



democracy Watch
émocratie en surveillance

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Office of the Conflict of Interest and Ethics Commissioner
ATTN: Mario Dion, Commissioner
Parliament of Canada
Centre Block, P.O. Box 16
Ottawa, Ontario
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Via Email: ciec-ccie@parl.gc.ca

March 24, 2021

RE: Request for public, independent ruling on new information contained in Democracy Watch's letter of February 25, 2021 concerning whether Minister Dominic LeBlanc participated in decision-making processes for appointments of judges who have connections to him

Dear Commissioner Dion:

Thank you for your letter of March 2, 2021.

As detailed in Democracy Watch's letter to you of February 25, 2021, Democracy Watch filed a complaint with you on July 4, 2019 setting out our position concerning the actions of Minister Dominic LeBlanc in participating in the decision-making process concerning the appointment of judges who have connections to him. The letter concluded that, if Minister LeBlanc did take part in the appointment process for any of the judges, it raises questions concerning whether he violated section 4, subsection 6(1), section 9, and possibly also section 8, of the *Conflict of Interest Act* ("COIA").

Democracy Watch's initial complaint letter can be seen at:

<https://democracywatch.ca/wp-content/uploads/LettToEthicsCommMinLeBlancJudgeApptsJul042019.pdf>.

Democracy Watch's letter of February 25, 2021 can be seen at:
<https://democracywatch.ca/wp-content/uploads/LettToECreWhereIsRulingReLeBlancJudicialApptsFeb252021.pdf>.

Democracy Watch's position, set out in section 2 of its July 4, 2019 letter, was also that you should have recused yourself from investigating and ruling on the matter, and assigned the investigation and ruling to another commissioner, preferably at the provincial level to remove any connection to the Trudeau Cabinet or any federal political party.

Democracy Watch made this request in its July 4, 2019 letter because you were handpicked by the Trudeau Cabinet through a dishonest and secretive process, and because you made statements before a House Committee that showed a bias in favour of finding alleged wrongdoers are innocent of wrongdoing because "People are fundamentally honest" – and also because your senior lawyer is Minister LeBlanc's sister-in-law.

Your letter of March 2, 2021 stated vaguely that Minister LeBlanc is not under investigation at this time, and stated misleadingly that examinations and inquiries by your office are confidential.

As you know, you are required to issue a public ruling on a complaint filed by an MP of Senator (under section 44 (specifically subsection 44(8)) of the *COIA*). If you self-initiate an examination under section 45, you are also required to issue a public ruling (under subsection 45(4)), unless you try to bury the examination by discontinuing it under subsection 45(2).

As well, as summarized in section 3 of Democracy Watch's initial complaint letter in July 2019, you committed when testifying before the House of Commons Ethics Committee in December 2017 to rule on complaints filed by members of the public.

Since Democracy Watch filed its initial complaint in July 2019, it has been revealed that the Prime Minister's Office and the Minister of Justice consult with other Cabinet ministers, in particular the ministers who represent each province, as part of the process for deciding whom to appoint as a judge in any province. You can see media reports revealing internal government emails that detail this consultation process in this February 18, 2020 *Globe and Mail* article:

<https://www.theglobeandmail.com/politics/article-e-mails-reveal-network-of-liberal-officials-involved-in-judicial/>

and in this April 24, 2020 *Globe and Mail* article:

<https://www.theglobeandmail.com/politics/article-pmo-vets-potential-judges-with-liberal-database/>

and this October 20, 2020 *CBC.ca* article:

<https://www.cbc.ca/news/politics/judicial-appointment-trudeau-lametti-wilson-raybould-1.5767933>

also published by *Radio-Canada.ca* at:

<https://ici.radio-canada.ca/recit-numerique/1031/selection-nomination-juges-ottawa-scandale-critique-justice>

and, finally, in this October 31, 2020 La Presse article:

<https://www.lapresse.ca/actualites/politique/2020-10-31/parti-liberal-du-canada/de-nombreux-signes-d-ingerence-dans-la-nomination-des-juges.php>.

Overall, Democracy Watch's position is that the information provided in its July 4, 2019 letter was more than enough to give you reason to believe that Minister Dominic LeBlanc contravened at least sections 4 and 6, and 9 (and possibly also section 8) of the *Conflict of Interest Act* (as detailed in section 1 of the letter).

As this is the threshold for initiating an examination under the *Act*, Democracy Watch's position is that you were essentially required to undertake an examination after receiving its complaint into whether Minister LeBlanc has violated sections 4 and 6, and 9 (and possibly also section 8) of the *Act*.

If that examination has not yet been undertaken, it should be undertaken now, given the above extensive evidence in media reports over the past year shows clearly that Cabinet ministers from each province are consulted by the Prime Minister's Office and/or the Minister of Justice during the process of deciding whom to appoint as a judge in any province.

Based on the information that has been revealed in the past year, it is essentially inconceivable that Minister LeBlanc would not have been consulted about the appointment of the judges in his province.

In fact, as set out in its July 4, 2019 letter, Minister LeBlanc formally recused himself from the appointment process for one of the judges, showing clearly that he is aware of the appointment processes for judges in his province, and of the requirement that he recuse himself from any process considering appointing someone with whom he has connections, as it would be improper for him to participate.

However, as detailed above and in its July 4, 2019 letter, Democracy Watch's position is that there is a reasonable apprehension of bias on your part, and your office and, therefore, if an examination has not been undertaken, you must delegate the examination to someone independent of you and all political parties.

Please contact Democracy Watch if your office needs any more information ensure that an independent, impartial public ruling is issued very soon on the issue of Minister LeBlanc's participation in these judicial appointments.

Sincerely,



Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch