

October 27, 1999

The Honourable Anne M. McLellan
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister:

We are writing to express our concern about the very urgent need to make appointments to the Federal Court of Canada.

First, the issue of the number of appellate judges. Six of the thirteen judges are now supernumerary. The heavy case load of the Court of Appeal is currently handled by seven full time judges, with the usual assistance from supernumeraries. The full complement of judges is eleven. A backlog (two years in Toronto) is understandable, but not appropriate.

Second, the lack of a chief justice. The Chief Justice of any court provides leadership in both substantive and administrative matters. This essential leadership can be lost when puisne judges are asked to carry the duties on an interim basis, with no authority to act for the long term benefit of the court.

Third, the composition of the Court. The composition should reflect the diversity of Canadian society. The Court must be able to function in both official languages, and the CBA endorses bilingualism as a merit consideration in judicial appointments. Appointing candidates who are bilingual, or who will undertake to become so, is an essential consideration.

Fourth, the expertise on any court must reflect the type of cases that come before it. A substantial proportion of cases before the Federal Court are immigration matters. There is an increased need for candidates with immigration expertise.

Fifth, the need for consultation on the choice of Chief Justice. Given the extremely important role of the Chief Justice, both inside and outside the Court, we encourage you to undertake appropriate consultations within the Court and with organizations such as the CBA.

Sixth, the timing of appointments. The current situation is such that a block of judges must be appointed as soon as possible. However, we are aware that block appointments can create problems of continuity down the road, at retirement or supernumerary time in 15 - 20 years. Staggered appointments in the future will ultimately result in greater stability for the Court .

You have told the CBA that legislative changes to the structure of the Federal Court and Tax Court are forthcoming. We agree that these changes are desirable and must move forward. It is understandable to wish to make appointments to the Court to fit with the new structure. However, the situation in the Court is now critical. The fair administration of justice dictates that the Court be fully equipped to handle its caseload now, despite any pending reforms.

We urge you to make the appointments with all haste.

Yours very truly,

Eugene Meehan