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Sick leave savings are 'voodoo math': LeBlanc

Kathryn May, Ottawa Citizen, February 4 2016

The Liberal government has signalled it might be flexible in negotiating a new sick leave regime for Canada's public servants that was supposed to recoup \$900 million in savings this year.

That was a message Liberal House Leader Dominic LeBlanc sent when he told reporters this week that the Conservatives' projected \$900 million savings was calculated with dubious math.

"To add insult to injury, they (Conservatives) went and booked in the government's fiscal framework some alleged savings, part of the sort of the voodoo math that they were using to get to a fake surplus," said LeBlanc. "We had committed to rescinding that and to putting that kind of issue before an appropriate bargaining table in good faith."

That's music to the ears of federal union leaders. The 18 unions have long argued the touted savings were "mythical" and cried foul when former Treasury Board president Tony Clement proposed a short-term disability plan and booked the savings to get the government to a projected \$1.4 billion surplus for 2015-16.

The Liberals' original fiscal plan had banked on that \$900 million too. In fact, briefing documents prepared by bureaucrats for Prime Minister Justin Trudeau noted that if a short-term disability plan wasn't implemented this year "then the \$900 million in savings will need to be unwound."

But that changes if the Liberals consider those savings to be based on "voodoo math."

It would also dramatically change the playing field for collective bargaining if government negotiators don't exert pressure to strike a deal that saves \$900 million. The government has said it wants to modernize sick leave; this change in attitude would give both parties much more flexibility to come up with a sick-leave deal each could live with.

"If they see it as voodoo math, then there is no pressure on the government to maintain a saving that doesn't exist, which means they can actually bargain in good faith and reassess their mandate," said one union official.

Dany Richard, executive vice-president of the Association of Canadian Financial Officers (ACFO), said LeBlanc seems to be agreeing with what the unions have said all along. ACFO represents the financial officers working in federal departments and agencies.

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Public servants are entitled to 15 sick days annually, but it is part of their salary and they aren't replaced when they are sick. They can't cash out unused sick leave, and most retire with months of banked leave, which disappears. Public servants have banked about 15 million days of paid sick leave.

"Public servants are paid an annual salary. Whether they take the full 15 days in sick leave or they take none, it is the same amount," said Richard. "There is no cost if public servants keep banked sick leave."

Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC), said the \$900 million of "supposed savings was nothing more than a convenient accounting exercise manipulated by the previous Conservative government to contribute to a pre-election balanced budget."

The government recognized sick days when used but never recorded banked sick leave as a liability in its financial statements until it changed accounting procedures in 2011-12. The government's internal studies estimate public servants have socked away about \$5.2 billion worth of sick-leave credits but will only use about \$1.4 billion of that for illness — which is the liability booked in the government's financial statements.

The Liberal government began its first bargaining sessions with unions in earnest this week, including the giant Public Service Alliance of Canada. The Liberal position on sick leave isn't publicly known. Early indications are a short-term disability plan is still on the table.

LeBlanc's office could not be reached for comment on the \$900 million, and Treasury Board President Scott Brison declined to comment on LeBlanc's "voodoo" observations.

The government is tabling legislation to repeal provisions of C-59, the contentious Tory legislation that gave the government the power to unilaterally impose a new short-term disability plan, thus making good on a Grit election promise that a new sick-leave regime should be negotiated, not imposed, and lifting a major threat of a forced deal if one can't be negotiated.

Interim Conservative Leader Rona Ambrose still says repealing the provisions of C-59 will cost taxpayers \$900 million.

"This will cost taxpayers \$900 million a year to repeal this piece of legislation," Ambrose told reporters. "I'm not sure if that was included in the (Liberals) \$10 billion deficit pledge. I doubt it."



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The unions are also pressing the Liberals to go further and unwind the provisions of Bill C-4 that changed the rules for collective bargaining in the public service, which the unions say stacked the deck in the government's favour. Brison has said he will review that bill but not repeal it.

Congés de maladie: le dossier rebondit aux Communes

Paul Gaboury, Le Droit, le 5 février 2016

L'Alliance de la fonction publique du Canada (AFPC) a confirmé vendredi que la proposition présentée par le gouvernement libéral sur les congés de maladie «ressemblait à s'y méprendre à celle du gouvernement conservateur» que les syndicats avaient pourtant décrié de toutes leurs forces avant et pendant la dernière campagne électorale.

[Tel que *LeDroit* l'a révélé en primeur vendredi](#), le gouvernement libéral a déposé aux tables mardi une proposition visant à remplacer le régime actuel de congés de maladie par un régime d'invalidité de courte durée qui serait géré par le secteur privé.

Selon nos informations, la proposition a été si mal accueillie par les syndicats aux tables qu'ils n'ont même pas répondu à l'offre, préférant plutôt aborder d'autres enjeux.

