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• (1105)

[*Translation*]

The Chair (Ms. Lena Metlege Diab (Halifax West, Lib.)):
Good morning, everyone.

[*English*]

I call the meeting to order. Welcome to meeting number 82 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to Standing Order 108(2), the committee commences its study of the nomination of the Honourable Mary T. Moreau to the Supreme Court of Canada.

Today's meeting is taking place in a hybrid format, but I'm looking at the screen and I don't believe we have anybody attending virtually. That's fabulous. We're all here in the room.

As a reminder, all comments should be addressed through the chair.

I'm ready now to welcome our witnesses. We have with us today the Hon. Arif Virani, Minister of Justice and Attorney General of Canada. Welcome, Minister.

We also have with us the Honourable H. Wade MacLauchlan, chairperson, Independent Advisory Board for Supreme Court of Canada Judicial Appointments. Wade, welcome.

We welcome you both here.

As per the usual roles, Minister, I will cede the floor to you for your opening remarks and then, Mr. MacLauchlan, you'll do your opening remarks. Then I'll give it back to you, Minister, to conclude your opening remarks, and then we will start with our round of questions.

Thank you very much. We have until 12:30.

Go ahead, Minister.

Hon. Arif Virani (Minister of Justice and Attorney General of Canada): Honourable colleagues, I wish to begin by extending my thanks to you.

Madam Chair, it's nice to see you.

I also acknowledge that I'm speaking to you from the unceded traditional territory of the Algonquin Anishinabe people.

[*Translation*]

It is an honour for me to speak in support of the candidacy of Chief Justice Moreau for the Supreme Court of Canada. I have confidence in her ability to meet the highest standards in every aspect of this role. That includes a thoughtful contribution to the development of law, an ability to serve the Canadian public exceptionally well, a commitment to diligence and professionalism and her ethical excellence. I want to congratulate Chief Justice Moreau and I look forward to seeing her appear before parliamentarians today.

The appointment of Chief Justice Moreau will fill the vacancy created by the retirement of Justice Russell Brown. I am pleased to announce that in addition to this judicial appointment, I have had the honour of making 37 others since taking this role at the end of July of this year. The timely appointment of high-calibre candidates is essential. I always try to ensure that these two critical aspects come together.

I would now like to talk about the Supreme Court appointment process.

As some of you know, the Supreme Court appointment process is composed of two key elements that are interrelated: the selection process itself and the Independent Advisory Board for Supreme Court of Canada Judicial Appointments. I will begin by giving an overview of the first before talking to you about the Advisory Board. We will then hear from the Honourable Wade MacLauchlan, Chairperson of the Advisory Board, who is here with me today and has agreed to share his perspective with us.

[*English*]

I wish to highlight the importance of the Supreme Court appointment process generally and of our unique role here today. We are engaged in nothing less than the critical work of upholding public confidence in the administration of justice. Trust in the judges who serve Canadians in this system is essential, as is belief in the integrity of the process by which they are selected.

This is now the sixth time this very process has been used by our government following its 2016 introduction by the Prime Minister. The current process was launched by the Prime Minister on June 20, 2023. Applications remained open until July 21. In accordance with the well-established custom of regional representation on the Supreme Court, this selection process was advertised as being open to all qualified applicants from western and northern Canada. Suitable individuals would be jurists of the highest calibre, functionally bilingual and representative of the country's diversity.

[Translation]

A rigorous questionnaire that is made available to the public is an integral part of the appointment process and offers candidates a standardized platform to demonstrate how they will satisfy the criteria. It is a matter of excellence in legal and professional areas. The questionnaire is also a way to explore the candidate's personal experience. Assessment of these aspects by the Advisory Board is essential to the appreciation of the candidate's points of view on the law and Canadian society.

[English]

The IAB, as it is known by its acronym, forms the heart of the selection process. That's the independent advisory board. It is reflective itself of Canada's diversity. Its members are not solely government nominees but also include those put forward by an array of organizations committed to serving Canadians by upholding the rule of law. Those organizations are the Canadian Bar Association, the Federation of Law Societies of Canada, the Indigenous Bar Association, the Canadian Judicial Council and the Council of Canadian Law Deans.

This marks the second occasion of the Indigenous Bar Association's involvement, following an expansion of the IAB's membership in 2022. I am very grateful to the Indigenous Bar Association for its continued support of this critical process for Canada.

• (1110)

[Translation]

I appreciate the efforts of the chairperson and of all the other members of the Advisory Board and I thank them very much. Their work is essential to maintaining a healthy and robust Canadian judiciary and democracy that we can all be proud of.

On that, I would like to acknowledge the board's chairperson, Mr. MacLauchlan, who is on his second term in the chair.

Mr. MacLauchlan, thank you for your dedication and for being here today.

[English]

As stipulated by its terms of reference and the confidentiality agreements entered into by each member, the IAB conducted its work in a confidential manner. Preserving such confidentiality, colleagues, throughout the process is critical. It's critical for the fair and dignified treatment of every one of the candidates.

The work of the IAB was supported by the Office of the Commissioner of Federal Judicial Affairs, an independent organization that supports me, as the minister, in the judicial appointments process. I offer my thanks to the commissioner and his office for all of their work.

[Translation]

The assessment done above all by the Advisory Board consists of reviewing candidacies using transparent, merit-based criteria. Mr. MacLauchlan will talk to you about this process during his speech. This assessment concluded with the submission of a limited list to the Prime Minister.

I assisted the Prime Minister by advising him in the capacity of the review I did of the limited list, by also taking care to consult chief justices, my cabinet colleagues, my provincial and territorial counterparts, opposition justice critics, members of the Standing Committee on Justice and Human Rights, members of the Senate Standing Committee on Legal and Constitutional Affairs, as well as experienced members of the Bar. The Prime Minister then made his final choice.

[English]

I will now turn to Mr. MacLauchlan and invite him to speak to the IAB process. I very much look forward to his remarks. Those he offered during the nomination process of Justice O'Bonsawin in 2022 were insightful and informative, and they reminded us of the need to ensure that our judicial nomination processes, at whatever level, are focused on discovering, fostering and recognizing candidates who are exceptional and reflective of the diversity of Canadian society.

Mr. MacLauchlan, please go ahead.

[Translation]

Hon. H. Wade MacLauchlan (Chairperson, Independent Advisory Board for Supreme Court of Canada Judicial Appointments): Thank you, Minister.

Madam Chair, members of the committee, Minister, good morning.

It was a great honour for me to act for a second time as chairperson and member of the Independent Advisory Board for Supreme Court of Canada Judicial Appointments. It is also an honour for me to testify before your committee this morning.

[English]

I'm here as chair of an impressive, hard-working and dedicated group of Canadians who served with me as members of the independent advisory board for nominations to the Supreme Court of Canada.

