Round Table on Parliament's Role in the Appointment of Judges

by Richard Marceau, MP; Paul Macklin, MP; Vic Toews, MP; Lorne Nystrom, MP; and John Herron, MP

On May 6, 2003, Richard Marceau introduced a Private Members' Business motion to authorize the Standing Committee on Justice and Human Rights to study the process by which judges are appointed to Courts of Appeal and to the Supreme Court of Canada. The following extracts are taken from debate on this motion.

Richard Marceau (Bloc Québécois): There is an old principle in English common law, that justice must not only be done, it must be seen to be done. The purpose of this principle, the very foundation of our justice system, is to maintain the highest possible level of public confidence in the judiciary. The current process of appointing judges, however, is in direct conflict with this principle, and clouds the image of justice.

There are many examples to support this statement. Last summer, the Prime Minister appointed Justice Michel Robert, who had served on the Quebec Court of Appeal since 1995, to the position of Chief Justice for Quebec. This is a very important position, in Quebec's judicial system.

The Minister of Justice and Attorney General announced, on August 8, the appointment of the Marie Deschamps, a judge of the Quebec Court of Appeal, to the Supreme Court of Canada.

These two individuals no doubt, enjoy an enviable legal reputation, which therefore surely justifies their appointment to such important positions. However—since justice must be seen to be done —it is reasonable to wonder, as members—and the general public will not hesitate to make its views known—whether their appointment has anything to do with their commitment to the Liberal Party of Canada or their connections to the latter.

These two examples seem to show or at least clearly suggest politicization of the courts. In today's society, this politicization or this appearance of politicization, even a hint of it, can seriously jeopardize the public's respect for the courts and the judiciary.

If we consider the important role of the courts today, particularly given their greater duties, if only due to appeals related to the *Canadian Charter of Rights and Freedoms*, or their involvement in the evolution of various social debates such as same-sex marriage, aboriginal claims and the decriminalization of marijuana, we must avoid at all costs any association between the judiciary and the political arm.

These judges, who are not elected, make decisions which have an increasing impact on the creation of public policy in Canada and sometimes go beyond what Parliament might have wished.

This is an argument of some weight in favour of a review and democratization of the process of appointing judges, which unfortunately some will surely criticize. But we must resist and we must hold this debate. It is very likely that the public will agree that the entire matter needs to be looked into.

I am making a solemn appeal to my colleagues across the way. Let them keep their eyes and ears open and especially let them not jump to a conclusion too hastily. I hope that the Parliamentary Secretary to the Minister of Justice with whom I had the opportunity to work on the Standing Committee on Justice and Human Rights, will

not take a dogmatic stand and will instead agree to a serious study, as we had in connection with same-sex partners, an issue of equal importance for Canada.

I would like to remind him, and all members of the Liberal Party that Mr. Martin, said the following in his speech to the students of the University of Toronto's prestigious Osgoode Hall:

> We should reform the process surrounding government appointments.The unfettered powers of appointment enjoyed by a prime minister are too great... Such authority must be checked by reasonable scrutiny conducted by Parliament in a transparent fashion...To avoid paralysis, the ultimate decision over appointments should remain with the government. But a healthy opportunity should be afforded for the qualifications of candidates to be reviewed, by the appropriate standing committee, before final confirmation.

At the time he was referring to senior public servants and to ambassadors. None of these senior positions that he would like to subject to parliamentary review, none of these ambassadors or senior officials, will have as much impact on public policy as appeal court judges or judges of the Supreme Court of Canada.

We could go on at great length about the current appointment processes for provincial and territorial superior court judges, for Federal Court judges, or for judges at the Tax Court of Canada, because there are specific criteria that must be filled for these appointments.

> ***When it comes to appointments to appeal courts and to the Supreme Court, subjectivity reigns. There is no clear and precise process in place for the appointment of these judges.***
>
> *Richard Marceau*

The entire process is left to the discretion of the Prime Minister, with input from the Minister of Justice. It is strange that appointments to lower judicial appointments are more structured than appointments to these higher courts, such as the appeal courts and the Supreme Court.

This is a substantive issue that is critical for the old common law principle that I mentioned in my introduction, regarding justice and the appearance of justice. It is up to us as parliamentarians to promote public confidence in our institutions and this mission must include our legal system.

We could quote a number of articles published in newspapers, which clearly show what the public thinks of the current process. In *La Presse* of June 28, 2002, Yves Boisvert commented on the appointment of Michel Robert in an article entitled "Patronage Appointment".

On June 29, 2002, *The Gazette* published an editorial under the headline "Who's to Judge". I encourage my hon. colleagues to read these articles. There is also an article published in the *National Post* on July 2, 2002, admonishing, "Don't politicize courts". Then there was the *London Free Press*, asking parliamentarians to "Review the Appointments".

We can see from these various editorial policies that the public is worried, that it would like a process that is more transparent, which would assure the people of Quebec and Canada that the nominees to positions as appeal or supreme court judges are not appointed because of their connections to the ruling political party.

I urge all the members of this House, and those from the government party in particular, to allow parliamentarians to examine this question. Give us this opportunity to review the process to ensure that judges are not treated as politicians and that there is an opportunity to consider the appointments.

Paul Macklin (Liberal): The importance of a strong judiciary to Canadian society cannot be overemphasized. There is a growing recognition that stability, human security and the rule of law are necessary for a society which is economically viable and which protects human rights. As the guardians of the rule of law, judges form an important part and a pillar of our social order.

The need for further study of the appointment process for federally appointed judges has not been demonstrated. This process is well known and has served the Canadian public very well. I would like to take this opportunity to examine how the appointments process for federally appointed judges contributes to the maintenance of a strong judiciary by securing judges of the highest calibre.

The federal judicial appointments process has been in place since 1988 and is administered by the Commissioner for Federal Judicial Affairs. The process applies to those interested in submitting their candidacies for appointment to the superior courts, including appointment to the provincial and federal courts of appeal.

The statutory qualifications for appointment are ten years at the bar of a province or a combination of ten years at the bar of a province and service in a judicial office. Under the federal judicial appointments process,

qualified lawyers and those holding office as provincial and territorial court judges may apply to the commissioner for appointment to a superior court. Additionally, candidates may also be nominated by members of the legal community or by other interested persons or organizations. In these cases the commissioner will contact each nominee to confirm his or her interest in being considered for judicial appointment.

This process is the very means by which qualified candidates from historically under-represented communities are identified for possible appointment to superior court. All candidates complete an extensive personal history form that canvasses matters such as the name of the bench they want to join and why, and an assessment of their strengths and weaknesses for the position.

Because the government is fully committed to ensuring that the full diversity of all communities is well represented on the superior court bench, candidates, at their option, may also self-identify if they belong to an ethnic, minority, aboriginal or disabled group. The completed forms are forwarded by the commissioner to the appropriate provincial or territorial advisory committee. The applications for judicial appointment are assessed by these independent advisory committees.

Advisory committees are a key element of the federal appointments process and are comprised of seven individuals drawn from the bench, the bar and the general public on the following basis: a nominee of the provincial or territorial law society; a nominee of the provincial or territorial branch of the Canadian Bar Association; a judge nominated by the chief justice of the province or territory; a nominee of the provincial attorney general or territorial minister of justice; and three nominees of the federal Minister of Justice.

The federal nominees are selected for their ability to represent the public interest and at least two of them may not be practising lawyers. The provincial attorneys general and territorial ministers of justice are encouraged to choose their nominees on a similar basis. Each member is appointed by the Minister of Justice to serve an unpaid term of two years. There is a possibility of a single renewal. Lawyer members of the committees cannot themselves be candidates for judicial appointment for one year following their term of office. Regionally based committees have been established in Ontario and Quebec because of the large populations in these provinces.

Advisory committees confirm the candidate's credentials with legal and other sources. They assess the candidates' professional competence and experience, personal characteristics, social awareness, including sensitivity to gender and racial equality, and any potential impediments to that appointment. The assessment is a rigorous one, designed to identify persons suited both by temperament and ability to preside over the superior and appellate courts of this country.

The committee makes an assessment of each candidate and will make one of the following determinations: that the candidate is recommended, or highly recommended, or that the committee cannot recommend the candidate for federal judicial appointment. Of course unsuitable candidates would fall in this last category. When a candidate is deemed recommended or highly recommended, that person will be included in a bank of approved candidates from which the Minister of Justice may make a recommendation to cabinet for appointment.

The appointments process has been highly successful in producing judges of the greatest quality and distinction. Indeed, Canadians are envied around the world for the quality, commitment and independence of their judiciary. For many people in other parts of the world, our Canadian courtrooms, presided over by judges who are efficient, impartial and free from government or any other interference, represent a shining ideal that is hoped for but not yet realized.

