

POLITICS

Aboriginals fear they were shut out of Supreme Court, push as selection committee winds up hearings this week

Justice Minister Irwin Cotler has excluded aboriginal candidates from his short list for an upcoming nomination at the Supreme Court of Canada, members of the Indigenous Bar Association alleged last week.

"What it means is a significant loss of opportunity," said IBA president Jeffery Hewitt. "To be clear, we're not seeking a quota, but in terms of the vacancy there are a number of candidates who are qualified to do that."

After Mr. Cotler (Mount Royal, Que.) announced reforms to the nomination process last spring, aboriginal groups had gotten their hopes up.

"We had heard from the minister in the past that the time was good for an aboriginal candidate to be considered," said Mr. Hewitt.

The selection committee has about a week left to review and screen candidates on the short list before they make their recommendations to the government which is expected to announce the new nominee in December.

Canada has never had an aboriginal Canadian on the Supreme Court.

"Such an appointment would lend credence to the recognition of aboriginal law as a source of Canadian law, would acknowledge the importance of including an aboriginal perspective in understanding, interpreting and applying aboriginal and treaty rights, and it would be central to safeguarding the legitimacy of judicial institutions by ensuring aboriginal participation in them," said National Chief of the Assembly of First Nations Phil Fontaine in a letter written before a recent meeting of the Canadian Bar Association.

"Setting aside a seat for an Aboriginal Justice is not a break from tradition. It is consistent with the current practice of the Court."

Since before Confederation, the Canadian legal system has recognized two sources of Canadian law—English common law and French civil law—and the Supreme Court of Canada reflects these two sources of law by guaranteeing that there are three judges from Quebec.

Mr. Cotler's office wouldn't confirm whether there was an aboriginal candidate on the short list, but the minister's judicial affairs adviser, François Giroux, said that he had consulted the IBA about potential candidates, stressing that merit was also an important factor in the selection process.

Mr. Giroux said the minister even recognized the importance of contributions from aboriginals at a federal-provincial meeting in Yukon last week.

"He repeated again that we have to counter the over-representation of aboriginals in the criminal justice system as both victims and defenders, and the under representation of aboriginals in the justice system as court workers, lawyers and judges," Mr. Giroux said.

Mr. Cotler also recently named the first ever aboriginal, Justice Harry I. Perre, to the Ontario Court of Appeal, and Justice Todd Ducharme, the first ever Métis, to Ontario Superior Court, Mr. Giroux added.

—by Mike De Souza

Harper's ethics package

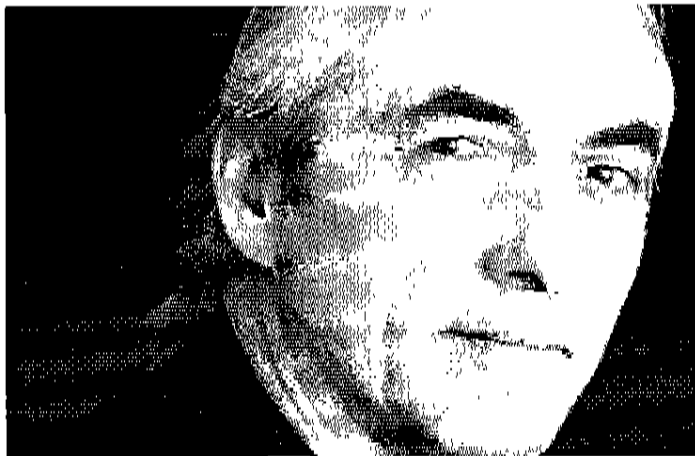
One of the "major flaws" in Conservative Leader Stephen Harper's ethics package is that it targets only former Cabinet ministers and their staffers and not the opposition critics and their staffers from lobbying the government after they leave public office, says a senior Liberal lobbyist, who didn't want to be named.

"These people do get access to some

privileged information at times, why should they be allowed to use that knowledge," said a senior lobbyist who in the past worked as a ministerial staffer. The lobbyist pointed out that in a minority government, opposition parties do play a critical role in the Parliamentary business.

"I would think, in the context of a minority Parliament, where for example Joek Layton is negotiating with Paul Martin, I do believe that some information that is not available to the broader public could be made available at times. If an opposition critic goes on some international travel

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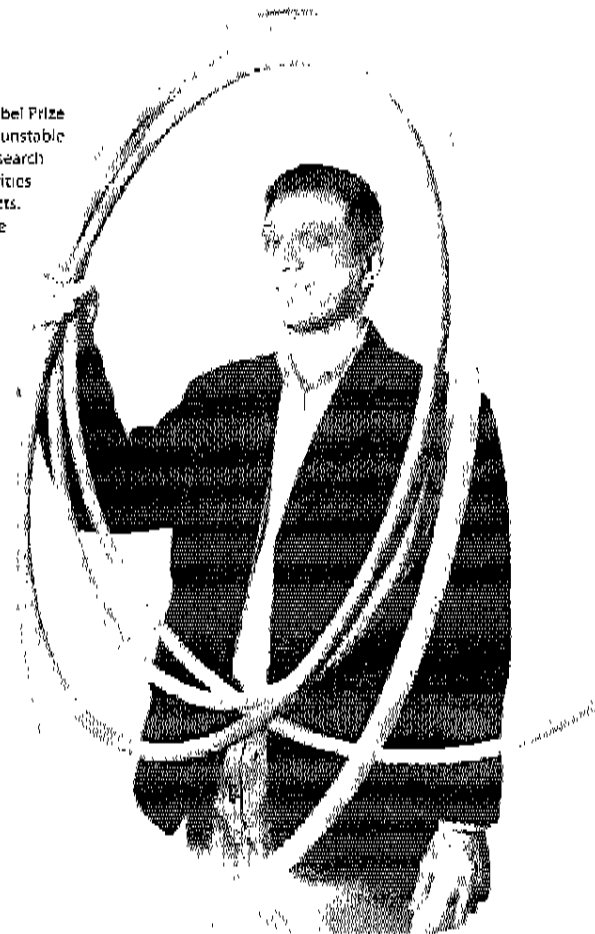
First Nations on Supreme Court: AFN National Chief Phil Fontaine said "such an appointment would lend credence to the recognition of aboriginal law as a source of Canadian law."

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