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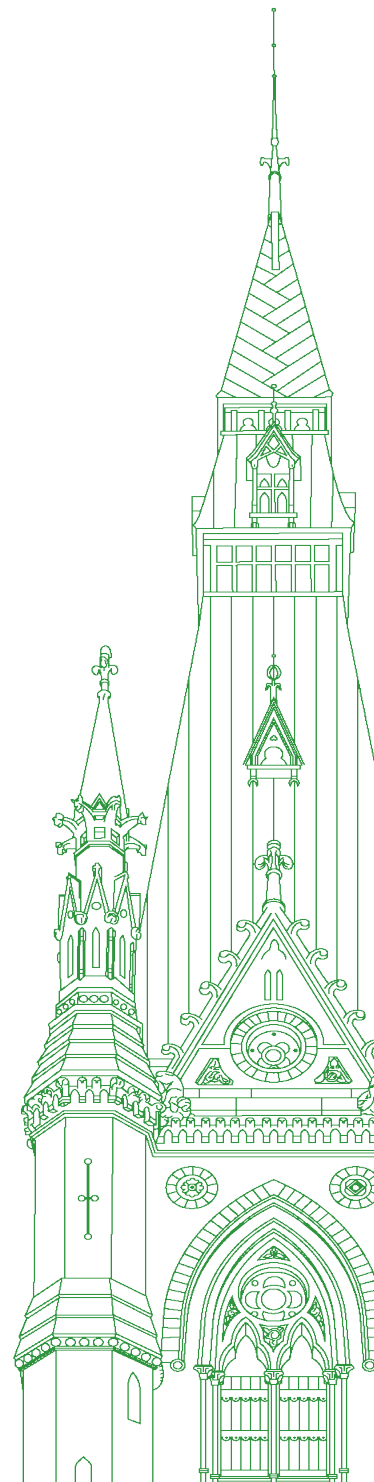
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Chair: Ms. Iqra Khalid



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• (1100)

[English]

The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)): I call this meeting to order. Welcome to meeting number 39 of the House of Commons Standing Committee on Justice and Human Rights.

I quick note that MP McCauley will be replacing MP Moore for the first half-hour of the meeting.

Welcome, Mr. McCauley. I believe it is your first time at our justice committee in this Parliament. It is your second time, wonderful. It's really good to have you here.

I have some housekeeping notes before we get into it. Members, you know there is interpretation. Please select the language you would like to listen to. You can speak in either language. If you have any issues with translation, please alert me as quickly as possible so we can look into the matter.

When you are speaking, please unmute yourself before you speak. When you are finished speaking, please mute yourself. Please speak slowly and clearly, as members know.

Mr. Clerk and I will be doing our very best to maintain a good speaking order, so please use your “raise hand” function. I see members have already used that. For members who are appearing in the room, please alert Mr. Clerk on whether you would like to speak, and he will get that message to me as soon as possible.

As members know, this is a meeting requested by four members of our committee pursuant to Standing Order 106(4). I believe there is a motion to be moved, as was discussed in the letter that was provided to all committee members.

Before I go to the speaking list, Mr. Cooper is appearing in person, so I'll give him an opportunity to speak to and move his motion before we start the conversation.

Please go ahead, Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Madam Chair.

I move:

That, pursuant to Standing Order 108(2), the committee conduct a study of at least one committee meeting to review judicial appointments and the process utilized by this government including the use of the government's partisan database known as “Liberalist”; the committee should invite the Minister of Justice to appear; and that the committee report its findings to the House.

That is my motion.

The Chair: Thank you, Mr. Cooper. I'm just going to stop you there for a second.

For the purpose of all members, if you have it in writing, could you circulate it by email as you speak?

Mr. Michael Cooper: I will circulate it to the members.

The Chair: Thank you very much.

Please go ahead.

Mr. Michael Cooper: Thank you, Madam Chair.

I think that over the last number of months there have been allegations that have been substantiated about political interference directed by the PMO with respect to the appointment of judges. Those allegations surfaced last year, first by François Landry, a political aide who worked directly on the judicial appointment process in the office of the Minister of Justice, David Lametti.

Emails of his surfaced that warned of partisan considerations that have created the “potential for a scandal”. He later publicly denounced those practices and noted that they “raised serious ethical issues.”

Former attorney general Jody Wilson-Raybould validated those concerns of political interference directed by the PMO when she noted, “During my time as minister, there were people in the centre, the Prime Minister's Office, other ministers, Liberal partisans, who would take great interest in the appointments process”.

She went on to say, “There is a sense that some people still carry that appointments, whether they be to the bench or otherwise, that you can curry favour if you are a partisan or if you have done something to benefit the party”. That is, of course, the Liberal Party.

Last fall questions arose over the appointment of Philippe Bélanger to the Quebec Superior Court, who, in 2014, donated \$1,400 to Minister Lametti's nomination campaign and another \$1,500 in 2018 to Minister Lametti's Liberal riding association of LaSalle—Émard—Verdun. That's almost \$3,000 donated to the minister's riding association and nomination campaign, and then suddenly there was an appointment to the Quebec Superior Court.