The other seven members of the advisory board are the following:

[Translation]

The Honourable Richard Chartier, former Chief Justice of Manitoba, who was designated by the Canadian Judicial Council; Bianca Kratt, from Calgary, who was designated by the Canadian Bar Association;

[English]

Erin Kleisinger of Regina, nominated by the Federation of Law Societies of Canada; Georgina Gina Nagano of Dawson City, nominated by the Minister of Justice; Carol Anne Lee of Vancouver, nominated by the Minister of Justice; Reem Bahdi, University of Windsor, nominated by the Council of Canadian Law Deans; and Jean Teillet of Vancouver, nominated by the Indigenous Bar Association.

The members of the independent advisory board all brought to our work a background of professional accomplishment and a vast array of experience, as well as regional and community and national perspectives. What's more, they brought a profound commitment to the rule of law, the institutional significance of the Supreme Court of Canada and the best interests of our country.

We worked diligently with considerable commitment of time and priority, and we enjoyed working together.

[*Translation*]

The Advisory Board's mandate is to find qualified candidates for an appointment to the Supreme Court of Canada. Candidates must be high-caliber jurists, functionally bilingual and must also represent Canada's diversity. For this appointment, the process was open to candidates from Western Canada and Northern Canada. The ultimate task of the Advisory Board was to present a report including a limited list of highly qualified people to the attention of the Prime Minister.

• (1115)

[*English*]

The advisory board benefited from very helpful insight and wisdom of the Right Honourable Richard Wagner, Chief Justice of Canada, who was host to our advisory board on a visit to the court early in our process.

As called for by paragraph 8(e) of the advisory board's terms of reference, Chief Justice Wagner spoke to us about the institutional needs of the court and the role and demands of a Supreme Court Justice. He also led us on a tour of the court's conference and hearing rooms.

Throughout our work, the advisory board was exceptionally well supported by the Commissioner of Federal Judicial Affairs and his accomplished and dedicated staff.

When it comes to filling a position on the Supreme Court of Canada, the first task is to get the word out. Normally, there will be ample notice of a pending opening in situations where a member of the court is approaching the retirement age of 75, as has been the case for three of the four most recent Supreme Court appointments. The vacancy to be filled by this nomination was created by the resignation of former Justice Russell Brown on June 12, 2023.

The process to nominate a new Supreme Court justice was set in motion on June 20, 2023, with a call for candidates from western or northern Canada to submit a completed application no later than July 21.

The membership of the independent advisory board was announced on August 11. The advisory board had its first meetings in Ottawa on August 15 and 16, and we submitted our report to the Prime Minister on September 8.

This was an intensive process that called for much discernment and humanity in addition to dedicated preparation and time commitment. This is the case for the candidates, of course, as well as for members of the advisory board.

The application submission deadline was July 21. We were impressed that there were 13 applications. Bear in mind that this was

in the fullness of summer. This compares with 12 applications leading to the most recent Supreme Court nomination in 2022 and 14 applications for the opening that led to the nomination of Justice Sheilah Martin in 2017.

[*Translation*]

The Advisory Board chose to invite four people to an extensive interview. The candidates could take up to an hour to answer questions about their experience, their points of view and their commitment to sit on the Supreme Court of Canada. The Advisory Board was particularly interested in the candidate's approach to collegiality, workload at the court and matters of integrity, diversity and judgment.

Our list of assessment criteria included superior knowledge of the law, superior analytical skills, ability to resolve complex legal problems, ability to work under significant time pressures requiring diligent review of voluminous materials in any area of law, and commitment to public service.

[*English*]

The personal qualities assessed include irreproachable personal and professional integrity; respect and consideration for others; the ability to appreciate a diversity of views, perspectives and life experiences, including those of groups historically disadvantaged in Canadian society; moral courage; discretion; and open-mindedness.

All candidates interviewed were functionally bilingual. The interviews were conducted in both languages. Immediately following the interview, each candidate participated in an assessment conducted by the Office of the Commissioner for Federal Judicial Affairs to ascertain their understanding of written and oral arguments, as well as to determine the candidate's ability to speak in both official languages.

A report including candidates' assessment scores was provided to the independent advisory board. The independent advisory board pursued up to seven references for each candidate interviewed. In addition to the names provided by the applicant, the IAB approached other highly qualified individuals. All interviews were on a strictly confidential basis. The interviews were conducted by advisory board members, who spoke directly to the referees and followed a consistent format. From the beginning of this process to the end, there has been total respect for the need for confidentiality.

The process entails considerable study, discernment and detailed consideration over the space of less than five weeks. Without the total dedication of IAB members, including flexibility in scheduling, and the expert support of the Office of the Commissioner for Federal Judicial Affairs, this would be exceptionally challenging. Notwithstanding the compressed time frame, the advisory board carried out its mandate with the diligence, collaboration, and settled judgment that this important process requires.

In the end, following much deliberation and discernment, the settled and unanimous judgment of the Independent Advisory Board was that we should provide the Prime Minister with a short list of two candidates of exceptional qualifications and experience. I am pleased to confirm that Justice Mary Moreau has been selected from that short list.

I will conclude with two remarks.

First, this process has resulted in the nomination of Justice Mary Moreau, a highly qualified jurist who brings many gifts and talents and decades of experience to the Supreme Court of Canada.

Our advisory board was told that it would be an advantage to have a justice with extensive trial court experience and expertise in criminal and constitutional law. I note that Justice Moreau brings both, with almost 30 years of judicial service, including as chief justice. Prior to her appointment to the bench, most of Justice Moreau's experience as a practising lawyer comprised criminal defence work, including legal aid, and constitutional and language rights litigation.

• (1120)

[*Translation*]

I also note that following the appointment of Justice Moreau, the Supreme Court of Canada will have a majority of female justices for the first time. That is a strong indication that we are making progress in creating an environment of encouragement and inclusion whose effects extend beyond the Supreme Court and even the country.

Among Justice Moreau's numerous contributions, note that she played a key role in international judicial education and strengthening institutions.

[*English*]

My final remark is to say that it has been a truly uplifting experience to serve as chair of the independent advisory board. It has been the opportunity of a lifetime to work with seven other members of the IAB and our supporting team. We would all say that we treasure the collaboration, the diligence and the humanity that we have shared. It has been uplifting to get to know all of the candidates who have come forward for this position.

We're extremely fortunate in this country to have a widely shared respect for the rule of law and for the Supreme Court of Canada as an institution. We are fortunate to have people of exceptional calibre who contribute in so many ways and in so many capacities to ensuring that this is the case and ultimately to serving Canadians. The opportunity to appear before this committee today reinforces those values.

I look forward to your questions. Thank you.

[*Translation*]

Hon. Arif Virani: Mr. MacLauchlan, thank you for your thoughtful and honest comments.

I now have the immense honour of talking to you about Chief Justice Moreau and her candidacy for the Supreme Court of Canada, which I support. I feel sincerely privileged to appear before you to talk about her many achievements and the exceptional

journey that has led to this moment today. This is just one part of her most brilliant moments to date, a foundation of excellence that Chief Justice Moreau will undoubtedly build on during her entire time at the Supreme Court.

