



The Law Society of Newfoundland and Labrador

P.O. Box 1028 St. John's, NL A1C 5M3

16 August 2016

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister
Langevin Building
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Jody Wilson-Raybould, P.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Prime Minister and Minister of Justice:

Re: Supreme Court of Canada Appointment Process

I write further to the August 2, 2016, announcement that the Federal Government will utilize a new process for the appointment of Supreme Court of Canada Justices. The process is laudable in its inclusivity and transparency. The composition of the Advisory Board will yield highly qualified candidates and ensure a measure of accountability in the ultimate selection of a Justice.

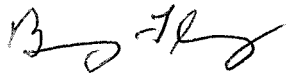
Two facets of the new appointment process raise serious concerns for the Law Society of Newfoundland and Labrador (LSNL). The first is that the Advisory Board is limited in selecting candidates who are functionally bilingual. While we recognize that functional bilingualism would be an asset for any nominee to the Court, an absolute requirement for that skill unfairly limits the number of qualified candidates. With advances in transcription technology and the proliferation of lawyers and judges who can read and speak some French, a strict application of this criteria will limit the number of potential nominees from Newfoundland and Labrador.

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The LSNL is also concerned about the potential for the next appointee to the Supreme Court of Canada to be selected from a region other than Atlantic Canada. We understand that Supreme Court Justices determine issues on their merit, as opposed to the region from which they arise, but the Supreme Court of Canada is also an important symbol of our democracy and the promise of inclusivity. To break with the constitutional convention of appointing a candidate from Atlantic Canada would have the potential of lessening the importance of this institute in the eyes of an entire region of this Country. As well, given the constitutional nature of this convention, it is possible that litigation may ensue. This was implied by Chief Justice McLachlin in her comments to the media on August 11th when she told reporters that she couldn't comment on the issue of regional representation on the Court as it could one day come before the Court. Any litigation surrounding the appointment process would mar the otherwise commendable aspects of it.

While we applaud many aspects of the new selection process, we request that you modify it to incorporate our concerns raised above.

Yours truly,

A handwritten signature in black ink, appearing to read 'Barry G Fleming', written in a cursive style.

Barry G Fleming, QC
President