L'AFPC, qui représente plus de 105 000 de ses 175 000 membres dans ces négociations, a quand même réagi vendredi [par le biais d'une déclaration officielle son site Internet](#), ses dirigeants préférant ne pas commenter davantage.

«Il s'agit, encore une fois, de remplacer notre régime actuel de congés de maladie par un régime d'invalidité de courte durée beaucoup moins avantageux pour nos membres qui perdront leurs acquis. Il s'agirait d'un régime non négocié que le gouvernement pourrait modifier à son gré. Nous sommes ouverts à l'amélioration du régime de congés de maladie pour autant que nous n'ayons pas à faire de concessions à la table de négociation et que nos membres n'aient pas à choisir entre ne pas être payés et travailler malade.»

Mauvais départ

En déposant une offre sur les congés de maladie presque identique à celle du gouvernement conservateur, les libéraux sont bien mal partis pour remplir leur promesse de restaurer le respect dans la fonction publique fédérale, a indiqué au *Droit* vendredi le critique néo-démocrate du Conseil du Trésor, Daniel Blaikie.



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Le nouveau mandat donné par le gouvernement aurait dû prévoir une offre différente sur les congés de maladie, basée sur une analyse fouillée, selon M. Blaikie.

«Quand les libéraux vont-ils présenter une offre qui reflète leur engagement pris pendant les élections?» a demandé le député Blaikie lors de la période des questions.

«Il y a une occasion de moderniser le régime de congés de maladie afin qu'il soit juste envers les fonctionnaires alors que nous avons hérité d'une situation financière difficile du précédent gouvernement», a répondu le président du Conseil du Trésor, Scott Brison, qui n'a pas voulu donner plus de détails sur l'offre.

Depuis le début des négociations l'année dernière, les syndicats ont toujours dit que l'enjeu des congés de maladie était un problème qui n'existe pas, et qu'il avait été créé de toutes pièces par le gouvernement conservateur qui souhaitait rayer 900 millions \$ de ses livres dès 2015-2016 en mettant fin au régime actuel.

PS bargaining with Liberal gov't off to bumpy start

Kathryn May, Ottawa Citizen, February 5 2016

The Liberal government's proposal to modernize sick leave in Canada's public service was decried by the largest union Friday as a "dressed-up Conservative" plan but hailed by others as a step in the right direction.

The Public Service Alliance of Canada made no secret of its disappointment in its first bargaining session this week over what it called a slightly improved Conservative proposal that would replace the current sick leave regime with a new short-term disability plan.

"You know how many promises they (Liberals) made?" said PSAC president Robyn Benson in an interview. "But, quite frankly, there is little indication of change in approach at all. They tabled a sick leave plan similar to the Conservatives."

But Scott Chamberlain of the Association of Canadian Financial Officers said he felt the proposal shows "movement in the right direction." The group pitched the idea of a short-term disability plan for its members years ago.

"I have seen the new offer and it doesn't lead to me to conclude that they aren't coming in with an open mind," said Chamberlain.

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The Professional Institute of the Public Service also met with federal negotiators this week in what it called a “hopeful resumption of collective bargaining.”

The big question heading into this week’s talks was the Liberal government’s position on sick leave. It promised a new mandate and many were hopeful the government would table a new proposal rather than pick up where the Conservatives left off.

The big difference is that the Conservatives’ last offer was a take-it-or-leave deal with no room for compromise. It passed legislation to ensure it could open contracts and unilaterally impose its proposal whenever it wanted. The Liberals are unwinding that legislation.

The Conservatives’ proposal was built on a new short-term disability plan that would reduce annual sick leaves from 15 days to six, hire case managers to get employees back to work faster, and eliminate sick-leave banks.

Benson wouldn’t divulge details of the Liberals’ offer but said the government is sticking with a short-term disability plan with “tweaks” on parts of the overall plan.

She said the Liberals want the new sick leave and disability scheme to fall outside of collective agreements. Sick leave benefits are currently enshrined in all contracts, which make them difficult to change without the agreement of both parties.

The Liberals never promised the status quo but said any changes would be fairly negotiated and not imposed.

PSAC and other federal unions actively campaigned to defeat the Harper government and many say disaffected public servants were key to the Liberal sweep in the capital. Benson said many public servants were left with the impression that Liberals would take sick leave off the table.

“We hoped for a change and that’s not what happened. In our minds, we thought we would get something new from the Liberals, not the same old,” she said.

On Friday, the NDP Treasury Board critic, MP Daniel Blaikie, questioned why the Liberals, elected on promises of “real change,” proposed the Conservative plan.

“The prime minister promised to restore good faith with Canada’s public servants and while the Liberals have brought real change to the rhetoric of government, we are waiting for real change on the actions of government,” said Blaikie.



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Treasury Board President Scott Brison, who has refused to talk about the negotiations, repeated his promise to restore “respect with public servants” and “negotiate in good faith.”

“There is an opportunity to modernize sick leave benefits in a way that is fair to members of the public service in a time when we inherited a tough fiscal situation from the previous government.”

Congés de maladie: nouveau gouvernement, même proposition

Paul Gaboury, Le Droit, le 4 février 2016

La lune de miel entre le gouvernement libéral et les syndicats du secteur public fédéral pourrait avoir été de très courte durée.

La proposition sur les congés de maladie qu'a présentée le gouvernement Trudeau aux syndicats, mardi, serait basée sur la précédente offre du gouvernement Harper. Elle prévoit la création d'un nouveau régime d'assurance-invalidité court terme administré par le secteur privé, afin de remplacer le régime actuel de congés de maladie auquel les syndicats tiennent mordicus.

Selon les informations obtenues par *LeDroit*, la version «bonifiée» du régime concocté sous les conservateurs et reprise par les libéraux aurait été plutôt mal accueillie aux tables de négociations, où les discussions se sont tout de même poursuivies sur d'autres enjeux.

Aucun des syndicats n'a réagi officiellement à la proposition sur les congés de maladie depuis le dépôt de mardi. Ils pourraient toutefois faire le point vendredi sur la dernière semaine de rencontres. L'Institut professionnel de la fonction publique du Canada a indiqué [sur son site Internet](#) avoir reçu une offre sur les congés de maladie mardi, sans donner plus de détails à ses membres, si ce n'est qu'il va prendre le temps de l'analyser.

Ironie du sort, le gouvernement libéral a déposé un projet de loi pour abroger C-59, cette semaine, qui lui permettait d'imposer un régime d'assurance-invalidité aux employés fédéraux. Cela ne l'a pas empêché de déposer pratiquement la même offre que le gouvernement conservateur, a-t-on appris, dans le but de poursuivre la négociation aux tables.

«Le gouvernement ne semble pas avoir compris qu'il n'est pas question pour les syndicats d'accepter un régime d'assurance-invalidité géré par une compagnie d'assurances qui coûtera des sommes faramineuses avec plus de 350 000 dossiers à gérer. Il a simplement bonifié la



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proposition des conservateurs sans vraiment faire l'analyse de l'impact de cette décision sur les employés», a expliqué une source.

À la suite des élections fédérales, une pause dans les négociations avait été décrétée pour permettre au gouvernement libéral de donner un nouveau mandat à ses équipes de négociations. Ce nouveau mandat devait lui permettre de déposer une nouvelle proposition, afin de remplacer celle imposant un nouveau régime d'assurance-invalidité à court terme à ses employés.

Le NPD veut un directeur parlementaire des sciences

Le Nouveau Parti démocratique (NPD) veut créer un poste de directeur parlementaire des sciences qui répondrait directement au Parlement, plutôt qu'au gouvernement, comme proposé par les libéraux.

Ce statut permettrait d'assurer son indépendance et, du même coup, la libre communication des résultats de la recherche scientifique fédérale, estime le deuxième parti d'opposition.

Le député néo-démocrate Kennedy Stewart a déposé un projet de loi en ce sens jeudi. L'élu a également déposé une motion exigeant que tous les ministères et organismes fédéraux mettent en oeuvre des politiques de communication pro-science.

Le projet de loi néo-démocrate va plus loin que l'engagement pris par le gouvernement libéral. Dans la lettre de mandat de la nouvelle ministre des Sciences, Kirsty Duncan, le premier ministre Justin Trudeau s'est engagé à «la création d'un poste de conseiller scientifique en chef pour veiller à ce que les travaux scientifiques menés au sein du gouvernement soient accessibles à la population, à ce que les scientifiques soient en mesure de parler librement de leurs travaux et à ce que les analyses scientifiques soient prises en compte dans le processus décisionnel du gouvernement».

Liberals move to repeal Conservatives' sick leave plan

Elizabeth Thompson, iPolitics.ca, February 3 2016

Prime Minister Justin Trudeau's government is poised to table legislation to revoke controversial public service sick leave provisions introduced by the former Conservative government. However it is also proposing changes of its own.



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Isabelle Roy, general counsel for the Professional Institute of the Public Service of Canada (PIPSC), which represents thousands of federal public service professionals, said Treasury Board negotiators introduced a new sick leave proposal at the bargaining table Tuesday.

“If the view was status quo from the existing collective agreement there wouldn’t be a proposal at the bargaining table,” said Roy, who could not disclose what the Treasury Board has proposed. “The fact that this is a proposal coming forward at the bargaining table indicates some change to what currently exists in the collective agreement.”

Treasury Board President Scott Brison was tight lipped about the government’s sick leave proposal.

