



Thursday, November 6, 2014



Tribunal Takeover Completed

Cabinet has assumed direct supervision of eleven federal tribunals amid warnings the move is wide open to legal challenge at the World Trade Organization. The government yesterday confirmed effective November 1 the panels will answer directly to the Minister of Justice.

“Did we go through all of this only to be told by the World Trade Organization the system is now biased?” said Cyndee Todgham Cherniak; “There is a lot here that nobody read and didn’t understand, and they passed it anyway.”

The authority was inserted in the 262nd page of a 375-page omnibus budget bill signed into law June 19. Eleven panels including the Canadian International Trade Tribunal were placed under direct supervision of a cabinet appointee named “chief administrator” answering to Peter MacKay, Minister of Justice. MacKay declined numerous interview requests, but earlier told the Commons the move was intended as a “cost-savings measure”.

The Canadian Bar Association warned the move will lead to a “well-founded apprehension of institutional bias”. Todgham Cherniak was one of four attorneys to represent the association’s 37,500 lawyers in protesting the *Administrative Tribunals Support Service Of Canada Act* at parliamentary hearings.

“We haven’t heard anything on this since our concerns were raised,” said Todgham Cherniak, a trade and tax attorney with [LexSage](#) of Toronto. “The issue is oversight by the Minister of Justice.”

“Cabinet’s Puppet”

“If I’m acting for a U.S. company importing goods into Canada that did not receive the tariff treatment they deserved, staff at the Canadian International Trade Tribunal now has oversight by the Department of Justice – and the respondent in any case is the Department of Justice,” said Todgham Cherniak. “That seems to be unfair and contrary to the requirements of the World Trade Organization.”

“It does seem that Canada is outside the requirements of the World Trade Organization,” she added. “The WTO could make a determination there is an appearance of bias and impropriety here.”

Opposition MPs and labour unions also criticized the Act as a bid by cabinet to control the work of independent agencies in settling disputes over human rights, transportation and labour. “Any sense of independence is now lost to cabinet’s puppet,” [Unifor](#) president Jerry Dias said in an earlier interview; “This is unbelievable. This is stripping away our democracy. It’s like stacking the Supreme Court.”

MP Nathan Cullen, New Democrat finance critic, earlier expressed alarm the Act would allow politicians to quash dissent. “This cabinet has shown its distaste for anybody who criticizes anything they do – whether it’s the Parliamentary Budget Officer; the Auditor General; the Ethics Commissioner; the media, anybody,” said Cullen, MP for Skeena-Bulkley Valley, B.C. “This is another group that has posed problems for the government in the past. If they’re trying to muzzle them, we’re going to have a problem.”

Agencies that fell under cabinet supervision November 1 included the Canadian Human Rights Tribunal; Canada Industrial Relations Board; Public Service Labour Relations & Employment Board; Competition Tribunal; the Agricultural Review Tribunal; Canadian International Trade Tribunal; Transportation Appeal Tribunal; Social Security Tribunal; Public Servants Disclosure Protection Tribunal; Canadian Cultural Property Export Review Tribunal; and the Specific Claims Tribunal.

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