014**

Le gouvernement fédéral veut réduire le nombre de jours de congé de maladie auxquels ses employés ont droit, confirme l'Alliance de la fonction publique du Canada (AFPC), qui a repris ses négociations avec la partie patronale, mercredi.

Actuellement, les membres de l'AFPC acquièrent 9,375 heures de congé de maladie par mois, soit 15 jours par année.

Selon le syndicat, les nouvelles règles feraient en sorte que les fonctionnaires fédéraux auraient dorénavant droit à cinq jours (37,5 heures) de congé de maladie annuellement. Cette indemnité serait assujettie à la discrétion de l'employeur, qui pourrait refuser d'accorder un congé à un employé.

Si le Conseil du Trésor obtient gain de cause, la banque de congés accumulés serait également abolie et un nouveau régime d'assurance invalidité serait créé. Un fonctionnaire devrait toutefois attendre pendant sept jours, sans rémunération, avant d'avoir droit à l'indemnité d'invalidité de courte durée.

L'AFPC dénonce les mesures proposées. « Si les mesures envisagées sont adoptées, les fonctionnaires seront forcés de choisir entre rentrer au travail quand ils sont malades et subir une perte de revenu qu'ils pourraient utiliser pour payer des besoins de base », explique le syndicat dans un communiqué.

Le vice-président exécutif régional de l'AFPC s'est fait tout aussi alarmant. Larry Rousseau a toutefois précisé que le contenu des négociations est normalement confidentiel.

« Je peux comprendre que, finalement, ça sort un peu, parce que tout le monde en parle », a-t-il dit. « Ça a eu l'effet d'une bombe. »

Selon M. Rousseau, les mesures proposées par le gouvernement fédéral signeraient l'arrêt de mort du régime actuel de congés, ce qui « est non négociable » pour lui.

Sans vouloir révéler la teneur exacte des discussions, il dit que son syndicat est prêt à négocier des améliorations aux règles déjà en place et que l'AFPC analysera les propositions du gouvernement afin de revenir à la table des négociations avec une position détaillée.

Larry Rousseau souligne par ailleurs que les « abus » souvent dénoncés par le gouvernement sont approuvés par un gestionnaire de la fonction publique et qu'il ne faut donc pas blâmer les syndicats.



## Clement wants public service contracts signed before next election

Elizabeth Thompson, iPolitics, September 11, 2014

Treasury Board President Tony Clement says he wants to conclude negotiations with unions representing tens of thousands of federal public servants before the next federal election.

Asked during an interview with iPolitics whether Prime Minister Stephen Harper's government can go into the next election, slated for October 2015, with labor contracts unsigned, Clement was blunt.

"I don't think that's reasonable," he replied. "Within the next 12 months, we should be able to find some solutions."

Clement was even more blunt when asked about the possibility that some unions would prefer to negotiate a contract with a successor to the Harper government.

"Well, they're not going to have that opportunity, so I would suggest that they get down to brass tacks right now."

Clement's comments come as the government and the unions that represent nearly 200,000 federal public servants have begun what are expected to be tough negotiations to renew collective agreements.

They also come amid concerns on the part of a number of union leaders that the government will provoke a crisis or a strike in order to boost its popularity and increase its chances of being re-elected.

Clement dismisses the suggestion.

“When people strike it’s because the union decides to strike – not because the management decides to strike.”

“I am going to continue to offer fair and reasonable solutions and my place to do that is at the bargaining table,” he added. “I hope and expect and desire to have an interlocutor or series of interlocutors who will take my concerns seriously on behalf of the taxpayer and government. Hopefully we can find the magic formula that will get us to the solutions.”

If anyone is playing politics, it is the unions, Clement suggested.

“There has been a lot of rhetorical flourish, shall we say, on their side. I have noticed they have really ramped that up. I guess that’s the political context of this. They have allies in the NDP and to some extent with the Liberal party as well, so they will try to use every lever at their disposal to leverage what they see as their preferred solutions.”

“But I have a joint, dual responsibility, that is to say that I want to make sure that our employees are looked after in a fair and reasonable way but at the same time it has to be an accountable system for the taxpayer.”

Clement also vowed not to bow to intimidation such as the demonstration in front of his Port Sydney home recently by more than 100 federal corrections officers protesting the government’s proposal to overhaul the federal government’s sick leave regime.

“I think it is important that this kind of activity not be rewarded by having an impact on what I’m going to be presenting at the bargaining table. I try to ignore that and keep focused on what my job is.”

Most of the government’s collective agreements have expired and most of those that remain in effect are up by the end of the year.

Talks are off to a slow start, in part because the government has not yet tipped its hand on a couple of fronts. Most departments have not revealed which jobs they plan to designate as “essential” in the event of a strike or job action and while some negotiators have had informal conversations, unions have still not received the details of its plan to overhaul the public service’s system of sick days.

Clement wants to replace the existing system of bankable sick days with a smaller number of sick days coupled with a short-term disability plan.

Public service unions have vowed to work together to fight Clement’s plan. Exceptionally, they are working together and pooling their resources. While each union will still bargain separately, they are sharing things like research and information.

Clement said he would have preferred to work informally with public service unions to come up with a new sick leave regime and the refusal by the unions to discuss a new sick leave system anywhere but the bargaining table has resulted in talks to renew 27 collective agreements getting off to a slow start.

“We had tried to engage them in trying to get their advice on how to devise a new system that would replace the banks of days with a more commonly found short term disability plan that is more common in other public sectors as well as the private sector.”

“The unions, obviously, made a tactical decision that no union was going to have that discussion with us. So, now we are at the stage where we are having to fashion what we think is a fair and reasonable new system without their input at the front end and so obviously that will prolong bargaining at the back end.”

Clement did not give any indication of when he plans to table his proposal.

Clement said overhauling the public service sick leave system is the key question at stake in these negotiations.

“What’s at stake...is having a system that is more modern, that will have a better handle on mental wellness and mental illness issues, that will make sure that employees have the care they need to get back to work healthier, sooner. Obviously, from the taxpayer view, we want to reduce absenteeism. In the case of individuals who are taking advantage of the system, we want to reduce that and have a system in place to help people when they are sick.”

“That’s what’s at stake. I think it’s important if we are going to have a productive workforce, a happy workforce of people who are motivated to come to work that we do change the system.”



## What to expect from Parliament’s fall session

**JOSH WINGROVE, The Globe and Mail, September 14, 2014**

MPs are heading back to Ottawa this week – with Parliament’s fall session expected to focus largely on holdover issues from the spring, including prostitution, cyber-bullying and free trade.

Some new bills are expected, including one enacting parts of the budget, but opposition parties say the government has run out of steam ahead of next year's scheduled election.

Government House Leader Peter Van Loan shrugged off the criticism. "We have made great progress, but there's still a lot to keep us busy. The focus will continue to be the economy, job creation, and that will probably intensify as we go through the fall," he said. Here's what to expect:

### **New stuff, but not CETA**

The foremost new offering is expected to be the Budget Implementation Act (BIA), putting spending plans into law, including Finance Minister Joe Oliver's small-business job credit. In the past, BIAs have drawn criticism for being packed with unrelated measures. Government House Leader Peter Van Loan said the government's focus is the economy and jobs, but that the act will reflect previous ones. "I sense it's more business as usual," he said of the BIA.