[*English*]

Born in Edmonton, Alberta, Chief Justice Moreau's illustrious career was nurtured in that province. She studied at the Faculté Saint-Jean at the University of Alberta prior to completing her Bachelor of Laws in 1979 at the same university. Her legal studies included participation in the common law/civil law exchange program at the Université de Sherbrooke in 1977. More recently, in 2019, she was granted an honorary doctorate from the University of Alberta.

[*Translation*]

After being called to the Alberta Bar in 1980, Chief Justice Moreau acquired expertise in criminal law, as Mr. MacLauchlan mentioned, as well as in areas of constitutional law and civil litigation. Before her judicial appointment, she litigated numerous landmark cases involving minority language rights and the Canadian Charter of Rights and Freedoms.

• (1125)

[*English*]

Chief Justice Moreau is an esteemed jurist by any analysis, having honed her skills for 29 years on the Court of King's Bench of Alberta and having been appointed as its chief justice in 2017. During her tenure on that bench, she was also appointed as a deputy judge of the Supreme Court of Yukon in 1996 and of the Supreme Court of the Northwest Territories in 2005, so as to extend her judicial horizons.

[*Translation*]

Reflecting on the long career of Chief Justice Moreau, who is recognized for her exceptional work ethic and her considerable humility, I am struck by her many accomplishments, but also by her strong commitment to her legal and judicial communities. Beyond the leadership she has shown as a Chief Justice, she has demonstrated a deep and sustained devotion to judicial education, administration and conduct.

[*English*]

She was, among other things, a co-founder of the Association des juristes d'expression française de l'Alberta, served as a member of the national advisory committee on judicial ethics from 2014 to 2017 and was president of the Canadian Superior Courts Judges Association from 2011 to 2012.

Since her 2017 appointment as chief justice, she's been a member of the Canadian Judicial Council, joining its executive committee in 2021 and its judicial conduct committee in 2020, and chairing its technology subcommittee since 2022. She was also a member of the action committee on modernizing court operations and chair of the judicial advisory committee for military judge appointments.

Her accomplishments reveal a drive to impart knowledge and a commitment to giving back to other jurists so that the profession as a whole may flourish. She has been a regular lecturer at judicial education conferences and programs, having co-chaired the National Judicial Institute's annual spring national criminal law conference for six years.

In a reflection of the breadth of her interests, she also participated in international judicial education and support projects and chaired the Commission for Federal Judicial Affairs' judicial advisory committee on international engagement.

[*Translation*]

The fact that Chief Justice Moreau stood out so much among the other candidates speaks to her skills, integrity and exceptional dedication to the fair administration of justice for all Canadians. I am pleased that her appointment marks the first time that women will hold the majority at the highest court of the land, as Mr. MacLauchlan mentioned.

[*English*]

I'm going to conclude by just reiterating my thanks to Mr. MacLauchlan and all of his fellow IAB members, all the individuals consulted and every candidate who took the time to apply and participate in this very rigorous and thorough process.

[*Translation*]

I am honoured to have been able to support the appointment of Chief Justice Moreau, a truly exemplary person and jurist. There is no doubt that her exceptional services and professional excellence will benefit all Canadians, just like all her colleagues at the Supreme Court.

I will be pleased to answer your questions.

The Chair: Thank you, Minister and Hon. Wade MacLauchlan.

We have roughly an hour left this morning.

To begin I will give the floor to Mr. Moore for six minutes.

[*English*]

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Madam Chair.

Thank you, Minister, for appearing here today. I appreciate seeing Mr. MacLauchlan here again as well.

Minister, there's something that came up in last year's appointment. It was the first time, in 2006, with the appointment of Justice Rothstein, that a parliamentary committee—and all of us around this table are members of Parliament—was involved the process of the appointment. Under our Constitution, the parliamentary committee has no right to veto an appointment; that prerogative rests with the Prime Minister and with you.

Later this afternoon, we are going to have an ad hoc committee meeting, to which these members are invited. It's going to be in the parliamentary precinct in the West Block. It's going to be chaired by a professor and not by a duly elected member of Parliament.

Our committee role is really an interview with the nominee. We do not have a veto. This is the one instance of Parliament's involve-

ment in the process, and I think it's a good involvement. Peter Hogg thinks it's a good process. Also, even though we're not in the same party, I have confidence in our chair's ability to chair that meeting.

I mentioned the process to your predecessor, Minister Lametti. I feel that if there's a meeting of parliamentarians on Parliament Hill as part of an official process, it should be chaired by a member of Parliament. That is to take no umbrage with your choice of the chair this evening; it's just to say that this small piece that we're involved in should be wholly our process.

I'd like to get your thoughts and your response to that, Minister.

● (1130)

Hon. Arif Virani: Thank you very much, Mr. Moore, for the question.

First of all, let me say that I completely agree with you, insofar as Parliament's involvement in this process is part and parcel of ensuring that Canadians understand the importance of the Supreme Court of Canada and the role it plays and of ensuring that Canadians are better acquainted with the judges who are going to be fulfilling those important roles. I think parliamentary consultation and parliamentary involvement are part and parcel of that process. This committee hearing is an important feature. The consultations that were done by me and my office with you and other opposition critics are an important part of that process.

There was input provided by academics around the country during the time we were reflecting on how to construct this process. One concern that was expressed was to ensure that an overly partisan or overly political hearing did not occur in the context of getting better acquainted with Supreme Court nominees.

It was felt, in that light, that having an esteemed professor, a member of the legal establishment in the country, preside over the joint committee hearing would ensure that the tone was measured and appropriate for the circumstances. That is the basis upon which the legal professor has been named. It's going to be Érik Labelle Eastaugh presiding over the hearing this afternoon.

I think that's an important step. It also demonstrates that all of us in the legal profession have a vested interest, as indeed do all Canadians, in the importance of a rigorous process to seek out a nominee to the Supreme Court of Canada and ensuring that the process yields exceptional results, which I believe it has.

Hon. Rob Moore: Thank you, Minister.

I agree with much of what you just said, except for the part about having the meeting chaired by a professor rather than our chair. I have every confidence that the people around this table and our Senate colleagues who serve on the Senate legal and constitutional committee would be able to have a meeting—as we do regularly—where we would have an interview. We do not have a veto. We don't choose who the Supreme Court appointment is; that's your role. You make that choice. Our role is to ask that individual questions and receive responses. I have confidence that our chair would be able to do that.

Minister, I want to ask you now about the dialogue between the Supreme Court—and this has been at the forefront in recent years—and the legislature. In our case, that is the Parliament of Canada.

There have been two recent cases. The Ndhlovu case dealing with the mandatory listing on the sex offender registry of those convicted of sex offenses was narrowly struck down by the Supreme Court in a 5-4 decision. The government responded, and this committee considered Bill S-12.

I'm on record to say that I think it was a tepid response. I think we could have gone further. We had moved an amendment that would have made it mandatory for all child sex offenders, all offenses against children, to be listed. However, that doesn't go to the point of my question. There was a government response.

