

Ottawa Journal: Liberals Breaking with Convention ? Appointment of Supreme Court Justices

By David Tilson, MP

The Supreme Court of Canada is the highest court in the country.

When we think of the Court, we immediately think of this institution as a representation of our shared Canadian values, including the rule of law.

A longstanding convention of the Court has been that at least one justice of the Supreme Court of Canada come from Atlantic Canada. However, the current Liberal government recently announced that it will no longer be adhering to this convention, leaving Atlantic Canada without representation on the Court.

The Supreme Court of Canada is comprised of eight judges and one Chief Justice. Under the Canadian Constitution, the Governor General of Canada is given the authority to appoint Supreme Court judges.

However, it has been tradition that the appointments are based on the recommendations of the Prime Minister.

The Supreme Court Act establishes that three of the nine judges be appointed from the province of Quebec. In order to ensure the Supreme Court is representative of all regions of Canada, there has been a longstanding convention that three judges come from Ontario, a minimum of two judges come from the Western provinces, and one judge come from one of the Atlantic provinces.

In addition, the candidates for these positions must have been members of a provincial or territorial law society for at least 10 years, or have served as a judge in a superior court.

A judge may sit on the Court until he or she reaches 75 years of age.

Earlier this month, the Liberal government, following the news that Justice Thomas A. Cromwell would be retiring from the Supreme Court of Canada, effective September 1, 2016, announced a new procedure for selecting Supreme Court judges that will permit any Canadian lawyer or judge who is functionally bilingual and 'representative of the diversity of our great country' to apply to be a candidate for Canada's highest court.

The current government's new procedure unfortunately raises serious concerns, as it does not guarantee that at least one justice on the Supreme Court of Canada be from Atlantic Canada.

If the Prime Minister were to appoint a replacement for Justice Cromwell who was from outside Atlantic Canada, it would leave the Supreme Court without Atlantic Canadian representation. This not only breaks with longstanding Canadian convention, but leaves the Court without an Atlantic Canada perspective on important issues.

Every single federal Member of Parliament from Atlantic Canada and every single Premier, is a Liberal, and collectively the current government has failed to guarantee their region's representation on the highest court in the country.

It is within the Prime Minister's discretion to name Supreme Court justices in whichever fashion he sees fit. Our previous Conservative government appointed judges according to merit and legal excellence; however, we also believed that all regions of Canada should be represented in the country's top court.

Regardless of the process Prime Minister Trudeau chooses, we as the Conservative Opposition, urge him to respect and follow the

longstanding convention that at least one justice from the Supreme Court of Canada come from Atlantic Canada, as he seeks to replace Justice Cromwell.

We believe Atlantic Canada should continue to have representation on the country's highest court and this region of Canada deserves better from the current government.