A law implementing a free-trade deal with South Korea is expected this fall, Mr. Van Loan said, although it is unclear whether a law implementing the European Union trade deal known as CETA will follow suit. "Obviously, that's a very big and complex agreement, so the sooner we can get it to the House, the better. It's too soon to say at this point in time," Mr. Van Loan said.

NDP House Leader Peter Julian said the Conservatives are "just a tired, fatigued government, and what they seem to want to do is introduce legislation that's more an attempt to kind of appeal to their base more than anything else." Liberal House Leader Dominic LeBlanc said not much is coming down the pipe. "They're coming back with an empty slate, in terms of substantive stuff," he said.

### **The leftovers**

Some bills interrupted by the summer break will resume their path to becoming law. One already has: C-36, the government's anti-prostitution law tabled after the Supreme Court struck down existing laws last December. Committee hearings continued through the break. The current laws expire in three months, and Mr. Van Loan said the new one will be passed by then.

Another is Bill C-13, the anti-cyberbullying law, which also includes new police surveillance powers that have drawn criticism from civil libertarians and others. Mr. Van Loan hopes to get C-13 "through and out of" the House of Commons this fall.

Other holdovers include minor bills, including those on nuclear liability, reducing red tape, a victims' bill of rights, priority hiring for veterans, counterfeit products and raising penalties for hurting a police service animal.

Finally, Conservative backbencher Michael Chong's private member's bill, the Reform Act, which reins in party leaders and empowers individual MPs – is due for second

reading this month. Mr. Chong has twice amended it to boost its chances of passing, but its fate is unclear.

### **Duffy and the Senate**

Mike Duffy's case is scheduled to go to court on Sept. 16, the second day of Parliament's fall session. RCMP have laid 31 charges against the suspended senator over his expense claims and a deal struck with Prime Minister Stephen Harper's former chief of staff Nigel Wright, who wrote Mr. Duffy a \$90,000 cheque. The Senate scandal left Mr. Harper on the defensive for much of the past year, and Mr. Duffy's legal proceedings will keep it in the headlines.

Mr. Harper has avoided appointing senators since the scandal erupted. Openings have mounted – the 105-seat chamber has 14 empty seats now, with three more retirements due this fall.

One Senate bill, however, is not due to become law soon. Mr. Van Loan said it is too early to say whether the Digital Privacy Act, Bill S-4, will make progress in the House this fall.

### **Iraq, the opposition and watchdogs**

The Liberals will ask for Parliament to be briefed on Canada's deployment of soldiers to Iraq, a request that comes after the Defence and Foreign Affairs ministers appeared before a committee last week. Mr. LeBlanc also called for more details on free-trade agreements, which the Prime Minister has hailed as a key achievement.

NDP Leader Thomas Mulcair will return to Question Period, where he has drawn strong reviews, with his Official Opposition NDP trailing the Liberals in the polls. The NDP's Mr. Julian called on government to "change the tone" in the House and work more collaboratively with the opposition. "We'll continue to be a very spirited and hard-working opposition," he said.

The Conservatives face reports from Parliament's spending watchdog, the Parliamentary Budget Officer, who frequently questions the government's spending. The PBO plans to release several reports in the coming months, including the annual fiscal sustainability report, an analysis of the "merits and risks" of the government's proposed balanced budget law, a mid-year economic and fiscal outlook and the PBO's annual report, due in November.

### **Pre-campaign season**

The election is due next October, and the politicking has already begun. Mr. Van Loan said the government's focus on the economy will help contrast "the proven, experienced strong leadership of Stephen Harper" against Liberal Leader Justin Trudeau. He brushed aside the possibility of holding the vote earlier than the legislated Oct. 19, 2015. "I've heard nothing to suggest otherwise, and certainly I haven't been planning otherwise," he said.

Mr. Julian said the NDP will continue to reveal key planks of their election platform. “We’ll be playing a key role as government in waiting, and that’s where we start to roll out, as Tom Mulcair has, what we’d actually be doing as government so Canadians can see,” he said.

Mr. LeBlanc expects the Conservatives to focus on balancing the budget, which the Liberals have argued was done in part by delaying key infrastructure spending. “It’ll sort of be like George Bush on the deck of the aircraft carrier, ‘Mission accomplished.’ I fully expect Joe Oliver to have a ‘mission accomplished’ sign on the deck of some frigate,” Mr. LeBlanc said.

The House of Commons’ fall sitting is scheduled to total 11 weeks.



## Une longue campagne de séduction débute

**JOËL-DENIS BELLAVANCE, La Presse, le 15 septembre 2014**

(Ottawa) La santé de l'économie canadienne, l'utilisation des surplus à venir, la participation du Canada à la coalition internationale menée par les États-Unis pour combattre les djihadistes de l'État islamique (EI) et le scandale des dépenses au Sénat feront partie des enjeux qui soulèveront les passions à la Chambre des communes, qui reprend ses travaux aujourd'hui après une pause estivale de 10 semaines.

Mais tous les députés sont conscients que la reprise des travaux marque aussi le début d'une longue campagne de séduction des électeurs puisque les prochaines élections doivent avoir lieu le 19 octobre 2015, dans environ 13 mois.

Les leaders des trois principaux partis aux Communes - le premier ministre Stephen Harper, le chef du NPD, Thomas Mulcair, et le chef du Parti libéral, Justin Trudeau - se comportent comme si la campagne électorale était déjà lancée.

Stephen Harper, qui occupe toute la place dans une nouvelle offensive publicitaire des conservateurs vantant les qualités de gestionnaire du premier ministre, annoncera les priorités de son gouvernement pour les prochains mois ce matin devant des centaines de militants réunis au Centre des congrès d'Ottawa. L'économie, la réduction du fardeau fiscal des contribuables et la lutte contre la criminalité seront évidemment au coeur de ses priorités.

Thomas Mulcair a commencé à dévoiler les principaux éléments du programme de sa formation politique à un an des élections. Après avoir promis la création d'un programme national de garderies, M. Mulcair a confirmé samedi à Vancouver qu'un gouvernement néo-démocrate rétablirait le salaire minimum pour les employés qui travaillent pour des entreprises sous la houlette d'Ottawa, comme les banques et celles du domaine des télécommunications. Le salaire minimum serait de 15\$ d'ici la fin d'un premier mandat du NPD. M. Mulcair passera aussi plus de temps à l'extérieur des Communes pour courtiser les électeurs et expliquer le programme de son parti.

En tête dans les sondages nationaux depuis 16 mois, les libéraux de Justin Trudeau continueront leur campagne de charme auprès des Canadiens, à figoler leurs promesses électorales et à recruter des candidats en prévision du rendez-vous électoral d'octobre 2015. Il n'est pas question pour le moment de divulguer certains engagements. Les libéraux s'attendent à être l'objet de toutes les attaques d'ici au déclenchement officiel des élections.

«Pour nous, ce n'est pas juste une session parlementaire qui commence, c'est le début de la campagne électorale. Il est assez clair que tout geste posé par le gouvernement, tout geste posé par l'opposition va toujours être mesuré à l'aune d'une évaluation par l'électorat pour savoir qui est mieux placé pour gouverner le pays», a affirmé le chef du NPD, Thomas Mulcair, dans une entrevue avec La Presse.