Similarly, a year and a half ago, the Bissonnette case, which dealt with an individual who went into a mosque and murdered six people, struck down the provision in Canada that if you take multiple lives, you would have consecutive life sentences.

I know as a New Brunswicker that this hits home because of the experience in Moncton, where an individual killed three Mounties. Rather than being given a sentence discount for multiple murders, as was the case before, this individual got a 75-year parole ineligibility.

At our justice committee, the widow of one of the victims said that she took some comfort—

The Chair: Mr. Moore, I apologize. I didn't put up the 30-second notice, but the time is up.

Hon. Rob Moore: Okay. Maybe give a quick response, Minister, on when you are going to engage in that charter dialogue and respond to this outrageous situation that right now provides a discount for multiple murders and they're not receiving consecutive life sentences.

• (1135)

The Chair: That was six and a half minutes.

Hon. Arif Virani: Very briefly, Madam Chair, I'd say that I believe firmly in the dialogue between Parliament and the court. I think it's fundamental to a constitutional democracy. I appreciate the work of this committee in ensuring that we met the deadline on Bill S-12.

With respect to the characterization of the decision by the court in Bissonnette, I don't share that characterization. I think the constitutional principles that the court stood by in that case are important. They're important for us to reflect on as parliamentarians.

Thank you.

[Translation]

The Chair: Thank you very much, Minister.

Mrs. Brière, you have six minutes.

[English]

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Madam Chair.

[Translation]

Hello to you both. Thank you for being here with us this morning.

This is the sixth judicial appointment since the implementation of this new process. I would like you to explain to us what improvements have been observed with this process. Do you still think that the process is adequate and that it helps select the best candidate among everyone who expresses their desire to fill the next vacancy at the Supreme Court?

Hon. Arif Virani: The new process is truly an improvement over the one we had before in many ways.

First, the process is run by the Advisory Board, which is independent from the government. What is more, the Advisory Board's work is transparent with respect to eligibility criteria for the position of justice of the Supreme Court of Canada. The criteria to be satisfied are very clear for Canadians, and especially for potential candidates.

I believe that the appointment of Mrs. Moreau shows that the new process produces exceptional results. As Mr. MacLauchlan said, it was made clear that we needed someone with expertise in criminal law and constitutional law. The process resulted in the appointment of a person who has at least 30 years of experience presiding over criminal jury trials. Chief Justice Moreau will have the opportunity to put her expertise to use in her new role as justice of the Supreme Court of Canada.

Hon. H. Wade MacLauchlan: As the minister mentioned, the key asset of the Advisory Board is its independence. This aspect contributes to changing the perception of the Canadian public and of the candidates with respect to the process and, at the end of the day, improving the reputation of the Supreme Court of Canada because people see that the justices are appointed through an entirely independent selection process. In that sense, it is an improvement over the previous approach.

Mrs. Élisabeth Brière: What impact has the profile of justices already appointed and currently sitting on the Supreme Court had on the choice of the next appointment? To what extent do you take that into consideration for selecting the next candidate?

Hon. H. Wade MacLauchlan: As I mentioned in my remarks, one of the first things our board did was to meet with the Chief Justice of the Supreme Court, Richard Wagner. We spent more than an hour with him openly discussing the current requirements and needs of the Supreme Court. It is in the context of that exchange and other discussions held by our board that we identified the need to have one justice with expertise in criminal law and constitutional law, as I was saying this morning. That is one of the first things our board had to recognize.

• (1140)

Hon. Arif Virani: Mrs. Brière, I would just like to add that in appointing a justice of the Supreme Court, we always have to take into consideration the geographic aspect and regional representation. When we lost Justice Brown, it was clear that we needed to choose another justice from Western Canada or Northern Canada to respect the constitutional convention of representing each region, for instance. That is another aspect that is part of our analysis and our process.

The Chair: You have 10 seconds left, Mrs. Brière.

Mrs. Élisabeth Brière: In that case, I will simply close by saying that, as a lawyer, I am very proud to know that the majority of Supreme Court judges will be women.

The Chair: Thank you very much, Mrs. Brière.

Mr. Fortin, you have six minutes.

Mr. Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Thank you, Madam Chair.

Minister and Mr. MacLauchlan, thank you for being here today.

I am excited about what I have read about Justice Moreau so far. I think that this is an excellent appointment, and I look forward to meeting her later today. I will be surprised if I change my mind following that meeting. I think that we all agree that this is an excellent appointment, so we can start by congratulating ourselves.

That being said, with all due respect, I have a few questions about the advisory board. I think that we can all agree that this independent board does an excellent job. The appointment or recommendation of Justice Moreau speaks for itself. However, I can't help noticing that the advisory board does not include any members from Quebec, aside from Ms. Kratt, who was born in Quebec but practises law in Alberta.

Minister or Mr. MacLauchlan, could one of you explain to me if there is a hidden agenda there or if this is just a matter of chance?

Hon. Arif Virani: I can promise you that there is no hidden agenda.

I want to once again point out that three members of the advisory board are appointed by the Government of Canada and the other five are appointed by the other groups that I mentioned, including the Canadian Judicial Council and the Federation of Law Societies of Canada. Strictly speaking, that is not something that we focused on, so there is no hidden agenda.

This board is made up of people with a good knowledge of all fields of law, particularly civil law. The fact that the board was able to find someone who is perfectly bilingual, and who I believe is also the first Franco-Albertan to sit on the Supreme Court of Canada, shows that the process works because the board did a great job in finding such an exceptional candidate.

Did you have anything to add, Mr. MacLauchlan?

Hon. H. Wade MacLauchlan: I would add that the advisory board was looking at the overall needs of the Supreme Court and Canada. During our interviews, we asked each candidate a specific question regarding their knowledge of civil law and their approach

to bilingualism, which is an important aspect of the Supreme Court's work.

Mr. Rhéal Éloi Fortin: Thank you both for your answers.

Minister, from what I understand, the federal government appoints a certain number of members of the advisory board, and yet it did not think it would be useful to appoint someone from Quebec. I am saying that with all due respect. I am not here to start a debate. On the contrary, I am here to pay tribute to the work that was done by the members of the advisory board. However, I am sure you can understand that this is still a concern for me.

From what I see, there are people from various indigenous groups, people from western Canada and people from the Maritimes on the advisory board. Quebec represents about 20% of Canada's population, not to mention the fact that, as Mr. MacLauchlan so aptly pointed out, Quebec has a unique legal reality, since it uses the civil law system, and it is also concerned about protecting French. I want to reiterate that I am not here to criticize what was done. On the contrary, I think that the work was well done. However, I just want to say that I am surprised that there are no Quebecers on the advisory board.

Would it be reasonable to assume that your department might make this a criteria or concern the next time appointments are made?

• (1145)

Hon. Arif Virani: First, we will, of course, think about the membership of the board and take into consideration the fact that there is no representative from Quebec, as you mentioned.

