



November 22nd, 2006

VIA FACSIMILE (613.995.1049)
& REGULAR MAIL

Honourable Vic Toews, Minister of Justice
Parliament Hill
Suite 306, Justice Building House of Commons
Ottawa, ON
K1A 0A6

Dear Minister Toews:

Re: Judicial Appointments Process

This correspondence is in response to your recent notice that you plan to add police representation to the judicial appointments committees as a move to further open up the judicial appointments process.

From the outset it is important to be clear: while the IBA is not of the view that police appointments to this process may provide some benefit, we propose it would be more appropriate for you to use your discretion as Minister to simply appoint such representation with the already three appointees that you have for each committee rather than add another Ministerial appointment.

Indeed, you will recall the IBA making submissions that such discretion should be exercised by the Minister of Justice to ensure Aboriginal representation on such committees given that the Indigenous Bar Association has a number of members of the bar in all jurisdictions. Rather than being supportive and reflective of Canada's history, the response we received at that time was critical.

Indeed, in November 2005, you had stated to me directly as a witness before the Sub-Committee on Appointments to the Federal Judiciary of which you were a sitting member, that if Aboriginal Peoples are to be represented on the Courts and the judicial appointments process in a more coordinated way then so too should all of the other groups comprising Canada's multi-cultural mosaic.

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I stated at the time and reaffirm that the IBA agrees that the appointments and composition of judges should be more reflective of Canada's society. How including police appointments is more reflective of Canada's multi-cultural society in relation to judicial appointments remains unclear.

That being stated, there are significant differences between Aboriginal People and all other ethno-racial groups comprising Canada that should ground any change to the judicial appointments committees. For example, Aboriginal Peoples are the only People recognized in the *Constitution Act, 1982* as distinct and whose rights are specifically protected. Second, Aboriginal Peoples founded Canada along with both the English and French - whom as you know are already well represented on the Bench and incidentally in the appointments process.


It is concerning that one of Canada's founding partners continues to be excluded from the appointments process while your latest change ensures police representation. There is further concern that such an additional appointment, in addition to your already existing three appointees, reaches a possible tipping point for you to hand select judges by way of self-selected committee member majority.

It is the IBA's position that no issue on changes to the judicial appointments process should proceed without meritorious debate held in the public's eye. Such an important issue of determining who selects Canada's judges is certainly worthy of public participation. After all "accountability" is what the New Government is quick to cite it is all about. Indeed what Canada's judicial system is about must be remembered before unilateral decisions are made that potentially erode the cornerstones of our Courts who are to remain impartial, unbiased, fair and independent.

As you well know, Canada's legal system is independent from government. Canadians' belief in the rule of law and continued trust in our legal system counts on continued independence, which your new committee structure calls into question.

The IBA urges you to hold public debates about this very important issue before you proceed any further rather than simply wholesale off the integrity of Canada's Courts.

Yours truly,



Jeffery Hewitt
President

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FOR IMMEDIATE RELEASE
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IBA Concerned About Motives For New Judicial Appointments Process

RAMA, ON - Justice Minister Toews recently stated he will be adding police representation to judicial appointments committees as a move to further open up the judicial appointment process, which has called the integrity of the appointments process itself into question.

In November 2005, before the Parliamentary Sub-Committee on Appointments to the Federal Judiciary, the IBA expressed concern about the lack of representation of Aboriginal People as sitting judges and lack of participation in the judicial appointments process. Citing, among other things, the fact that Aboriginal Peoples were a founding partner in Confederation and as such should be full participants in Canada's legal pluralism, a more inclusive judicial appointments process was a cornerstone of our submissions. It is concerning that one of Canada's founding partners continues to be excluded from the appointments process while the Minister's latest changes reaches a possible tipping point for the Minister to hand select his own appointments by way of committee member majority.

It is the IBA's position that no issue on changes to the judicial appointments process should proceed without meritorious debate, all of which should be held in full view of the public's eye. Such an important issue of determining who selects Canada's judges is certainly worthy of public participation.

The IBA urges Minister Toews to hold a public debate about this very important issue rather than continue to wholesale off the integrity of Canada's Courts.

For further information contact Jeffery Hewitt, President of the Indigenous Bar Association at: jhewitt@indigenousbar.ca or at 705.330.6203 or visit our website at www.indigenousbar.ca.