### **La création d'emplois, une priorité**

Le leader du gouvernement en Chambre, Peter Van Loan, a indiqué dimanche que la priorité absolue des conservateurs durant la session automnale sera la création d'emplois. «Alors que l'économie mondiale reste fragile et que des tensions géopolitiques déstabilisent la croissance économique, notre gouvernement va poursuivre son bilan de création d'emplois», a dit le ministre, précisant que les accords de libre-échange entre le Canada et l'Union européenne ainsi que celui entre le Canada et la Corée du Sud devraient être soumis au Parlement.

Même si des surplus pointent à l'horizon, il est hors de question de se lancer dans de grandes dépenses, a fait savoir M. Van Loan. Les surplus à venir seront utilisés en bonne partie pour réduire le fardeau fiscal des familles canadiennes.

«Alors que notre gouvernement conservateur se concentre sur l'économie, Justin Trudeau et Thomas Mulcair ont le même vieil ordre du jour de taxes, d'impôts et de dépenses élevés, qui freinera la création d'emplois et augmentera les coûts pour les familles qui travaillent fort», a-t-il dit.

Dès ce soir, les députés pourraient participer à un débat d'urgence sur le rôle que devrait jouer le Canada dans l'offensive que s'approprient à lancer les États-Unis contre l'EI.

Il y a deux semaines, le premier ministre Stephen Harper a confirmé, alors qu'il participait à un sommet de l'OTAN, que le Canada déploiera plusieurs dizaines de soldats en Irak afin de conseiller le gouvernement en place sur les mesures à prendre pour mieux protéger les citoyens irakiens contre les attaques des terroristes de l'EI.

Le scandale des dépenses au Sénat pourrait revenir hanter le gouvernement Harper cet automne, car le vérificateur général Michael Ferguson doit déposer son rapport examinant l'ensemble des dépenses des sénateurs. La cause du sénateur Mike Duffy, qui fait face à plusieurs accusations de fraude et d'abus de confiance, sera de retour devant les tribunaux demain.

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## Balanced budget law promised as House of Commons resumes

BY JASON FEKETE, OTTAWA CITIZEN, SEPTEMBER 14, 2014

As Parliament returns Monday, the Conservative government is preparing legislation to address the Canada-U.S. price gap, and also promising a bill that would demand federal governments balance the budget during “normal economic times.”

Prime Minister Stephen Harper’s government will also look to pass legislation this fall on the Canada-Korea free-trade deal, and a separate bill is expected in the coming months for the Canada-EU free-trade agreement that was recently finalized by both sides.

Several significant promises from the Conservative government’s fall 2013 throne speech still must be introduced before Canadians go to the polls in October 2015.

Harper’s government has vowed to balance the books in 2015 — just in time for the election — and plans to introduce legislation that will require balanced budgets “during normal economic times.” The balanced budget law will also include “concrete timelines for returning to balance in the event of an economic crisis,” according to the throne speech.

“We anticipate that we’ll carry through on our throne speech commitments and that (balanced budget legislation) was one of them,” Government House leader Peter Van Loan told the Citizen.

The Parliamentary Budget Officer is expected to release a report this week on the benefits and drawbacks of balanced budget legislation and its effectiveness in Canada.

Provincial governments have increasingly moved toward balanced budget legislation over the past few decades, but haven’t always stuck to the law.

Alberta, for example, introduced similar legislation in the 1990s to demonstrate it was committed to fiscal responsibility, but the Conservative government in that province was forced to amend it and sink back into deficit during the economic downturn.

The balanced budget bill will be part of a series of measures designed to present the Conservatives as competent economic managers who can be trusted with the federal purse.

At the same time, Finance Minister Joe Oliver is mulling personal tax breaks in the 2015 budget, as the government projects a \$6.4-billion surplus in 2015-16.

Look for the government to introduce in the fall additional consumer-themed measures, including legislation designed to tackle the Canada-U.S. price gap.

It's unclear exactly how the government plans to deal with what it calls "geographic price discrimination," but it has promised to introduce legislation to address price gaps that are not justified by higher operating costs in Canada. The Competition Bureau will be called on to enforce the new laws.

Federal legislation is also in the works to end pay-to-pay bill policies, which see customers charged extra to receive their monthly bills on paper.

"The price gap legislation is something where I do think you may see some action in the fall," Van Loan said.

Free trade will also dominate much of the government's legislative agenda.

The Conservatives plans on introducing bills to pass the Canada-Korea and Canada-European Union free-trade agreements.

The Canada-Korea deal was announced last March (with a copy of the text tabled in the House of Commons in June), while the text of the Canada-EU deal was finalized in August. Korean President Park Geun-hye will make a state visit to Ottawa Sept. 20 to 22 and, along with Harper, will trumpet the Canada-Korea trade agreement.

However, the Canada-EU deal — known as the Comprehensive Economic and Trade Agreement (CETA) — still faces hurdles before it can become law. The pact still must undergo a legal examination and translation, then be formally approved by the EU's 28 member states.

The prime minister is hosting a Canada-EU summit in late September that is expected to be attended by European Commission President José Manuel Barroso.

"Canada-Korea is one I foresee in the fall (for legislation). It may take a little longer for Canada-Europe. It's a very large and comprehensive agreement," Van Loan said.

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# Why this Parliament is all about the next election

**Campbell Clark, Columnist for The Globe and Mail, September 15, 2014**

When Justin Trudeau got onstage in Markham Friday night and told his audience of Ontario Liberals that someone had asked him if the election campaign had already begun, they all laughed. “I think you know the answer,” he said.

It’s obvious to the parties. The election year – Canada’s first, made inevitable by the fixed election date law that sets an October, 2015, vote – is here.

This week marks the opening of the election Parliament, the session that will build toward Prime Minister Stephen Harper’s real election platform, in a budget, then segue to a sprint to the official campaign. And a little urgency has come from opposition fears that Mr. Harper might still call a snap spring election.

Mr. Trudeau has been touring towns like he’s already on the hustings, while the Conservatives and NDP, with bigger caucuses, chastized him for skipping Parliament and ridiculed him as an empty suit. Now it’s those parties, behind in the polls, who plan to emulate some of his tactics, and who will really move up the campaigning.

While the Tories long ago imported permanent political advertising to Canada, it’s the NDP that really fired the starting gun on the election year, fearing it might fall out of the race. At 19-per-cent support, according to an average of polls by threehundredeight.com, the party feared being written off as unable to take power long before the official writ period.

So Thomas Mulcair will take to the road more, too, and has already launched a slogan, Change That’s Ready, with a shot at Mr. Trudeau as callow. And he’s unveiling his election platform early, promising a child-care plan and a \$15-an-hour federal minimum wage.

The political goal isn’t really to have Mr. Mulcair define NDP policies. The policies are to define the leader. Most people outside Quebec have a vague sense of Mr. Mulcair – and voters make their choice around the leader. The policies are to sharpen the image: a child-care plan, for example, is to say he cares about parents and children.

Mr. Harper, meanwhile, knows what he has to talk about – and it can’t be election promises. Prime ministers have advantages, but after a decade in power, their promises tend to be greeted with a question: Why haven’t you done this already?

That's why Mr. Harper's election platform has to be rooted in what he's done in government, and the main chapter will be the budget. With surpluses, he can offer new initiatives, and big tax cuts – and dare opponents to say they'd undo them.

Mr. Harper's aides say he'll get out of Ottawa more, too. But Finance Minister Joe Oliver already offered a taste of the election theme, crafted from government, last week, when he announced a credit to reduce EI premiums for small businesses. The message is that the rewards of fiscal prudence are going to be reaped, and used to strengthen the economy.

The Conservative Party can use its money edge to advertise, as they've already attacked "in over his head" Justin Trudeau for promising to legalize pot. And the PM controls levers in Parliament he can use to tell voters he's the leader with experience, and the issue is the economy – like a tax-cutting budget.

Mr. Trudeau insists he's itching for that kind of election. "It's not going to be about pot. It's not going to be about who has the nicest hair. The next election is going to be about the economy, because that's what's concerning Canadians," he told students at Fanshawe College in London, Ont., on Thursday.

While his opponents attack him for lack of detail, he has set a pretty clear frame for the election: He'll attack Mr. Harper as out of touch with the situation of the middle class and insist tax cuts won't help – instead offering what he insists are pro-growth policies, such as spending on infrastructure and education.

While Mr. Mulcair releases his platform to define his persona, Mr. Trudeau will build on hype with his own campaign gambit, an autobiography. The third party leader, ahead in the polls, said Saturday he'll wait till the official campaign to release his platform. It's his opponents who will show their cards first.

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## **Cabinet to pitch \$6.4-billion surplus, 'economic bucket' in multiple files this fall**

By LAURA RYCKEWAERT, The Hill Times, September 15, 2014

Prime Minister Stephen Harper's Cabinet's main priority this fall will be the budget and establishing the Conservative government as a proven, responsible economic steward in the minds of voters, which will influence everything from the expected \$6.4-billion surplus spending decisions to pipeline negotiations, say Conservatives.

Political observers in Ottawa widely agree the 2015 pre-election period is already underway, and with the start of what's expected to be the last full Parliamentary session before the writ officially drops.

"The single biggest priority is the economy. Always has been, always will be. Anything economic is going to be top of mind for this government," said Yaroslav Baran, a former Conservative Hill staffer and a principal at Earncliffe Strategy Group.

Cabinet is expected to tackle ongoing concerns over the Temporary Foreign Workers Program introduced in the spring by Employment and Social Development Minister Jason Kenney (Calgary Southeast, Alta.), as well as legislation this fall from Industry Minister James Moore (Port Moody-Westwood-Port Coquitlam, B.C.) to deal with differences in cross-border pricing between Canada and the U.S.

Mr. Moore has also recently released a discussion paper on interprovincial trade barriers and Mr. Baran said he's expecting to hear more discussion around that, as well as continued trumpeting of the Canada-EU trade deal. As well, Mr. Moore will be busy implementing the government's much-touted consumers agenda, said Mr. Baran, which will in part mean dealing with CRTC deliberations over a pick-and-pay model for TV subscriptions. Mr. Baran said a priority will also be implementing the Canada-EU trade agreement and communicating how it will affect Canadians.

"I mean this is a government that rightly prides itself on economic stewardship and securing a free trade agreement with the world's largest market containing half a billion people is a pretty big deal, and should be trumpeted, and I expect it would be," said Mr. Baran.

From trumpeting free trade agreements like the Canada-EU deal, to addressing cross-border pricing, Mr. Baran said Cabinet's "overarching priority" will be the economy and establishing its economic record.

Over the years in government the Conservative Party has styled itself as a responsible economic steward, and its slogan, "jobs, growth and long term prosperity," has been uttered by caucus members countless times.

A recent teaser ad sent out by the Conservative Party to supporters last week, styled as a new "positive ad," focuses on the Conservative government's economic record and ends with the tag line, "We're Better Off With Harper."

"Notwithstanding all the difficulties and uncertainties in the world, the fundamentals of our economy are as solid as a rock. There are more Canadians working today than at any time in the history of this country, that is our record," says Prime Minister Stephen Harper (Calgary Southwest, Alta.) in a clip from the video.

While it's still a long way off for the writ to drop, and the ad makes no specific mention of an election, it does end with the text, "stand with us."

This session is also expected to be the last full session before the next federal election is called—currently set to take place on Oct. 19, 2015—meaning the clock is running out for legislation to be passed and initiatives to be launched.

Government House Leader Peter Van Loan (York Simcoe, Ont.) told The Hill Times the government will be focused on passing its Red Tape Reduction Act first thing when Parliament returns, and said this, as well as a number of crime bills and the budget implementation bill, will be priorities for the government.

“Our priorities have traditionally been both the economy primarily and secondarily tackling crime and making communities safer,” said Mr. Van Loan.

Keith Beardsley, president of Cenco Public Affairs and a former PMO deputy chief of staff for issues management to Mr. Harper, said the Conservative Party’s “mantra” all along has been that it’s a responsible economic steward, and particularly when it comes to the challenge posed by the Liberals under leader Justin Trudeau (Papineau, Que.), he said “it’s the one area where Harper can hold his record up and say Justin Trudeau hasn’t done anything.”

“They obviously have to deal with some of the economic issues, especially around the pipelines. They’ll have other, what I call throw-away issues where they do small criminal justice bills and this type of thing, but the big issue is going to be the economy,” said Mr. Beardsley.

“When you’re into an election the last thing you want to do is end up with your job numbers dropping so they’ll probably be focusing on initiatives that will at least support where they want to go as far as job numbers,” he said.

Mr. Beardsley said the government will be looking for “any opportunity to promote” its economic record.

Chad Rogers, a partner at Crestview Strategies who has worked on federal Conservative election campaigns, also said it will be all about “economic messaging” for the government this fall, leading up to the budget that will be “the cherry on the sundae.”

“It’s, we hope, going to have tax incentives, debt retirement, infrastructure investments, all of the things that the Prime Minister and Minister Oliver have been forecasting,” said Mr. Rogers.

The government is currently faced with a number of outstanding pipelines projects like the Keystone XL pipeline, which is still awaiting a decision from the U.S. government, and the Northern Gateway pipeline, which has angered many First Nations communities in part over resource-sharing agreements and the government’s duty to consult (in addition to environmental concerns and general environmental opposition to the project).

Mr. Rogers said moving these projects forward will be a priority for the government for economic reasons.

“That’s all part of jobs and growth, right. The goal there is just do whatever you can to safely and legally enable those investments to be made,” said Mr. Rogers.

Mr. Rogers said this year’s pre-budget consultations are going to be “more meaningful” than ever before over the last five years.

“There is now bounty, there is now opportunity and money to use, investments to be made for us to continue growing the size of the economy, the number of jobs, the amount of trade we can do. It’s an economic bucket that they’re pitching to voters, to a lesser extent, law and order,” said Mr. Rogers.

Jim Armour, a vice-president at Summa Strategies and a former Canadian Alliance and Conservative Party staffer, said it will be important for the government to demonstrate that it can make good use of its \$6.4-billion surplus.

“It’s very easy to spend money but it’s not so easy to spend money well, so the government’s going to be focusing on where it can get the biggest bang for the buck,” said Mr. Armour.