Second, I would say that this would be a problem if we were not getting good results. However, as a result of this process, we found an exceptional candidate who express herself easily in French, which qualifies her to serve as a judge on the Supreme Court. She also has the necessary experience with civil law, as I mentioned in my remarks.

Mr. Rhéal Éloi Fortin: I recognize that and I thank you.

Mr. MacLauchlan, could you tell me how many names were submitted to the minister to fill this vacancy? I am not asking you to give me the actual names, because I know that is confidential.

Hon. H. Wade MacLauchlan: If I understand correctly, you are asking me how many names were on the short list that was submitted to the Prime Minister. As I mentioned in my speech, there were two exceptional candidates on the list, one of whom was Madam Moreau.

Mr. Rhéal Éloi Fortin: Thank you, Mr. MacLauchlan.

In passing, I want to congratulate both of you on your impeccable French.

The Chair: Thank you very much.

I will now turn the floor over to Ms. Barron.

[English]

Ms. Lisa Marie Barron (Nanaimo—Ladysmith, NDP): Thank you, Chair.

I'm happy to be here today and covering for my colleague, MP Randall Garrison.

Welcome, of course, Minister and Honourable Mr. MacLauchlan.

My question as it relates to the question here that's front of mind for me is that we're seeing a reduction in access to legal aid. We're seeing applications being refused. The result is an increased number of unrepresented accused and litigants before the courts.

Just as an example, we know that women are the majority of family and legal aid recipients. We know that there's a disproportionate impact on those who are already marginalized within our communities, such as racialized people, indigenous people and people living with disabilities, to name just a few. Finally, one other example is from the National Inquiry into Missing and Murdered Indigenous Women and Girls and two-spirited people, and I quote: The "distinct disadvantage in their access to justice and justice-related resources necessary to respond to violence" is a barrier for individuals to access the support they need. We know this is a direct result of the ongoing impacts of colonization.

With these examples in mind, my question is, what are the ramifications for the legal system as a whole and what action is the federal government taking to ensure equitable access to legal aid for all Canadians?

Hon. Arif Virani: Ms. Barron, what I would say to you—first of all, welcome to the committee—is that this is a distinct priority of mine in particular.

I am a product of the legal aid system insofar as I have worked at three legal aid clinics in my career and founded another in Toronto. You will not find a more fervent or ardent advocate for the legal aid system in this country, and I'm very happy to assume the role that I have had since July 26. That's the first point.

The second point is that access to justice requires a very discerning approach. We must take it seriously, both in terms of prioritization as a concept and also as prioritization for federal dollars. That is what we have been doing with criminal legal aid for many years, and that is what we have been doing with immigration and refugee legal aid since 2019, when the provinces around the country resiled from that commitment.

Third, what I would say to you is that access to justice, particularly vis-à-vis the indigenous communities and the Black community, dovetails with what we are doing in launching an indigenous justice strategy and a Black justice strategy, both of which are under way. The latter will be rolled out in 2024 and the former a bit later than early next year.

Fourth, what I would say to you is that I think there's also an important access-to-justice component that's even woven in with this nomination. What I mean is that some have taken issue with the requirement for functional bilingualism. Where access to justice plays a role is that if you are a litigant whose mother tongue is French, and both you and your counsel want to make the written and oral arguments in French, there's an access-to-justice compo-

nent to ensuring that those arguments are read, heard and understood in that same language without the usage of an interpreter, because language means a lot, particularly in legal pleadings. Even by virtue of a nomination as exceptional as Madame Moreau's, what we have is an improvement on access to justice on that front as well.

• (1150)

Hon. H. Wade MacLauchlan: If I may link the question, then, to the nomination and the background and expertise of Madam Justice Moreau, in her practice, as I mentioned, before being named to the bench in 1994, a very significant component of her work was in criminal defence work, and within that, a significant part of that work was with legal aid clients.

Then, with 29 years on the trial courts dealing with all of the matters that come before the Court of Queen's Bench, now the Court of King's Bench, including appeals from provincial courts, Justice Moreau in addition sat as a deputy judge on the Yukon court for 25 years and on the Northwest Territories court for 15 years, so she brings a lot of the experience that you're speaking to in your question.

Ms. Lisa Marie Barron: Thank you very much.

My next question is around how we were talking about the applicants and the application process that has been undertaken. Since applicants have to have been members of a relevant provincial bar for 10 years, as discussed, what actions are being taken to ensure the future pool of qualified candidates is more diverse?

In particular, are measures being put in place to ensure the law school admissions are better at reflecting the diversity of Canada? We know, of course, that if you need to have 10 years, the law school admission process is going to play a big part in our capacity to see diversity.

This question is for the minister, please.

Hon. Arif Virani: Thank you very much, Ms. Barron.

It's a really critical question. What I'd say to you is that we're taking every action we can that's under our control. I don't have direct levers with respect to the faculties of law around the country, but I know anecdotally that in many of the law schools around the country, if not all, more than 50% of the classes are made up of women. That's a step in the right direction.

I can also tell you that substantively what we've done as a government, since 2015, is that of our 640-plus appointments, 54% have been women, 4% indigenous, 15% racialized and 6% LGBTQ. That's incredible in terms of diversifying that pool of applicants, and that's salient, insofar as many of the judges, such as Madame Moreau herself, have come through the ranks of superior courts or courts of appeal in this country. As we diversify that pool, we're creating the potential for having even greater diversification on the Supreme Court.

I'll also lean into the fact that this is a historic appointment that you're considering, in that for the first time since 1867, we will have a Supreme Court that has a majority of women. That's a great statement. It's just unfortunate that it took until 2023 to get there.

The Chair: Thank you very much.

We will start with our second round.

I will ask Mr. Caputo to start. You have five minutes, please.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair, and thank you to the Minister of Justice and Mr. MacLauchlan for being here.

Minister, I'm going to pick up where my colleague the honourable Mr. Moore left off about the nature of the meeting today.

I took issue with the framing of it when you answered my colleague's question and said we were worried about this descending into a partisan debate and things like that. That's how I took it. In other words, this could become too partisan, and that's why you were bringing in an outside chair.

The chair's job is to be independent. We presume that Ms. Diab is independent. She's not from the same party as I am, but if I ever take the chair, for me, one of my requirements is the requirement of independence. If she's presumed to be independent, why would we be bringing in somebody who is not duly elected, who does not make up part of our parliamentary committee, as opposed to someone who has knowledge of Parliament and has been here?

Is that not essentially saying that our chair here at the committee, as a duly elected parliamentarian, can't handle it? I can't wrap my head around that.

• (1155)

Hon. Arif Virani: I would characterize it much differently, Mr. Caputo. Thank you for the question.

I would say to you that it's not meant to cast aspersions on any member of the Senate or the House of Commons in terms of their ability to chair a committee. When we're considering an appointment as significant as one of the nine members of the Supreme Court of Canada, that is of direct interest to all Canadians, but specifically to members of the legal profession, and having an esteemed member of the legal profession, including a member of legal academia, chair such a meeting is distinctly appropriate, given the tenor and the principal nature of that inquiry.