“There are ways we can modernize the sick leave regime to actually better serve public servants and that’s a matter for the negotiations with the labor negotiators at the bargaining table.”

Brison said the government is also working with budget constraints.

“We’re going to negotiate fairly. We also recognize that we inherited a deficit and a slow growth economy and since taking office lower oil prices have slowed growth further and have increased fiscal pressures. It is a matter of public record that we are under significant fiscal and economic pressures and as such we need to negotiate responsibly and respectfully.”

Beyond that, Brison refused to comment, saying that he did not want to interfere with the negotiating process and the culture of respect for public servants the government is trying to foster.

“The Conservative government’s approach of taking pot shots at the public service and denigrating public service toxified relations with our public service unions. It also destroyed morale within the public service. That cost Canadian taxpayers money and it also damaged the public service and our ability to work closely with them to achieve what we want to achieve.”

The proposal comes as the government gave formal notice Wednesday of a bill to make good on its election promise to repeal the Conservatives’ changes to the way sick leave is handled for federal government employees.

“We had said (during the election) that was inappropriate and those kind of things should be subject to collective bargaining,” Government House Leader Dominic LeBlanc told reporters. “Then to add insult to injury, they went and booked in the government’s fiscal framework some alleged savings – part of the sort of voodoo math they were using to get to a fake surplus.”

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“We had committed to rescinding that and to putting that kind of issue before an appropriate bargaining table in good faith.”

Interim Conservative Leader Rona Ambrose says revoking the sick leave provisions brought in by the Conservatives will be expensive.

“This will cost taxpayers \$900 million a year to repeal this piece of legislation,” Ambrose told reporters. “I’m not sure if that was included in the (Liberals) \$10 billion deficit pledge. I doubt it.”

The decision to repeal the new sick leave rules imposed by the Conservatives comes as public service unions are about to return to the bargaining table.

The bill to be tabled centres on changes the Conservatives introduced through an omnibus budget bill in 2015, which allows the government to override labour contracts with public service unions, eliminate sick leave banks of time and introduce a new regime to manage sick leave. The move was expected to save the federal government \$1.5 billion over five years.

The move angered public servants and their unions, which filed a constitutional challenge against it.

NDP, Liberals pass motion on pay equity

James Munson, iPolitics.ca, February 3 2016

An NDP motion demanding progress on pay equity survived a Conservative attempt to water down the proposal with the support of Liberals Wednesday afternoon.

The motion passed 224 votes to 91 with every party except the Conservatives in support. The motion was introduced on the most recent NDP opposition day.

It calls on the federal government to close gaps in pay equity in Canada, recognize pay equity as a right, implement the recommendations of a 2004 task force on pay equity in the public service and appoint a special committee that would propose a pay equity regime for Canada.

With such a wide-ranging set of commitments, it’s not yet clear which parts the federal government will act on first.

“Our department and all ministers take this seriously,” said Treasury Board President Scott Brison immediately after the vote. “We will be moving forward on it.”

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Pay equity means women and men receiving equal pay for the same amount or type work, though there are vastly different ways to enforce it. A woman earns 23 per cent less money on average than a man doing the same job in Canada, according to the NDP.

The Conservatives tried to amend the pay equity motion on Tuesday by removing its sections on the 2004 task force and the creation of a special committee.

When in government, the party passed the *Public Sector Equitable Compensation Act*, which became a lightning rod for activists on gender discrimination. The Conservatives argued the legislation strengthened pay equity because it redirected complaints away from the Canadian Human Rights Commission and toward the Public Service Labour Board.

The federal NDP, like the Ontario government's Pay Equity Commission, **claim the law actually removed** gender discrimination protections in the federal public service. Conservative MP Marilyn Gladu proposed the amendments on Tuesday but the motion's sponsor, Sheila Malcolmson, did not consent, killing the amendments.

"Removing the section on implementing the task force recommendations and asking for the committee to advise Parliament on how to make that implementation would remove any real action from the motion," said Malcolmson in the House of Commons on Tuesday.

After Wednesday's vote, Malcolmson recommended the pay equity committee — once it's established — examine the Ontario and Quebec track records on pay equity since those provinces have the most experience with legislation that deal with the issue in the public and private sectors.

"We want to dive into the details of that and find out what's worked and what hasn't worked," she said.

Manitoba and Nova Scotia have laws that handle pay equity gaps in the public service only, she said.

Équité salariale : des députées conservatrices expliquent pourquoi elles ont voté contre la motion

Ryan Maloney, Huffington Post, le 5 février 2016



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Des députées conservatrices qui ont voté contre la motion pour l'équité salariale disent que les hommes et les femmes devraient recevoir un salaire égal à travail égal.

Mercredi, la critique du NPD sur la Condition féminine, Sheila Malcolmson, a fait adopter une motion spéciale avec tous les partis à la Chambre des communes, sauf le Parti conservateur du Canada.

Tous les députés, dont la chef par intérim Rona Ambrose, ont voté contre la motion. Des femmes bien en vue dans le parti, comme la porte-parole des Finances Lisa Raitt, la porte-parole en Immigration Michelle Rempel et la porte-parole en Santé Kellie Leitch, ont toutes voté contre.

Rempel, qui s'est souvent prononcée sur l'égalité des sexes et le sexisme, a dit au *Huffington Post Canada* jeudi que son parti appuyait les « deux premiers principes » de la motion du NPD.

Ces principes appellent le gouvernement à prendre des actions pour réduire l'écart de rémunération entre les hommes et les femmes et reconnaître l'équité salariale comme un droit.

La députée de Calgary Nose Hill était contre la création d'un nouveau comité composé de 10 membres. À son avis, un tel groupe existe déjà à Ottawa.

« Selon moi, ce serait un excellent dossier pour le comité de la condition féminine, dans lequel nous investissons déjà des ressources », a expliqué Michelle Rempel.

Elle se dit également « surprise par le timing de cette motion », considérant que ledit comité de la condition féminine ne s'est pas encore réuni.

« Est-ce que la ministre de la Condition féminine pense que la Chambre devrait utiliser des ressources additionnelles pour un comité séparé? » a questionné la députée albertaine.

Pour sa part, Lisa Raitt a accusé le NPD d'avoir utilisé cette motion pour mal faire paraître l'ancien gouvernement conservateur.

La députée ontarienne a expliqué sa position à l'émission *Power Play* de CTV, mercredi soir. Tout comme Rempel, elle dit que les conservateurs soutiennent le principe d'équité salariale, mais veut que le comité existant prenne ce dossier en charge.



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Il y a six ans, le gouvernement conservateur a fait adopter la [Loi sur l'équité dans la rémunération du secteur public](#), qui interdit aux femmes d'avoir recours à l'aide de leur syndicat dans des causes reliées à l'équité salariale.

« Nous défendons nos idéaux », a fait valoir Raitt, ajoutant que ces changements dans le processus des plaintes a garanti des résultats pour les femmes.

Raitt dit que son parti a « poliment » demandé au NPD de modifier sa motion afin de voter en faveur, sans succès. « Toute ma vie, je me suis battue pour [l'équité salariale]. Cela ne fait aucun doute », a-t-elle dit.

[Le site iPolitics](#) rapporte mercredi qu'ils ont voulu amender une partie de la motion qui demandait la création d'un nouveau comité ainsi que l'implémentation d'une série de recommandations sur l'équité salariale.

Le député du NPD, Nathan Cullen, a répliqué dans l'émission de CTV que ces modifications auraient vidé la motion de sa substance.

Selon un rapport du Forum économique mondial, le Canada se classe 80e sur 130 pays en ce qui a trait à l'équité salariale entre les sexes. Raitt dit que cette statistique lui déplaît également.

Mais la députée blâme les néodémocrates pour cette motion qui n'a pas eu un appui unanime de la Chambre.

Ottawa used technicality to disqualify 1,000 residential-school claims

Gloria Galloway, The Globe and Mail, February 2 2016

The federal government used a technical argument to disqualify an estimated 1,000 claims for compensation made by indigenous Canadians who were abused at Indian residential schools listed in the agreement negotiated to award them for their suffering.

It is a move that the people who signed the deal on behalf of former students denounce as a cash-saving measure by Ottawa – one that has created unequal restitution for survivors, depending upon the date they filed their claims and the location on the school grounds where the assaults occurred.

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“The government should reverse this unfair decision and agree to pay compensation to these people,” said Phil Fontaine, the former national chief of the Assembly of First Nations, who is himself a residential-school survivor and who launched the efforts to obtain redress.

Residential schools, which were varying combinations of boarding facilities and educational institutions, were established in the 1800s and run by churches. Ottawa made attendance compulsory for indigenous children in a massive program aimed at assimilation.

Faced with complaints during the 1950s and 60s about the quality of education being delivered, the federal government took over the operation of about 58 of the actual schools, leaving only the residences under the control of the religious orders. This is known as the “administrative split.”

The Indian Residential Schools Settlement Agreement between the government, the churches and the school survivors was implemented in 2007. Many of those who were abused gave up their right to sue the government in return for being able to participate in the Independent Assessment Process (IAP), which was created, as part of that agreement, to determine how much compensation they deserved. For three years, the issue of the administrative split was not raised at IAP hearings.

Then, in late 2010, Justice Department lawyers began arguing that schools listed in the settlement agreement ceased to be residential schools at the time the administrative split took place – and that any student who was abused after that point should be disqualified from receiving compensation unless the abuse occurred within the church-run residences. If a child was sexually or physically abused in a classroom, in a gym, or on a playground, the government lawyers argued, he or she should not receive payment for his or her suffering.