“Every single national organization, company, and individual will be making a beeline for Parliament with a whole list of priorities that the government can finance. People have been told for years now that, ‘There’s no money, come back later,’ and now they’re being told that there is going to be a surplus and the government is looking at spending again. So folks on that [House] Finance Committee, James Rajotte and others, better prepare themselves, they’re going to be the most popular people on Parliament Hill,” he said.

Already, Finance Minister Joe Oliver (Eglinton-Lawrence, Ont.) has announced new measures to try to help the economy. On Sept. 11, Mr. Oliver announced that Employment Insurance premiums would be reduced for small businesses by about 15 per cent for 2015 and 2016, which he said will save small businesses about \$550-million over the two years. Mr. Oliver also spoke to the Conservative government’s plans for the future and said all EI premium rates would be substantially reduced in 2017 when a new, seven-year break-even rate-setting mechanism is put into effect.

Greg MacEachern, vice president at Environics Communications and a former Liberal Hill staffer, said he’s expecting the 2015 pre-election campaign to be the longest in “Canadian history,” and said political observers are all looking to the budget for indication of the Conservative election platform.

“There’s a lot of pressure and attention around the next budget. We see that with the fact that the Finance Committee is going to be meeting earlier in terms of pre-budget consultations,” said Mr. MacEachern.

While pundits are widely expecting Cabinet’s overarching focus to be the economy and establishing and emphasizing the government’s economic record, critics are challenging the economic record of the Conservative government.

That Canada has weathered and emerged from the global economic recession in comparatively better standing internationally-speaking is a widely-accepted narrative, but there's much debate over exactly what state Canada's economy is in, with various experts looking at different indicators, like job growth, inflation, or the debt-to-GDP ratio, to form their conclusions.

A total of 42,000 jobs were created in July, according to Statistics Canada's corrected July Labour Force Survey, with the national unemployment rate sitting at seven per cent.

"We've seen the U.S. far outpacing us along with Europe just in terms of the overall job creation," said NDP Finance critic Nathan Cullen (Skeena-Bulkley Valley, B.C.) on CBC's Power and Politics on Sept. 11.

"This thing about them being good managers of the economy is absolutely eroded," he said.

Robin MacLachlan, a vice-president at Summa Strategies and a former NDP Hill staffer, said the government's focus on the economy makes achieving related projects and deals all the more important and said currently the government has a "narrative" problem.

"This is a government that's put all its eggs in baskets into extraction of resources, and it's stalled. The trickle down this government has preached so much, both in terms of tax credits for well off Canadians with proposals like income splitting and a resource agenda, that hasn't resulted in sustainable growth across the country," said Mr. MacLachlan.

"It [the government] does have to answer for the sluggish performance, so that will continue to be its focus and why I think ministers such as [Natural Resources Minister] Rickford and [Industry Minister] Moore have a tough job ahead of them," he said.

While most pundits who spoke with The Hill Times said they're not expecting a Cabinet shuffle between now and the next election, Mr. Beardsley said he's expecting at least "some changes" to the front bench lineup, whether it be a result of current ministers announcing they won't run for re-election or a desire from party leadership, to promote new "stars."



## Ontario court strikes down portion of federal crime law

SEAN FINE, The Globe and Mail, September 10, 2014

In a strong defence of judicial discretion, the Ontario Court of Appeal has struck down part of the Truth in Sentencing Act, a centrepiece of the Conservative government's tough-on-crime agenda.

The ruling, which directly affects only Ontario, could mean shorter jail terms for hundreds of prisoners. Adding insult to injury for the government, the 3-0 ruling was written by the court's new chief justice, George Strathy, appointed by federal Justice Minister Peter MacKay in June after the government left the position vacant for an unprecedented six months.

The government had accused judges of sullyng the justice system's reputation by granting generous credit to offenders who had spent time behind bars before their trials began. Since the early 1970s, judges had routinely given those offenders two days in jail for every day served before sentencing – in recognition of the near-automatic reduction of jail terms by one-third that offenders receive after sentencing.

With the 2010 Truth in Sentencing Act, the government set one day credit for each day served as the general rule, and 1.5 days credit where circumstances justify it. But for offenders who were denied bail primarily because of their criminal record, the act says they must not be given any extra credit.

The court said this bar to extra credit was unconstitutional because it could mean that offenders like the man before the court, Hamidreza Safarzadeh-Markhali, spend nearly a year longer in jail than others who committed a similar crime. Some of those offenders may have been denied bail because they lacked the social supports to persuade a justice of the peace that they should be released, Chief Justice Strathy wrote.

“Canadians understand that a sentence must be fair, in all its aspects,” Chief Justice Strathy wrote. “Public confidence in the criminal justice system would be undermined by an artificial distinction that results in longer jail terms for some offenders.”

Mr. Safarzadeh-Markhali, who was convicted of smoking marijuana while he drove and carrying a loaded gun, received six years in prison. He served nearly 21 months in custody before his sentencing; the trial judge ordered that he be given 31 months credit for that time. The Ontario government had appealed that ruling.

The appeal court's ruling was a second devastating blow to the Truth in Sentencing Act. In April, the Supreme Court ruled unanimously that judges could routinely give 1.5 days credit for each day in pretrial custody, in spite of the government's argument that the general rule should be one day counts as one day.

Both the earlier ruling, and this one, were important tests of how far the government could go to limit judges' discretion in sentencing. Chief Justice Strathy made it clear that he took no issue with the government's wish to make repeat offenders serve longer periods in jail.

“Unfortunately, however, like many attempts to replace the scalpel of discretion with a broadsword, its application misses the mark and results in unfairness, discrimination and ultimately unjust sentences. Instead of ensuring that repeat offenders serve a greater

portion of their custodial sentences, the law targets only those denied bail due to their previous convictions.”

A spokesman for the Ontario Attorney-General’s department said it was too early to say whether the government would try to appeal the ruling to the Supreme Court.

Chief Justice Strathy said the law violated the principle of proportionality at the heart of the Charter of Rights and Freedoms’ Section 7, which protects security of the person.

“That principle is understood and endorsed by all Canadians and is applied in our courts on a daily basis,” he wrote.

A press secretary for Mr. MacKay said the government was reviewing the decision. "Canadians expect violent criminals to serve sentences which reflect the severity of their crimes," Clarissa Lamb said. "We will continue moving forward with our tough on crime agenda and support victims of crime despite the opposition parties' efforts to stand in our way."

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## Calcul des peines : autre revers pour Ottawa

**Radio-Canada, le 10 septembre 2014**

La Cour d'appel de l'Ontario invalide une autre portion de la réforme du gouvernement Harper concernant le calcul du temps servi avant la sentence pour réduire la peine finale.

Dans une décision unanime, les trois juges de la Cour d'appel provinciale estiment que les limites imposées par la loi peuvent faire en sorte que certains détenus passent plus de temps en prison que d'autres pour un même crime et une même durée de détention avant procès.

La décision porte plus précisément sur un aspect de la loi qui concerne les demandes de libération conditionnelle, qui si elles sont refusées en raison du passé criminel d'un individu, empêche un juge d'accorder un crédit de 1,5 jour par journée de détention avant la sentence.

« Les Canadiens comprennent qu'une sentence doit être juste dans tous ses aspects », écrit le juge en chef George Strathy de la Cour d'appel de l'Ontario.