The minister has said that there was no partisanship in his decision-making process. He has claimed that only he has made recommendations as to who is appointed to the bench, but it turns out that simply is not true. We have received confirmation and reports, as of last week, that, in fact, the Liberal Party's donor base Liberalist was routinely used by the PMO. This is a list of Liberal Party members, supporters, volunteers and donors.

This raises questions about whether certain candidates for appointment were being given preferential treatment. In other words, the chances of being appointed to the bench increase based upon who you know and how much you donate to the Liberal Party of Canada. The fact that a private list was being used for the purpose of making public appointments raises serious ethical concerns.

I note that Patrick Taillon, a professor of law at Université Laval, characterized it as “a serious problem involving duelling roles...a private party database that was used in the government's decision-making process.”

Similarly, it was denounced by the Canadian Bar Association, when the allegations first surfaced, in a letter of November 6 that said that the federal process is “open to speculation about political interference” and that, “By continuing a process that is open to speculation about political interference, the government risks eroding the confidence of the public in the independence and fairness of the justice system itself”.

● (1105)

Madam Chair, Canadians deserve to know that the judges who are appointed are the best qualified to serve on the bench. They deserve to know that candidates are not being preferred or that the scales are not being tilted in favour of certain candidates based upon how much they donated to the Liberal Party of Canada.

At the very least there is a perception that the process has been tainted by politics, that it has not been fair, that it has not been transparent and that it has been entirely politicized. On that basis, I think it is entirely appropriate that we convene at least one meeting to investigate, to inquire, to call the minister before us so that the questions Canadians have can be addressed.

I have to say that in the face of these substantiated allegations the minister has been less than forthcoming and less than transparent. He has more or less tried to deny that anything untoward took place, and said that, no, Liberalist was not being used, and that, no, partisan considerations were not involved, until the evidence continued to mount. Now we know that for six years Liberalist was used to vet 100% of candidates for judicial appointment. We further know that 25% of the judicial appointments made by this government just happen to be Liberal donors. What a coincidence.

In the House over the past week, in light of the confirmation that Liberalist has been used and now it's supposedly not being used, the minister has, instead of providing fulsome answers, instead of addressing the issue, been regurgitating talking points asserting that the process is open, transparent and fair.

Madam Chair, very simply, that isn't good enough. This committee has a responsibility to get to the bottom of exactly what hap-

pened. That starts by convening at least one hearing where we can hear from the minister.

Thank you, Madam Chair.

● (1110)

The Chair: Thank you very much, Mr. Cooper.

I'll now go to our speaking list.

Mr. Maloney, I have you as first.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair.

I have to say at the outset that this motion troubles me, disturbs me and, frankly, offends me. Allow me to also add at the beginning, in response to Mr. Cooper's opening remarks, that our justice minister is one of the most ethical, decent, honest people I have ever had the pleasure of working with and this motion suggests that might be in question. That alone is incredibly offensive.

This motion, when I saw it, reminded me of something that happened to me a few years ago when I was practising law. I got a call from somebody I knew. He had a sibling who was going through the court system and was in the middle of a trial. It was a family law proceeding. He called me to ask a few questions. I wasn't a family law lawyer so I couldn't help him much, but then he turned to the real reason he was calling. He wanted to know which government appointed the judge that was hearing the matter.

My reaction was as strong then as it is to this motion, because, first of all, I didn't know and, more importantly, I didn't care, because what possible difference could that have to the outcome of a family law proceeding in the Superior Court of Ontario? Who appointed that judge is irrelevant. That judge will bring his expertise and his experience and apply the law. It has nothing to do with politics.

The question was also offensive, but more importantly, it shows that this person had some cynical concern about our court system. That's the real problem. Mr. Cooper says that confidence is eroding. It's eroding because of things like this motion. It's eroding because people are playing politics with issues where it has no place.

In fact, I'm glad Mr. Cooper was the one who introduced the motion today because I want to thank him. A few weeks ago, he introduced a motion to this committee asking us to have a look at the impact of COVID-19 and some other aspects on the justice system.

My colleagues on this committee will tell you, Mr. Cooper, that I was more than enthused. I was quite excited, and I was grateful that you brought that forward, because I feel very strongly—as you can tell and as you know—about our system. Preserving, protecting and promoting the integrity of our court system is very important to me. That motion—that's what it was about.

We had meetings, and you will recall that we had a number of judges from different courts, different superior courts and appellate courts from different parts of the country, who came and spoke to us about various aspects of the court system and the impact COVID has had on the judicial process and the trial process.

At no time did it enter my mind—and I am willing to guess it didn't enter anybody else's mind at any time during those discussions—who appointed those judges, who they voted for before they were appointed or if and how much they donated to a particular political party before. Why? Because they were all highly qualified professionals who came here to provide us with information that we wanted to hear, and I was grateful for that, as was everybody else.

Anyone who practised law in Canada should feel the same way I do right now about this motion.