While some IAP adjudicators vehemently disagreed with the government’s position, others started dismissing claims based on the administrative split. Those that were denied were returned to Daniel Shapiro, the chief adjudicator of the IAP, for review, and they sat there, some for several years, without resolution.

In April of last year, Rosemary Nation, a judge of the Alberta Court of Queen’s Bench, tossed out the appeal of a woman whose case had been rejected by the IAP on the basis of the administrative split. The unidentified claimant had attended the Grouard school, on the north shore of Lesser Slave Lake, and her arm had been broken by a nun some time after 1957 when responsibility for the school was handed from the federal government to the province, which occurred in a handful of the roughly 58 cases.

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Justice Nation determined that Grouard was not a residential school when the abuse took place. And she agreed with the government – over the objections of the claimant and her lawyers – that adjudicators had the right to determine what was, and what was not, a residential school.

Once that decision was rendered, Mr. Shapiro dismissed the other claims affected by the administrative split – a number he estimated in 2014 would exceed 1,000.

That means the end of a compensation claim for people such as Murphy Powderface, who was molested by a teacher at the Morley school in Alberta in the 1960s. “After I got denied again, I got more depressed,” said Mr. Powderface, who said he has made several suicide attempts as a result of the abuse. “It still affects me.”

Mr. Shapiro said in an e-mail to The Globe and Mail that his adjudicators are bound by the Alberta decision.

“Our adjudicators are independent from Canada and other parties in the [agreement], and are very diligent in assessing all of the submissions and evidence brought before them in hearings under the IAP,” wrote Mr. Shapiro. “I believe that all claims are dealt with in a fair and impartial manner.”

Still, chiefs who attended a special assembly in Gatineau, Que., in December asked Perry Bellegarde, the National Chief of the AFN, to call a meeting of the parties to the settlement agreement to “deal with the injustice being perpetrated against survivors affected by the illegitimate actions of the office of the chief adjudicator.”

Charlie Angus, the NDP critic for indigenous affairs, said the Independent Assessment Process is the only legal process he has heard of that was set up and administered by the defendant. “The IAP has opted to side with weasel words from government lawyers over abiding by the spirit and promise of the residential-school apology,” said Mr. Angus. “This is a travesty.”

Kathleen Mahoney, who represented the AFN during the settlement talks, said she and her fellow negotiators never intended to give IAP adjudicators the power to decide what constitutes a residential school. The eligible institutions are all spelled out in the settlement agreement, she said, and although there is a provision that allows schools to be added to the list, there is none that allows them to be taken away.

Nor did the government negotiators raise the issue of the administrative split at the time the agreement was being written, said Ms. Mahoney. “Arguably, they had that opportunity, but they would have been laughed out of the room.”



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Ms. Mahoney says the unfairness of the administrative-split decision is evident on many levels.

In families where two members were abused by the same person in the same way, one has been compensated because he or she filed his or her claim before 2010, while the other, who filed his or her claim later, has received nothing, she said. And “if one was assaulted in the residence, they would get compensated. But if the other was assaulted in the classroom – same abuser, same type of abuse, same time period – they are out of luck.”

Common-experience payments, which are awarded to any former student of a residential school, regardless of whether abuse occurred, are still being paid to people whose claims under the IAP have been denied because of the administrative split – so the institutions are considered residential schools for one purpose but not the other, said Ms. Mahoney.

In addition, she said, even though Mr. Shapiro used the Grouard decision to justify throwing out all of the other claims affected by the administrative split, “Grouard is quite different on its facts” from the other cases. While Grouard was handed over to the province, most of the other schools that were split from the church-run residences continued to be run by the federal government.

Throwing out all of the administrative-split cases, said Ms. Mahoney, “does undermine and contradict the agreement, which is a massive investment in reconciliation.”

Rod Soosay, a social worker at the Samson Cree First Nation who helps abuse claimants with their applications, said he has worked with many people who have had their IAP claims denied because of the administrative split.

“One lady I am dealing with right now had her IAP hearing and totally believed she would get something. She was devastated,” said Mr. Soosay. The government, he said, “are a bunch of hypocrites. It’s like apologizing in advance for slapping you in the face.”

Anti-scab 'opposition bill' to take NDP private member's slot

Janyce McGregor, CBC News, February 2 2016

It's not exactly Powerball. But rookie Quebec MP Karine Trudel appears to have won the lottery for NDP Leader Tom Mulcair.

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Last December, Trudel drew the second slot in the lottery conducted to determine which MPs have their bills and motions scheduled first in the limited time allocated in the House of Commons calendar to private member's business.

Asked several weeks ago what she intended to use her slot to champion, Trudel's office referred CBC News to NDP party communications staff.