La décision a été rendue dans l'affaire de Hamidreza Safarzadeh-Markhali, un Ontarien reconnu coupable dans une affaire de possession de drogue et d'une arme illégale.

La loi en question, adoptée en 2010, était un élément central du programme conservateur en matière de justice.

Plus tôt cette année, la Cour suprême du Canada avait confirmé le pouvoir des tribunaux d'offrir à un accusé, un crédit supplémentaire pour le temps passé en détention avant la fin des procédures.



## Ontario's legal system too costly and complicated, new chief justice says

**PAOLA LORIGGIO, The Canadian Press. Globe and Mail, Septembre 9, 2014**

Ontario's legal system has grown so expensive and bogged down by red tape that it's now inaccessible to many of the people it's meant to serve, the province's new top judge warned on his first full day on the job.

"With the best of intentions, we have designed elaborate rules and practices, engineered to ensure fairness and achieve just results. But perfection can be the enemy of the good," George Strathy told a special sitting of the province's three courts Tuesday afternoon.

Strathy raised concerns about the "cost, complexity and time it takes to complete legal proceedings" just a day after his swearing in as Chief Justice of Ontario, in a ceremony to mark the start of the new court term.

"Having been a lawyer and a judge in this province for over 40 years, it strikes me that we have built a legal system that has become increasingly burdened by its own procedures, reaching a point that we have begun to impede the very justice we are striving to protect," he said.

Strathy urged every level of court to consider how their practices can be simplified, streamlined and made more user-friendly.

A spokesman for the Ministry of the Attorney General said it is moving to simplify some court procedures and expand capacity.

The measures include more use of video conferencing, a pilot project to give counsel remote access to their clients in the Quinte Detention Centre, and projects to build, expanding, or significantly renovate 28 courthouses, Brendan Crawley said in an email.

Attorney General Madeleine Meilleur said Monday she looks forward to working with Strathy “to improve access to justice and to modernize the delivery of legal services and information.”

Strathy’s message was hailed by the Ontario Bar Association, which represents the province’s lawyers and judges. The association has been working with the province to improve access to the justice system, board member Doug Downey said.

“Some procedures are put in place to solve another problem but they create a problem of their own,” said Downey, a practising lawyer in Barrie, Ont.

“If the chief justice is interested, and he certainly sounds like he is, in reviewing the system... sort of at a higher level, we may be able to rationalize some of those procedures,” he said.

The Law Society of Upper Canada, meanwhile, said it is “very concerned about the decline in people’s ability to access justice across Canada.”

The Law Society, which regulates Ontario’s lawyers and paralegals, said it has established an Action Group on Access to Justice in an effort to improving access to justice in the province.

Access to justice issues were also brought forward under Strathy’s predecessor, Warren Winkler, who retired last year. Supreme Court Chief Justice Beverley McLachlin has taken up the cause at the national scale, and legal organizations have held conferences and penned reports on the matter.

Also hampering the justice system is an “acute” need for more courtroom space, Strathy said — a sentiment echoed by the chief justice of Ontario’s Superior Court, who warned in her remarks that several communities in the Toronto area lack the facilities “required to discharge our court’s core functions.”

Heather J. Smith also sounds the alarm over a growing number of judicial vacancies, saying there will be 30 unfilled positions in Superior Court — about 13 per cent of the total — by the end of the year if the province doesn’t appoint new judges.

“The seamless filling of judicial vacancies is critical to meeting our court’s obligation to Ontarians — children and families in particular,” she said, noting 10 of the vacancies will be in family court.

The head of the Ontario Court of Justice, meanwhile, stressed the need to continue modernizing the justice system, citing a recent switch to electronic criminal orders written in “simple, plain language” in courtrooms across the province, as well as a new online scheduling tool for justices of the peace.

“We plan further modernization through broader use of video conferencing, enhanced electronic intake opportunities, and the development of a province-wide judicial scheduling tool,” Annemarie E. Bonkalo said in a statement.

Ontario’s courts face “significant” challenges, Strathy said, “but they are not unsurmountable.”



## Aucune politique sur le vapotage pour les fonctionnaires fédéraux

JOËL-DENIS BELLAVANCE, La Presse, le 10 septembre 2014

Alors que des élus de Montréal jonglent avec l'idée d'interdire la cigarette électronique dans les espaces publics, le gouvernement fédéral hésite à imposer la ligne dure aux employés qui souhaitent consommer ce nouveau produit sur les lieux de travail.

Dans certains ministères, des employés « utilisent ou aimeraient utiliser » des cigarettes électroniques au sein de leur milieu de travail, selon des informations glanées par La Presse au cours des derniers jours.

Or, l'utilisation de ce produit qui gagne en popularité semble embêter le gouvernement fédéral. La Loi sur la santé des non-fumeurs touche uniquement les produits de tabagisme et non les cigarettes électroniques.

Au Conseil du Trésor, une porte-parole, Kelly James, confirme qu'il n'existe « aucune politique précise [...] qui interdit l'utilisation de cigarettes sans fumée ou électroniques ».

Elle ajoute toutefois que « le Secrétariat du Conseil du Trésor ne recommande pas l'usage de ces produits en milieu de travail puisqu'ils peuvent présenter des risques pour la santé et n'ont pas été pleinement évalués sur le plan de l'innocuité, de la qualité et de l'efficacité par Santé Canada ».

Pour l'heure, il incombe aux sous-ministres de chaque ministère de s'assurer que la santé et la sécurité des employés ne sont pas mises en péril dans leur lieu de travail. « Les employés qui ont des préoccupations ou des plaintes à formuler au sujet de la qualité de l'air ou encore des réactions allergiques à certaines odeurs ou à certains aliments dans leur milieu de travail devraient communiquer avec leur superviseur qui assurera le suivi et recommandera une solution appropriée », a précisé Mme James dans un courriel envoyé à La Presse.

## Un danger, selon l'OMS

Récemment, l'Organisation mondiale de la santé a exhorté les gouvernements à adopter de nouvelles mesures législatives pour formellement interdire la vente de cigarettes électroniques aux mineurs et leur consommation dans les endroits publics et les lieux de travail intérieurs. Selon l'OMS, la cigarette électronique représente un danger pour la santé publique au même titre que les produits du tabac. Mais certains experts ont contesté les conclusions de l'OMS dans les jours qui ont suivi la publication d'un rapport sur le sujet.

À Québec, Jean Auclair, conseiller en communication au Secrétariat du Conseil du Trésor, a indiqué que l'on recommande aux ministères de refuser systématiquement toute demande d'emploi pour utiliser la cigarette électronique.

« Ce produit n'est pas réglementé par Santé Canada et aucune disposition légale n'encadre de manière générale l'utilisation de la cigarette électronique. Lorsque le Secrétariat du Conseil du Trésor est interpellé dans son rôle de gouverner par les ministères et organismes, ce dernier recommande de refuser l'usage de la cigarette électronique sur les lieux du travail », a précisé M. Auclair, soulignant au passage que plusieurs organismes comme Santé Canada et le ministère de la Santé et des Services sociaux ont émis des mises en garde contre l'utilisation de ce produit.