Canada's experience and expertise has been sought in the development of judicial and court systems in such diverse countries and regions as the former Soviet Union and the eastern bloc countries, including the Ukraine and Kosovo, as well as South Africa and China.

There is ample evidence that the federal judicial appointments process is working very well in fostering a judiciary of exceptional distinction. The process does not need further study. In fact, it is my position that the expertise and time of the Standing Committee on Justice and Human Rights would be better directed to other issues of a more pressing nature.

For all of these reasons, I do not support the motion.

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Vic Toews (Canadian Alliance): The parliamentary secretary outlined the process. As impressive as it sounds, it is remarkable that in the vast majority of cases the decisive criteria is the fact that the candidate has very close connections to the governing party. It has been the Liberal Party for some time. I dare say if we took a list of all the candidates who have been appointed, those Liberal connections would come very clearly.

I do not know whether that is simply coincidence but it reminds me a lot of the story about the emperor not hav-

ing any clothes. We have gone through this charade of saying that this is the careful process we follow in selecting our nominees. We get all these nominees together in one big pile and then out of that pile, we magically pick the ones with the Liberal connections. We all know they are all well qualified but the overriding qualification is either the Liberal membership or the connection with the Liberal Party. I would challenge members opposite to take a look at these credentials. That is the truth of the matter. Let us not pretend that the emperor has clothes when he has no clothes.

I am pleased to support this motion. The Canadian Alliance has long held that since non-elected judges exercise so much influence on the laws passed by elected officials, the process of appointing them requires more openness.

Indeed in the past 20 years since the advent of the charter, the responsibility for making moral, cultural and indeed political decisions has fallen out of the hands of Parliament and into the hands of the non-elected judiciary. As a result, the judiciary currently exercises substantial political power. At the same time, politicians have become increasingly more reluctant to advance legitimate political initiatives, putting increasingly more power into the hands of a selected few.

I would invite my colleagues to read the May 6, 2003 editorial today in the *Ottawa Citizen* dealing with the entire issue of marriage. The Ottawa editorial has come out very clearly in saying that this is not an issue for judges to determine. This is a matter, a social policy issue for Parliament to determine, yet we see courts unilaterally usurping the power of Parliament.

> ***Once empowered, judges are virtually unaccountable in our democratic system. We need to ensure that those who are appointed are people who reflect the values and the cultures of all Canadians.***
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> *Vic Toews*

We see often the defenders of the judiciary say that they are only exercising the power we have given them. That is nonsense. It is like hiring a contractor to build a two or three bedroom bungalow, then coming back and finding a house that does not meet the standards or is completely different. Yet the contractor says that he has been hired to do this and that it is time to pay, with no one else to correct the mistake that has been made.

Look at the *Charter of Rights*. When the charter first came in, we heard the courts say that the powers and freedoms in the *Charter of Rights* could not be examined in a vacuum. We had to look at the cultural background and the historical political context. Yet we see the courts drifting away from that context.

Judges in Canada have taken on a greater role in shaping government policy, an area, that had been reserved for elected officials.

In some cases this role has had a positive effect, such as the protection of minority and equality rights. In other cases, such as the Sharpe decision, the child pornography case, the effect has had detrimental effects on our society and our ability to protect the most vulnerable in our society, our children.

One case that has resulted in numerous problems in our immigration system is the 1985 court decision called Singh. In this case the Supreme Court of Canada extended the *Charter of Rights and Freedoms* to anyone setting foot on Canadian soil.

While most Canadians would agree that non-citizens and refugees must be entitled to certain legal rights, such as the right to a fair trial, I would say the indisputable right to enter into and remain in Canada should be reserved for citizens and landed immigrants. This is certainly the approach that has been adopted by western civilized democracy. Extending that right to everyone has opened the door to abuse, to dangerous terrorists and other violent criminals looking to find a safe haven in Canada. Unfortunately, this kind of unilateral approach by the courts jeopardizes the safety and security of all law-abiding Canadians, be they citizens, landed immigrants or potential refugees.

Other examples include the recent decision of the Supreme Court of Canada giving the right to prisoners to vote. Convicted murderers now enjoy the same rights that veterans who fought for this country enjoy in terms of the right to vote.

By the court substituting its own political opinion for that of elected parliamentarians, Canadians will lose faith in the democratic process, in the legitimacy of democratic government and the rule of law.

