

Minister of Justice
and Attorney General of Canada



Ministre de la Justice et
procureur general du Canada

The Honourable / L'honorable Peter MacKay, P.C., a.c., M.P. / c.p., c.r., depute
Ottawa, Canada K1A 0H8

JUL 23 2014

Gerald Hickman
224 Dysart Road
Winnipeg, MB R3T2N2

Dear Mr. Hickman,

As Minister of Justice and Attorney General and on behalf of the government, let me say that our Government has the utmost respect for the judicial institutions of our country.

When appointing Justice Marc Nadon who was born, raised, educated and had worked in Quebec as a lawyer for over 20 years before serving 20 years as a designated Quebec appointee on the Federal Court of Appeal, we proceeded not only on the basis of the considered advice of two former Supreme Court justices but a foremost legal constitutional expert as well. We were also acting on the advice of an all-party parliamentary committee that had provided a list of recommended candidates of which Justice Nadon was obviously one.

Although not from Quebec, we have had numerous Federal Court appointments to the Supreme Court of Canada, including the current member Mr. Justice Rothstein. Clearly, Mr. Justice Nadon and numerous other members of the Federal Court and Federal Court of Appeal believed Quebec Federal Court Judges should be eligible and given the same opportunity to serve on the highest court of the land as those from any other province.

Before the process had been completed, my office was contacted by the office of the Chief Justice. After I spoke with her, I was of the considered opinion that it was not necessary for the Prime Minister to take a call from her, as I would communicate the reason for the call. She in fact, did call but later abandoned attempts to speak to him on the subject.

The process and events that followed are now part of the public record. Given the Supreme Court's decisions, Federal Court judges from every province except Quebec are eligible for appointment to the Supreme Court of Canada. Supreme Court Justice Moldaver said in his strong dissenting opinion that a review of the legislative history of the Supreme Court Act supports "the conclusion that the same eligibility requirements set out in s. 5 apply to Quebec appointees." He also noted that judges appointed to the Federal Courts from Quebec and occupying seats reserved for Quebec "have been trained in the civil law and continue to hear federal law cases involving Quebec that require a working knowledge of the civil law."

As has always been the case with the appointment of Supreme Court Justices, in response to the vacant seat on the Supreme Court, the Prime Minister, in this instance Prime Minister Stephen Harper, announced the appointment of Mr. Justice Clement Gascon to the Supreme Court of Canada.

We said we would act quickly to ensure the Supreme Court has a full complement of judges. Both the Liberal Party and the NDP have repeatedly called on us to fill this seat quickly. In moving to appoint Mr. Justice Gascon we have done precisely that. This appointment is the result of broad consultations with prominent members of the Quebec legal community. These consultations included the Government of Quebec, the Chief Justice of Quebec, the Chief Justice of the Quebec Superior Court, the Canadian Bar Association, the Barreau du Quebec, and the Barreau de Montreal.

As promised, this government moved expeditiously to ensure the Supreme Court of Canada had a full complement of Judges but an unexpected challenge to the appointment delayed the process. Our Government respects the ruling the Supreme Court has made on its own eligibility requirements, and reaffirms our utmost respect for our judicial institutions and its independence.

Sincerely,



Peter Mackay, P.C., M.P.
Minister of Justice and Attorney
General of Canada