À Montréal, le conseiller municipal Marvin Rotrand compte déposer une motion à la réunion du conseil municipal du 15 septembre afin d'interdire la cigarette électronique dans les espaces publics où l'on proscrit déjà le tabagisme. Sa collègue Elsie Lefebvre appuie cette motion. « Comme il y a un flou, on pense que c'est mieux de réglementer, même si on ne connaît pas l'effet concret sur la santé », a-t-elle récemment déclaré à Radio-Canada.



## Former Supreme Court justice shares advice as she embarks on the next phase of her career

**SEAN FINE, Justice Writer, The Globe and Mail, September 8, 2014**

At 67, after an extraordinary, globe-hopping career, Louise Arbour has come home to Montreal after working outside of Quebec since 1971. Once again, she is setting out to do something she has never done before – she has joined a law firm.

She has been a Supreme Court judge, an international prosecutor of war crimes and the United Nations High Commissioner for Human Rights. But the toughest challenge Ms. Arbour says she ever faced came at the very beginning, when as a young Québécois law student she moved to Ontario, first to be a law clerk at the Supreme Court in Ottawa, and then, a law professor in Toronto.

On the occasion of joining Borden Ladner Gervais as counsel, she spoke to The Globe and Mail's Sean Fine about her craving for learning, why she left the Supreme Court of Canada after just five years and her advice for young people.

**Q: What was the biggest hurdle you had to overcome to succeed in your career?**

Ms. Arbour: When I look back, the biggest move for me was to move from Quebec to Ontario. I went to be a law clerk in the Supreme Court of Canada when I barely spoke English. Everything after that was a repetition of the same kind of effort to understand. Within a couple of years I was teaching at Osgoode Hall Law School. It's pretty obvious with hindsight that I crave the environment where there's a lot of figuring out how it all works.

**Q: We take those moves for granted now. Why was that first move to Ontario so challenging?**

Ms. Arbour: I'd never studied in English in my life. I went to a classical college and then to law school, all in French. Osgoode Hall Law School, coming from Quebec in those days, was like Harvard: this huge, impressive English-speaking common-law establishment. I had a civil law degree; I spoke French. And of course, these were at the times of intense nationalist if not separatist aspirations in Quebec. Nowadays, the country has become much more bilingual and more fluid. When I look back at my law school [University of Montreal], I don't think anybody else left. Maybe one or two went to New York. It was very bold. In retrospect, it allowed me to find comfort and even attraction in novelty, challenge, stepping into things for which I was not particularly well-qualified.

**Q: That's a rare characteristic. Where did it come from?**

Ms. Arbour: I have no idea. You are talking to someone who is enormously not introspectful. I have very little insight and not a great deal of interest in analyzing my inner drive.

**Q: What was the main skill that all these tough, diverse jobs of yours demanded?**

Ms. Arbour: The ability to think from first principles and not to get lost in the details. I led a team of prosecutors from the United States, Denmark, Italy. They came from different legal systems. The U.S. guys who mastered the federal rules of evidence were often the ones that you had to shake from the details of the rules and say – think of this unique environment in which we are operating.

**Q: What was the Supreme Court ruling you wrote that you're proudest of?**

Ms. Arbour: There's a convention when you leave the court that you don't comment on your judgments or the work of others. I think maybe the one that stayed in my mind was a dissent I wrote in Gosselin in Quebec on the right to welfare. It was my first introduction really to economic and social rights and their alleged absence from the framework of the Canadian Charter of Rights and Freedoms. It was very novel, very challenging.

**Q: Why do you say the alleged absence of social and economic rights?**

Ms. Arbour: I wrote in Gosselin that Section 7, the right to life, liberty and security of the person, is the foundation of all rights. Not only civil and political rights but also economic, social and cultural rights. In the Universal Declaration of Human Rights, they're all united. It's only after the Cold War and the 70s that there was a big fracture where the West embraced civil liberties, civil and political rights, and developing countries, China and Russia purported to prefer social and economic rights – the right to health, the right to education. I came to the conclusion that these rights are there, if you read the Charter in the full spirit and the full heritage on which it is built. Obviously this was not the prevailing view and still isn't, I think.

**Q: Why did you leave the Supreme Court of Canada after just five years?**

Ms. Arbour: I got a call from Kofi Annan to whom I originally I said no. I told him I can't, I have a lifetime assignment. And then three months later I accepted. It would have never occurred to me to leave the Supreme Court except for something that was a once in a lifetime opportunity to go back into a system that at least I understood better than when I went the first time. Under the leadership of someone I knew would support me. I was quite young, I had many years ahead [on the Supreme Court] but it was in keeping with other things I've done.

**Q: Who were the biggest influences on your career?**

Ms. Arbour: There were not a lot of people I would identify with, i.e. women. My law professors were all men. My early colleagues at the law school and on the bench were all men. It's hard for me to think of them as mentors, although it's very clear that it's a series of men, for the most part, who were very supportive. A couple of my law professors – some are dead now – at the University of Montreal. Harry Arthurs, who was the dean at Osgoode – why on earth he offered me a job to this day completely baffles me. Charley Dubin [former chief justice of Ontario]. William Parker, who was chief justice of the high court. I was maybe the third woman on the court, French-speaking, not even Franco-Ontarien. Antonio Lamer, the chief justice of Canada, had been my criminal law professor. Kofi Annan. I've developed a lot of women friends, mostly peers, younger women, law clerks, former students, people I've worked with internationally. There's not a person who stands out as my beacon.

**Q: Which one of your jobs did you enjoy most?**

Ms. Arbour: I loved them all. I never left a job because I was bored or didn't like the environment. In my judicial career, the Court of Appeal for Ontario was a dream environment. It was a very collegial court, a very strong court, on criminal law which

interested me and on commercial matters, with people like Syd Robins and Allan Goodman. There was a pace of work that is faster than the Supreme Court. I liked the trial work as well. I was only a trial judge for a couple of years. When the call comes and they ask you to go the Court of Appeal – in a sense I wished they had called a couple of years later. I was just starting to get it, to preside at jury trials. It was immensely rewarding.

When the dust all settles, I think the work I did as an international prosecutor was probably the best combination of theory, getting the principles right, and then strategic work – it was very operational which was not like anything I've really done before. And of course it was anchored in all kinds of politics. It was a witches brew of all kinds of fascinating things. But under conditions that I wouldn't wish on anybody. In a sense, it's not real. You can't do that forever, especially in the early days when the whole thing was very precarious and experimental.

**Q: You spoke up publicly against the PQ government's proposed charter of values limiting religious symbols in the public service last year. Why did you decide to enter the debate?**

Ms. Arbour: I was coming back home, in a sense, and this was a pretty fundamental issue on which as a citizen I thought I was certainly entitled to an opinion. It was really important to me, the kind of climate to which I was returning. And frankly, I was just appalled at the tone and the content of the voices supporting this charter.

**Q: What is the number-one human rights issue in the world today?**

Ms. Arbour: As a human rights lawyer the instinct is to say all rights are equal, there is no hierarchy of rights. Still, inequality captures not just the whole umbrella of discrimination but also economic disparities that are unjustifiable on any terms, between countries and within countries.