All these examples illustrate that because of the important decisions our judges are called upon to make many people in Canada believe that the closed door process, the real process for choosing judges, controlled by the Prime Minister, should be changed. In fact Canadian Alliance policy specifically calls for Supreme Court of Can-

ada judges being chosen by a multi-party committee of the House of Commons after open hearings.

Others would like to go further. In fact recent surveys by Environics indicate that two-thirds of Canadians believe that Supreme Court of Canada judges should be elected.

Regardless, I strongly believe that the closed door process for choosing Supreme Court of Canada judges and appeal court judges is in need of review. Although the Prime Minister does consult with interest groups such as law societies, bar associations and individual members of the legal community, as well as other judges, when it comes to making these appointments, given the significance of court decisions since the advent of the charter, it is increasingly necessary for those appointments to come before Parliament in some fashion so that a broader spectrum of Canadians is involved in that decision by reference to parliamentarians' input.

I am not fixed on any particular way but this is a wonderful opportunity for the justice committee to examine the process. I see no problem in supporting this very thoughtful and well written motion.

Lorne Nystrom (New Democratic Party): The process today in general is non-political. It is a process that has given us pretty good courts and judges. However I find it wanting in making it more accountable and more openly democratic in the process.

Some members of the House might not be aware but I spent a lot of years as a member of Parliament on the various constitution committees I was also very much of a partisan supporter of the Meech Lake accord. One part of that accord dealt with the selection of Supreme Court justices and it tried to make them better reflect our federation.

This is one problem we have today. The Supreme Court judges are appointed by the Prime Minister and the federal government. When it comes to adjudicating a dispute between a province and the federal government, there is a feeling in many provinces that this may not be a fair way of doing it in terms of the referee, because they are adjudicating between a federal and provincial dispute.

Under Meech Lake there was a mechanism where, if I recall correctly, the provinces would select a number of people to recommend to the minister of justice. The Minister of Justice would choose judges from the group selected by the provinces. In the province of Quebec, for example, the Government of Quebec would suggest a short list of names and the federal government would choose someone from that short list.

In the rest of the country under the common law, because Quebec judges are under civil law, we had the same thing happen for the Ontario, western and Atlantic judges. The provinces would suggest a list to the federal government and it would select from that list. I supported that at the time along with a lot of other people in the House from all political parties.

That is one way of doing it and I would certainly be open to looking at it. However the motion does not talk about a specific way of selecting our judges. It just says that we would have a process where the Standing Committee on Justice and Human Rights would study the process by which judges were appointed. That is a very commendable thing to do.

> ***I would be opposed to the election of judges, as is the case in some jurisdictions like the United States. I would not want to see the politicization of the process where judges run for office.***
>
> *Lorne Nystrom*

Another way of doing it is to have the federal government choose from a short list that it is provided by a non-partisan body, which we have in some courts today. Instead of making the appointment, the federal government would make the nomination. That nomination would then go to the Justice Committee for ratification or rejection. That might be something we should look at very seriously as well. It would force the federal government to be more careful about who it would nominate because the nominee would have to go through a ratification process at the Justice Committee. That is one way of perhaps democratizing the process. The other way is what we did in Meech Lake and we could look at that as well. Another way is by having advisory committees which now basically select judges for some of the lower courts. We could apply that to the Supreme Court as well. That is also another way of doing it.

The main thing here is that it is important that we have a judiciary system in Canada that is divorced from politics, that is fair, that is just and where we get the best possible judges in this country. When we select judges, we

have to ensure that we respect the privacy of the candidates, that we maintain the separation of politics from the judiciary and that we take the selection process from behind closed doors into a more open system of clear standards and boundaries, thus maintaining the integrity of the judicial system at the very highest levels. These are some of the things we could consider. The main thing is to get this before a committee.

As a matter of fact, I think one of the roles of Parliament is not being fulfilled as well as it should be. Committees are not being used to the fullest in terms of doing independent studies, making recommendations on how the government of the country should work, making recommendations on how certain people should be appointed.

I have believed for a long time that we need a greater democratization of our country's political system. There is probably no parliamentary system in the world where the prime minister's office or indeed a premier's office, and this is not being partisan as our party has two premiers, have so much power in their own hands to make appointments to important boards and commissions.

In the federal government for example, the prime minister appoints all the senators, Supreme Court justices, the head of the military, the head of the RCMP, the head of the CBC, the head of every important agency and board of the Government of Canada. He appoints all the cabinet ministers and appoints all the parliamentary secretaries. In the case of the government from time to time it even appoints candidates over the heads of local riding associations.