Mr. Frank Caputo: With all due respect, Minister, there are thousands of practising lawyers, you and I among them, and we're saying that just one person should be chairing it, given the high stakes here.

The reality is that Canadians elect us. They put their trust in us. Very few of us are elected with perhaps 50% plus one, but we are all duly elected. I'm not following the logic in saying that this is such an important process that....

You and I are on the same page there, but if you say that we need an outside chair, one person who will be representing academics across the country, then you don't have them as a chair. You have them as a witness, because then they give evidence. The chair's job is to be independent and to have this committee function. If the whole point of this is to have an academic voice, then they shouldn't be in that seat; they should be in the other seat over there.

Hon. Arif Virani: Well, Mr. Caputo, I think that sort of betrays the principle of what we're trying to do here, which is to not have a sort of expansive investigative committee hearing. You're here to

hear from me and from Mr. MacLauchlan about the process of the selection. You're here to hear from the candidate with respect to the nature of her candidacy and her own personal and professional lived experiences. Expanding it beyond that, I think, should be put to the side.

What I'd say is that the process, even as it's structured with respect to the independent advisory board, also contemplates a specific role for legal academics. You heard me mention, and Mr. MacLauchlan mentioned it, that Dr. Reem Bahdi is the dean at the University of Windsor, as nominated by the federation of Canadian law deans. We're already involving legal academics in different parts of this process.

I think the fact that a legal academic will be chairing the committee hearing that you will take part in this afternoon is part and parcel of that same phenomenon that we are doing, so it's entirely appropriate and consistent.

Mr. Frank Caputo: Minister, I don't want to spend all of my time on this, but my point is that if you want to hear from somebody, they're supposed to be a witness.

You're right. We shouldn't be hearing from a witness and we should be hearing from the candidates themselves, but to say that we're supposed to be hearing from a witness and we're going to be hearing from an academic and we're going to put them in a chair, in my view, is inconsistent with the principles of our parliamentary democracy.

Can I ask which jurisdiction that other candidate was from who was deemed exceptional?

Hon. H. Wade MacLauchlan: I appreciate the question. Thank you.

Our report and deliberations are, of course, conducted under commitments to confidentiality. For me to make any comment about who else applied or didn't apply, or who was or was not on the list, would not be appropriate.

Mr. Frank Caputo: Minister, I only have a few seconds left.

We have 82 judicial vacancies, this being one of them. There are people not getting bail hearings. There are people not going to trial. I just had a victim's family call me. They have been waiting for five years, yet we have 82 vacancies. There are probably about 15 for superior courts in my province.

What do you say to victims, in that case, when the government is dragging its feet on judicial appointments?

Hon. Arif Virani: I'd say to them that I understand their concerns about the criminal justice system, but categorizing us as "dragging our feet" is completely inaccurate. I've appointed 37 individuals personally in three months. That's a pretty torrid pace for the start of my ministerial career. I will continue to proceed with that pace.

I would also say to them that we had 89 vacancies on January 1. I and David Lametti have appointed 83 people this year. The reason that number is not six but is in the 80s is that there has been a combination of retirements and elevations and judges electing to go supernumerary.

Does that make my task harder? Yes, it does. Am I ready for the task? Absolutely, in terms of speeding up processes in my office and with PCO security clearances, working with the JACs diligently to ensure they are constituted and producing recommendations, and, finally, encouraging applications from around the country from excellent lawyers with terrific legal intellect to represent the diversity of the country.

• (1200)

The Chair: Thanks very much, both of you.

Mr. Housefather, go ahead for five minutes.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you very much, Premier and Minister, for coming here today. I very much appreciate it.

It is striking how different this is from the U.S. format. I think there are pros and cons in both formats. For example, in the United States, the people who make the selection would not be here before the judiciary committee defending their selection. It's an interesting part of the process. Also, we would have all read every judgment in every document this judge had ever written and would be ready to essentially cross-examine her. I don't think any of us have had the research to do every one of those, but gentlemen, have you read all the judgments and papers cited in her application? Are you familiar with everything she's written, and have you ever seen any red flags?

Hon. H. Wade MacLauchlan: I haven't read everything Justice Moreau has written.

Our committee had an application from Justice Moreau that included five of her judgments, covering a range of her work. This allowed us to assess her approach and her ability to write, think and contribute at the level a Supreme Court of Canada justice does.

There's a further—

Mr. Anthony Housefather: I appreciate that very much. I also read her application and the judgments she cited.

I was asking whether you had read all the other judgments she's put in that you hadn't studied in her application, or whether somebody on your team had.

Hon. H. Wade MacLauchlan: No, we didn't read all of her judgments. However, what we also did was speak with seven people as references.

To come to the core of your question, we are satisfied there are no red flags.

Mr. Anthony Housefather: Is part of the process an interview that the committee and the minister do with the candidate? Was there any direct interview? I'm sure the committee, at that point, did an interview.

Hon. H. Wade MacLauchlan: Yes, the committee had an interview with the candidate. It would have lasted in the order of an hour.

Those interviews have two qualities: One, they have a consistent set of questions, because you have to do that out of fairness to everyone. However, it is a dialogue and conversation in which our committee and the candidate have an opportunity to go very deep in both values and expertise.

Hon. Arif Virani: I will add this, Mr. Housefather: The committee members doing the interview included the eight individuals. This is in response to something that was previously raised.

[*Translation*]

I just want to point out that Ms. Kratt was born in Quebec. She is a member of the Huron-Wendat Nation. She studied at Laval University and is a member of the Quebec bar.

Mr. Anthony Housefather: I understand, but that was not my question.

[*English*]

Mr. Minister, did you interview the two finalists?

Hon. Arif Virani: I reviewed the dossiers of the two finalists. I did not conduct a physical interview.

Mr. Anthony Housefather: In the past, when the process began with Minister Wilson-Raybould, she gave access to the chair of the committee, the Conservative critic, the NDP critic and the Bloc critic to see the final applications. She gave them access to see the final applications and have them each give her advice as to who they thought should be appointed.

Was that part of this process?

Hon. Arif Virani: The consultation process was done by both me and my staff. They consulted on the names on the short list with opposition critics, with the chair of the Senate committee, with senior members of the bar and with chief justices around the country.

Mr. Anthony Housefather: What about the chair of this committee?

Hon. Arif Virani: As I mentioned, it was with the opposition critics and with the chair of the Senate committee.

Mr. Anthony Housefather: What about our Liberal chair of the committee? Was she included?

Hon. Arif Virani: The people on this committee who were consulted include the three opposition critics.

Mr. Anthony Housefather: I would say that in the past, the chair of the committee was also consulted. I would consider that to be a suggestion for the future as well, given that this was the process before.

I'd like to ask another question. Was one of the things that caused you—which I think is a good thing—to appoint Justice Moreau the fact that she was a francophone from outside of Quebec and would bring a new dimension to the court as a person who experienced being a francophone from outside of Quebec?