We have a great system. Lawyers are active politically. I'm a lawyer. Mr. Cooper is a lawyer. Mr. Moore is a lawyer. Ms. Findlay is a lawyer. Mr. Virani is a lawyer. Ms. Brière is a lawyer, and there are many other lawyers in Parliament. I'm sorry; Mr. Sarai is a lawyer too. There you go. You're just emphasizing my point.

There are many other lawyers in Parliament, but there are many lawyers who are practising in the courts in every jurisdiction in Canada who are active politically. Should that or does that disqualify them from being appointed to the bench? No, of course not. It's outrageous to suggest that.

The fact that 25% of them have been Liberal donors...? The reason we don't know what percentage of the appointments were Conservative donors or donated to other parties is that we haven't bothered to flesh that out because it's irrelevant, it's inappropriate and it undermines the credibility of those people who have been appointed to the bench. I find that deeply offensive.

• (1115)

Here's the other thing: I think that people on both sides of this committee probably agree with me that we have a fantastic court system. I think deep down they know that this is nothing more than political shenanigans to try to score some political points at a time when political tensions are heightened.

Mr. Cooper said there are allegations that have been validated. I suspect that the two sources you've quoted might have some credibility challenges if they were to appear in court to validate these allegations, but I will leave that there.

Before I went into politics, I had the honour of appearing before the courts in Ontario for 20 years. I appeared in courtrooms all across this province. When I was growing up, my father sat on the bench for 26 years. Never, not once, at home or when I practised, did politics ever enter into the equation. I talk about my father because I got to see the human side of the judicial environment. It never entered the equation. It never formed part of the discussion. To suggest otherwise is deeply offensive. If I were sitting on the bench right now and I were watching this, I would be fuming, but they can't publicly defend themselves because they're impartial. They have to appear to be that way, and they are.

We have a judicial system of which I'm very proud. It's fair, it's accessible and it is non-partisan.

This motion undermines the very credibility of the thing.... We as a committee should be trying to find ways to get people who are charged with a crime or litigants who appear in civil matters to go into a courtroom having complete confidence that they will be treated fairly, that they will have access to the courts and that they will have access to justice. This motion has exactly the opposite effect. It's going to get more people asking questions like the one I was asked several years ago, except now they're going to take it one step further and say, "Did they donate money to the Conservatives? Did they donate money to the Liberals? Did they donate money to the Bloc or the NDP?"

The answer to that question is that it doesn't matter. All that information is now available on the Elections Canada website. You can go look it up, but it's irrelevant. Again I'll say that it's offensive.

For several weeks now we have been dealing with another study. We have been hearing witnesses talk to us about elder abuse. That is a very important topic. That's one we should be turning our minds to. Today, ironically perhaps, is World Elder Abuse Awareness Day. This is the ironic part. We are supposed to be in camera right now reviewing that report so that we can get it completed before this session of Parliament concludes. Instead, we are sitting here talking about a motion that has one purpose and one purpose only: to score cheap political points at the expense of the integrity of our judicial process.

Madam Chair, I'm asking that we do our jobs today instead of playing political games. I ask that we move this meeting in camera.

• (1120)

The Chair: Thank you very much for that, Mr. Maloney.

As members know, that is a dilatory motion, so we'll call the question right away.

Mr. Garrison, I see that you're off camera. Perhaps you could come on.

I would just note, Mr. McCauley, that you have now been replaced by Mr. Moore, so you will not be able to vote because Mr. Moore will be voting.

Mr. Kelly McCauley (Edmonton West, CPC): I'm sorry. I had to listen to Mr. Maloney but I don't get to vote? That's horrible.

Anyway, thanks for having me for a short bit.

The Chair: Thank you very much. Take care, Mr. McCauley.

We'll call the question.

Mr. Clerk.

[Translation]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Madam Chair, before we proceed to vote, I'd like to raise a point of order.

[English]

The Chair: I'm sorry, Mr. Fortin. Because we've called the question, we'll come to your point of order after the recorded vote.

[Translation]

Mr. Rhéal Fortin: My point of order is precisely that I don't think we can proceed to a vote, Madam Chair.

I would like to explain why.

[English]

The Chair: Please briefly explain to us why.

[Translation]

Mr. Rhéal Fortin: Madam Chair, our colleague Mr. Maloney shared his views on Mr. Cooper's motion with us at length. He then called for a vote. I don't think he can do that, since the vote may only be called by someone who decides to call for the vote rather than speak.

[English]

The Chair: Mr. Fortin, I appreciate that. I'm going to stop you there.

[Translation]

Mr. Rhéal Fortin: Madam Chair, we too want to speak.

With respect, one may give up one's right to speak to ask for the vote, but we are not allowed to do both, that is, speak and ask for the vote.

[English]

The Chair: Thank you, Mr. Fortin.

We have every single member on the speaking list right now. Mr. Maloney has called a question on a dilatory motion. We're going to record that vote now.

(Motion agreed to: yeas 6; nays 5)

The Chair: We will suspend the meeting as we go in camera. Thanks, everyone.

[Proceedings continue in camera]

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