We have gotten away from a more democratic system. We should look at the democratic deficit in Canada. Part of that is how we appoint justices to our courts. Part of it is how we organize this place and make this place more relevant and meaningful.

I have found after my many years in Parliament that the most frustrated parliamentarians are government backbenchers. They are very frustrated with the process. At least in the opposition we can get up very freely and liberally and express our point of view, ask questions in the House, make statements that are critical of the government if we feel it is going the wrong way. However a government backbencher becomes in effect a political eunuch in terms of being silenced by our system.

I have seen this in Saskatchewan with the backbench NDP MLAs where our party has been in government for most of the time since 1944. It does not matter what the party is, we have a political system that I believe is not as democratic as it should be.

Why for example, should we not have a system where committees could set their own timetables? Why should we not have a system where committees could introduce legislation? Why do we have to have so many confidence votes? Almost everything that we vote on is a confidence vote. We should have very few confidence votes except for the basic budgetary program and plan of the Government of Canada.

I remember very well when Margaret Thatcher was at the height of her popularity in Britain. There were many times when Margaret Thatcher had a bill defeated in the House of Commons because the backbenchers in her own party would be in opposition to the government bill.

I remember Tony Blair in the last Parliament when he was extremely popular before his massive re-election lost many votes in the British House of Commons. That did not bring down the government. It provided a healthier debate for the British people.

Why could we not do that in this country? There is case after case after case where government members of Parliament, be they Liberal or Conservative, over the years were in opposition to a certain piece of legislation that the government brought in. However they were not going to bring down the government over a certain piece of legislation and cause an election. It is the system we have.

I have seen it in all parties, at all levels, in every provincial government over the years. It really shortchanges what the Canadian people deserve, which is a free flowing and uninhibited debate of ideas, a clash of ideas, representing one's own constituents and representing them well.

The Supreme Court is a little different. The Supreme Court, as I said before, adjudicates federal-provincial disputes. It interprets legislation not only at the federal level but at the provincial level. Somewhere in the process there should be input for the provinces.

It is not just in the province of Quebec. The province of Quebec is different, unique, a province that is not in the least like the others, in part because of its civil law, among other things. The other provinces, however, must also be involved in selecting judges, and this is very important.

Over the past 20 years, there have been several disputes between the Province of Saskatchewan and the federal government. In my opinion, that is a reason to have provincial input into the selection of judges.

I hope the House will support the motion and the Justice Committee can do a study as to how we can improve the selection of judges in our country.

John Herron (Progressive Conservative): This is a very measured and very considered motion that affords the opportunity for parliamentarians to discuss this particular issue. The Progressive Conservative Party is in favour of the motion itself.

In recent years Canadians have become concerned about the appearance that courts have encroached upon the supremacy of the Canadian Parliament by reading into our laws interpretations that appear to be inconsistent with or outside the intent of the laws when passed by Parliament. More often than not, we find that is the fault of the legislators and not a misinterpretation by the court itself. It is our duty to ensure the laws are strong and clear.

This has led to a renewed interest in how those who comprise the bench at the appellate level and at the Supreme Court level receive their appointments.

In the last year we have witnessed a number of cases at the Supreme Court level which have in effect seemed to take away from the supremacy of Parliament and seem to contradict the societal values that we hold dear. The most provocative of these is the John Robin Sharpe case. There is also the most recent decision allowing convicted felons the right to vote. The decisions of the court in those two examples stand outside, I would suggest, the interests of Canadians in terms of their societal values and outside the parameters of what the intent of Parliament was in the first place.

Canadians do not understand how the court could allow the potential endangerment of children by allowing the artistic merit defence. That the courts could allow such a travesty goes beyond the rational thought process for Canadians.

> ***Scrutiny by members of Parliament of appointees to the highest court could go a long way in determining the suitability of those wishing to serve and could possibly allow for a greater recognition or reflection of present day values.***
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> *John Herron*

To many it seems that this reading into the intent of laws by the courts seems to be a violation of the basic constitutional principle that Parliament makes the laws, the executive implements them and the courts interpret them.

The root of this perception of what some individuals deem as judicial activism is the *1982 Constitution Act*. It included for the first time in Canada a constitutional entrenchment that guaranteed civil rights through the *Charter of Rights and Freedoms*, requiring courts to determine the constitutionality of our laws in light of the *Charter*.