A party spokeswoman said Trudel "was looking at different options" and declined an interview on her behalf.

Then last month at the NDP's caucus retreat in Montebello, Que., NDP Leader Tom Mulcair said his party would refute criticisms it was drifting away from its left-leaning roots.

"I've committed to [making anti-scab legislation one of our first opposition bills](#)," Mulcair said to thunderous applause from his MPs.

There's only one problem. Officially, there's no such thing as an opposition bill.

Ministers, as representatives of the government, introduce legislation. The only tool available for the opposition to introduce bills in the Commons is private member's business.

(Senators can introduce bills in the Senate, but the NDP has no senators.)

CBC News has learned that New Democrats plan to use Trudel's slot for the party's bill.

Copying Tory tactic?

MPs who drew the top slots in the lottery have until Feb. 26 to decide how they want to use their allotted time and put a bill or motion on the order paper for vetting by the House subcommittee responsible for private members business.

Trudel, a former mail carrier and postal union leader from Jonquière, Que. before her election last October, serves as her party's critic for Canada Post and is deputy critic for labour.

Normally, MPs use their slots to champion causes near and dear to their hearts.

For example, when he was lucky enough to win the lottery after his first election as MP in 2008, Justin Trudeau became the first member of the 40th Parliament to introduce a private member's motion. It called for a "national voluntary service policy for young people," evoking

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his family's history with the Katimavik program. (Trudeau serves as his own minister for youth in today's cabinet.)

Private members business is not allowed to repeat matters already voted upon in the House or dictate to the government how money should be spent, but within these parameters a wide range of business is green-lighted to proceed to the floor for debate, usually at a pace of one hour per sitting day.

During the last Parliament, several private member's bills proposed by Conservative MPs were endorsed by Stephen Harper's ministers, assuring their passage.

That led to accusations that, contrary to the stated intent, private member's business was starting to resemble government business, through a back door.

For example, as New Democrat Nathan Cullen pointed out a few years ago, a law-and-order-style anti-crime bill introduced by a backbench Conservative MP need not pass a Charter review at the justice department before being introduced.

But that doesn't mean co-opting private member's business isn't sound Commons strategy.

And so, an NDP MP's slot is being used to champion a cause strategic to New Democrats as a whole.

MP with top slot still undecided

Conservative Ted Falk pulled the number one ranking for the 42nd Parliament.

Last month, the MP told CBC News he was excited about the prospect of fronting a bill of his choice.

"It's a very unique privilege," said the Manitoban first elected in a 2013 by-election. "Many never get the opportunity. It's quite an honour."

He said he had "lots of irons in the fire" as far as what he might end up doing, and was soliciting feedback from his constituents on social media, asking them what they would want to change if they had a chance.

"I need to find something I can feel passionate about," he said, adding a bill would be more rewarding and make more of an impact than a motion.

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Trudel's caucus colleague, Windsor, Ont. MP Brian Masse, drew seventh in last month's lottery.

He's already signaled his intent to revive a [controversial sports-betting bill](#) that cleared the Commons but stalled in the Senate in the last Parliament.

Veteran Liberal Mauril Bélanger, the MP recently diagnosed with Lou Gehrig's disease, drew the 15th slot and [introduced his bill](#) to make O Canada gender-neutral last week.

Some 270 MPs from all parties, excluding cabinet ministers and parliamentary secretaries, were included in the lottery, which are typically drawn in batches of 30.

Business from MPs who draw slots in the lower half of the lottery rarely sees the light of day for debate, let alone passes, before another election is called.

Who won the first round?

Here are the first 30 MPs drawn last month. As befits a Commons with 200 rookies, many of these MPs are new and will be introducing private member's business for the first time.

The full list is [on Parliament's web site](#).

1. Falk, Ted (Conservative)
2. Trudel, Karine (NDP)
3. Blaney, Steven (Conservative)
4. Ste-Marie, Gabriel (Bloc Québécois)
5. Aboultaif, Ziad (Conservative)
6. Kelly, Pat (Conservative)
7. Masse, Brian (NDP)
8. McKinnon, Ron (Liberal)
9. Fragiskatos, Peter (Liberal)
10. Lobb, Ben (Conservative)
11. Wagantall, Cathay (Conservative)
12. Sikand, Gagan (Liberal)
13. Nicholson, Rob (Conservative)
14. Fillmore, Andy (Liberal)
15. Bélanger, Mauril (Liberal)
16. Erskine-Smith, Nathaniel (Liberal)
17. Stewart, Kennedy (NDP)



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18. Hussen, Ahmed (Liberal)
19. Brosseau, Ruth Ellen (NDP)
20. Waugh, Kevin (Conservative)
21. Miller, Larry (Conservative)
22. Gerretsen, Mark (Liberal)
23. Liepert, Ron (Conservative)
24. Anandasangaree, Gary (Liberal)
25. Fisher, Darren (Liberal)
26. Lapointe, Linda (Liberal)
27. Tan, Geng (Liberal)
28. May, Bryan (Liberal)
29. Lockhart, Alaina (Liberal)
30. Jordan, Bernadette (Liberal)

Former Parks Canada safety officer files complaint against government

Kathryn May, Ottawa Citizen, February 1 2016

Bureaucrats at Canada's labour program will have to prove they harboured no "anti-union animus" when they teamed up with Parks Canada to unlawfully investigate and discipline the health and safety officer who had issued a controversial order to arm Canada's park wardens with handguns.