**Q: Speaking to law students, or any audience of young people, what would you say is the lesson of your success?**

Ms. Arbour: If I were talking to law students, I would say to them, because it was such a revelation to me, particularly when I became a trial judge: it's all about the facts. If you get the facts straight so many things follow quite naturally. And yet the ascertainment of historical facts – by historical, I mean, something that happened yesterday – big events, small events – is an extremely difficult enterprise, even in an era where we're supposed to know everything. To young people, I think I would say, do not be discouraged because you can not pick every good fight. But pick a few.

**Q: What are you going to do as counsel at Borden Ladner Gervais?**

Ms. Arbour: It's very early. We'll see what's ahead for both of us, for the firm and for me. This is a firm I've known through its litigation work for many years. I could contribute on some of their litigation files, some of their arbitration issues. I have some of my own work that I will carry on doing, which for me will be much more useful to do it in a professional environment than in total isolation. I'm a member of something called

the Global Commission on Drug Policy, and the Global commission on the Death Penalty – prior commitments. The most important one, the one that persuaded me that I would be much more comfortable working back in a law firm – I’ve been appointed an ad hoc judge of the International Court of Justice in a case between Bolivia and Chile. I’m only sitting on that one case. It’s just a lot easier for me to work not in total isolation.

Bolivia is suing Chile alleging an obligation on the part of Chile to negotiate their access to the Pacific Ocean. The court has 17 permanent members. But when there is a case between countries that don’t have one of their nationals on the court, each country can nominate a judge to sit ad hoc. I was nominated by Chile.

**Q: Any chance you’ll write your memoirs?**

Ms. Arbour: The past doesn’t really interest me very much. The future interests me. The present is top of the list. I’m always intensely engaged in what I’m doing and I’m very forward-looking. It would be so laborious for me to try to dig in, particularly if I had any pretense of being accurate. I have actually given every scrap of paper, every photo, everything I own to the national archives, and good luck, my friend, if you ever wanted to dig into that. I have enormous admiration for historians and journalists. That’s not me.

**Career highlights**

**1971-1972:** Served as law clerk for Justice Louis-Philippe Pigeon, Supreme Court of Canada

**1972:** Worked as researcher for Law Reform Commission

**1975-87:** Taught at York University’s Osgoode Hall Law School

**1987-90:** Appointed judge on Ontario High Court

**1990-96:** Appointed judge on Ontario Court of Appeal

**1995:** Appointed single Commissioner for inquiry into the Prison for Women in Kingston

**1996-1999:** Appointed by UN Security Council as chief prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda

**1999-2004:** Appointed judge of the Supreme Court of Canada

**2004-2008:** Appointed UN High Commissioner for Human Rights

**2009-2014:** Served as president and chief executive officer of International Crisis Group

**2014:** Counsel for Borden Ladner Gervais law firm, Montreal

**Personal:** Mother of three adult children and grandmother of three

# Why better public pensions are on the way: Mayers

**There's a big divide between Ottawa and Queen's Park on how to improve pensions and retirement security. Either way, change is coming.**

**By Adam Mayers Personal Finance Editor, Toronto Star, September 10, 2014**

The big divide between the provincial Liberals and federal Conservatives on the way to improve pensions and retirement security is a tale of two ideologies.

It will make for interesting times next fall as Canada goes to the polls in a federal election. If the Conservatives win, Ontario will go it alone with its own version of the Canada Pension Plan. But if the Liberals or NDP hold the balance of power, things get interesting. Expanding the Canada Pension Plan becomes a possibility and so Ontario doesn't need to build a costly Ontario Retirement Pension Plan (ORPP) from scratch.

The ideological differences are very clear.

The Federal Conservatives' view is that Canadians don't need help to save. The Canada Pension Plan offers a good start and what we need is a bit more discipline to take advantage of available tax breaks. If you don't have a company pension, it's up to you to set something aside in your Registered Retirement Savings Plan (RRSP). Put a little more into your Tax Free Savings Account (TFSA). Try the recently introduced Pooled Registered Pension Plans (PRPPs) .

The Ontario Liberals see three million middle-income Ontarians who aren't saving enough, at a time when company pension plans are disappearing. Either they won't, or can't save, given the day-to-day commitments of mortgages, car loans and school extra curriculars.

The Liberals say you can pretend otherwise, but tax incentives aren't working and middle-income earners are in a bind. So the best way forward for those who do not have a company pension is through the ORPP. Yes, it is a forced saving, but it is your money, not a tax and creates a benefit that on retirement will be similar to the CPP.

That's where things stand.

**When thinking about do-it-yourself retirement versus a pension plan here are three ways that pension plans come out ahead:**

**The cheque is always there :** Stock markets rise and fall. If you had the misfortune to retire in 2008 or 2009, your outlook and sense of security suddenly changed. U.S. share prices dropped 54 per cent between Jan., 2007 and March, 2009. Canadian shares somewhat less. What to do? Something? Nothing? Stay working? Take Valium?

The answer was do nothing. Five years later markets are testing new highs. Pension funds with the luxury of time, just waited it out.

Don Raymond, chief investment strategist for the CPP Investment Board (CPIB) made the point in an interview last year: “When [we] talk quarters, we’re not talking three months, but a quarter of a century,” he said. “That allows us to live through ups and downs.”

**Lower costs:** Fees are a killer when it comes to investment returns and the bigger the pool of money, the lower the cost. The average mutual fund management fee is 2 per cent of assets. Jim Keohane, CEO of Healthcare of Ontario Pension Plan (HOOPP), which covers 286,000 people in the province, says HOOPP’s fee is 30 basis points, or less than a third of 1 per cent, to manage \$51.6 billion in assets.

That makes a huge difference over time.

If you invest \$100 and the fee is 2 per cent, it costs \$2 a year. If the fund’s profit is 5 per cent, or \$5 a year, you’re left with a gain of \$3.

If you invest the same \$100, but the fee is 0.30 per cent, that’s 30 cents a year. You keep \$4.70, or 56 per cent more.

**Lower risk :** One of the stresses of retirement planning is figuring out how much you you’ll need to live comfortably and how not to outlive your resources. But how long will you live. Will it be 75 or 95? Who knows.

It could be well beyond that. Keohane says HOOPP has 52 pensioners who are over 100.

Pension plan members sleep easy because they get a cheque for as long as they live. Their pension plans spread the longevity risk over tens of thousands of members.

“[With a pension fund] you know you’ll never run out of money,” Keohane says. “On your own you have to assume you’re one of those people who will live to 100. You don’t want to run out of money when you’re 90.”

Keohane is one of the experts advising the Ontario government on their plan, and believes that one way or another, enhancement of public pensions is coming.

“I think people are awaiting the outcome of the federal election next year,” he says. “The Conservatives have indicated that they won’t expand CPP and the other parties probably would. So it all depends on who wins.”

**Ontario’s Pension Plan at a glance**

**When does it start ? Jan. 1, 2017**

**Who's covered? 3 million Ontarians without company plans must join.**

**What will it cost? 1.9% of earnings to a maximum annual income of \$90,000, matched by employers. For example, a \$60,000 earner pays \$95 a month.**

**What do I get? A payment roughly equal to your CPP pension.**

**Who invests the money? The \$3.5 billion collected each year, will be invested at arm's length to the Ontario government to be free of political interference.**

**Where will it be invested? In stocks, bonds, real estate and infrastructure around the world.**