• (1205)

Hon. H. Wade MacLauchlan: Justice Moreau brings many advantages and a lot of experience. At the heart of her work, including before going to the bench, has been her active participation and organization around minority language and then in litigation, and some path-breaking work in that area.

The Chair: Thank you.

Hon. Arif Virani: Mr. Housefather, I want to clarify for the record that when the consultations were happening, Madame Diab was not constituted as chair. Mr. Sarai, the previous chair, was consulted on the nomination.

Thank you.

Mr. Anthony Housefather: That's perfect. Thank you very much.

The Chair: Thank you, Mr. Housefather.

[*Translation*]

Mr. Fortin, you have two and a half minutes.

Mr. Rhéal Éloi Fortin: Okay. There is discrimination even here.

Since I only have two and a half minutes, I will keep my question brief.

Obviously, we agree that Justice Moreau has many qualifications. I won't list them all because I only have two minutes.

Mr. MacLauchlan, we know how qualified Justice Moreau is, but what was the main reason why she was the ideal candidate.

Hon. H. Wade MacLauchlan: I would first say that it was her years of experience and the abilities that she has demonstrated in her legal work. As a chief justice, she also showed leadership in legal areas both nationally and internationally.

Mr. Rhéal Éloi Fortin: She is a woman and I know that there is some concern about ensuring gender balance on the Supreme Court. The minister can correct me if I am wrong.

Did that influence your decision in any way? If so, how much weight was given to that?

Hon. H. Wade MacLauchlan: I believe we discussed this same issue last year, and I said that an appointment is based on a whole set of criteria. The fact that Madame Moreau is a woman was not something that weighed in the balance one way or the other. However, that being said, that is no doubt part of what makes her who she is and it has likely shaped her experience and her life, as you will no doubt see this afternoon.

As for the board, our job is to come up with a list that reflects Canada's diversity.

Mr. Rhéal Éloi Fortin: With regard to language, in her career as a lawyer and a judge, Justice Moreau had to deal with cases involving Canada's linguistic minorities. She clearly has a lot of expertise in that area.

Did that play an important role? If so, can you tell us how significant of a role that played when you were reviewing her application?

The Chair: Please keep your answer brief.

Hon. H. Wade MacLauchlan: First of all, our job was to identify candidates who are functionally bilingual. That played a role.

The determining factor was not just her expertise in several fields, including the one you mentioned, but also the considerable leadership that she has demonstrated. These qualities will help the Supreme Court in all areas.

Hon. Arif Virani: Madam Chair, I would like to briefly respond to Mr. Fortin's previous question.

Our objective is always to ensure Canadians' confidence in our justice system. When Canadians see a Supreme Court that is more representative of diversity, it enhances their confidence in the system. We could say the same thing about the appointment of Mr. Jamal, a racialized person, or the appointment of Madam O'Bonsawin, who is indigenous.

The fact that Madame Moreau is a woman is an asset, but it is her intellectual abilities and her rigour in the legal field that make her an exceptional candidate.

• (1210)

The Chair: Thank you very much.

We are still on the second round of questions.

[*English*]

I now have two members for five minutes. We'll hear Mr. Van Popta and then Mr. Mendicino.

[*Translation*]

Mr. Rhéal Éloi Fortin: Madam Chair—

The Chair: Oh yes. I'm sorry.

[*English*]

That's right.

Madame Barron, you have two and a half minutes.

Ms. Lisa Marie Barron: Thank you, Madam Chair.

My question builds off my colleague's, but with a slightly different lens, perhaps.

You mentioned, given the nomination of Justice Moreau, that the Supreme Court will have for the first time in its 148-year history a majority of women on the bench. Can the minister please comment on the significance of this historic milestone? Can you expand on why it is important that we have this representation?

Hon. Arif Virani: Ms. Barron, you commented earlier about diversity in our law faculties. It's important for people to see themselves in our institutions and in our professions at our highest levels. I think that's critically important. It's important for young women who are studying around the country and thinking about careers in law. It's important for people who are coming before our courts at every level to understand that when they are in front of an adjudicator in this country, that adjudicator brings legal rigour and their own lived experiences to their judicial decision-making function.

Given the situation of women and the intolerance and unfortunate issues of equity that continue to plague women in this country, I think it's quite critical that at our apex court, we finally have a majority of women who can bring that lens in, instead of parking their gender and other lived experiences at the door. They can now bring those into their judicial decision-making, and it helps inform that judicial decision-making.

That's what I see in the candidacy of a person like Mary Moreau. I think that's a positive step forward for gender equality in Canada.

Hon. H. Wade MacLauchlan: I might add that since the nomination was made public, *The Guardian* in the U.K. has had a report on this and noted that this was a first internationally. I'm not sure how many countries it compared this to, but Canada has a majority of women when compared with other courts internationally.

Ms. Lisa Marie Barron: Thank you.

I have another big question, but I'm not going to get into it because I won't have time.

I want to emphasize this milestone to make sure that we're talking through why this is important. We're setting a precedent for how we do things moving forward to make sure that this work continues, regardless of which government is in power, and ensuring that we have that representation.

Do you have any final thoughts on that? I just wanted to highlight the significance and the importance of what's happening today.

Hon. Arif Virani: As a final thought, the great results on the back end are a product of the terrific process on the front end. Safeguarding that process, of which Mr. MacLauchlan is a fundamental part, and the independence of the advisory body and its diversity—geographically and otherwise, in terms of who is on that body—help to produce such excellent results. I think safeguarding the process is also quite critical.

The Chair: Thank you very much.

I will go to the final round. There will be two five-minute segments each, and I will start with Mr. Van Popta.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you, Madam Chair.

Thank you, witnesses, for being here.

Mr. MacLauchlan, my first question will be for you.

Following up on the questions of my colleague Mr. Housefather about how much work your committee has done on due diligence in determining whether Chief Justice Moreau is the right candidate, we've been given very little notice at this committee. We heard about her appointment late last week. I would have liked to read more of her decisions and more of what she has published. I feel that we have not been given a lot of opportunity to do that.

I wonder if the process is being rushed through for some reason, in a manner that would make it more difficult for us, as parliamentarians, to do our work.

Can you comment on this, please?

Hon. H. Wade MacLauchlan: I wouldn't use the word "rushed", but I recognize that a limited amount of time comes with

the territory in filling a vacancy on the Supreme Court of Canada. The six nominations under the process that brings us together today were all done in a matter of five or six weeks, roughly, in terms of the work of the advisory board, and roughly another month for candidates to make their applications.

There's a very simple reason for that, which is that there's a vacancy on the Supreme Court of Canada. The court has been operating with effectively eight members since February. That's what really constrains, let me say, the approach or the time that's available.

The other side of that—and I think it's remarkable and to be celebrated—is that people do apply. These applications are a serious piece of work, in this case completed between the 20th of June and the 21st of July. For the interviews, the people on our committee were travelling from remarkable distances all over the country, and it's a great recognition that in our country, Canadians can come together and do an important task with time constraints and do a good job.

