

Canadian Justice Review Board

In Alta Cende, Integritatem Peto Principisque.

March 18, 2004

The Right Honourable Paul Martin
Prime Minister of Canada
Langevin Block
80 Wellington Street
Ottawa, Ontario
K1A 0A2

Dear Mr. Martin,

The Canadian Justice Review Board (CJRB) applauds your recent statement of intent to reform the process of appointment to the Supreme Court by using some form of Parliamentary scrutiny. This change is long overdue and should have been made at the same time as the passing of the Canadian Charter of Rights that greatly expanded the powers of the Court.

The CJRB, in common with many Canadians, believes that the decisions of the Supreme Court do not reflect the mores of Canadian society and that the Court has been improperly exercising jurisdiction to implement major changes that should rightfully be initiated and approved only by the democratically elected members of Parliament. Recognising the difficulties in amending the Charter, the CJRB therefore considers that the reform of the procedures to appoint judges to the Supreme Court is a matter of the utmost urgency.

A civilized society functions well only where there is widespread respect for the institutions of government and justice. The past few years have seen this level of respect fall to lamentable levels. The restoration of the determination of public policy by our elected representatives is an essential step towards recovery. The present situation where the Supreme Court determines public policy is contrary to democratic ideals.

With the current vacancy on the Court, the opportunity to begin the inevitably lengthy process of renewal now exists. While the US model of public examination of candidates is viewed with alarm and even decried as a circus by those who wish to maintain the status-quo, the CJRB believes that it has much to recommend it. It is essential that the Court be wholly dedicated to democratic ideals. It must not by-pass the decisions of Parliament. It must accept that its power to change the law in any way should be used only in extraordinary situations that should be a rare occurrence.

The CJRB therefore respectfully urges you to speedily implement an appointment process that requires the approval of a parliamentary committee. Moreover, we believe that the process must ensure that candidates are selected solely on the basis of their juridical expertise, integrity, impartiality and respect for parliamentary democracy.

Yours sincerely,

David A. Kahn
Vice Chairman