Although I categorically support the charter, we all know that there are issues that have become problematic from time to time where the intent of Parliament has had to withstand that particular litmus test. Some have argued that this has allowed an erosion of parliamentary supremacy in which democratic accountability has been replaced by the supremacy of the Constitution as interpreted by the courts.

Should this motion lead to a change in the appointment process, it would ultimately allow for greater public scrutiny and therefore reinforce, I believe, public confidence in the process without jeopardizing judicial independence.

In our democratic reform package we have made a number of suggestions, including the recommendation that the name and qualifications of any person proposed for appointment by the prime minister to the Supreme Court of Canada should be presented to Parliament, which shall, after debate, make a recommendation on the suitability of the nominee's candidacy. This type of directive could also be applied to the appointment of those at the appellate level. A vote in the House of Commons should be conducted and the outcome communicated to the governor in council prior to such appointments being made.

In the past there has been the suggestion that a special committee be struck to examine those recommended for appointment. There is a need for parliamentary scrutiny and in fact, appearances before a specialized committee, provided the parameters of questions are clearly laid out beforehand. In my opinion this would be appropriate.

This does not mean the committee would have the right to examine the financial records of an appointee or for that matter the financial records of a spouse or a partner. I do not believe this type of information can be seen as having any relevance in terms of the appointee's ability to interpret the law.

This motion is aimed at ensuring the proper representation of Canadian views and values through those members democratically elected to represent Canadians and could provide a unique balance and perspective in the process of judicial appointments.

I see the committee process as an opportunity to allow members of Parliament acting on behalf of their constituents a chance to delve into some of the beliefs of the appointees through previous decisions rendered.

No one wants to see the American style confirmation hearings, strictly political partisan affairs, which we have seen as in the example of Justice Thomas. I would not be an advocate on a personal basis of having the individuals who ascend to the bench itself be elected. That would clearly politicize the process in a very extraordinary way. However, there are some things we could do from a parliamentary perspective. Anything we do that mitigates the perception that the individuals on our benches have a political element would be a helpful service.

Both the Liberal Party of Canada and the Progressive Conservative Party of Canada have appointed Supreme Court judges in the past. If there is one element where we have actually made sure that we have done it right each and every time, it is at the Supreme Court level. No prime minister, regardless of party stripe, has in my view politicized our most sacred court in the land.

I spoke very briefly about a document that our membership voted on at our national convention in Edmonton in August. At that convention we reviewed a myriad of issues in terms of renewing the country's democratic institutions, issues pertaining to free votes, the roles of Commons committees, codes of ethics for Parliament and a discipline for parliamentarians, the problems with legislative federalism, ensuring that we have the power of the purse so that Parliament actually votes on the estimates as opposed to doing it in one single vote. It is a travesty that we approve the estimates, about $180 billion, with one vote with no scrutiny to speak of on a committee of the whole basis.

There are opportunities for us to review issues such as Senate reform and correct the wrong that we have in the west. It is clear that western Canada is not represented in the capacity it should be in terms of the respect of its population and the influence that they have in this country.

We have to move to an elected Senate as well and give senators the moral right to make interventions to the degree that they want to, the legislative authority to do so by being elected, democratically selected individuals.

We talked about issues such as citizen initiatives and referenda, rights for citizens to petition.

These were all issues that we spoke to. However the debate that we have before is the relationship between Parliament and the courts. I would like to make three points which I think would be valuable proposals for Parliament to consider.

First, we propose that Parliament undertake to ensure the maintenance of a proper balance between itself and the courts. We should have a pre-legislation review to ensure that Parliament clearly specifies within each statute the intent of the statute and obtains independent legal advice and charter compatibility of bills before they leave Parliament in the first place.

Second, we propose to establish a judicial review committee of Parliament to prepare an appropriate response to those court decisions which Parliament believes should be addressed through legislation.

Third, we believe that the name and qualifications of any person proposed for appointment by the prime minister to the Supreme Court of Canada should be presented to Parliament which shall after debate make a recommendation on the suitability of that person's nomination.

We do not want to co-opt an American system. When it comes to the Supreme Court perspective, we have it right for the most part.

Editor's Note: On September 26, 2003, several other members spoke in support of this motion and on October 1, 2003, it was adopted and referred to the Standing Committee on Justice and Human Rights. The first meeting to consider this matter was held on November 6, 2003.