• (1215)

Mr. Tako Van Popta: I'm not criticizing the committee or saying that they didn't do adequate work, although I do have a question about the interview process. I understand that Madam Justice Moreau was before your committee for a one-hour interview. Is that correct? Do you feel that this was adequate time to assess her abilities?

Hon. H. Wade MacLauchlan: I'll say that it was. There's a lot of prep work prior to being there around the table, in terms of interviews, her application and discussions that we have within our own advisory board, which itself represents a considerable amount of knowledge of the situation.

We were able, in that time, to assess character, expertise and, really, two things: Justice Moreau's ability to, I'll say, hit the ground running—that's another thing about the time frame—as well as her ability to contribute in a collegial environment on a nine-person court, and we were very satisfied with that.

Mr. Tako Van Popta: That's good, then. I'm happy that the committee was given adequate time to do research ahead of time for the one-hour interview. This committee has not had adequate time to do that work. I'm troubled by that.

I'm wondering what the value is of.... Let me put it this way: I think the one-hour interview we're going to have with her this afternoon would have been so much more beneficial and useful had we been given more time to do our preparatory work.

Hon. Arif Virani: Mr. Van Popta, I appreciate the concern.

I would just say to you that when there's an appointment as significant as a vacancy on the Supreme Court of Canada and when there's been an effective vacancy since February, with Mr. Brown stepping down from his judicial duties, it is incumbent upon all of us to work with expedition.

That's what the IAB has done. That's what's being asked of this committee. I think it's important to keep it as a salient aspect in mind that we're trying to fill a vacancy in the top court of the land, which is hearing pressing matters that will have impacts on Canadians' lives.

Thank you.

Mr. Tako Van Popta: Is my time up?

The Chair: Yes. Thank you very much.

Next is Mr. Mendicino, please.

Hon. Marco Mendicino (Eglinton—Lawrence, Lib.): Thank you, Madam Chair.

Thank you, Minister, and thank you, Mr. MacLauchlan.

I want to begin by expressing my gratitude to both of you and to your respective teams for putting forward someone who I believe will make an excellent addition to the court. I think that's borne out by her questionnaire and the additional context you have provided this morning.

I want to pick up on something you mentioned, Mr. MacLauchlan, in describing the process of consultation in the lead-up to the responsibilities that you had in assessing candidates and putting Judge Moreau forward. You said that you spoke with Chief Justice Wagner of the Supreme Court, who informed the advisory board of the institutional needs of the Supreme Court.

The thing that struck me was the desire to see someone with trial court experience. I'm wondering if you could expand on that particular skill set. As someone who spent a considerable amount of time before the courts, specifically in the criminal justice system, Judge Moreau's exposure directly to litigants and the process and to the public is experience that I think strengthens her application. Could you expand on that particular institutional need?

● (1220)

Hon. H. Wade MacLauchlan: Of course, let's start by recalling that everything—except reference cases—that ultimately comes before the Supreme Court of Canada starts out in a trial court. For the group of nine who are there, and others who are currently on the court who have had trial court experience, it's often a matter of seeing through how this all came about or what may have happened to lead to the matter's being in dispute or a concern or, in the case of criminal law, even a charge in the first place. That's where it starts.

In the case of Chief Justice Moreau, she has had, I'll say, dozens of murder trials in her 29 years on the trial court. She's dealt with all of the issues of family law, and so much of that is to know the realities and the burdens that lie behind these matters getting to court. Broadly, it's that exposure to the world that ultimately produces the work of the Supreme Court of Canada, to which Chief Justice Moreau will bring her almost three decades of trial court experience.

Hon. Marco Mendicino: Another theme I want to pick up on is the current public sentiment towards democratic institutions, specifically the judiciary. I think both of you have alluded to that in your initial remarks, as well as in answers to questions put to you by my colleagues. How do you think that this process of the independent advisory board is stacking up against some of the headwinds that democratic institutions, specifically the courts, are confronting when it comes to the independent role of the courts?

This is the crucial part of my question: How, if at all, can we improve this process? There have been some questions put to you, but do you have any specific recommendations on how we can further

strengthen the process of screening and assessing applicants to the Supreme Court to not only maintain but strengthen public confidence in this institution?

Hon. H. Wade MacLauchlan: I'm sure that the minister has comments, but if I may comment first, I believe that the public reputation of the Supreme Court of Canada and public confidence in it today are very high. The court itself has, by having public hearings in Winnipeg and then in Quebec City and by engaging with the public in other ways, made that part of its business, and we can see the results. I won't use up all of the committee's time inviting you to compare that with the situation in the United States, but what I would say about this process is that it is as much about transparency as it is about accountability or finding something that wouldn't otherwise be known. What takes place this afternoon is as much for the Canadian public as it is for the pluses or minuses about Justice Moreau's particular nomination, and I think that's a very good thing for the Supreme Court and for the administration of justice.

Hon. Arif Virani: I would add very quickly that I think the best thing to ensure—

The Chair: Yes, I'm going to allow concluding remarks.

Hon. Arif Virani: —the continued confidence in the administration of justice, Mr. Mendicino, is to continue with a process that keeps producing candidates of such exceptional quality as Madam Moreau. I think that Canadians who watch this afternoon and hear about her expertise and her qualifications can only be reassured. It's incumbent upon all of us to continue that reassurance.

On your first question, what I would also add, Mr. Mendicino, is that with the departure of Michael Moldaver, a criminal expert who was on the court from our jurisdiction of Ontario, we've seen a need to really have a criminal expert of the highest calibre. I think you have that in a person who has conducted over 30-plus jury trials, has dealt with assessments of credibility, has issued jury charges and has a familiarity with how to handle those very sensitive issues. I think that all of the lawyers in this committee room will know that the bulk of the constitutional decisions are not about divisions of powers; they are about sensitive charter rights that apply to sections 7 to 15, and they come out of criminal cases, so that's why that expertise is needed.

● (1225)

The Chair: Thank you very much.

With those wonderful questions that we've had, I note that I have a couple of minutes to speak now because we've concluded the questions and answers. I simply want to say, as the chair of the committee at the moment, that I'm very much privileged and honoured to be here this afternoon and chair the committee.

I'll have you know that in coming here this morning, I got stuck in Montreal. My flight was cancelled. I can tell you that I raced from Montreal to here by taxi, just to get here. It's very exciting to be here today. It's a historic moment for all of us.

I want to thank you, Honourable Wade MacLauchlan, for your leadership on the committee, and you, Minister, for all of the information you're giving us.

I think there's a lot that we are very much looking forward to this afternoon. We look forward to meeting the new Supreme Court of Canada judge. Of course, it's very historic. For the first time ever, we will have more females on the bench. That is something to be celebrated.

I will conclude with my last word, and that is what you said: This is for all Canadians to watch, because it is extremely important.

Thank you very much, everybody. Have a wonderful lunch hour.

As a reminder, we will see everybody at 3:30 this afternoon.

Thank you very much. The meeting is adjourned.

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