Robert Grundie, the health and safety officer who directed Parks Canada to arm park wardens 15 years ago, is proceeding with an unfair labour practices complaint against Employment and Social Development Canada. He alleges the department joined Parks Canada on a "witch hunt" to get him fired for colluding with the union that represents the wardens.

Grundie's safety investigation and the subsequent fallout dominated 15 years of his working life. He is seeking costs and unspecified compensation for losses he faced, mental distress, continued loss of employment and an "affront to his dignity" during the seven years the government's allegations of wrongdoing hung over his head.



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The complaint comes on the heels of a Public Service Labour Relations and Employment Board ruling that gave the two departments a drubbing for wrongly reprimanding Grundie for doing his job in enforcing the provisions of the Canada Labour Code.

The adjudicator concluded Parks Canada wanted “retribution” against Grundie for directing that park wardens be armed over the fierce objections of senior management.

In the complaint, Grundie claims his union involvement partly motivated a behind-the-scenes probe into his conduct while investigating a park warden’s safety complaint about the risks of the job. He said he was “intimidated, threatened, and disciplined” because he was a union member and an officer of an Alberta local, as president and vice-president.

The Public Service Alliance of Canada (PSAC) has a sprawling structure of 17 component unions that represent more than 170,000 workers across Canada. It represents both national park wardens and federal health and safety officers who worked for the labour program at what is now Employment and Social Development Canada.

Under Canada’s labour laws, workers can’t be intimidated, threatened, disciplined or penalized for exercising their union rights, such as belonging to or getting involved in union activities.

An unfair labour complaint also puts a reverse onus of proof on the government as employer. This means Grundie’s complaint is deemed proof of the wrongful action taken against him unless the government can prove otherwise.

The pressure of this reverse onus is heightened by the labour board’s ruling, which vindicated Grundie and dismissed allegations of bias against him. The government could settle or could face the prospect of calling former senior bureaucrats – most have long moved on or retired – to testify and defend the disciplinary action taken.

In an email, the department said it won’t seek a judicial review of last month’s labour board decision but is still reviewing the unfair practices case and unable to comment further.

Lisa Addario, PSAC’s lawyer, said the labour board’s findings will be “influential” in the unfair labour practice complaint.

Grundie filed the two complaints when he learned the departments had done a “behind-the-scenes” probe into his conduct eight years after he delivered his final report on park warden safety. The parties agreed to set aside the unfair labour practices complaint until the main “unlawful reprisal” case was resolved.

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The arming of park wardens was a highly controversial issue that divided Parks Canada employees, including many wardens at the time. Management did not want wardens armed for handling law enforcement.

Many wardens were worried about their safety and Grundie got involved as a local safety officer when he went to a meeting in Canmore, Alta., to explain their options under the Canada Labour Code. One of those wardens later launched a safety complaint and sent it to Grundie, who was appointed to conduct the investigation.

Management later characterized this meeting as a union meeting and suggested Grundie colluded with wardens behind the complaint.

Grundie issued his decision on arming wardens in 2000, which triggered years of legal wrangling before a new hearing by a safety appeals officer upheld his ruling in 2008. The Conservatives immediately gave the wardens sidearms.

But that's when the departments turned their attention to Grundie and quietly initiated an "administrative investigation" into Grundie's conduct during his investigation. They hired private investigators to sift through thousands of emails between 1999 and 2006.

That internal probe was underway for a year before Grundie was advised in February 2010 that he was being investigated. He later received a disciplinary letter that found he breached the public service ethics code and the Canada Labour Code with his "preferential treatment" of wardens and was given a written reprimand.

Grundie said he became aware of the investigation's focus on his union activities when he received a bundle of documents he had requested more than a year earlier under Access to Information. Among those documents, Parks Canada accused him in internal memos of "colluding" with union officials.

In his current complaint, Grundie alleges the investigation was "pure intimidation" to send the message that workers who exercise their rights as members and officers of their union "will not prosper in their employment and are accorded an inferior set of rights" compared to those who don't get involved in union activities.

"The chilling message that has been set by the government is Canada's high-handed actions in this matter cannot be overstate," said the complaint.